

Docket No. SA-538

Exhibit No. 2-FF

NATIONAL TRANSPORTATION SAFETY BOARD

Washington, D.C.

Attachment 20 – FAA Responses
(7 Pages)



NATIONAL TRANSPORTATION SAFETY BOARD

Office of Aviation Safety
Washington, D.C. 20594

February 1, 2014

Attachment 31 – FAA Responses

OPERATIONAL FACTORS

DCA13MA133

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A. FAA RESPONSES

1.0 Special Airport Question



Office of Accident Investigation and Prevention

800 Independence Avenue SW
Washington DC 20591

NOV 14 2013

David Lawrence
National Transportation Safety Board
490 L'Enfant Plaza, SW
Washington, DC 20594

Dear Mr. Lawrence:

The Federal Aviation Administration (FAA), Flight Standards Service is providing the following response to your information support request 13.550 regarding the aircraft accident involving a UPS Flight 1354 on August 14, 2013, in Birmingham, Alabama.

NTSB Questions:

1. Criteria the FAA uses to determine an airport qualifies to be included on the Special Pilot-in-Command Qualification Airport List per N 8900.206.
2. History of KBHM (Birmingham, AL) inclusion on the N 8900.206 Special Airport list.
3. Criteria and reasoning FAA used to remove KBHM (Birmingham, AL) from the N 8900.206 Special Airport list.

FAA Response:

FAA Notice 8900.206 is not the authorization for the Special Pilot-In-Command Qualification Airport List. The authority to establish the list is found at Title 14 Code of Federal Regulations (14 CFR) Part 121, Section 445. FAA Notice 8900.206 added two airports to this list. Enclosed you will find the complete list and the revision history.

Furthermore, FAA Order 8900.1, Volume 3, Chapter 18, Section 5, Operation Specifications (OpSpec) paragraph C050(D) and (E) in conjunction with Volume 4,

Chapter 3, Section 5(B) and (C), sets forth the process and criteria for placing an airport on this list.

Specifically, the Airport Assessment Aid found at Figure 4-39 lays out each criterion that will be evaluated by the Aviation Safety Inspector in their recommendation to the Manager, Air Transportation Division, for inclusion. The criterion is:

-
1. Terrain/Obstructions;
 2. Approach/Missed Approach/Departure Procedure;
 3. Limited Maneuvering Airspace;
 4. Limited Airport Information (accuracy/currency);
 5. Unique Country Rules—Different than ICAO;
 6. Communication, Navigation, and Surveillance Anomalies—Specific to Approach and Departures (Approach Control Radar or lack of ATC);
 7. Applicable SFAR;
 8. Additional information in support of pictorial requirements.
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From the revision history, it is clear that Birmingham, Alabama (BHM) has not been included on the list under the existing criteria since October 16, 2003, when Advisory Circular (AC) 121-445 was cancelled and OpSpec C050 and C067 were implemented.

The FAA is unable to respond to the third question "Criteria and reasoning FAA used to remove Birmingham, Alabama from the N 8900.206 Special Airport list" because Birmingham, Alabama was not placed on the list, and has not been on the list under the existing criteria, since October 16, 2003, when AC 121-445 was cancelled and IPsec C050 and C067 were implemented.

If you require additional information please contact Ms. Kimberly Burtch, Accident Investigation Division, at 202-493-4812.

Sincerely,



Robert Duke
Acting Manager, Accident Investigation Division

Enclosure

2.0 Dispatcher Information



Federal Aviation Administration

Memorandum

Date: JAN 15 2014

To: Director, Accident Investigation and Prevention, AVP-1
ATTN: Robert Hendrickson, AVP-100

From: John S. Duncan, Director, Flight Standards Service, AFS-1 [REDACTED]

Prepared by: Jeffrey Cupp, AFS-140 with input from Douglas Burdette, AFS-620

Subject: NTSB Accident/Incident Investigation Support Request 14-061 dated
12/12/2013

The following is our response to NTSB Accident/Incident Investigation Support Request 14-061 regarding accident DCA13MA133, UPS Flight 1354, A300 in Birmingham, Alabama.

ACC/INC 14-061: The NTSB requested the following:

1. Request Blue Ribbon Certification information on UPS Dispatch Vincent Nunziata, Dispatcher certificate # [REDACTED].
2. Request PTRS data on Vincent Nunziata, Dispatcher certificate # [REDACTED].
3. Request EIS or any enforcement, incident or accident related information for Vincent Nunziata, Dispatcher certificate # [REDACTED].

FAA Response: Douglas Burdette, AFS-620 performed a search of the Accident/Incident Data System, the Enforcement Information System and the National Program Tracking and Reporting System. There were no records pertaining to Vincent Nunziata.

3.0 Chart NOTAM



Federal Aviation Administration

Memorandum

Date: NOV 04 2013
To: Director, Accident Investigation and Prevention, AVP-1
ATTN: Manager, Accident Investigation Division, AVP-100
From: John S. Duncan, Director, Flight Standards Service, AFS-1 ~~John S. Duncan~~
Prepared by: Leslie H. Smith, Manager, Air Transportation Division, AFS-200
Subject: NTSB Information Request 13-549 dated 8/21/2013

We have received NTSB Request 13-549 and reviewed the request.

This request asks if an operator would be legal to fly a Jeppesen approach to BHM LOC18 with a minimums section that states the approach is "NA" (not authorized) at night when there is a chart NOTAM that deletes the minimums section that states that the approach is "NA" at night, if the operator is not in possession of the chart NOTAM.

The operator would be legal to fly the approach even if they were not in possession of the chart NOTAM. Since the chart NOTAM alters the minimums by deleting the restriction, the operator is legal to fly the approach at night, regardless of possession of the NOTAM. Extensive case law exists holding operators accountable for higher minimums, altered, or changed restrictions, regardless of the operator's actual possession of the notification of the higher minimum, alteration, or changed restriction. Ignorance of the actual change to the procedure has generally not relieved operators of liability, as the existence and publication of the NOTAM changes the legal approach procedure. In this case, the deleted restriction represented by the chart NOTAM works in the operator's favor. However to hold that the operator was not legal to fly the approach simply because they failed to possess the chart NOTAM when the restriction was deleted would fundamentally change the FAA's position that the legal approach procedure exists independently of the operator's actual possession of the NOTAM when such a NOTAM is published and available to the public.