

GAO

Report to the Chairman, Subcommittee
on Investigations and Oversight,
Committee on Public Works and
Transportation, House of
Representatives

October 1991

AVIATION SAFETY

Emergency Revocation Orders of Air Carrier Certificates



**Resources, Community, and
Economic Development Division**

B-245205

October 17, 1991

The Honorable Robert A. Borski
Chairman, Subcommittee on
Investigations and Oversight
Committee on Public Works
and Transportation
House of Representatives

Dear Mr. Chairman:

In June 1990 your Subcommittee held a hearing on circumstances surrounding the Federal Aviation Administration's (FAA) emergency order of revocation against Northeast Jet, Incorporated. FAA revoked this air taxi company's operating certificate on September 30, 1988, following a special investigation by its Eastern Regional Office inspectors initiated after receiving tips that serious violations had been ongoing at the company. The investigation found that the company had falsified maintenance and pilot training records and forced pilots to violate flight and duty time regulations over a 3-year period. Among the Subcommittee's concerns was that the local district office inspectors responsible for Northeast Jet's oversight had recorded numerous satisfactory inspections for the 10-month period before the emergency revocation order was issued.

Subsequently, you asked us to determine whether circumstances similar to the Northeast Jet case had occurred with other carriers whose operating certificates were revoked by an emergency order. Specifically, you requested information on (1) the profile of air carriers subject to emergency revocation orders and the most common violations that led to revocations, (2) FAA's inspection and enforcement history of the air carriers before the emergency revocation orders were issued, and (3) the extent to which key airline owners and managers who committed safety violations that led to emergency revocation orders returned to similar positions in the aviation industry. We also agreed with your office to provide a report later this year that more fully addresses FAA's oversight of the air taxi industry.

Results in Brief

FAA issued 52 emergency revocation orders between January 1987 and May 1991 on air taxi or commuter operators—5 were subsequently overturned or reduced to a lesser penalty. No major airlines were issued emergency revocation orders during this period. Many of the revoked

air carriers were established companies that had been in business for several years. Air taxis accounted for 73 percent of the emergency revocation orders. The most frequent violations were for operating an aircraft in violation of the air carrier's operating certificate, operating unairworthy aircraft, and falsifying compliance records.

FAA frequently became aware of violations that led to emergency revocation orders during accident investigations or investigations performed as a result of tips from employees, competitors, or customers, rather than from inspections. FAA inspectors had recorded the majority of inspection results, prior to the emergency revocation orders, as satisfactory for 76 percent of the carriers for which inspection records were available. Despite periodic inspections, FAA inspectors became aware of safety violations for 11 air carriers only after they had been occurring for a year or more. FAA inspectors stated that because air taxis operate unscheduled service it is often difficult to plan and perform certain types of inspections.

According to FAA inspectors, key managers and owners who committed violations that led to nine emergency revocation orders returned to, or remained in, a similar position with an air carrier. Some of these individuals then committed additional safety violations leading to another emergency revocation. FAA does not have a formal system to track key managers or owners of carriers that were subject to emergency revocation orders. To track these individuals, inspectors communicate informally among themselves. FAA plans to issue guidance by the end of fiscal year 1992 to inspectors on tracking key managers and owners.

Background

FAA is responsible for examining an airlines's operations when the company seeks a certificate to operate and for conducting periodic inspections to ensure continued compliance with safety regulations. When FAA finds violations, it can take enforcement actions that include warning letters, civil (financial) penalties, suspensions, nonemergency revocation orders, and emergency revocation orders. An emergency order revoking an air carrier's operating certificate is the most severe enforcement action that FAA can take against any domestic air carrier.

FAA issues an emergency revocation when it determines that an immediate safety need exists to prevent an air carrier from conducting flight operations. An emergency revocation order takes effect immediately on issuance. The carrier does not have an opportunity to contest the order before it is issued and, unlike nonemergency revocation orders, the

emergency order is not held in suspense while the operator appeals to the National Transportation Safety Board (NTSB). To preserve due process, NTSB must schedule a hearing within 7 days of an emergency revocation order's issuance, and the presiding administrative law judge must render an initial oral decision at the hearing's end. Appeals of the initial decision must be filed with NTSB within 2 days, and the entire matter must be resolved within 60 days of the original emergency order's issuance. Further appeals are available to both FAA or the carrier in the federal courts of appeals.

