

**ORDER**

8000.86

## **Air Traffic Safety Oversight Compliance Process**



June 29, 2005

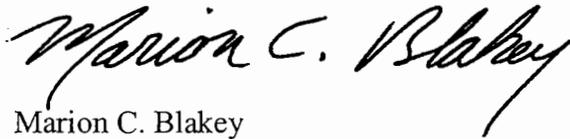
**DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION**



## FOREWORD

In November 2003 the Federal Aviation Administration (FAA) established the Air Traffic Organization (ATO) as a performance-based organization (PBO). The 1997 National Civil Aviation Review Commission (NCARC) recommended that the air traffic service provider in FAA be subject to the safety policies of a separate part of the FAA to provide independent safety oversight. On November 1, 2001, the International Civil Aviation Organization (ICAO) adopted an amendment requiring States to implement formal safety management procedures for their air traffic services systems by November 2003. Since then, the FAA has established the Air Traffic Safety Oversight Service (AOV). This service ensures that the ATO operates the National Airspace System safely.

In order for AOV to effectively oversee the ATO, it is necessary to implement a compliance framework. This framework, documented within this order, allows AOV to compel the ATO to correct unsafe conditions. The process described by the order begins with an informal exchange between AOV and ATO at the working level. Ultimately, if resolution cannot be reached, the process culminates with a safety directive from AOV to ATO to remove the unsafe condition.



Marion C. Blakey  
Administrator  
Federal Aviation Administration

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## CHAPTER 1. GENERAL

**1. PURPOSE.** This order describes the processes by which the Air Traffic Safety Oversight Service (AOV) will resolve safety compliance issues involving the Air Traffic Organization (ATO) except for those functions already regulated by the Flight Standards Service. Nothing in this order prevents AOV from deviating from these processes if data indicates a safety issue requires urgent resolution.

**2. DISTRIBUTION.** This order is distributed to all FAA organizations involved in the operation or maintenance of the National Airspace System (NAS).

**3. BACKGROUND.** The Administrator created AOV, within the Associate Administrator for Aviation Safety (AVS) and assigned this service the responsibility for safety oversight of ATO. Any non-compliance by ATO to the provisions of the FAA Safety Management System (SMS) Manual or FAA safety standards will be handled according to the processes outlined in this order. ATO line organizations safety compliance issues will be addressed by AOV through the ATO Safety Service (ATO-S).

### 4. DEFINITIONS.

**a. Letter of Correction.** The Letter of Correction is the Formal Compliance letter from AOV to ATO-S that documents ATO's correction of instances of non-compliance.

**b. Letter of Investigation.** The Letter of Investigation is the first step in the Formal Compliance process. AOV provides a letter of investigation when the informal process has failed to resolve the safety compliance issue. The letter informs ATO of the specific matter being investigated and requires ATO to respond in writing.

**c. Safety Council.** The Safety Council, as defined in FAA Order 1100.161, is an established forum for senior management from AOV and ATO-S to meet and discuss a variety of issues, including non-compliance and safety issues, in an attempt to resolve them through a collaborative process.

**d. Safety Directive.** A Safety Directive (SD) is a mandate by the AOV to ATO to take immediate corrective action to address a safety compliance issue. In emergency situations, where time does not permit the issuance of a warning notice, a safety directive may be issued without a warning notice.

**e. Safety Standards.** Safety standards are the elements related to air traffic control functions, equipment and facility maintenance functions, flight inspection functions, flight procedure development functions and charting functions, and acquiring and implementing new systems as listed in Chapter 4 of FAA Order 1100.161, Air Traffic Safety Oversight Service.

**f. Warning Notice.** The Warning Notice brings to the ATO's attention that immediate action is required to correct a safety compliance issue. It warns that, if the issue is not corrected, a Safety Directive mandating specified action will be issued.

**g. Safety compliance issue.** Safety compliance issue is a failure to follow the FAA SMS or FAA Safety Standards that may manifest itself as a hazard in the NAS.

