

Allegation #1:

To state the regulation requiring a training program for every carrier under § 121.401(a)(1) was not in effect “waived” outside of required authorizations by a Principal Inspector and is not the basis for Polar having an incomplete training program as required by the regulations is false. The regulation cited states:

“(a) Each certificate holder shall:

- (1) Establish and implement a training program that satisfies the requirements of this subpart and appendices E and F of this part and that ensures that each crewmember, aircraft dispatcher, flight instructor and check airman is adequately trained to perform his or her assigned duties. Prior to implementation, the certificate holder must obtain initial and final FAA approval of the training program.”

In addition, it is further stated in subpart (4) that the individual carrier must “Provide enough flight instructors and approved check airmen to conduct the flight training and checks required under this part.”

FAA policy and guidance require that for any operator to not strictly comply with the wording of those regulations they must obtain an exemption or a waiver from The Administrator or be authorized via Operation Specifications A031 with a contract training provider. The exemption process requires the Certificate Holder to petition The Administrator for an exemption to the specific regulation. The response to this request comes from AFS-200 at FAA Headquarters in Washington DC and the decision is provided directly to the Certificate Holder. It is not directed to the POI. No Principal Inspector (PI) involvement is required outside of adding the exemption to the Operations Specification A005 if the exemption is approved. A PI may not and cannot provide an exemption to a regulation. This process is found in the guidance contained in the Flight Standards Order 8900.1, Volume 3, Chapter 2, Section 1, “Exemptions, Deviations, Waivers, and Authorizations.” On December 6th, 2011, the POI for Polar Air Cargo at the NY FSDO, signed a letter which was subsequently sent to the Director of Operations at Polar Air Cargo stating: “We have received your letter of December 6, 2011, requesting approval of the transfer of all Polar Air Cargo pilots to the Atlas Air Training Program. After a review of the pertinent Federal Aviation Regulations and Guidance, we approve of this transfer.” Interestingly, the approval letter is dated the same day that the request came in. Transferring an entire training program from one certificate holder would more than a casual letter that does not specify any regulations involved nor conditions of the process.

In that same Section, under 3-36 DEVIATIONS, WAIVERS, AND AUTHORIZATIONS, it states that “certain 14 CFR sections allow the Administrator to authorize a deviation through the issuance of a Certificate of Waiver (CoW), Certificate of Authorization (CoA), or OpSpecs/MSpecs/TSpecs/LOAs. This authorization permits a person or entity to deviate from a specific regulation or to comply with special alternative provisions, conditions, or limitations. This regulatory flexibility is only available to the Administrator when the specific regulatory section stipulates that it is available.” That language is not stipulated in § 121.401, thus, any

authorization must come in the form of an exemption. Polar Air Cargo does not have that Exemption listed in OpSpec A005 nor has an exemption petition ever been filed.

There is an alternate method that would allow for a Certificate Holder to have its pilots trained without doing so itself. This comes in the form of contract training provided by a part 142 school or a part 119 certificate holder approved by the FAA to train flight crews of the Operator. The findings even states the two Certificate holders were “eligible under this subsection to provide flight training, testing, checking under contract or some other arrangement to those persons subject to the requirements of this part.” That statement totally ignores the fact that Polar has not been issued the required authorization via the issuance of OpSpec, A031. So, while the Operator might be eligible for this arrangement, that arrangement has never been made. While at one point Polar Air Cargo and Atlas Air were issued OpSpec A031, both OpSpecs held by the Operators were blank, contained no information, and thus were null and void. Those OpSpecs were removed as they had no regulatory power and provided no authorization for Polar Air Cargo to utilize an outside contractor to train its pilots. In addition, Polar Air Cargo currently lists zero pilots or flight crew members to the FAA, and one of the required part 119 personnel, the Chief Pilot, retired several years ago and is no longer active with the company. The Director of Operation for Polar Air Cargo is listed on OpSpecs and is an authorized Check Pilot for Atlas Air. In essence, Atlas pilots are operating aircraft that are listed on the Polar OpSpecs, as by their own admission, Polar has no pilots (this creates another issue concerning the validity of an air carrier operating with no pilots). This arrangement could also be satisfied by a wet or dry lease agreement, but neither Atlas nor Polar have the appropriate A028 nor A029 OpSpec issued to them.

Thus, as a waiver is not allowed for this regulation, an exemption would be required for Polar to operate with pilots trained by another company. Since the previous POI from the NY FSDO did not have the authority to “waive” the regulation and transfer all of the Polar pilots to Atlas, Polar has no pilots, there is no A031, A028, or A029 OpSpec issued to them, operating in this manner is contrary to the regulations and to FAA policy.

