

CHAPTER 4. GENERAL DIRECTION, GUIDANCE, AND PROCEDURES

SECTION 4. EXEMPTIONS, DEVIATIONS, WAIVERS, AND AUTHORIZATIONS

155. EXEMPTIONS. The granting of an exemption is generally viewed as an alternative method of complying with a regulatory requirement. Exemptions are promulgated under Federal Aviation Regulations (FAR) Part 11. A grant of exemption and each specific condition and limitation is a regulatory requirement. A petition for exemption may be submitted to the Federal Aviation Administration (FAA) by any interested person.

157. CONTENT OF PETITION. Each petition for an exemption should contain the following:

- The rule requirement from which exemption is sought
- The nature and extent of the requested regulatory relief
- A description of each person or aircraft to be
- Any information, views, or arguments to support the action sought
- The reasons why a grant of exemption would be in the public interest
- The action to be taken by the petitioner to provide a level of safety equivalent to that provided by the rule from which exemption is sought or the reason why a grant of exemption would not adversely affect public safety

159. PREPARATION AND MAILING OF PETITION. Each petition should be submitted to the FAA at least 120 days before the proposed effective date of the requested exemption. FAR Part 11 specifies the address for the proper FAA action office based on the subject of the petition. Serious consideration should be given to items listed in paragraph 157 by the prospective petitioner before the petition is written. Frivolous or ill-prepared petitions are rejected and both the petitioner's and the FAA's resources are unproductively used in the rejection process. Petitions are frequently rejected because the petitioner failed to identify and explain the reasons why a grant of exemption would be in the public interest. The petitioner's interest is not necessarily considered to

be in the "public interest." A petitioner's statement that a grant of exemption would be in the public interest because it would reduce the petitioner's operating costs is not acceptable and is a reason for FAA rejection of the petition. Each petition for exemption should be well conceived and in writing.

161. PROCESSING THE PETITION. A summary of each petition for exemption is normally published in the Federal Register, and the public has 20 days to submit comments to the FAA-assigned public docket. After the close of the public comment period, the FAA action office considers all comments received and decides whether to accept or deny the petition. The decision document is then prepared, coordinated, signed, and mailed to the petitioner.

163. DISTRIBUTION AND AVAILABILITY OF EXEMPTIONS. Additional copies of both grants and denials of exemptions are mailed to each regional office. Each document is also placed in the archives of the FAA's computer system located in Oklahoma City (AFS-620) and may be accessed through the Automated Exemption System (AES). Access to this system may be obtained by contacting the program manager at each regional headquarters. A grant of exemption normally contains conditions and limitations applicable to the grantee and is valid for 2 years. However, some grants of exemption may be valid for only a few months (for example, delayed compliance with an aircraft modification due to the non-availability of parts).

165. AMENDMENT OF OPERATIONS SPECIFICATIONS. The operations specifications of an operator granted an exemption are amended to show that the certificate holder is authorized to use the exemption in conducting its operations. See paragraph A5 of the operations specifications.

167. PETITION FOR RECONSIDERATION. A petitioner who is denied an exemption may petition the FAA Administrator for reconsideration within 30 days after being notified of the denial of exemption. If a petition for exemption is granted, a person other than the initial petitioner may file a petition for reconsideration with the FAA Administrator within 45

days after the grant of exemption is issued. The petitioner's request for reconsideration of its petition must be based on the existence of one or more of the following:

- A finding of a material fact that is erroneous
- A necessary legal conclusion that is without governing precedent or is a departure from or contrary to law, FAA rules, or precedent
- An additional fact relevant to the decision which was not presented in the initial petition for exemption (The petition for reconsideration must state the reason the additional fact was not presented in the initial petition.)

169. PROCESSING A PETITION FOR RECONSIDERATION. A summary of a petition for reconsideration of a grant or denial of exemption may be published in the Federal Register. If accomplished, a reasonable period for public comment is announced in the summary. In either event (with or without publication in the Federal Register) the FAA action office prepares and coordinates the decision document. If a grant or partial grant of exemption is issued, the document is signed by the FAA official who has been delegated such authority and responsibility in FAR Part 11. If a denial of petition for reconsideration is prepared and coordinated, the decision document is signed by the FAA Administrator. Copies of the grant, partial grant, or denial of petition for reconsideration are mailed and placed in archives as previously discussed. If the petitioner disagrees with the FAA Administrator's decision, the petitioner may institute legal action within the Federal Appeals Court system.

