



OFFICE OF THE NATIONAL COMMANDER
CIVIL AIR PATROL

UNITED STATES AIR FORCE AUXILIARY
Maxwell Air Force Base, Alabama 36112-6332

23 April 2001

MEMORANDUM FOR ALL REGION AND WING COMMANDERS

SUBJECT: CAP Flight Operations

1. We have recently learned that one wing may be advertising that it can perform transportation flights for state legislators. The advertising allegedly claims that the only requirement is that the legislator joins CAP and pay for the flight. The situation was called to our attention when a state legislator wrote to complain that she took advantage of this offer but missed an important meeting because the VFR pilot was unable to complete the flight due to weather. The region IG is investigating the situation.

2. Based on the above incident, this memorandum is to remind all commanders that no CAP member is authorized to provide transportation flights on demand or for hire for legislators or anyone else. Be ever mindful that to follow CAP flight operations policy, we must operate our aircraft under the Federal Aviation Regulations (FARs) and our operations must be justified according to our corporate charter. If a mission does not coincide with our corporate purposes as stated in our charter from Congress, then the mission cannot be flown. With our three primary missions of aerospace education, cadet programs, and emergency services in mind, a summary of our corporate purposes follow:

a. To provide an organization to;

(1.) Encourage and aid citizens of the United States in contributing their efforts, services, and resources in developing aviation and in maintaining air supremacy; and

(2.) Encourage and develop by example the voluntary contribution of private citizens to the public welfare.

b. To provide aviation education and training especially to its senior and cadet members.

c. To encourage and foster civil aviation in local communities

d. To provide an organization of private citizens with adequate facilities to assist in meeting local and national emergencies.

e. To assist the Department of the Air Force in fulfilling its noncombat programs and missions.

3. A review of applicable FARs (as they apply to CAP) will help define what we can legally accomplish for our customers. FAR Part 119 sets forth the general rule that each person operating a civil aircraft as an air carrier or commercial operator must have an operator certificate and operate under the rules of Part 135. There are exceptions to this requirement and most CAP emergency services flights fall under the "aerial work operations" exception found in FAR Part 119.1(e)(4).

4. Aerial work operations flights are those that start and end at the same place, perform the mission in the air, and carry only persons who are required to be on board to accomplish the mission. Missions such as visual and electronic searches, aerial photography, slow-scan and infrared imaging, reconnaissance and

searches for suspicious vegetation fall within this exception. Transporting people for hire does not fall within any of the exceptions.

5. FAR Part 61.113(a) provides the general rule for exercising the privileges of a private pilot certificate. It is a two-pronged test that states:

a. No person who holds a private pilot certificate may act as pilot-in-command of an aircraft that is carrying passengers or property for compensation or hire; and

b. No person who holds a private pilot certificate may act for compensation or hire as pilot-in-command of an aircraft.

6. There are a number of exceptions to this general rule. The principal exceptions for CAP are found in Part 61.113(c) -- A private pilot may not pay less than his/her pro rata share of the operating expenses of a flight with passengers, provided the expenses involve only fuel oil, airport expenditures, or rental fees -- and 61.113(e) -- A private pilot may be reimbursed for aircraft operating expenses that are directly related to search and location operations, provided the expenses involve only fuel, oil, airport expenditures, or rental fees, and the operation is sanctioned and under the direction and control of a local, State, or Federal agency or an organization that conducts search and location operations.

7. CAP has a partial exemption to 61.113(e) to the extent necessary to allow CAP to reimburse members who are private pilots for fuel, oil, supplemental oxygen, fluids, lubricants, preheating, deicing, airport expenses, servicing and maintenance expenses and certain per diem expenses incurred while performing official USAF-assigned CAP missions subject to the following conditions and limitations:

a. The exemption applies only to a flight or series of flights directly related to USAF-assigned missions when CAP is operating as an instrumentality of the United States. No corporate missions may be operated under this exemption.

b. CAP members who hold private pilot certificates and provide an aircraft for use in CAP missions listed in paragraph 7a. above may be reimbursed for aircraft operating expenses directly related to the mission at a fixed rate in accordance with CAPR 173-3, as amended.

c. CAP members who hold private pilot certificates and operate a CAP-owned aircraft for use in CAP missions listed in paragraph 7a. above may be reimbursed for aircraft operating expenses directly related to the mission. These operating expenses are limited to fuel, oil, supplemental oxygen, fluids, lubricants, servicing, and maintenance of that aircraft.

d. CAP members who hold private pilot certificates may be reimbursed for non-aircraft operating expenses directly related to missions listed in paragraph 7a. above. These expenses are limited to preheating, deicing, and airport expenses.

e. CAP members who hold private pilot certificates may, if operational considerations require an overnight stay away from the pilot's home base and while on a CAP mission listed in paragraph 7a. above, receive per diem expenses up to the rate listed in CAPR 173-3.

