



Department of Operations Aviation Division Division Chief

Reply to:
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DATE: 18 NOV 07
TO: DSO-AVs, DFSOs
FROM: Byron Moe, DVC-OA
SUBJ: Exemption 5231 from FAR 91.119 Not Authorized for AUXAIR

Questions have been raised concerning the interpretation of the FAA Exemption 5231 to CFR Title 14 Part 91.119 as it applies to USCG Auxiliary and the minimum altitude permitted for Auxiliary air operations. This message will attempt to answer those questions in detail, but simply stated:

Auxiliary pilots, when operating on missions, MUST COMPLY with all provisions of CFR Title 14 Part 91.119.

Auxiliary pilots must also observe the guidance in the Auxiliary Aviation Training Manual Chapter 8, Section D Paragraph 3.

The Operations Policy Manual, M16798.3E, Annex 1, Section G.1. describes FAA Exemption 5231. This exemption allows for deviations from CFR Title 14 Part 91.119 only during actual SAR operations and only to the extent necessary to safely perform the search function. The Manual and Exemption also require that the crew be specifically trained for this operation.

The Auxiliary does not have a sanctioned course approved by CG Headquarters to effectively teach, refresh, verify, or maintain the skills required for safe low level flight operations. Due to the significantly higher risks presented by low level flight, the Coast Guard Office of Auxiliary in conjunction with the Office of Aviation Safety has determined that there will not be such a training program created. Accordingly, **Auxiliary flights shall not operate under Exemption 5231.**

For reference, CFR Title 14 Part 91.119, the relevant Federal Aviation Regulation, is cited below.

CFR Title 14 Part 91.119 - Minimum safe altitudes: General.

Except when necessary for takeoff or landing, no person may operate an aircraft below the following altitudes:

- (a) *Anywhere.* An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.
- (b) *Over congested areas.* Over any congested area of a city, town, or settlement, or over any open air assembly of persons, an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft.
- (c) *Over other than congested areas.* An altitude of 500 feet above the surface, except over open water or sparsely populated areas. In those cases, the aircraft may not be operated closer than 500 feet to any person, vessel, vehicle, or structure."

Auxiliary Pilots are also reminded to follow the guidance found the Auxiliary Aviation Training Manual, M16798.5B, Chapter 8 Section D. 3. which is cited below.

AATM Chapter 8 Sec. D.3. Low-Level Flight

As this low-level flight regime is inherently dangerous, it is implicit that Auxiliary pilots should not operate in this flight regime unless qualified and current, and then only under orders for an actual SAR mission. To do otherwise is not only dangerous, but may expose the Auxiliary pilot to FAA

certificate action. **Auxiliary pilots therefore are not authorized to fly below 500 feet AGL for any purpose other than takeoff and landing** unless it is to aid people in distress or to save or protect property. (*Emphasis added*)

Because Auxiliary flights are not permitted to operate under the Exemption, the exception “ . . . to aid people in distress . . . ” does not apply, therefore it is clear that Auxiliary pilots are not authorized to fly below 500 feet AGL for any purpose other than takeoff and landing.

To summarize, **Auxiliary pilots, when flying under orders, must comply with all Federal Aviation Regulations including Part 91.119, and with all Auxiliary Instructions. Auxiliary pilots do not meet the requirements of and may not utilize Exemption 5231.**

DSO-AV's are asked to ensure that all AAC's, AUXLO's, and crewmembers are aware of this. For further information please contact the DVC-OA at the email address above with questions or comments.