171. DEVIATIONS, WAIVERS, AND AUTHORIZATIONS. Certain FAR sections allow the Administrator to issue a Certificate of Waiver, a Certificate of Authorization, or operations specifications which authorize a deviation. These actions permit a person or an organization to either deviate from a specific regulation or comply with special alternative provisions, conditions, or limitations. This regulatory flexibility is available to the Administrator when the specific regulatory section stipulates that it is available. There are three options available, which are referred to as follows:

A. Deviation. When a regulatory section contains phrases such as "unless otherwise authorized by the Administrator"; "the Administrator may . . ."; "if the Administrator finds . . ."; "the Administrator may authorize . . ."; "the Administrator allows a deviation . . ."; "notwithstanding the Administrator may issue operations specifications . . ."; or other

similar words, the regulatory flexibility is referred to as a deviation.

B. Waiver. When the regulatory section contains phrases such as "the Administrator may issue a certificate of waiver . . ."; "in accordance with the terms of a certificate of waiver issued by the administrator"; or other similar words, the regulatory flexibility is referred to as a waiver.

C. Authorization. When the regulatory section contains words such as "in violation of the terms of an authorization issued under this section"; "unless a certificate of authorization . . ."; or other similar words, the regulatory flexibility is referred to as an authorization.

NOTE: If the specific regulatory section does not stipulate that a deviation, waiver, or authorization may be granted or issued, compliance with the regulation is mandatory. In these cases, the only methods of obtaining relief from the regulation is through the exemption process.

173. WAIVERS AND AUTHORIZATIONS. When a regulatory section stipulates that a waiver or authorization is permitted, any person may apply for a certificate of waiver or a certificate of authorization. FAA Form 7711-2, "Application for Certificate of Waiver or Authorization," must be prepared and signed by the applicant and delivered or mailed to the appropriate FAA regional or district office for processing (see figure 1.4.4.1. for an example of FAA Form 7711-2).

A. The application must be processed in a timely manner. The assigned inspector shall review the application, obtain appropriate additional information from the applicant, if necessary, and determine whether the applicant has provided adequate justification for a temporary waiver or authorization. The inspector shall also determine whether the applicant will provide an equivalent level of public safety during the conduct of any operation under a certificate of waiver or authorization. If the application is denied, the reasons for denial shall be specified in a letter to the applicant. If the waiver or authorization is granted, the inspector shall prepare FAA Form 7711-1, "Certificate of Waiver or Authorization," (figure 1.4.4.2.) for review by the authorizing FAA manager or the manager's designated representative. The completed Certificate of Waiver or Authorization, dated and signed by the responsible FAA manager, will be mailed or delivered to the applicant. A copy of the application for a Certificate of Waiver or Authorization, both front and back, and a copy of the completed Certificate of Waiver or Authorization, shall be retained in the files of the issuing office.

B. A Certificate of Waiver or Authorization shall not be issued for any operation conducted under FAR Parts 121, 125, 129, or 135. Requests for a deviation from these Parts must be requested and processed in accordance with the following paragraphs.

175. DEVIATIONS. When a regulatory section stipulates that a deviation is permitted, any person or organization may apply for a deviation. Deviations may be granted and issued to operators conducting operations under FAR Parts 121, 129, or 135. To apply for a deviation, an operator must submit a specific request to the FAA. The application must be made by a letter that identifies the specific regulatory sections from which a deviation is requested. The letter and attachments, if appropriate, must contain the specific reasons the deviation is requested, information to show that an equivalent level of safety will be maintained, and any other information the FAA may require. The types of information that must be submitted with the request for a deviation are described in other sections of this handbook that relate to the specific subject matter. Unless otherwise specified by this handbook, deviations requested by operators conducting operations under FAR Parts 121, 129, and 135 must be authorized for use by operations specifications. Approval, denial, and reconsideration procedures for processing deviation requests shall be the same as the procedures for processing, issuing, or amending operations specifications. District office recordkeeping requirements for each deviation are the same as operations specifications recordkeeping requirements.

177. DEVIATIONS FOR MILITARY CONTRACT OPERATIONS.

A. *Title 49, United States Code (U.S.C.).* Section 40118 of Title 49, U.S.C. (formerly § 1117 of the Federal Aviation Act (FA Act) of 1958) provides for the air transportation of government-financed passengers and property. Section 40118 of Title 49, U.S.C. also permits the use of a foreign operator pursuant to bilateral agreement with the government of the state of the foreign air carrier.

