Affects Part: 42
Distribution : General

Regulation No. SR-385D

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

CAA Library

FEB 15 1955

Effective: February 1, 1955
Adopted: January 31, 1955

SPECIAL CIVIL AIR REGULATION

DELEGATION OF AUTHORITY TO THE ADMINISTRATOR TO PERMIT AIR CARRIERS UNDER CONTRACT TO THE MILITARY SERVICES TO DEVIATE FROM PART 42 OF THE CIVIL AIR REGULATIONS

Special Civil Air Regulation SR-385C currently delegates to the Administrator authority to permit deviations from certain parts of the Civil Air Regulations to air carriers under contract to the military services. This regulation became effective February 1, 1954, extending until February 1, 1955, the same authority that had been previously granted to the Administrator.

The Board indicated in the preamble to SR-385C that the question as to the necessity for continuing this authority and the effectiveness of the procedures provided in this regulation would be reexamined for the purpose of considering the incorporation of the substance of the regulation in the operating parts of the Civil Air Regulations. Accordingly, the Bureau issued a notice of proposed rule making which was published in the Federal Register (19 F.R. 8783) and circulated as Civil Air Regulations Draft Release No. 54-26, which proposed to continue the basic authority of the Administrator to authorize deviations by incorporating the substance of SR-385C into Part 42 of the Civil Air Regulations. January 14, 1955, was set as the return date for comment.

Included in the comment received in response to this notice of proposed rule making were letters from the Air Line Pilots Association, the Air Transport Association, the Defense Air Transportation Administration, Capital Airlines, and the Aircoach Transport Association. However, during the course of the Board's consideration of this matter, information was received that military requirements concerning contract carriage of personnel and goods by civil aircraft are being reevaluated by the Department of Defense. Since defense requirements have a direct bearing on the question of continuing this deviation authority by incorporating the substance of SR-385C into Part 42 of the Civil Air Regulations, the Board cannot make a determination in this matter until it has received a restatement of defense requirements. Accordingly this Special Civil Air Regulation extends the expiration date of SR-385C for 90 days with respect to Part 42 operations only, since to date all waivers granted have been waivers of the provisions of Part 42.

This regulation is a temporary one and is intended to allow continued operations in accordance with existing deviation authority until a final determination can be made as to the necessity of inserting similar authority in the operating parts on a permanent basis. Since notice has been given of a permanent extension of these provisions to be inserted in Part 42, the Board finds that additional notice and public procedure on this temporary extension is unnecessary. Since this regulation imposes no additional burden on any person, it may be made effective on less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby makes and promulgates the following Special Civil Air Regulation, effective February 1, 1955:

1. Contrary provisions of the Civil Air Regulations notwithstanding, the Administrator may, upon application by an air carrier, authorize an air carrier under contract to the military services, or an air carrier furnishing civil aircraft or flight crews to another air carrier for use in operations conducted pursuant to a contract with the military services, or an air carrier proposing to conduct operations under conditions of an emergency necessitating the transportation of persons or supplies for the protection of life or property, to deviate from the applicable provisions of Part 42, to the extent that he finds upon investigation a deviation from those regulations is necessary for the expeditious conduct of such operations.

2. Any deviation authority granted by the Administrator pursuant to this regulation shall be limited to those operations conducted pursuant to military contracts or an emergency as determined by the Administrator and shall not be applicable to any other type of operation.

3. The Administrator shall, in any authorization granted pursuant to this regulation, specify the terms, conditions, and limitations of the authorization of deviation and each carrier shall, in the conduct of operations pursuant to military contracts or a declared emergency, comply with such terms, conditions, and limitations.

4. Grants of deviation authority hereunder for periods of 90 days or less will not be reviewed by the Board. Grants of deviation authority for a term in excess of 90 days or which in the aggregate will exceed a term of 90 days shall be subject to review by the Board, and the Administrator shall give notice of the issuance thereof to the Board as soon as it becomes apparent that the authorization is to be for more than 90 days in the aggregate. Any such long-term authorization, unless sooner revoked or rescinded by the Administrator, shall continue in effect for 90 days, and thereafter unless and until the Board or the Administrator determines that such deviation authority should not be continued. Authorizations for deviations in existence on the effective date of this regulation shall be continued in effect in accordance with their terms in the same manner and with like effect as in the case of an authorization issued hereunder.

This regulation supersedes Special Civil Air Regulation SR-385C and shall terminate May 1, 1955, unless sooner superseded or rescinded.

(Sec. 205 (a); 52 Stat. 984; 49 U.S.C. 425 (a). Interpret or apply §§ 601, 604; 52 Stat. 1007, 1010, as amended; 49 U.S.C. 551, 554)

By the Civil Aeronautics Board:

/s/ M. C. Mulligan

M. C. Mulligan
Secretary

(SEAL)