Profile of the 52 Emergency Revocation Cases

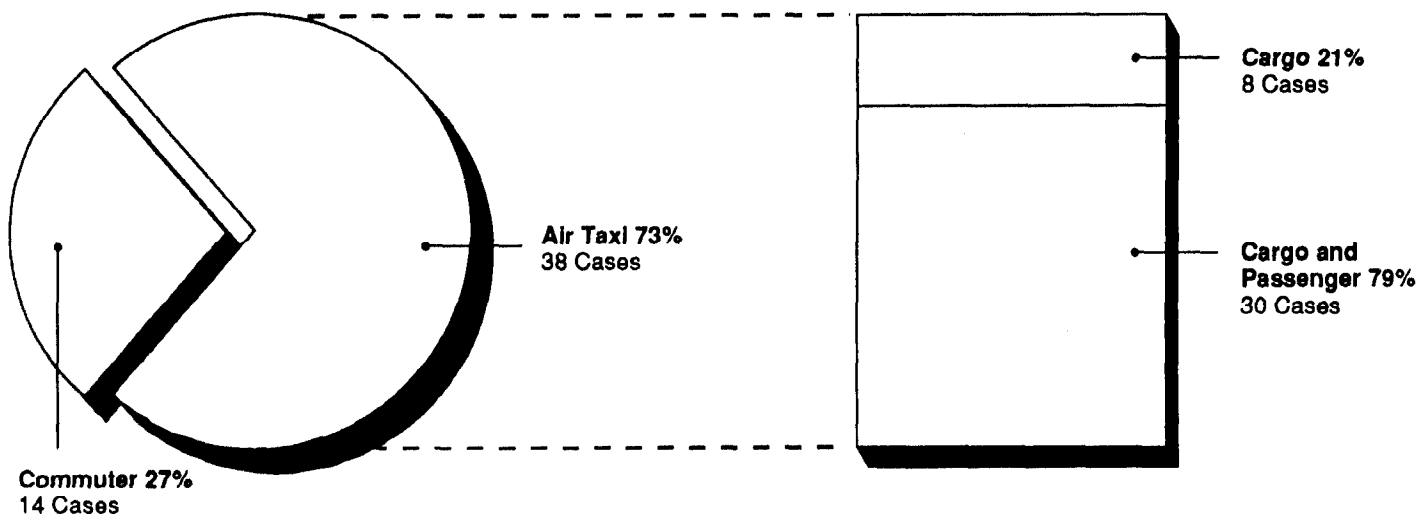
Between January 1987 and May 1991, FAA issued emergency orders revoking 52 commuters' or air taxis' operating certificates (see app. II). These carriers flew aircraft ranging from small single-engine planes to sophisticated helicopters and multi-engine jet aircraft. Sixty-seven percent of the carriers operated 8 or fewer aircraft, and a few carriers had fleets of 25 or more aircraft.

Air taxi operators provide unscheduled, on-demand service. Air taxis, which in 1990 had an accident rate 15 times greater than the rate of major airlines per 100,000 hours flown, accounted for 73 percent of the emergency revocations. Commuter carriers, which had an accident rate three times greater than the rate of major airlines per 100,000 hours flown, primarily provide scheduled passenger service and occasionally conduct on-demand operations. According to FAA inspectors, 21 percent of the air taxi operators carried only cargo, and 79 percent carried both passengers and cargo. Figure 1 shows both the number of emergency revocation cases by carrier type and the operations of the air taxi group.

Many carriers that were issued emergency revocations were established companies that had been in operation for several years. In 34 of the 52 revocations, or 65 percent, the carriers had conducted flight operations for 4 years or more when FAA ordered the emergency revocations. In 11, or 21 percent, the carriers had conducted operations for 19 years or more. Figure 2 shows the distribution of carriers and the length of time they had operated before FAA issued an emergency revocation order against their operating certificates.

On the basis of our analysis of 52 emergency revocation orders, we found that FAA cited 212 types of violations in such areas as operations, maintenance, and recordkeeping. For example, FAA's random sample of one carrier's records over a 3-year period found that the carrier had committed a total of 1,226 maintenance recordkeeping violations,