The closure of the CHEP inspection findings mentioned here was completed after the ASI that brought this WB complaint to light was forcibly reassigned to another certificate, and the CHEP finding in question was brought forth by an ASI from AFS-900 who conducted the CHEP. That Inspector filed a WB complaint on this exact issue and disagrees that the finding was satisfactorily resolved.

Example B – As stated above, Wet Lease agreements do not exist between Polar and Atlas, even though Polar states that they do not have any pilots, and thus cannot be crewing its own aircraft. With no flight crews, the only option is that Atlas pilots are operating the Polar aircraft, as Polar not only had their pilots transferred over to Atlas for the purposes of training but apparently got rid of its pilot group entirely. Operating an aircraft that is crewed by pilots that are not employees of the Aircraft Operators company requires either a Dry Lease or a Wet lease agreement and subsequent issuance of A028 or A029. The arrangement with Atlas and Polar is that Polar operates the aircraft and has “Operational Control” of the flight, but the pilots are, by necessity,

Atlas pilots. If not a Wet Lease or a Dry Lease, then the pilots must be Polar pilots and not Atlas pilots. Again, Polar has zero pilots.

I personally agree that the Operators don't require a wet lease or dry lease authorization. This was raised by another ASI for this complaint. My stand is that the pilots are not operating under an authorized Exemption to train their own crews and that the aircraft are being operated by flight crews from another certificate holder.

Example C: The documents relied upon as 'evidence' do not reflect the situation, or they describe situations that do not apply.

It is stated that the use of other Operator call signs is authorized if approved by ATO is acceptable. However, the issued OpSpec A001 states what names the Operator may utilize in the conduct of their business. Polar Air Cargo and Atlas Air are the only names listed for the operators. There are no DBAs. When asked, neither operator could provide any authorization allowing them to operate under another call sign. ATO could not provide that either stating that they utilized whatever Atlas or Polar submitted in the flight plan. Several instances were provided where in-flight incidents almost resulted in an aircraft accident were conducted under other carrier's call signs, even to the point that ATC and local media believed it to be the other carrier and not Atlas or Polar. In one instance a pilot deviation was ignored as it had been conducted under the Kalitta Air call sign. The Detroit FSDO (now Eastern Michigan) that oversaw Kalitta was provided the PD. The FSDO contacted Kalitta asking about the flight. Kalitta rightfully stated that they had not operated a flight. It was not until ten months later that an ASI noticed that the aircraft belonged to the Atlas/Polar group and informed the CVG FSDO (who had oversight of the two carriers at that time) about the PD. At that point, no action could be taken due to the time involved.

There are items listed as evidence, such as the Cathay Pacific and Qantas document submitted, that mixes up the complaint from the AFS-900 WB complaint and the complaint from the POI.

Allegation #2

Example A - It should be noted that the POI that filed the WB complaint regarding the illegal use of photocopied 8430-6 forms utilized by the operator and approved by the previous two POIs was the one who terminated the use of that practice and required the Certificate Holders, Polar Air Cargo and Atlas Air, to comply with the guidance. The termination of this practice was not at the direction of the FLM, but at the sole direction of the POI. FLM #1 had no previous experience with 8430-6s and was completely unaware of the practice or process until trained by the POI on the subject. FLM #1's statement that he terminated the practice is completely false. The issue was brought to his attention by the new POI less than one week after I assumed the Acting POI role. FLM #1 was not instrumental in correcting the practice as this was entirely the decision of the POI. The only action that was directly performed by FLM #1 in this was the email he sent to AFS-290 at FAA Headquarters at the bequest of the POI due to the Operators vehement and angry disagreement that the current process was being deemed illegal. The previous POI referenced by FLM #1 was involuntarily transferred and was removed from the certificate and was replaced by the POI who is the WB in this matter. This action by the POI brought about numerous complaints from the Certificate Holders to FAA Management at the DFW CMO as properly following the regulations negatively impacted the CHs operations financially.

