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SIMPLIFYING SPECIAL AUTHORIZATIONS

The How's and Why's of Letters of Authorizations and OpSpecs

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Introduction

“Special authorizations,” a collective term for certain specific authorizations from the FAA – in the form of **(a)** Letters of Authorization (LOAs) or Letters of Deviation (LODAs) primarily for non-commercial operators, **(b)** Operations Specifications (OpSpecs) for commercial and certain other operators, and **(c)** Management Specifications (MSpecs) for fractional operators – are a fact of life for today’s aircraft operators. Obtaining special authorizations, including figuring out which ones you need and how to get them, can be one of the most confusing tasks for the professional aviation manager to tackle. The purpose of this resource is not to give a definitive list of required authorizations and corresponding forms, items which can change from day to day. Instead, it is intended to provide background information on the origins of special authorizations, advice on where to find information on specific authorizations and examples of best practices aviation managers (from single-pilot operations to multi-crew flight departments) can use to obtain the appropriate authorizations as quickly and efficiently as possible.

In order to assist in obtaining these authorizations, it therefore briefly touches on the following subjects:

- History of Special Authorizations
- Current Status of Special Authorizations
- Tips on Applications for 14 C.F.R. Part 91 LOAs

History of Special Authorizations

The conduct of flight was largely unregulated in the early days of U.S. civil aviation. Even when the U.S. government did begin to provide some regulatory oversight, this oversight was relatively simple due to the lack of complexity of aircraft and their operations. As FSIMS¹ observes with respect to the initial oversight of commercial air transportation operations:

The early U.S. Civil Air Regulations (CAR) did not provide for OpSpecs. A valid certificate or temporary permit was the principal federal authorization for conducting any air commerce operations. In addition to the certificate or permit, each operator had to possess valid competency letters, or temporary letters, issued by the Secretary of Commerce. These letters, which contained information relating to the operator’s services, routes, aircraft, maintenance, airmen, and weather procedures, were appended to and considered part of the operating certificate. For example, CAR part 61.01 required each air carrier to operate in compliance with the terms, conditions, specifications, limitations, or other provisions of its certificate or temporary permit which included the competency or temporary letters.²

As the complexity of aircraft and civil aviation grew, however, so did an awareness of the growing need to establish and administer safety standards that would accommodate these new variables, which included: a wide and growing range of aircraft, varied operator capabilities, the various situations requiring different types of air transportation, and the continual, rapid changes in aviation technology. Government and industry stakeholders considered it impractical and unwieldy to address these rapidly changing variables through the promulgation of safety regulations for each and every type of air transport situation and the varying degrees of operator capabilities.³

¹ The Flight Standards Information Management System or “FSIMS,” found at FAA Order 8900.1.

² FSIMS, Vol. 3 (General Technical Information), Ch. 18 (Operations Specifications), Sect. 1 (Background Information), Par. 3.677 (History of OpSpecs).

³ FSIMS, Vol. 3 (General Technical Information), Ch. 18 (Operations Specifications), Sect. 1 (Background Information), Par. 3.678 (Conceptual Need for OpSpecs).

Therefore, by 1953, the Civil Aeronautics Board began requiring that air carriers obtain what operators would recognize today as OpSpecs. By 1958, with the passage of Title 49 of the United States Code (49 U.S.C.) (formerly, the Federal Aviation Act of 1958), the newly formed FAA mandated that air operators and air carriers obtain OpSpecs that would then become part of their certification, and in the same vein the concept of LOAs and LODAs began to be applied to non-commercial operators.

Current Status of Special Authorizations

The current approach to special authorizations was formalized by the Federal Aviation Act of 1958. Under that statute, as well as the federal aviation regulations originally issued pursuant to the statute and that have been amended from time to time since:

- “Operations Specifications” or “OpSpecs” became required as part of an air carrier, operating and repair station certificate pursuant to 14 CFR Parts 121, 125, 135 and 145;
- Management Specifications or “MSpecs” subsequently became required for Part 91K Managers upon the formalization of the Part 91K Fractional Ownership Regulations;
- Letters of Authorization and/or Letters of Deviation (“LOAs” and “LODAs”) became required for Part 91 operators.⁴ Note that in this last category, the application for and the issuance of these authorizations is considered voluntary based on the specific types of situations that are being regulated. For example, federal aviation regulations do not require a Part 91 operator to conduct flights in Reduced Vertical Separation Minimum (RVSM) airspace, but they do require such an operator to apply for and obtain an RVSM LOA before that operator may do so; if such an operator does not want to fly in RVSM airspace for some reason, it will never be obligated to obtain the applicable LOA.