Figure 1: Carrier Types and Air Taxi Operations

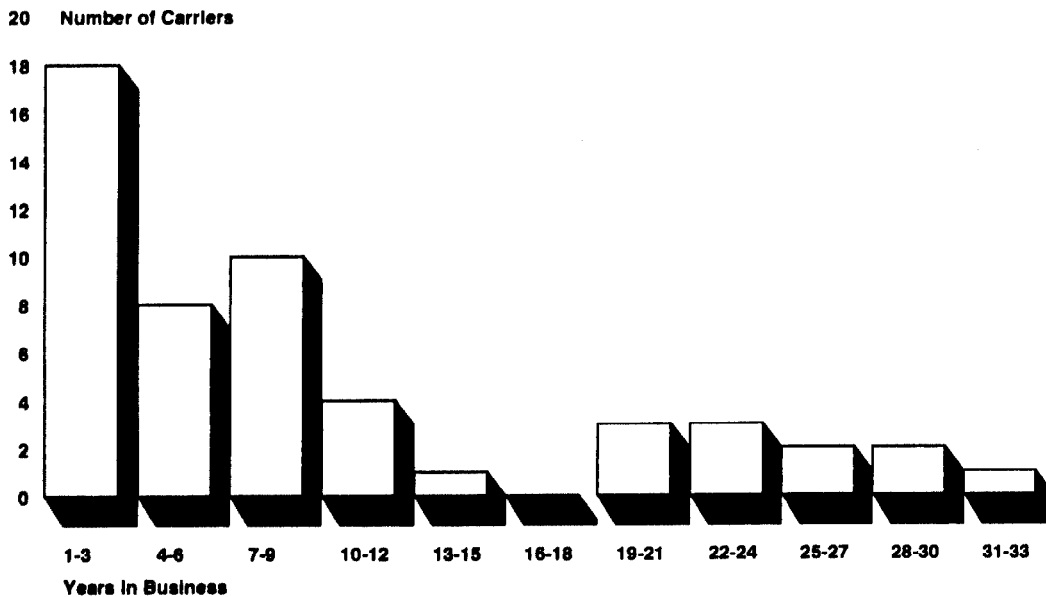


including failure to document when maintenance work was performed, fully describe the work conducted, identify the mechanic who performed the work, and document the time in service of critical aircraft parts. In contrast, FAA revoked another carrier's certificate for nine violations committed in the operation of one aircraft during 1 day. Table 1 shows the nine most common types of violations and the number of cases in which they were cited in the 52 emergency revocation orders.

Table 1: Most Common Violations for the Emergency Revocation Cases

Violations	Number of cases cited
Operating aircraft without FAA approval	28
Operating unairworthy aircraft	26
Falsifying compliance records	22
Using a pilot who had not passed a written or oral test	19
Using a pilot who had not passed a competency test	19
Using crew who had not completed training	19
Using unqualified crew	16
Operating an aircraft in a careless or reckless manner	15
Keeping poor pilot flight records	14

The number of emergency revocation orders issued between January 1987 and May 1991 varied among FAA regions. The Southwest Region

Figure 2: Years That Air Carriers Were in Business Before Revocation

issued 23 percent while three regions—Southern, Western-Pacific, and Northwest Mountain—accounted for 15 percent of the emergency revocation orders. All nine FAA regions issued at least one emergency revocation order. Figure 3 shows the distribution of emergency revocation cases by region.

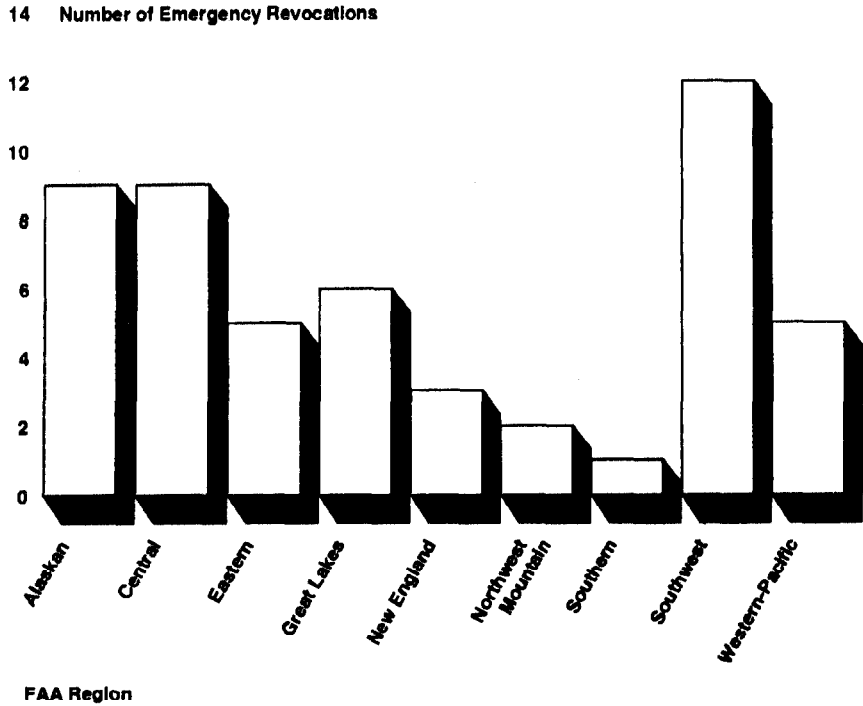
Inspection and Enforcement Histories of the Emergency Revocation Cases

In over 50 percent of the cases, FAA became aware of and concerned about violations that led to the emergency revocation orders as a result of tips from employees, competitors, or consumers or from investigations initiated because of accidents, rather than through routine or special inspections. Specifically:

- In 19 (37 percent) of the cases, tips led inspectors to initiate investigations that discovered the violations.
- In nine (17 percent) of the cases, accidents caused FAA to initiate investigations that discovered the violations.
- In 24 (46 percent) of the cases, routine or special inspections discovered the violations.

