

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Adminis- tration, Department of Transportation

[Docket No. 11662, Amdt. 103-13]

PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAG- NETIZED MATERIALS

Authority To Deviate

The purpose of this amendment to Part 103 of the Federal Aviation Regulations is to extend the authority in § 103.5 to grant deviations from the provisions of Part 103, under certain conditions, to cover the carriage of dangerous articles on flights of civil aircraft that depart from the United States for a place outside of the United States.

This amendment is based on a notice of proposed rule making, Notice No. 72-3, published in the FEDERAL REGISTER on February 3, 1972 (37 F.R. 2588). Except as specifically discussed hereinafter, this amendment and the reasons therefor are the same as those contained in Notice No. 72-3.

Three of the four public comments received in response to the notice favored the proposal; however, two of the comments recommended revisions to it. The first of these requested that the scope of the amendment be expanded to include flights of civil aircraft of United States registry anywhere in air commerce. Since Notice No. 72-3 was confined to extending the authority of § 103.5 to flights of civil aircraft that depart from the United States for a place outside thereof, the recommendation is considered beyond the scope of Notice No. 72-3; however, it

may be considered in connection with a future rule-making action. The second revision was recommended by the U.S. Atomic Energy Commission (AEC) and advocated that radioactive materials be excluded from those articles for which deviation authority may be granted in view of the complexity of the many regulations that apply to these materials when shipped into foreign countries, including regulations of the FAA, the AEC, the Office of Hazardous Materials of the Department of Transportation, and the International Atomic Energy Authority. Based on further consideration of the proposal in the light of this comment, the FAA has concluded that deviations from the requirements of Part 103 for the transportation of radioactive materials on a flight departing the United States for a place outside thereof should be granted only in accordance with the more formal exemption procedures set forth in § 11.25 of the Federal Aviation Regulations. Accordingly, as adopted herein, subparagraph (11) does not permit deviation authority to be granted for radioactive substances on civil aircraft that depart from the United States for a place outside thereof. For such flights authority to deviate may be granted only for articles other than radioactive materials.

The FAA wishes to emphasize the fact that an authorization for deviation does not grant authority for flight over or into a foreign country with dangerous articles aboard, nor does it relieve the holder of an authorization from obtaining proper clearance from custom officials or other government agencies for the transportation of dangerous articles outside the United States. Accordingly, an authorization for deviation from the provisions of this part for one or more flights of an operation that have as their destination a place outside the United

States does not grant authority for overflying a foreign country nor for landing in a foreign country; therefore, the holder of the authorization should secure permission from the foreign country or countries involved prior to flight over or into those countries with dangerous articles aboard. Furthermore, an authorization does not grant relief from compliance with applicable customs regulations or the applicable regulations of any other government agencies governing the transportation of dangerous articles outside the United States.

In consideration of the foregoing and for the reasons given in Notice 72-3, § 103.5(a) of Part 103 of the Federal Aviation Regulations is amended, effective January 29, 1973, by amending subparagraph (11) to read as follows:

§ 103.5 Authority to deviate.

(a) * * *

(11) The authorization is limited:

(i) To flights of civil aircraft between places in the United States and flights of civil aircraft that depart from the United States for a place outside thereof; and

(ii) For flights of civil aircraft that depart from the United States for a place outside thereof, to substances other than radioactive materials on board the aircraft.

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(Sec. 313(a), 601(c), Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 20, 1972.

J. H. SHAFER,
Administrator.

(As published in the Federal Register 37 F.R. 25159/ on November 28, 1972)