This system continued to develop in the late 1990s and into the 2000s, when the automated safety system (OPSS) and web-based operations safety systems (WebOPSS) were established. OPSS and WebOPSS consist of standard and non-standard templates for OpSpecs, MSpecs and LOAs.

Examples of the types of authorizations that are required can be found in the list of OpSpecs/MSpecs/LOAs templates that are provided in FSIMS,⁵ and include:

- Part A LOAs/MSpecs/OpSpecs – General: Templates for administrative authorizations such as A006 – Management Personnel, or A153 – ADS-B Out Operations Outside of the U.S., etc.
- Part B LOAs/MSpecs/OpSpecs – Enroute Authorizations and Limitations: Templates for enroute authorizations and limitations regarding flight in air space such as B046 – Operations in Reduced Vertical Separation Minimum (RVSM) Airspace, or B039 – Operations in North Atlantic High Level Airspace, etc.
- Part C LOAs/MSpecs/OpSpecs – Airplane Terminal Instrument Procedures and Airport Authorizations and Limitations: Templates for authorizations such as C081 – Special Instrument and RNAV Visual Flight Procedures, etc.
- Parts D and E Maintenance LOAs/MSpecs/OpSpecs: Templates for authorizations such as D072 – Continuous Airworthiness Maintenance Program, or D095 – Minimum Equipment List, etc.

Unfortunately, FAA does not generally produce or update a simple and publicly available list of which specific LOAs a Part 91 operator may need. Moreover, what is actually required is spelled out in each of the regulatory sections that triggered the type of authorization in the first place (such as 14 C.F.R. § 91.703 requiring operators to obtain an RVSM LOA before cruising in RVSM airspace), and these can, in rare instances, change from time to time. But this information is effectively contained within the FSIMS paragraphs listed above. Additionally, a review of the other sections of FSIMS reveals specific provisions that discuss in great detail a number of the authorizations that are referenced above with respect to their templates.⁶ Finally, a benefit of reviewing these paragraphs is that they provide a wealth of information about what is required of an operator in order to obtain each of the applicable authorizations (as discussed further below).

⁴ LODA's are also used by Part 125M operators that do not hold out to the public.

⁵ FSIMS, Vol. 3 (General Technical Information), Ch. 18 (Operations Specifications), Sections 3 - 6 (Parts A – E OpSpecs Templates).

⁶ For example, Vol. 3 of FSIMS (General Technical Information) provides extensive details on the process for applying for and having reviewed applications for LOAs and LODAs, and Vol. 4 (Aircraft Equipment and Operational Authorizations) has specific and detailed chapters associated with various authorizations such as RVSM and MEL authorizations.

Although there is no official and publicly available list, as of the date of this resource's publication, FSIMS indicated that the following authorizations were the LOAs and/or related paragraphs and authorizations available to Part 91 operators (with the most commonly used authorizations listed in bold type):

Part A

001 Issuance and Applicability

004 Summary of Authorizations

005 Exemptions, Deviations and Waivers

007 Agent for Service

011 Carry On Baggage Program

049 Commercial Air Tour Operations Authorization and Antidrug and Alcohol Misuse Prevention Program Registration

056 Data Link Communications

115 Deviation Authority for Conducting Flight Training in Experimental Category Aircraft (14 CFR Section 91.319(h))

153 ADS-B Out Operations Outside of U.S.-Designated Airspace

320 Special Federal Aviation Regulation (SFAR) No. 77 Grant of Exemption

321 Special Federal Aviation Regulation (SFAR) No. 77 Authorization- Erbil International Airport (ORER) and Sulaymaniyah International Airport (ORSU)