On the basis of our analysis of inspection records and discussions with inspectors, we determined that FAA's local district offices directly

Figure 3: Air Carrier Emergency Revocation Cases Per FAA Region



responsible for oversight of the carriers discovered or verified the violations in 85 percent of the emergency revocation cases.¹ Regional inspectors not routinely assigned to oversee the carriers discovered 13 percent of the violations, whereas a national inspection team discovered 2 percent. Figure 4 shows the results of our analysis.

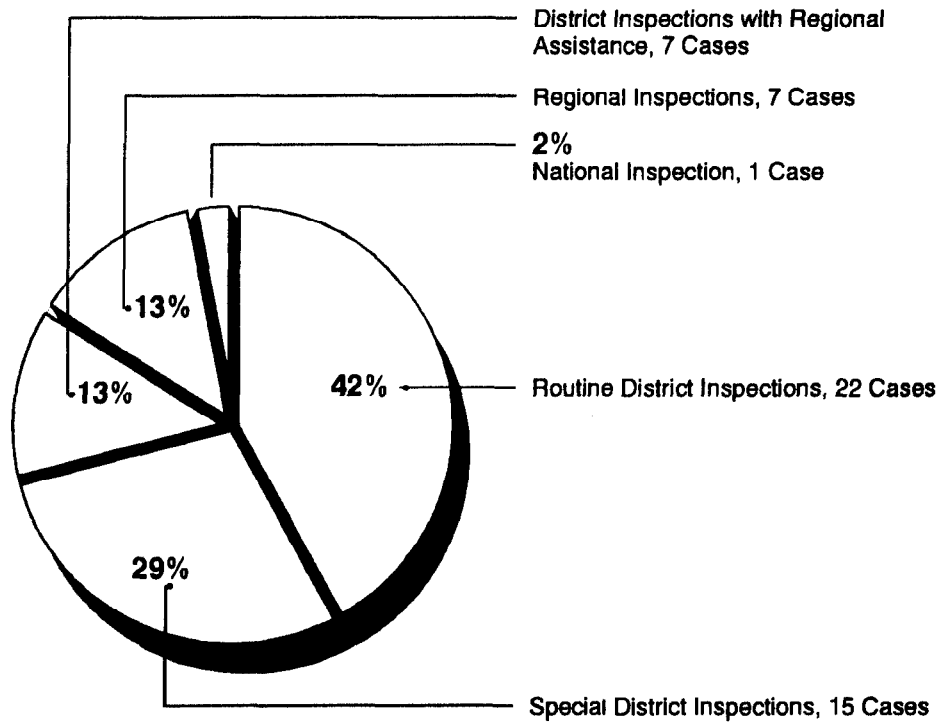
Previous Inspection and Enforcement Activity

Our analysis of FAA inspection and enforcement information and interviews with FAA inspectors showed the following for the 52 cases we reviewed:

- Inspectors recorded the majority of inspections as satisfactory for 28 carriers and the majority of inspections as other than satisfactory for 9 carriers before the emergency revocation order. FAA did not provide inspection data for the remaining 15 carriers.
- Sixteen air carriers, or 31 percent, had previous enforcement actions taken against them for violations similar to those cited in the emergency

¹The 85 percent includes routine inspections; special inspections to follow up routine inspections, tips, and accidents; and inspections performed with regional office assistance.

Figure 4: Primary FAA Office Responsible for Discovering Air Carrier Violations Leading to the Emergency Revocation



Percentages do not equal 100 percent due to rounding

revocation order. In addition, 13 other carriers had previous enforcement actions taken against them for violations different from those cited in the emergency revocation order.

- Twenty-two air carriers, or 42 percent, had no prior enforcement action history.
- FAA did not provide any records of inspection or enforcement actions for one carrier, and the inspectors we interviewed were unable to provide information on previous inspection or enforcement history.

We also found that for 11 carriers, or 21 percent, FAA inspections did not detect regulatory violations that led to emergency revocation orders even though the carriers had committed the violations for 12 or more months. Six of these carriers had previous enforcement actions, including three that had committed violations for 17 or more months before FAA became aware of them and issued an emergency revocation order. Four carriers had no prior enforcement action histories. For one carrier FAA could not provide the enforcement action history, as noted

above. Since FAA's inspection histories on the 11 carriers were incomplete, we could not determine how often FAA had inspected the carriers before the emergency revocation order was issued.

FAA inspectors informed us that several violations, including records falsification, were difficult to detect. Further, inspectors stated that because air taxis operate unscheduled service, it is often difficult to plan and perform inspections. Figure 5 shows how long carriers had been committing violations before FAA detected them.

