

Affects Parts: 40, 41, 42, 45, 61  
Distribution: General

Regulation No. SR-385C

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

*CAA Library*

Effective: February 1, 1954  
Adopted: January 29, 1954

### SPECIAL CIVIL AIR REGULATION

#### DELEGATION OF AUTHORITY TO THE ADMINISTRATOR TO PERMIT AIR CARRIERS UNDER CONTRACT TO THE MILITARY SERVICES TO DEVIATE FROM PARTS 40, 41, 42, 45, AND 61 OF THE CIVIL AIR REGULATIONS

Special Civil Air Regulation SR-385B 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 October 1, 1953, extending until February 1, 1954, the same authority that had been previously granted to the Administrator. The extension granted by SR-385B was for the purpose of permitting a re-evaluation of the problem involved.

On November 5, 1953, a notice of proposed rule making was published in the Federal Register (18 FR 6998) in which it was proposed to continue the authority as was previously delegated to the Administrator and to permit such authority also to apply to an emergency necessitating the transportation of persons or supplies for the protection of life or property. The proposed rule, however, also provided for a review by the Board of any deviations that continued in effect for more than 90 days. Some comment received in response to this proposed rule felt that there was at present permanent need for this deviation authority and that the deviations granted should not be subject to review. Other comment indicated that the urgency for this deviation authority necessitated by the Korean airlift has passed and that there was no further need for this regulation. The Department of Defense, however, has stated that there is a continuing need for this deviation authority.

The Board feels that although the demand for the proposed deviation authority is not as great as during the most active periods of the Korean airlift, there is still a need for delegating deviation authority to the Administrator. While this deviation authority is perhaps not as widely used now as previously, it is difficult to predetermine the time at which an emergency may arise for which immediate action becomes necessary. In such an event, it would then be necessary that the Administrator be able to permit deviations from the Civil Air Regulations without any delay.

For these reasons, this regulation continues the deviation authority currently delegated to the Administrator. To allay the fears, however, of those who feel that there is no current need for such authority or that the authority may be abused, this regulation also provides that no deviation authority may continue in effect for more than 90 days unless notice is transmitted to the Board. If this notice is transmitted to the Board, however, the deviation authority may continue for more than the 90-day period unless otherwise changed by the Board. Thus, any prolonged deviation will be reviewed by the Board.

In addition to the foregoing deviation authority, this regulation also delegates to the Administrator authority to grant deviations from the Civil Air Regulations in the event of any emergency or disaster requiring the transportation of persons or supplies. This delegation of authority is considered desirable. In such instances, immediate action may be required which necessitates a deviation from the Civil Air Regulations, it is considered that permission to deviate in such cases can best be handled by the Administrator.

This regulation shall continue in effect for one year, at the end of which time these problems and the effectiveness of the procedures provided in this regulation will be re-examined for the purpose of considering the incorporation of the substance of these rules in the operating parts of the Civil Air Regulations.

Interested persons have been afforded an opportunity to participate in the making of this regulation, and consideration has been given to all relevant matter presented. Since this regulation imposes no additional burden on any person, it may be made effective without prior notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby makes and promulgates the following Special Civil Air Regulation effective February 1, 1954:

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 Parts 40 (including revised Part 40), 41, 42, 45, and 61 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, if they are to be continued in effect for a period of more than 90 days after the effective date hereof, shall be subject to Board review in the same manner and with like effect as in the case of an authorization of more than 90 days issued hereunder.

This regulation supersedes Special Civil Air Regulation SR-385B and shall terminate February 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)