353 In-Trail Procedures (ITP) using ADS-B IN

510 Special Flight Authorization (SFA) for Ferry Flights

511 Special Flight Authorization (SFA) for Sales Demonstration Flights

512 Special Flight Authorization (SFA) for Training Flights

520 Special Federal Aviation Regulation (SFAR) No. 77 Approval

529 Special Authorization for Emergency Operations to Support Regional Disaster Recovery

532 Special Federal Aviation Regulation (SFAR) No. 112 Approval for Operations Authorized by Another U.S. Government Agency

534 Special Federal Aviation Regulation (SFAR) No. 87 Approval for Operations Authorized by Another U.S. Government Agency

Part B

034 Navigation Equipment Eligibility to Operate in Terminal and En Route Airspace Designated as P-RNAV and/or B-RNAV/RNAV 5 Airspace

036 Operations in Required Navigation Performance Airspace

039 Operations in North Atlantic High Level Airspace (NAT HLA)

046 Operations in Reduced Vertical Separation Minimum (RVSM) Airspace

050 Special Authorizations for Certain Areas of Operations

054 Class II Operations in Airspace Where RNP 10 Is Applied Using a Single Long-Range Navigation System (S-LRNS)

057 National Parks Air Tour Management Operations Under 14 CFR Part 136

501 FAA/Industry Training Standards (FITS) Courses

548 Air Tour Operations Below 1,500 Feet AGL in the State of Hawaii

Part C

052 Straight-In Non-Precision, APV, and Category I Precision Approach and Landing Minima- All Airports

59 Category II Instrument Approach and Landing Operations

60 Category III Instrument Approach and Landing Operations

063 Area Navigation (RNAV) and Required Navigation Performance (RNP) Terminal Operations

073 Vertical Navigation (VNAV) Instrument Approach Procedures (IAP) Using Minimum Descent Altitude (MDA) as a Decision Altitude (DA)/Decision Height (DH)

081 Special Non 14 CFR Part 97 Instrument Approach or Departure Procedures

358 Special Restrictions for "RNP-like" Foreign RNAV Terminal Instrument Procedures with RNP Lines of Minima

381 Special Non 14 CFR Part 97 Terminal Instrument Procedures, Regional Authorization

384 Required Navigation Performance (RNP) Procedures With Authorization Required (AR)

Part D

095 MMEL Used as an MEL

- 97 Aging Aircraft Programs
- 98 Flight in Special Areas of Operation For Short Term Operations

195 Minimum Equipment List (MEL)

Part J

- 501 Parachute Operations Over or Into a Congested Area or Open Air Assembly of Persons
- 550 Banner Towing Operations
- 501 Certificate of Authorization U.S. Operator NAFTA SAS in Mexico
- 502 Certificate of Authorization U.S. Operator NAFTA SAS in Canada
- 503 Letter of Registration U.S. Operator Firefighting and/or Forest Fire Management NAFTA SAS in Mexico
- 504 Letter of Registration U.S. Operator Firefighting and/or Forest Fire Management NAFTA SAS in Canada
- 505 Certificate of Authorization Mexican Operator NAFTA SAS in U.S.
- 506 Letter of Registration Mexican Operator Firefighting and/or Forest Fire Management NAFTA SAS in U.S.
- 507 Certificate of Authorization Canadian Operator NAFTA SAS in U.S.
- 508 Letter of Registration Canadian Operator Firefighting and/or Forest Fire Management NAFTA SAS in U.S.
 - 1 Continued Use of Level I Flight Training Devices (FTD)
 - 2 Flight Training Devices (FTD), Levels 2, 3, and 5

Many more special authorizations are available for commercial operators. While not required for Part 91 operators, these additional authorizations may be made available upon request if the operator can demonstrate a need.

Tips on Applications for 14 C.F.R. Part 91 LOAs

Now that the why's of LOAs has been discussed, the next section will focus on best practices for applying for these authorizations. In summary, these steps are straightforward and logical:

1. Identify the right applicant for the LOA
2. Identify the LOAs the applicant might need in order to conduct its desired flight operations
3. Research both inspector and operator guidance on each of those LOAs
4. Submit the application using the forms the FAA has provided
5. Hand-deliver the application package if you can
6. Periodically follow-up with the FSDO (in a professional manner)

Here is a discussion of each of these steps in more detail:

1. Identify the Right Applicant for the LOA:

A party that wishes to utilize a particular authorization should check the underlying regulation to make sure that the application is being submitted by the correct person or entity. As a general rule, the person or party that should be applying for the LOA is the operator of the operations in question, i.e., the person who has operational control of the flight. In any event, it is critical to understand that regulations are the final standard – not, for example, the verbal instructions of an FAA safety inspector who is not current on the applicable guidance and is directing an applicant to submit the application in the name of the wrong person or entity. Applicants bear the ultimate responsibility to submit the application in the name of the correct party; even if the applicant received faulty instructions from a safety inspector, it may not save them from later enforcement actions by the FAA.