(1) Normally, the transportation of government-financed persons and property must be provided by air carrier certificate holders authorized to operate under FAR Part 121. FAR § 121.57 permits the Administrator to authorize deviations to the applicable requirements of FAR Part 121, when necessary, so that operators may perform certain unique operations under a military contract. Operators who determine that deviations from certain FAR Part 121 requirements may be needed to operate under a Department of Defense (DOD) contingency plan must arrange for the Air Mobility Command (AMC) to submit an

application for deviation (application to amend operations specifications) on their behalf. Operator requests for military contract deviations must be submitted to the following address:

Assistant for Civil Air
DCS for Operations and Transportation
HQ AMC/XOC
ARINC CODE:BLVMAMC
FAX: (618) 256-6088
Telephone: (618) 256-6751

NOTE: The guidance in this paragraph does not apply to public aircraft operations. Guidance for these operations will be provided at a later date.

(2) If the AMC elects to request such relief, it will submit an application, on behalf of all affected operators, directly to the manager of the Air Transportation Division, AFS-200. AFS-200 will in turn provide a copy to each operator's certificate-holding district office (CHDO). The CHDO shall immediately advise its regional office that AMC, on behalf of the operator, has forwarded an application (for a deviation and amended operations specifications) to AFS-200. The CHDO shall analyze the request as soon as possible and forward its recommendations to AFS-200 through the regional office by the most expeditious means available.

B. *Amendment of Operations Specifications.* If the application is approved, a draft of the operations specifications paragraph authorizing the deviation or general guidance for the CHDO to use in drafting a non-standard paragraph for inclusion in the operator's operations specifications will be provided by the appropriate policy division. The CHDO shall issue the amended operations specifications to the operator. The amendment shall contain an expiration date consistent with the duration of the specific military operation. However, the operator shall be advised that the Administrator may, at any time, terminate the grant of deviation authority covered by the amended operations specifications.

179. DEVIATION TO PERFORM AN EMERGENCY OPERATION.

A. FAR §§ 121.57 and 135.19 specify requirements for obtaining deviation authority to perform an emergency operation. The term "emergency operations" means an immediate but temporary action to prevent or reduce the loss of life or property when an unanticipated threat to life or property occurs. Operations under a long-term contract to provide certain types of protection (such as rescue, fire-fighting, security) to the public cannot be classified as an unanticipated, temporary action.

FYI: An “emergency operation” under FAR 121.57 and 135.19 is not related to the pilot-in-command (PIC) responsibility and authority (emergency authority) provided in FAR § 91.3.

B. The nature of the emergency dictates whether a verbal or written amendment of operations specifications is justified. The manager of the CHDO must make this determination. If time permits, the manager of the CHDO may wish to consult by telephone with the regional office manager. The authorization to deviate, whether verbally or by written amendment to the operations specifications, must be justified, applicable only to a specific emergency operation, and for a temporary and limited period of time. If a verbal authorization is given, the certificate holder must provide documentation describing the nature of the emergency to the CHDO within 24 hours after completing the operation.

181. USE OF FAA FORM 8430-6, “ADMISSION TO FLIGHT DECK.”

A. *Personnel Authorized.* FAR § 121.547 allows certain individuals authorized by the operator and the Administrator (in addition to aviation safety inspectors (ASI) who hold FAA Form 110A, the ASI credential) to be admitted to the flight deck. In such cases, the individual shall be issued an FAA Form 8430-6.

(1) *FAA Personnel.* Requests for admission to an air carrier flight deck by FAA (non-Flight Standards personnel) or FAA-associated personnel under the provisions of FAR § 121.547(a)(3), should be submitted, through channels, to the CHDO concerned or, in the case of Headquarters personnel, to AFS-200.

(2) *Other-Than-FAA Personnel.* Requests by individuals other than FAA personnel (or FAA-associated personnel) for admission to a flight deck should be submitted to the operator concerned. The operator, in turn, shall forward the request to the appropriate CHDO. The CHDO, upon receipt of a request, should examine it to determine if such authorization is justified. When issuing FAA Form 8430-6, principal operations inspectors (POI), or their designated representatives, must determine that all required information is complete and that the request is appropriately justified.

B. *Restrictions.* Authorization for admission to the flight deck and the issuance of FAA Form 8430-6 shall be restricted to key officials of airlines, aviation-oriented industry personnel, and FAA personnel or FAA-associated personnel. Any deviations will

require approval by the regional office prior to issuance. Except for those categories of persons shown above, FAA Form 8430-6 is not to be issued unless the request is received from the carrier or operator and includes a justification for that person’s presence on the flight deck. These restrictions are imposed in the interest of improved flight deck security. Operator procedures should require all persons to make arrangements for flight deck entry prior to the flight and to board the aircraft with the flightcrew.