The reply from the Program Management Support Group, AFS-290, specifically states that use of the hard copy as the POI insisted upon was indeed the "correct procedure", thus validating the POIs requirement that the hard copy "must be utilized". Atlas management ridiculously responded that they should be able to utilize their current procedure despite it being illegal because "we can't continue to live in 1992. It is not a big deal for the 290 folks, because we are the only ones processing this many forms." That is incorrect as it did not only involved them, it also involved the CMT. Having to follow the FAA's required process greatly increased the workload of The Atlas/Polar/Southern CMT overseeing the process. The CMT had to receive, create, approve, document, and provide the 8430-6s to the Certificate Holders, at a rate one hundred times that of any other carrier due to the Atlas/Polar business model. Despite the added work, and at a time when the POI, mostly without benefit of any Assistant POIs, was overseeing an unprecedented three part 121 Certificate Holders, one of which is a Major Carrier, and two of which were undergoing a merger. The POI required the use of the hard copy not to be difficult, but because it was required by guidance and by instruction from the process holder. Issuing in this manner was nothing but added work and the POI was in favor of using the electronic form, if and when it was approved. The electronic form was not allowed due to signature security concerns by Washington DC. ASIs are instructed, and it is FAA policy at the ASI level, that questions be directed to the policymakers or the process holders for guidance and that the resulting answers must be utilized if there is a question regarding a process or procedure. The response of those entities must be followed and must not be ignored by the ASI. To say there is no policy regarding guidance in these matters is patently false.

It says that FLM #1 knew that the original POI at the time (not the POI that is the WB for this complaint) would electronically sign the 8430-6. This is untrue. The POI would sign a photocopy of the form, scan it, and email that to the CH, often without retaining a copy as required by guidance, and often without the required information filled in. In essence, Atlas/Polar were filling in their own forms with a blank 8430-6. Many of these forms were issued on the weekend, when FAA Inspectors were not even available to sign, thus demonstrating that the operator was filling them in themselves. An early conversation between the POI that insisted on the hard copy use and an Atlas employee who dealt with the process had the Atlas employee angrily stating "Well, that won't work. How am I supposed to do this on the weekend or at night if I need to get someone on the airplane and you're not available?"

It is stated that the DFW CMO manager had no knowledge of the issue involving the 8430-6 issuance process. This is untrue, as the POI had formal complaints lodged against him by several Non-119 Atlas Worldwide Executives, such as the Executive Director of Flight Operations who was complaining about the impact of the process. When 8430-6s are issued by AFS-200 a time allowance of 45 days for approval was given in the guidance (later reduced to 30-days). When investigated by the FLM and the FSDO Manager, it was found that the average time from CH request to issuance of the 8430-6s by the CMT was four days, and in no case did it exceed fifteen days. One complaint filed against the POI stated that the POI's lack of concern had cost Atlas a \$1,000,000 trip as the 8430-6s were not issued in time for the flight to occur. The request came three days prior to the flight. These complaints were made on a number of occasions and were one of the subjects that were brought up during a telephone conversation made by the DFW CMO Manager to the POI in February of 2019 highlighting the difficulties this correct process was causing to Atlas and Polar and the financial hardship that it created. To say that the Manager was unaware would be false.

No mention was made of FLM #2 directing the CMT ASA to prepare electronic 8430-6s for issuance during the POI's absence despite the POI already telling the FLM that guidance from the process holder in Washington DC specifically stated that only the hard copy of the form was required. The fact that an FLM did an end run around the POI to get this issued and begin this practice was the foundation of the WB complaint and not that the 8430-6s were being issued illegally. The response from the OIG missed the basis of the complaint which was (paraphrased) "On August 13th, FLM #2 received a request from an Atlas Executive asking if he could do anything about getting a set of 8430-6s issued for a flight coming up in two days. I subsequently received an email from FLM #2 stating that I needed to issue these electronically, despite our previous conversations. Despite this, FLM #2 continued to insist that I was wrong and that I should be issuing these electronically." Having management intervene on behalf of the Certificate Holder against the wishes of the Principal Inspector who was provided this responsibility (by AFS-200 and the guidance) was the complaint. Management was not authorized to make this decision by guidance (8900.1, Volume 3, Chapter 2, Section 1). Thus these actions was an attempt to usurp the POI's authority to placate the Certificate holder. This is not addressed in the OIG response at all and is the basis for the interference complaint.

Allegation #3 -

This response incorrectly implies that assigning manual approval determination responsibility to the APM, bypassing the POI, and having the PMI sign Ops manuals approval letters, especially an MEL, is within normal policy, and that is completely false.

In the Order 8900.1, Volume 4, Chapter 4, Section 1 - Safety Assurance System: Minimum Equipment Lists and Configuration Deviation Lists for Part 91K Program Managers, and Parts 121, 129, and 135 Certificate Holders, it is obvious that the POI is given the responsibility of approving the MEL. The PMI is responsible solely for the approval of the MEL Management System, but not the approval of the MEL. It is clearly stated that the MEL approval is a function of the POI, not the PMI or the FLM. While it must be done in collaboration with the PMI and PAI, there is no requirement to consult an APM, which is what was “relied upon” by the FLM to approve the manual. The POI at no point approved or gave approval of the manual prior to his signing for it days later and forcibly dated as directed by the FLM.