Using the requirements for an RVSM LOA as an example, 14 C.F.R. §§ 91.180 / 91.706 state in part:

“ ... no person may operate a civil aircraft (of U.S. registry) in airspace designated as Reduced Vertical Separation Minimum (RVSM) airspace unless:

(1) The operator and the operator's aircraft comply with the requirements of appendix G of [Part 91]; and

(2) The operator is authorized by the Administrator to conduct such operations."

Stated another way, special authorizations should be applied for by, and issued to:

- Registered owners that are:
 - Part 91 – personal/business operators for their non-air-transportation use (meaning, under the applicable statute and related regulations, aircraft use that is not solely for the purpose of moving passengers from point-to-point as a reimbursed or compensated business activity in and of itself, but instead is the movement of employees or guests that is incidental to and within the scope of the regular, non-air transportation business activity of that business operation, in which case that owner/operator would obtain the applicable LOAs); or
 - Part 135 – certificate holders for their commercial use (in which case, that operator would be issues OpSpecs for its operations).
- Parties assuming operational control under “dry” lease or use agreements:
 - Part 91 operator lessees who would then obtain their own LOAs; or
 - Part 135 operator lessees; who would then be issued OpSpecs.
 - NOTE – it is entirely appropriate that an aircraft holding or leasing company has entered into multiple non-exclusive aircraft dry leases for the use of an airplane, which in turn means that each individual lessee will need to obtain its own LOAs as the occasional Part 91 operator of that aircraft.

This in turn means that special authorizations should not be applied for by, or issued to:

- Flight Department Companies – companies that have no business other than owning and operating aircraft for the benefit of that company's underlying owners and affiliates. Although this issue goes beyond the scope of this paper, the FAA considers such companies to be per se commercial operators that must obtain their own commercial certification (such as a Part 135 air carrier certificate), in which event the operations would be conducted under Part 135 and the operator would obtain its special authorizations through its OpSpecs.
- Non-Operating Holding Companies – companies, such as limited liability companies, that are usually set up to own and lease the aircraft to other parties – as noted above, in this event each of the individual lessees would need to obtain its own set of LOAs, and could not operate under a “generic” set of LOAs issued in the name of the registered-owner holding company.
- Aircraft Management Companies – third party companies that are hired by the Part 91 operator to assist in the management, maintenance and operations of the aircraft. In this instance, if the Part 91 management company actually assumes operational control of the aircraft (which is what would be indicated if that management company is applying for Part 91 LOAs in its own name), then it would have turned itself into a commercial operator, thereby requiring it to obtain an air carrier certificate and operating the aircraft under the applicable commercial rules, such as Part 135 for non-transport-category on-demand operations.

2. Identify the Various LOAs the Applicant Might Need in Order to Conduct its Desired Flight Operations

Once you have identified the correct party to be the applicant for the LOA, the next step is to determine which LOAs are actually required. As noted above, this generally involves an analysis of what type of aircraft you are flying and where you are going. Most multi-engine turbine aircraft operated within the U.S. will usually want to have RVSM and MEL authorizations. If the aircraft will be routinely operated over water or overseas, then certain additional area navigation authorizations may be appropriate. In any event, the operator will need to review the regulations and FSIMS information outlined above in order to determine if any other authorizations are appropriate.

3. Research both Inspector and Operator Guidance on Each of the Desired LOAs

Once you have identified both the correct operator/applicant and the desired LOAs, the next step is to refer to the guidance that FAA has provided with respect to each authorization. This is generally provided in two forms. A good starting point is FSIMS – the official guidance to the FAA inspector corps laying out in great detail all of the various issues to be addressed for each authorization. While this resource is technically targeted to FAA inspectors and not LOA applicants, if the applicant understands exactly what inspectors will be evaluating, this can help the applicant hone in on exactly what is needed, as well as ignore what is not.