f. Only pilot aircrew members officially authorized by CAP, CAP members, members of the U.S. Armed Services and government employees or personnel who are officially authorized by CAP to aid in the performance of the approved flight activity may be onboard the aircraft.

g. Each CAP member operating under this exemption must meet the experience, training, and testing requirements contained in CAPR 60-1, as amended, CAPR 50-15, as amended, and FAR Part 61.

h. The CAP must maintain a current record of each pilot operating under this exemption. The record must include at least the name of the pilot, a facsimile of the person's pilot and medical certificate, the make and model of each aircraft, the USAF mission number, the itinerary and total time of each flight, and a purchase receipt with an itemized listing of all reimbursable costs incurred while performing under the terms and conditions of this exemption. The pilot logbook is not acceptable for this record.

i. The record required under paragraph 7h. above must be retained by CAP for at least one year and must be presented to the FAA Administrator upon request.

j. CAP must insure that all CAP supervisory personnel, member pilots and other personnel who participate or are onboard any aircraft operating under this exemption are familiar with the provisions contained in this exemption.

8. CAP also has an exemption to FAR Part 91, Subpart F to allow CAP to operate small aircraft under Part 91, Subpart F, and receive limited reimbursement for certain flights that are within the scope of and incidental to CAP corporate purposes and USAF Auxiliary status subject to the following conditions and limitations:

a. CAP must comply with the operating rules in sections 91.503 through 91.599, in addition to the operating rules prescribed in other subparts of Part 91, when exercising the privileges of this exemption.

b. CAP may conduct only those operations listed in section 91.501(b) when exercising the privileges of this exemption.

c. The pilot-in-command conducting operations under this exemption must hold a commercial pilot certificate with appropriate category and class ratings for the aircraft to be used in the operation. The pilot-in-command also must hold an instrument rating except when conducting day VFR flights within 50 nautical miles of the departure airport.

d. The pilot-in-command conducting operations under this exemption must hold at least a current second-class medical certificate.

e. The pilot-in-command conducting operations under this exemption must hold a current CAP Form 5, CAP Pilot Checkout, issued within the previous 12 months.

f. The aircraft used for operations conducted under this exemption must be maintained and have 100-hour and annual inspections performed in accordance with FAR Parts 43 and 91.

9. The operative provisions of Part 91.501(b), as they relate to CAP are:

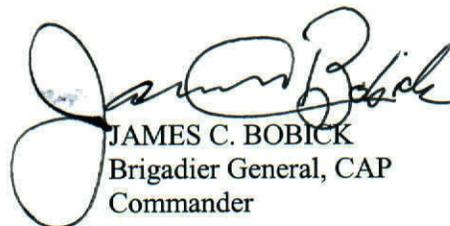
a. Carriage of officials, employees, guests and CAP property on an airplane operated by CAP, when the carriage is within the scope of and incidental to the business of CAP (other than transportation by air) and no charge, assessment, or fee is made for the carriage in excess of the cost of owning, operating, and maintaining the airplane, except that no charge of any kind may be made for the carriage of a guest of CAP, when the carriage is not within the scope or and incidental to the business of CAP; and

b. Carriage of property (other than mail) on an airplane operated by CAP in the furtherance of CAP business (other than transportation by air) when the carriage is within the scope of and incidental to CAP business and no charge, assessment, or fee is made for the carriage other than twice the cost of fuel, oil, lubricants and other additives; hangar and tie-down costs away from the aircraft base of operations, landing fees, airport taxes, and similar assessments.

10. Applying paragraphs 2-8 above, CAP should not and cannot advertise that we provide transportation for hire. A private pilot could still have made the flight by treating the legislator as you would any other CAP member if the legislator is a CAP member. (This includes and applies directly to any state legislative squadron member.) The pilot could have been charged the standard rate charged to pilots flying non-reimbursed missions (calculated in accordance with CAPR 66-1 paragraph 14b) with the legislator paying a proportional share of the charges.

11. The CAP-USAF Cooperative Agreement, effective 1 October 2000, changed the way the Air Force makes payments to CAP and our pilots for Air Force assigned and reimbursed missions. CAP National Headquarters is currently reviewing the effect that these changes will have on our current FAR exemptions. Until the issue is resolved, the above guidance will be used.

12. Based on the information contained in this memorandum, CAPR 60-1, Attachment 13 is rescinded effective immediately. Please insure all CAP members affected by this rescission are notified in a time sensitive manner. Additionally, please insure that you personally review your region or wing flight operations to guarantee all are knowledgeable and in compliance with the Federal Aviation Regulations and the CAP exemptions thereto.



JAMES C. BOBICK
Brigadier General, CAP
Commander

cc: CAP/CV/CS/NLO/NFO/NC/NIG
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