Figure 5: Time Frames of Ongoing Violations

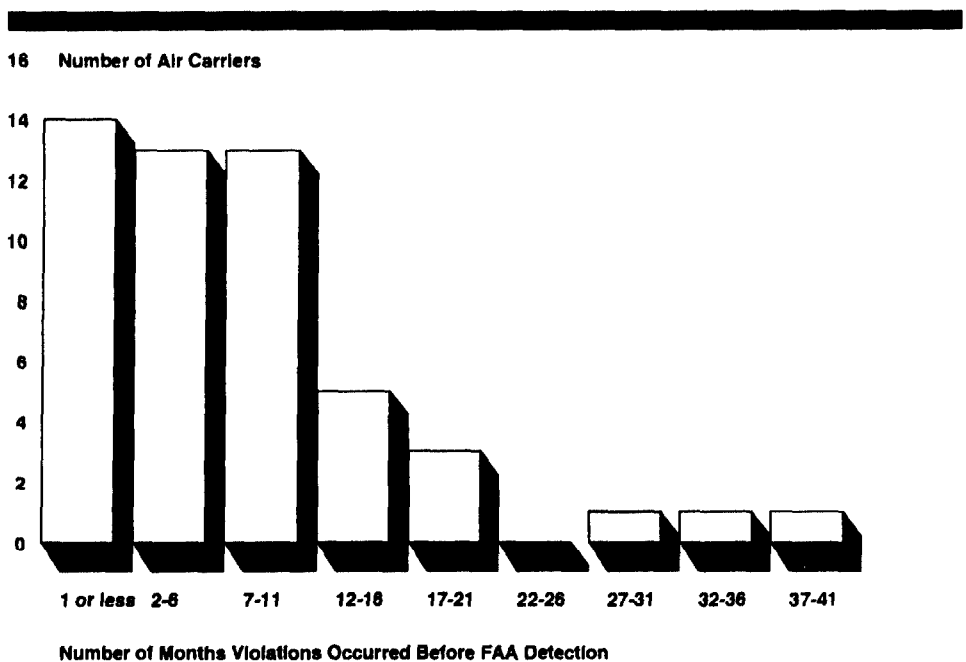


Figure does not include the one carrier for which FAA could not provide information.

Airline Industry Reentry by Key Managers and Owners of Revoked Carriers

FAA does not have a system to track individuals who were key managers or owners of carriers that were subject to emergency revocation orders. According to the Director, Flight Standards, FAA collected such information following the June 1990 Northeast Jet hearing by the Subcommittee on Investigations and Oversight, House Committee on Public Works and Transportation, but has not kept the information current. The Director noted that FAA plans to (1) issue guidance by the end of fiscal year 1992

to inspectors on using an existing computer data base to track key air-line managers and owners when they apply for an air carrier operating certificate and (2) have computer equipment for all inspectors by the end of fiscal year 1994 to facilitate their doing so.

Since FAA does not have a formal process to track individuals, FAA inspectors communicate informally among themselves to check the suitability of an individual to be employed in the air carrier industry. As a result, we relied on discussions with inspectors to ascertain whether individuals who were in key management positions, such as director of operations, director of maintenance, chief pilot, or owner of a carrier subject to an emergency revocation order, returned to the industry.

FAA has the dual mission of fostering aviation and promoting safety. As a matter of policy, FAA will not deny the opportunity to earn a livelihood in the aviation industry to those who meet safety requirements. FAA regulations do not prohibit individuals who contributed materially to a carrier's certificate revocation from holding key positions with established certificated air carriers. However, FAA has denied at least two individuals the opportunity to return in a key management or ownership position because of their previous violation histories and poor compliance attitudes.

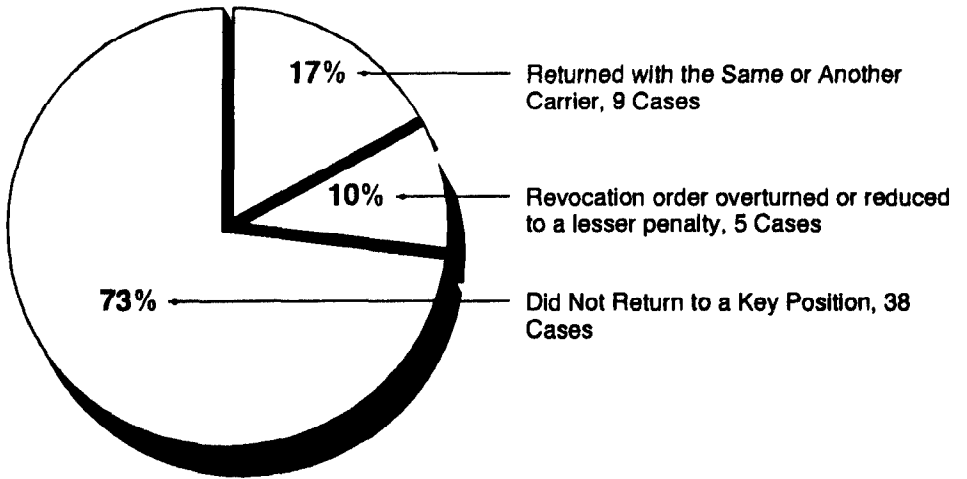
FAA regulations permit the agency to deny an applicant an air carrier operating certificate if the (1) applicant's previous operating certificate had been revoked or (2) carrier's owner or a key manager is an individual who, while in a key position with another carrier, contributed materially to certificate revocation. An action to deny an operating certificate on these grounds would properly be based only on an official determination that the individual involved contributed materially to a prior certificate being revoked. Such a determination is not usually made at the time of the revocation and can be challenged by appeal if the applicant is denied a new air carrier certificate. Because the two actions differ, it would not be appropriate to infer that the individuals FAA inspectors believe were responsible for violations that led to an emergency revocation should be denied ownership or access to key positions of other air carriers.

