
Office of Inspector General

Audit Report

**Deviations and Exemptions
to Safety-Related Regulations**

Federal Aviation Administration

Report Number: AV-1998-171

Date Issued: July 16, 1998





**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

Office of Inspector General

Memorandum

Subject: INFORMATION: Report on Audit of Deviations
and Exemptions to Safety-Related Regulations, FAA
Report Number: AV-1998-171

Date: July 16, 1998

From: 
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Assistant Inspector General for Auditing

Reply to
Attn of: JA-1

To: Federal Aviation Administrator

This is our final report on our audit of Deviations and Exemptions to Safety-Related Regulations. The announced objectives of our audit were to (1) evaluate the Federal Aviation Administration (FAA) process to grant exemptions and issue waivers, deviations, and authorizations to regulatory requirements; (2) analyze the types of exemptions granted and waivers, deviations, and authorizations issued; and (3) assess the reasonableness of such actions. After we began our audit, we concluded our objectives were too broad because of the technical differences between “exemptions,” “waivers,” “deviations,” and “authorizations.” Therefore, we focused only on deviations and exemptions. We conducted the audit in accordance with Government Auditing Standards prescribed by the Comptroller General of the United States.

RESULTS

We made desk reviews of available documentation and rationale supporting 58 deviations and exemptions granted by FAA since September 1973. The rationale for granting the deviations and exemptions, and alternative measures to achieve comparable levels of safety, was reasonable and well documented in all but one of the 58. That one was a deviation regarding emergency equipment for extended overwater operations. During our audit, we discussed problems associated with that deviation with the Associate Administrator for Regulation and Certification. As a result of that discussion, he took action to withdraw the deviation.

We also found FAA had no formal procedures or systems to collect information related to deviations granted or denied. Consequently while considering the merits

and pitfalls of requested deviations, FAA inspectors did not have the benefit of resolution of similar requests.

Background

The Federal Aviation Act of 1958, as amended and codified in Title 49, United States Code (USC), charges the FAA Administrator with the responsibility to promote air safety. FAA safety rules are promulgated in the Federal Aviation Regulations (FAR). For certain rules, the FAR allows the FAA Administrator to issue waivers, deviations, and authorizations that permit a person, or an organization, to either deviate from a specific rule, or comply with alternative procedures. If the specific regulatory section does not stipulate that a waiver, deviation, or authorization may be granted, compliance with the regulation is mandatory. In those cases, the only method of obtaining relief from the regulation is through the exemption process. Part 11 of the FAR prescribes general rule-making procedures and provides authority for granting exemptions.

Exemptions are generally viewed as an alternate method of complying with a regulatory requirement. Deviations permit a person or organization to deviate from a specific regulation or comply with special alternative provisions, conditions, or limitations. While the process to get exemptions or deviations are different, the end result is the same; FAA authorizes the operation of aircraft without the specific safety equipment required by the FAR, when alternate methods of achieving comparable levels of safety can be demonstrated.

While authority to grant exemptions is centralized into one office at FAA Headquarters and its four aircraft certification directorates, authority for granting most deviations has been delegated to cognizant inspectors at FAA field offices. FAA has not established a system to record, account for, or centrally identify deviations granted. Consequently, an inspector considering a request for deviation in one part of the country has no way of determining how many carriers have requested similar deviations, whether or not they were granted, or the rationale supporting or denying the requested deviation.

Petitions for exemptions are publicized in the Federal Register, are assigned a unique number, and are recorded in the Automated Exemptions System. Petitions for deviations are not publicized in the Federal Register, and are not included in a centralized data base.

Scope and Analysis

To identify transactions for detailed review, we made desk reviews of 52 of 483 permanent exemptions granted since September 1973, and 921 temporary

exemptions granted from October 1, 1992 through March 22, 1996, included in the Automated Exemptions System. We also made desk reviews of 6 of 48 deviations approved for 13 air carriers. We selected exemptions and deviations for desk reviews judgmentally.

During our desk review, we concluded 46 of the 52 exemptions, and 5 of the 6 deviations, were well documented and the rationale behind granting the exemptions and deviations was reasonable and adequately supported. Therefore, we pursued a detailed review of the remaining six exemptions and the remaining deviation. During our detailed review of these seven, we concluded that all six exemptions were reasonable and supported by documented rationale. We found that deviation relating to emergency equipment required for extended overwater operations was not reasonable.

Deviation for Emergency Equipment for Extended Overwater Operations

FAR requires various items of safety and emergency equipment. FAR 121.339 states:

. . . no person may operate an airplane in extended overwater operations without . . . life rafts . . . to accommodate the occupants. . . . At least one pyrotechnic signaling device for each life raft. . . . An approved survival type emergency locator transmitter. . . .

FAR 121.339 however, authorizes the Administrator to grant a deviation from the rule. To qualify for this deviation, FAA Order 8400.10 requires air carriers to show that an equivalent level of safety will be maintained, and submit information regarding its operating capabilities and search and rescue availability.

FAA authorized 13 commercial air carriers to operate aircraft on extended overwater operations (up to 162 miles off shore) without required life rafts, pyrotechnic signaling devices, and an emergency locator transmitter. However, none of the 13 carriers provided equivalent levels of safety. The deviation covered routes over areas such as the Gulf of Alaska, Gulf of Mexico, and the Atlantic Ocean. None of the 13 carriers was able to demonstrate that search and rescue availability mitigated the safety rule. Although granting the deviation discussed above, FAA denied requests for deviations from other carriers for identical aircraft, operating identical routes. Furthermore, all carriers, except those granted the deviation discussed, were required to adhere to the requirement for the safety equipment discussed above. During our audit, we brought this issue to the attention of the Associate Administrator for Regulation and Certification. He agreed with our conclusion and took action to withdraw the deviation.

In discussing the deviations granted and denied with the inspectors making the decisions, and by review of associated documents, it became obvious FAA has no formal procedures or systems that afford inspectors authorized to grant deviations insight into other similar, or related, deviations requested, granted, or denied. Furthermore, there is no system which allows a centralized organization in the FAA to determine what deviations have been granted for any specific safety equipment, to whom they were granted, what equivalent levels of safety were provided, and what requests for deviations were denied, and the reasons for the denial.

Consequence of Not Having a System to Capture Deviations Granted

Not having a system to capture information in deviations granted and denied hinders FAA inspector reviews of new requests and may add risk to aviation safety. FAA inspectors considering requests for deviations have no way of learning from rationale of other inspectors that have considered similar requests. Accordingly, there is a lack of consistency throughout the country. That inconsistency is clearly demonstrated by the deviation discussed in this report. While some carriers were granted deviations, others, operating identical equipment over identical routes were denied deviations.

Recommendations

We recommend the Federal Aviation Administrator:

1. Establish a system, or modify an existing system, to centrally capture information regarding deviations, both granted and denied.
2. Ensure that the deviations granted relating to emergency equipment on aircraft flying extended overwater operations have been withdrawn.

Action Required

We had extensive discussions with the FAA Associate Administrator for Regulation and Certification concerning exemptions and deviations. On July 8, 1998, the Associate Administrator concurred with this report and its recommendations. We request FAA reply to this final report. Your reply should indicate corrective actions taken or/planned and the date for implementation of those actions.

I appreciate the courtesies and cooperation extended by FAA representatives. If you have any questions concerning this report, please call me on (202) 366-1992, or John Meche on (202) 366-1496.