By way of example, within FSIMS, Vol. 3, Ch. 18, Sect. 4, Part B is the sections titled “OPSPEC/MSPEC/LOA B046-OPERATIONS IN REDUCED VERTICAL SEPARATION MINIMUM (RVSM) AIRSPACE,” providing a high-level overview of where and why an LOA for RVSM airspace is required, as well as references to both the underlying regulatory sections and additional outside references regarding the authorization. The next section to review will be FSIMS Vol. 4, Ch. 10 (Evaluate Operator’s Application to Conduct Flight in Reduced Vertical Separation Minimum Airspace).

Once you have reviewed inspector guidance, the next area to target will be other guidance issued specifically for the benefit for operators. Keeping with the RVSM example, the FAA has recently issued a revised Advisory Circular, AC 91-85A, that provides detailed guidance on requirements for applying for an RVSM LOA.

Finally, the last step is to further search FAA’s website to determine if the agency has provided any further guidance or information with respect to the LOA in question. Again, in the area of RVSM LOAs, the FAA has created a specific web page – https://www.faa.gov/air_traffic/separation_standards/rvsm/ – devoted to this topic, including links to various suggested documents, such as general information documents and Job Aids to assist in completing an appropriate application.

4. Submit the Application Using the Forms the FAA has Provided.

Although the process described so far can appear to be daunting, by following these steps, you should generally find that the FAA has provided a significant amount of details and proposed documentation that can be used for the application in question. It is important to remember that if FAA has provided a suggested form, then it is well worth your while to use it. Not only will this make your task quicker, but it will also make FAA’s review of your application that much quicker as well, because it will be in their own format.

Other common sense rules apply here as well. The application package should be complete and be professional in appearance. It should include information on each of the required elements you have researched during the process described above, and not include items that are not required. Ideally, it should come under the cover of a letter from the applicant/operator that specifically requests the FAA to process and issue the authorization that is being sought.

At the end of the day, this is arguably the most important step. While it is predicated on all of the work that has been accomplished in steps 1–3 above, the basic admonition “garbage in, garbage out” applies. To the extent you have prepared and submitted a package that clearly and completely addresses all of the information the FAA is required to review under its own guidance for the issuance of an LOA, you have made it infinitely easier for a safety inspector to process your package and get it off his or her desk. To the extent you have not provided the information that is required, you have slowed the process down for everyone. Keep in mind that it is not the FAA’s job to prepare an application for you, or to correct or complete a package that has errors or is missing key information. The agency’s job is to review what the applicant has submitted and, if it is complete and meets all of the requirements, issue the applicable authorization.

5. Hand-deliver the Application Package If You Can.

Although access to the FSDO is generally limited, if at all possible it is worthwhile to seek a specific meeting with a FSDO inspector who can accept the application and ask any initial questions that might arise. This serves several purposes, one of which is simply ensuring that the application package is actually in the hands of FAA, starting the review and issuance process. It also serves to give you a contact to communicate with both during the application review process and once the application has been approved and delivered. A delivery receipt should be obtained for any documentation dropped off with the FAA in person – this may be helpful for tracking purposes later.

6. Periodically follow-up with the FSDO.

Finally, once all of the steps above have been followed, don't be afraid to periodically reach back out to the FSDO, ask which inspector has been assigned to process the application package, and then check with that person to see if any further information is required of the applicant. This doesn't mean to call every day; generally speaking, the review and issuance of LOAs is completed on a "first come, first serve" and as work-load-permits basis, so the processing of the package is, to some extent, outside of the control of the individual inspectors. All of that said, if the applicant is acting in a professional manner and makes it clear that he or she is available to quickly address any questions that have arisen, experience shows that this will help facilitate faster processing of the application. Conversely, taking an unprofessional approach quite often leads to the opposite result.

Summary

The process of applying for the appropriate special authorizations from the FAA is not easy, but it is manageable. If you follow the general steps outlined above, you will have a better chance of determining exactly what you need, and then obtaining the correct authorizations as quickly and efficiently as possible.



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