C. *Technical Representatives.* Individuals such as representatives from aviation manufacturers are authorized by FAR § 121.547(c)(6) to be present on the flight deck without a seat in the cabin and are not to be issued an FAA Form 8430-6. See paragraph 183 for specific instructions.

NOTE: FAA Form 8430-6 is issued for a specific time period, which may not exceed 6 months from the date of issuance.

D. *Disposition of FAA Form 8430-6.* The original is forwarded to the applicant, and the second copy is retained at the CHDO.

E. *Removal of Authorization.* Upon evidence of abuse of FAA Form 8430-6, the issuing authority may recall the form. It shall be canceled by certified mail if the holder ceases to be employed in the capacity in which its issuance was predicated and the holder fails to return the form voluntarily.

F. *Transmittal Letter.* When the completed FAA Form 8430-6 is processed and returned to the air carrier or individual concerned, it should be made clear to all holders, including FAA personnel, that this authorization may not be issued for the purpose of free transportation. The issuing authority shall forward a transmittal letter with each issuance (see figure 1.4.4.3.).

183. ADMISSION TO FLIGHT DECK WITHOUT SEAT IN CABIN—FAR § 121.547.

A. *Technical Representatives.* FAR § 121.547 lists those persons who may be admitted to the flight deck. However, except as otherwise provided in FAR § 121.547(c), such persons must also have a seat in the passenger compartment. FAR § 121.547(c)(6) contains special provisions for authorizing flight deck authority without a seat in the cabin for certain technical representatives of the manufacturer of the aircraft or its components, whose presence on the flight deck is necessary to perform the duties of monitoring the aircraft equipment or operating procedures. In this case, written authorization from both the Administrator and the operator is required.

NOTE: FAA Form 8430-6 will not be used for granting authorizations to technical representatives. However, except as specified herein, the basic procedures used for handling such requests will be as specified in paragraph 181.

B. Letter of Authorization (LOA). In accordance with FAR § 121.547(c)(6), the CHDO shall issue an LOA. The validity period should not exceed 6 months from the date of issuance. See Figure 1.4.4.4.

184. RESERVED

FIGURE 1.4.4.1.—Continued
(REVERSE SIDE)

ITEMS 9 THROUGH 14 TO BE FILLED OUT FOR AIR SHOW/AIR RACE WAIVER REQUESTS ONLY.				
9. The air event will be sponsored by:				
10. Permanent mailing address	House number and street or route number	City	State and ZIP code	Telephone No.
11. Policing (Describe provisions to be made for policing the event.)				
12. Emergency facilities (Mark all that will be available at time and place of air event.)				
<input type="checkbox"/> Physician <input type="checkbox"/> Fire truck <input type="checkbox"/> Other — Specify _____ <input type="checkbox"/> Ambulance <input type="checkbox"/> Crash wagon _____				
13. Air Traffic control (Describe method of controlling traffic, including provision for arrival and departure of scheduled aircraft.)				
14. Schedule of Events (include arrival and departure of scheduled aircraft and other periods the airport may be open.)				
Hour (a)	Date (b)	Event (c)		
<i>If sufficient space is not available, the entire schedule of events may be submitted on separate sheets, in the order and manner indicated above.</i>				
<div style="display: flex; align-items: center;"> <div style="border-left: 1px solid black; border-right: 1px solid black; border-bottom: 1px solid black; width: 20px; height: 20px; margin-right: 5px;"></div> <div style="font-size: 0.8em; margin-left: 5px;"> Please Read </div> </div> <div style="margin-left: 25px; font-size: 0.8em;"> The undersigned applicant accepts full responsibility for the strict observance of the terms of the Certificate of Waiver or Authorization, and understands that the authorization contained in such certificate will be strictly limited to the above described operation. </div>				
15. Certification — I CERTIFY that the foregoing statements are true.				
Date	Signature of applicant			
Remarks				