In the Northeast Jet case, FAA determined that it would consider recertifying the company under the same owner a year after the emergency revocation order was issued. According to FAA officials, FAA's adoption

of a 1-year waiting period is patterned after an existing regulation concerning recertifying a revoked pilot certificate. FAA does not have a regulation stipulating a waiting period for revoked carriers. FAA recertificated Northeast Jet under the same owner 19 months after the revocation was ordered.

We found that nine key managers or owners involved with 9 of the 52 emergency revocation cases returned to, or remained in, the industry in key management positions, either with the same or another carrier. Individuals whom FAA inspectors identified as responsible for violations that led to 38 emergency revocations did not return to the industry in key positions, although some are employed as pilots or mechanics. Figure 6 shows the distribution of cases in which the key managers or owners of carriers that were subject to emergency revocation orders returned to hold key management positions.

Figure 6: Cases in Which Individuals Returned to Hold Key Management Positions



According to FAA inspectors, the nine individuals that returned to the industry did so by various means. Below are examples of the means by which they returned:

- Three individuals purchased the assets of three other carriers. FAA does not require either that it be notified when a change of ownership occurs or that it recertify the carrier. We found that FAA did not know of the purchase in two of the three cases. FAA inspectors later found serious

safety violations being committed by these two carriers, and FAA revoked their certificates. FAA was aware of the purchase of a carrier by the third individual; however, inspectors indicated that the individual is employed with an air carrier but not in a key management position.

- FAA required one owner to remove himself from management of the carrier in exchange for FAA's immediate issuance of a new operating certificate to the carrier. FAA issued a second emergency revocation 3 months after the first one because the individual did not abide by the agreement and retained management control.
- FAA inspectors said that one other individual returned to a key management position and has conducted business with an improved compliance attitude.

In addition, we found that seven key managers or owners of five carriers returned after NTSB overturned two emergency revocation cases because of insufficient evidence and FAA decided to reduce the penalty in three other cases. Also, FAA recertificated five carriers under an agreement that the individuals responsible for the violations would be removed from decision-making positions. The carriers fulfilled their agreement in all but the one case noted above.

Conclusions

Despite their violation history, several key managers and owners returned to the airline industry, even though FAA inspectors identified them as materially contributing to violations that led to emergency revocations. FAA regulations permit the agency to deny a new air carrier operating certificate to these individuals once their material contribution to the revocation of a prior certificate has been properly determined. However, FAA's oversight of these individuals is hampered because it does not have a formal process for tracking those who commit violations and want to return to the airline industry as key managers or owners.

FAA's inspection program for air taxis and commuters was generally not effective in discovering the serious safety violations that led to the emergency revocation orders. FAA inspectors frequently became aware of most safety violations by means other than routine inspections. Furthermore, many of the revoked carriers were established companies as opposed to new companies, and violations had gone undetected for a long time. We are continuing to examine FAA's inspection and oversight of the air taxi industry and will report on that issue separately.

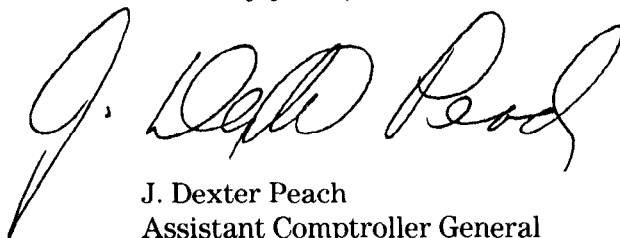
Recommendations

We recommend that the Secretary of Transportation direct the Administrator, FAA, to develop a formal system to identify and track individuals within or returning to the airline industry who contributed materially to emergency revocations. The Administrator should give priority attention to developing a plan for this system and milestones for its implementation.

As requested, we did not obtain agency comments on this report. However, we discussed the facts presented with FAA officials, who generally agreed with the information provided, and incorporated their views as appropriate. Details on our objectives, scope, and methodology are contained in appendix I.

Unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will provide copies of this report to the Secretary of Transportation; the Administrator of FAA; the Director, Office of Management and Budget; and other interested parties. Our work was performed under the direction of Kenneth M. Mead, Director of Transportation Issues, who can be reached at (202) 275-1000. Other major contributors to this report are listed in appendix III.

Sincerely yours,



J. Dexter Peach
Assistant Comptroller General

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Abbreviations

FAA	Federal Aviation Administration
NTSB	National Transportation Safety Board

Objectives, Scope, and Methodology

In September 1990 the Chairman, Investigations and Oversight Subcommittee, House Committee on Public Works and Transportation, asked us to provide information on (1) the profile of air carriers subject to emergency revocation orders and the most common violations that led to revocations, (2) FAA's inspection and enforcement history of the air carriers before the emergency revocation orders were issued, and (3) the extent to which key airline owners and managers who committed safety violations that led to emergency revocation orders returned to similar positions in the aviation industry. To obtain this information, we conducted our work at FAA headquarters; FAA's Eastern Region in Jamaica, New York, and two subordinate district offices in Glen Burnie, Maryland, and Allentown, Pennsylvania; and FAA's Southwest Region in Fort Worth, Texas. We interviewed FAA district office inspectors and managers that provided oversight of the revoked air carriers. We also interviewed National Air Transportation Association and Department of Transportation Office of Inspector General officials.

In addition, we reviewed agency regulations, policies, and procedures governing FAA's oversight of air taxi and commuter operators. We analyzed FAA's emergency revocation orders issued between January 1987 and May 1991. FAA revoked the operating certificates of 50 carriers, 2 of which were issued a second emergency revocation order for other violations within a few months of the first one. We based our analysis on 52 emergency revocation cases. We also analyzed other documents, including air carrier operating certificates, maintained in district and regional office files. In addition, we analyzed FAA inspection and enforcement records contained in its Program Tracking and Reporting System, Work Program Management System, and Enforcement Information System data bases. We did not assess the reliability of FAA's data bases. FAA is assessing the reliability of its inspection data base, but officials could not estimate when they would complete this activity.

We supplemented data from FAA files and data bases with information obtained through discussions with FAA inspectors knowledgeable of each carrier's revocation. Because of the age of some revocations, FAA's data bases did not show inspection and enforcement information for the carrier. Therefore, we relied solely on inspectors' recall of prior inspection and enforcement activity that, in some cases, occurred 4 to 5 years ago.

We conducted our review from August 1990 through July 1991 in accordance with generally accepted government auditing standards.

List of Air Carrier Emergency Revocation Cases January 1, 1987, to May 9, 1991

	Date emergency revocation order issued
52 air carriers	
Alaskan Region	
Armstrong Air Service, Inc.	08/13/88
Yute Air Alaska, Inc.	09/24/88
Troy Air, Inc.	02/14/89
Air Alaska, Inc.	04/26/89
Channel Flying, Inc.	05/20/89
Alyeska Air Service, Inc.	07/06/89
Seagull Air Service, Inc.	08/09/89
Glacier Bay Airways, Inc. ^a	10/13/89
Alaska Island Air, Inc. ^b	11/13/89
Central Region	
Muscatine Flying Service, Inc. ^{b,c}	01/06/87
Central Airlines, Inc.	02/19/87
Muscatine Flying Service, Inc. ^c	04/21/87
Spicer Aircraft, Inc.	03/18/88
Midwest Executive, Inc.	03/18/88
Mid-Plains Corporation	09/27/89
T & T Aviation, Inc.	03/16/90
Coffeyville Aircraft, Inc.	03/19/90
Cape Central Airways, Inc.	10/11/90
Eastern Region	
Buffalo Express Airlines, Inc.	01/02/87
Air Maryland, Inc.	12/04/87
Flight Group, Inc.	02/25/88
I. J. A., Inc. (Northeast Jet)	09/30/88
East Hampton Aire, Inc.	01/25/91
Great Lakes Region	
Charter Flights, Inc.	05/13/88
Prompt Air, Inc.	08/19/88
Prime Air, Inc.	06/06/89
Charter Flight Services, Inc.	02/26/90
North Coast Aviation, Inc.	07/16/90
D and H Flying Service, Inc.	11/10/87
New England Region	
Cash Air, Inc.	07/10/87
North East Jet, Inc.	02/22/88
Plymouth Air Services Corporation	03/03/88

(continued)

Appendix II
List of Air Carrier Emergency Revocation
Cases January 1, 1987, to May 9, 1991