This section of the 8900.1 states:

Under 4-677 RESPONSIBLE FLIGHT STANDARDS OFFICE RESPONSIBILITIES

Principal Operations Inspector (POI). *The POI is the primary FAA official responsible for the overall process of administering, evaluating, and approving an operator’s MEL.* It is essential that the POI work with the Principal Maintenance Inspector (PMI), the Principal Avionics Inspector (PAI), and other certificate management personnel, such as an ASI–Aircraft Dispatch (ASI-AD) and cabin safety inspector (CSI), throughout the MEL approval, revision, and oversight processes. When POIs require additional technical information related to a specific MMEL or MEL item to answer questions generated internally or on behalf of the operator, they will consult the AEG FOEB Chair responsible for the aircraft.

C. PIs with Oversight Responsibility. PIs with oversight responsibility of these certificate holders and program managers will approve an MEL Management Program by issuing OpSpec/MSpec paragraph D095 (refer to Volume 3, Chapter 18, Section 6, OpSpec/MSpec D095). ***POIs will approve the actual MEL.***

In other areas of this section:

Administrative Control Item (ACI). An ACI is listed by the certificate holder in the MEL for tracking and informational purposes. ***An ACI may be added to a certificate holder’s MEL by approval of the POI*** provided no relief is granted, or provided conditions and limitations are contained in an approved document (e.g., Structural Repair Manual (SRM) or Airworthiness Directive (AD)).

POIs may authorize the listing of an ACI in an MEL, provided no relief is granted or any conditions or limitations associated with the ACI are contained in an approved document (e.g., SRM, AD, etc.). Refer to MMEL PL-034 for a preamble description of an ACI.

Due to this regulatory responsibility, ***POIs must ensure that certificate holders*** have a method of ensuring that all MEL information is made available to the PIC and dispatcher (or person designated to exercise operational control) prior to an aircraft's departure.

P. Fleet MEL. Certificate holders and program managers may have a single MEL for multiple aircraft of the same make and various models if listed on the same MMEL, and authorized in OpSpec/MSpec D095. This is known as a fleet MEL. ***POIs may approve certificate holders/program managers to use a fleet MEL*** to reflect all of the equipment that can be applicable to specific aircraft fleet type.

3) Flightcrew Accomplishment of Certain MEL Procedures. ***POIs may approve procedures that permit flightcrew members to accomplish certain MEL deferrals*** in coordination with the certificate holder's dispatch and maintenance organizations without returning to the gate or ramp area. POIs must coordinate with the PMI and PAI to approve such procedures.

NOTE: If an MEL item is applied to an aircraft after a dispatch or flight release has been issued, ***POIs must ensure that the certificate holder has policies and procedures in place that require the dispatcher, person authorized to exercise operational control, and/or the PIC to amend the release.*** The individual who first becomes aware of the MEL should be the one to initiate the amendment.

POIs must ensure that each certificate holder's MEL Management Program has procedures for the PIC to communicate with the dispatch (or operational control for supplemental operations) and maintenance organizations prior to takeoff to review each situation and determine whether the flight should:

a) ***POIs must coordinate with the PMI and PAI to approve such procedures.***

b) ***POIs must not approve these types of procedures*** unless they contain enough detail to ensure that all of the applicable (M) and/or (O) procedures are accomplished by appropriately qualified personnel. Additionally, the operator's procedures must ensure that all conditions and limitations associated with an MEL item are satisfied.

B. Purpose of the General MMEL "Remarks or Exceptions." MMEL "Remarks or Exceptions" are purposely included in MMELs to accommodate a variety of entities, including certificate holders and program managers who conduct operations under a variety of operating rules. Therefore, the policy must be broad enough to cover a wide range of operations. The FAA's intent, however, is that each certificate holder's and program manager's MEL contains the necessary procedures, and/or identifies the appropriate 14 CFR requirements for their particular type of operation. ***POIs must not approve MELs that contain*** a restatement of the

general MMEL “Remarks or Exceptions” as described in subparagraph 4-635A, without further definition and elaboration. See Figure 4-39A as an example.

By the guidance listed above, it is patently obvious that approval of the MEL is the responsibility of the POI.

In addition, the List of Effective pages must be “signed and stamped” (electronic signature is allowed) and provided to the Certificate Holder. These are the actual authorization documents and are a required part of the approval. These were not issued by the PMI when the approval letter was created and signed by him.