FAA Form 7711-2 (5-88) Supersedes Previous Edition

**FIGURE 1.4.4.2.
"CERTIFICATE OF WAIVER OR AUTHORIZATION"**

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION CERTIFICATE OF WAIVER OR AUTHORIZATION	
ISSUED TO	
ADDRESS	
This certificate is issued for the operations specifically described hereinafter. No person shall conduct any operation pursuant to the authority of this certificate except in accordance with the standard and special provisions contained in this certificate, and such other requirements of the Federal Aviation Regulations not specifically waived by this certificate.	
OPERATIONS AUTHORIZED	
LIST OF WAIVED REGULATIONS BY SECTION AND TITLE	
STANDARD PROVISIONS	
1. A copy of the application made for this certificate shall be attached to and become a part hereof. 2. This certificate shall be presented for inspection upon the request of any authorized representative of the Administrator of the Federal Aviation Administration, or of any State or municipal official charged with the duty of enforcing local laws or regulations. 3. The holder of this certificate shall be responsible for the strict observance of the terms and provisions contained herein. 4. This certificate is nontransferable.	
Note.—This certificate constitutes a waiver of those Federal rules or regulations specifically referred to above. It does not constitute a waiver of any State law or local ordinance	
SPECIAL PROVISIONS	
Special Provisions Nos. _____ to _____, inclusive, are set forth on the reverse side hereof.	
This certificate is effective from _____ to _____, inclusive, and is subject to cancellation at any time upon notice by the Administrator or his authorized representative.	
BY DIRECTION OF THE ADMINISTRATOR	
_____	_____
(Region)	(Signature)
_____	_____
(Date)	(Title)

FAA Form 7711-1 (7-74)

U. S. GPO: 1984 - 570-101/10190

**FIGURE 1.4.4.3.
SAMPLE LETTER OF AUTHORIZATION (CABIN SEAT REQUIRED)**

Flight Standards District Office
Parkway Building
1300 South Meridian, Suite 601
Oklahoma City, OK 73108

[date]

Mr. Eric Townsend
Director of Operations
ABC Airlines, Inc.
417 Oakton Boulevard
Enid, OK 78154

Dear Mr. Townsend:

Enclosed is Federal Aviation Administration (FAA) Form 8430-6, "Admission to Flight Deck," which will permit your representative access to [ABC Airlines] flight decks during the performance of official duties. In order to assist in the proper use of this form, we provide the following guidelines:

The standard boarding pass must be issued, and a seat in the passenger cabin must be available, since the form, as indicated by its title, only permits the holder access to the flight deck.

FAA Form 8430-6 is issued in accordance with the provisions of Title 49, United States Code (U.S.C.) and is honored subject to the discretion of the individual air carrier, as well as the approval of the PIC. The holder of this form shall secure an endorsement from the air carrier prior to use.

Additionally, in the interest of flight deck security, the holder should make prior arrangements to board the aircraft with the flightcrew.

Federal Aviation Regulations (FAR) § 121.542(b) states that no flight crewmember (including jumpseat occupants) may engage in any activity during a critical phase of flight that could distract from or interfere in any way with the proper conduct of those duties. Non-essential conversations on the flight deck and non-essential communications involving the cabin and flightcrews are not permitted during a critical phase of flight. Critical phases of flight include all ground operations involving taxi, takeoff, and landing and all other flight operations conducted below 10,000 feet, except cruise flight.

Upon expiration, we request that this flight deck authorization be returned to this office for disposition.

Sincerely,

George E. Johns
Principal Operations Inspector

FIGURE 1.4.4.4.
SAMPLE LETTER OF AUTHORIZATION (CABIN SEAT NOT REQUIRED)

Flight Standards District Office
Parkway Building
1300 South Meridian, Suite 601
Oklahoma City, OK 73108

[date]

Mr. James W. Pratt
Pratt & Whitney Aircraft Division
United Technologies Corporation
Washington, D.C. 22020

Dear Mr. Pratt:

This refers to the request from Mr. M. B. Oakes, Assistant to Vice President of Flight Operations, Trans World Airlines, Inc. (TWA), dated January 27, 1994, concerning authorization for your admission to the flight deck of TWA flights without a seat in the cabin.

As a technical representative for the Pratt & Whitney Aircraft Division (P&W), you may use this letter as written authority for your admission to the flight deck of TWA flights in accordance with the provisions of Federal Aviation Regulations (FAR) § 121.547(c)(6) for the purpose of observing and monitoring the operation of P&W engines on TWA aircraft.

For security reasons, please make arrangements prior to each flight for admission to the flight deck and board the aircraft with the flightcrew.

FAR § 121.542(b) states that no flight crewmember (including jumpseat occupants) may engage in any activity during a critical phase of flight that could distract from or interfere in any way with the proper conduct of those duties. Non-essential conversations on the flight deck and non-essential communications involving the cabin and flightcrews are not permitted during a critical phase of flight. Critical phases of flight include all ground operations involving taxi, takeoff, and landing, and all other flight operations conducted below 10,000 feet, except cruise flight.

This authorization is valid through [date—not to exceed 6 months from date of issuance] unless sooner canceled by either the air carrier or by this office.

Sincerely,

George E. Johns
Principal Operations Inspector

[PAGES 1-127 AND 1-128 RESERVED]