	Date emergency revocation order issued
52 air carriers	
Northwest Mountain Region	
What Could Have Been, Inc.	01/04/90
Sallee's Aviation, Inc.	06/26/90
Southern Region	
Mid-State Executive Helicopters, Inc.	02/09/87
Southwest Region	
Valhalla Helicopters, Inc.	08/03/87
Canfield Aviation, Inc.	11/02/87
Air Link Airways, Inc.	02/12/88
Ebsco, Inc.	03/25/88
Rio Airways, Inc.	03/28/88
Exec Express, Inc.	04/09/88
Adios Air Limited	11/03/88
Air Ruidoso, Ltd.	02/13/89
Phoenix Air Corporation	05/24/90
Pegasus Flight Center, Inc. ^a	06/25/90
Houston Helicopters, Inc. ^c	09/21/90
Houston Helicopters, Inc. ^{a,c}	12/19/90
Western-Pacific Region	
Old West Air, Inc.	02/09/87
Reeves Aviation, Inc.	05/08/87
Custom Aviation, Inc.	11/18/87
Ameriflight, Inc.	06/17/88
West Air Express, Inc.	08/15/89

^aFAA reduced the enforcement action to a lesser penalty.

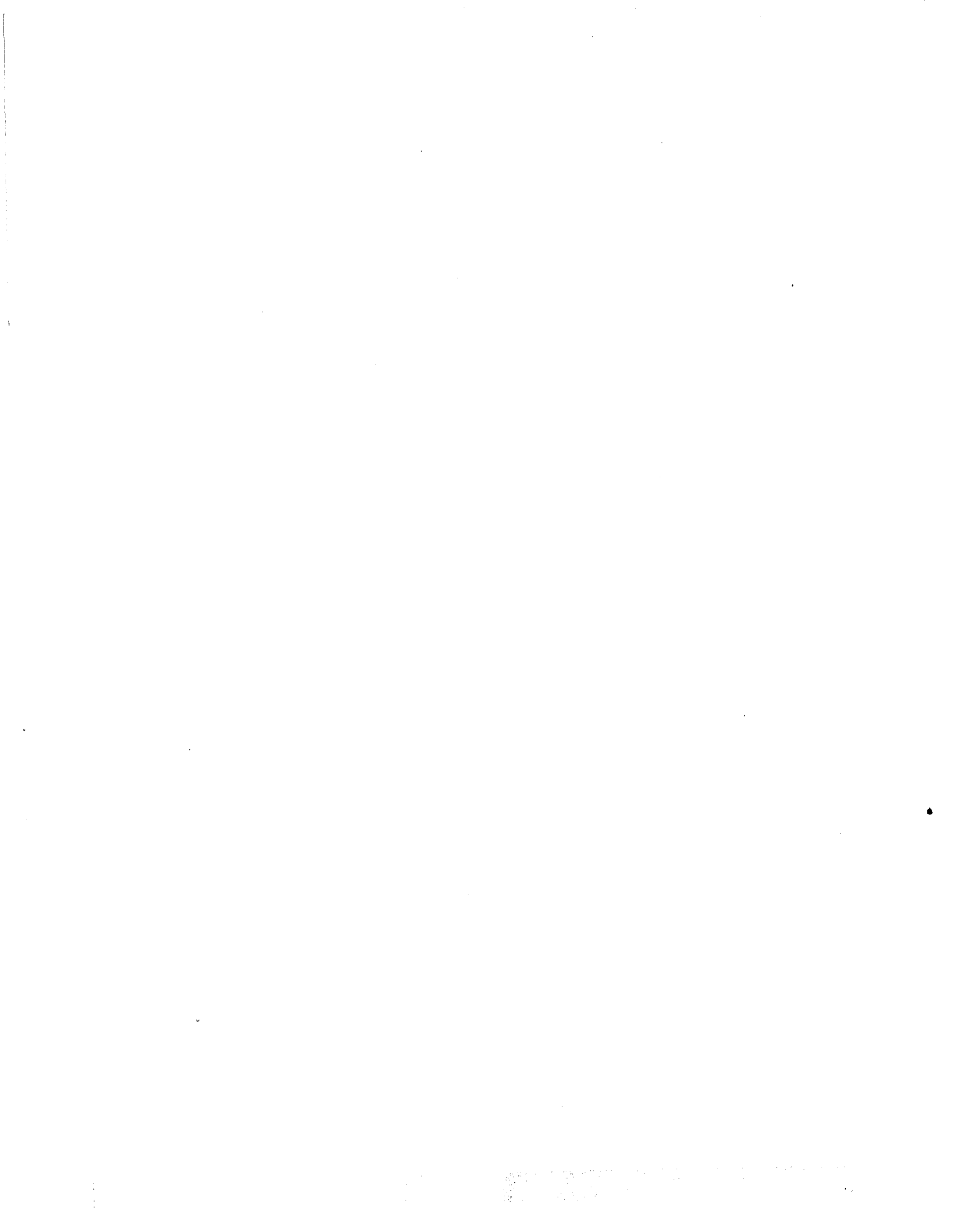
^bNTSB overturned the emergency revocation and the company resumed operations.

^cFAA issued a second emergency revocation order to the same company for other safety violations within a few months of the first one.

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