As stated in the 8900.1 Volume 3, Chapter 32, Section 6 Accept or Approve Manuals, Procedures, and Checklists:

NOTE: *All current manual structures use a “List of Effective Pages” for the acceptance/approval process*

In Section 11 Safety Assurance System: Evaluate a Maintenance Manual/Revision for a Part 121 or § 135.411(a)(2) Program

D. *Manual Revision Requirements. Manuals must be easy to revise and must show the date of the last revision on each page. The manuals must have a page control system showing the number of pages, including the latest revision. The page control system is usually a List of Effective Pages (LEP).*

The POI is undoubtedly the approving Principal Inspector via the 8900.1 ORDER. Approval of the MEL is thus under his authority, and must be approved by him or by someone he has delegated this to, or to an authorized other (such as an Assistant POI). To say that there is no policy or requirement to delegate signing authority is laughable, and that apparently anyone can sign for someone else in our organization is ridiculous. I am unsure how this statement could be made or written with a straight face. To say that the FAA, and I would then expect the Executive Branch in general, has no requirement for authorizing others to sign “for” them without their knowledge, agreement, or approval, flies in the face of the responsibility structure of a regulatory agency not only for itself, but also for the entities they oversee. We demand responsibility from the Certificate holders we oversee and the delegation of their authority. POIs are required to send letters to their APMs so that they can sign for functions that are identified in the 8900.1 as a POI function, such as Check Pilot approvals. An FLM can’t sign an LOA, but a POI or APOI can, by Order. An APM may only if they are given the authority to do so, provided they have been given a signature authority memo. I have had to do that for three carriers, for 6 different aircraft types. During a Southern Air IEP, I was told by an AFS-900 that I had to do it to allow APMs to sign

for me. . The APM is only an advisor who recommends, one of several, and is not an approver, ever, for an MEL. APMs only get authorization for CPs, APDs, and other items related to the flight program. Not Operations manuals.

I can't sign for the FLM or the CMO Manager. To "Sign for" another requires one of a couple of things. Written by policy, such as a proxy in SAS and WebOPPS. Designating a proxy in these systems may *only* be done by the POI as it is allowing another to "Sign for" them. *This can not be done by an FLM.* They are electronically prohibited from doing so. Only the POI may do this for those functions. The other way for someone to sign for a POI (or anyone else as a legal course) is by agreement between the authorized signer and his designated signatory. That process requires that there is agreement that the person may sign on a particular issue and that the person granting that signing power agrees with what is being authorized. I did not.

The PMI refused to sign it in his name only and required the ASA to create a second letter. He required the second letter to be signed "for" me as he knew the authority to approve the MEL was mine, and not his. He realized that the MEL was an Ops manual and was not his as an Airworthiness Principal to approve, by Order. He would only "sign for" the POI as he ignorantly believed that this would make the approval the POI's, which it did not, anymore than someone signing a personal check "for" someone without signature authority makes it a legal and valid check. The PMI also did not sign nor provide the LEPs. It is stated in the 8900.1 that the actual approval is in the signing of the LEPs, and not of the approval letter. The carrier knew this also. The required procedure and CMO policy for approval involves sending all correspondence through ERMIS, an electronic correspondence approval and documentation system. This was bypassed by the FLM. Why? Obviously, this occurred as the FLM was determined to get the required manual in the hands of the operator so that they could operate the next morning, a Saturday, as they had stated that they had already booked a high-value flight and couldn't turn it down without financial hardship. It should be noted that by guidance, the FAA has 30 days to approve or reject a manual. The manual was nowhere near that time limit. The FLM had attempted to contact me several times on my RDO because he knew it was my authority to approve the MEL and no one else's. When I was deemed unavailable, the FLM began the process of bypassing the regulatory requirement of POI approval, LEP signing, and correspondence documentation to get the manual into the Certificate Holder's hands to placate the CH. The approval documentation process includes tracking the approval letter and LEPs by the ASA, who subsequently sends them to the CH. This was also bypassed as the FLM forced the PMI to send them directly to him after which the FLM emailed the Approval Letter directly to the Operator. In a conversation following these events, the PMI stated that he didn't want to sign it, but that the FLM pressured him to do so. He even stated that he feared that what he had done was illegal as he felt he had "forged" my signature.

I wish to make it clear that the Approval for this manual by the PMI was done without my knowledge, approval, or consent, and that at no time ever, have I given anyone the authority to sign "for" me in regards to any approval letter of any type. This was done completely without my authorization and I consider this act to be a falsification of a government document.

Allegation #4 –

There are many statements made that are indicative of persons who do not wish to get involved, and who have privately stated to me that they do not wish to make any statements that would possibly negatively impact their career. Without a written or recorded statement, these can't be refuted.



8/12/2022