## CHAPTER 2. RESPONSIBILITIES

**1. AOV.** AOV is responsible for overseeing ATO compliance with the safety standards and the SMS. As part of this compliance oversight, AOV has the authority to issue Letters of Investigations, Letters of Correction, Warning Notices and Safety Directives requiring ATO to provide information, make a change, stop a procedure, or alter a practice, or take any other action where there is a safety concern that warrants such an action.

**2. ATO.** ATO is responsible for providing safe air traffic services and complying with established safety standards (as defined in FAA Order 1100.161) and, once it is implemented, the approved SMS. Until the SMS is fully developed and implemented, ATO is responsible for maintaining the National Airspace System (NAS) at a safety level that is at least equal to the current NAS, using all of the current policies, processes, and procedures. ATO is responsible for complying with any Safety Directive issued by AOV.

**3. SAFETY COUNCIL.** The Safety Council reviews and addresses issues referred to it by either AOV or ATO-S. The Council is a vehicle that AOV or ATO-S can use to raise complex or sensitive compliance issues that require high-level AOV and ATO-S involvement to resolve.

## CHAPTER 3. COMPLIANCE PHILOSOPHY

**1. Background.** The safety of the National Airspace System is based on ATO adhering to safety requirements as outlined in FAA safety standards, as well as its Safety Management System. To ensure that ATO meets its regulatory and operational safety management responsibilities, the Administrator established AOV under the Associate Administrator for Aviation Safety.

**2. Independent Oversight.** The basic concept for this separation of functional responsibilities is that oversight needs to be separated from operations to ensure the independence of the oversight provided. However, since both AOV and ATO have the same goal, ensuring the safety of the NAS, they need to work cooperatively. Therefore, AOV oversight begins with encouraging ATO to uncover, disclose and rectify violations of established safety standards, as well as non-adherence to SMS guidelines. Additionally, in those instances where AOV is made aware of non-compliance matters from sources outside ATO (such as the OIG, GAO or a whistleblower), ATO will work to resolve these matters in a timely and effective manner through the AOV Compliance Resolution Process.

**3. Process Overview.** The compliance process begins with the "Informal Process," which provides an avenue for corrective action at the lowest organizational level. However, if the non-compliance cannot be resolved at lower levels (for example, if a policy needs to be changed), AOV senior management will work with ATO-S senior management on a one-to-one basis or through the Safety Council to achieve corrective action and prevent escalation of the matter to the Formal Compliance Process. If resolution through the informal process is not obtained, AOV will follow a formal approach investigating and resolving ATO non-compliance. If the ATO fails to take the necessary actions to prevent continued non-compliance, the final step in this process is the issuance of a Safety Directive ordering ATO to take the safety-related measures outlined.

## CHAPTER 4. COMPLIANCE PROCESS

### 1. COMPLIANCE RESOLUTION MODEL (“INFORMAL” PROCESS).

**a.** AOV is informed of an alleged ATO non-compliance through ATO voluntary disclosure, AOV analysis or a third party, e.g., OIG, NTSB, whistleblower, etc.

**b.** AOV determines whether the information on the alleged non-compliance is credible and indicates ATO non-compliance. If there is ATO non-compliance, then the issue is logged by AOV-1’s office, and referred to the appropriate division.

**c.** If there is no non-compliance, but there is a safety question, then the issue enters the SMS process, if the SMS has been implemented in the responsible area. If not, the issue is referred to the appropriate existing safety risk assessment process. If it is determined that there is no safety issue, then the matter is closed without further action.

**d.** A non-compliance issue is assigned to the appropriate AOV Employee for review and resolution.

**e.** The AOV Employee refers the issue to his/her ATO-S counterpart for additional information and/or resolution. Note: This step may result in information flowing between AOV and ATO-S.

**f.** Once the AOV Employee obtains additional data on the alleged non-compliance and any steps taken by ATO-S, he/she determines whether the issue is resolved. If the issue is resolved, the approved resolution is entered in the tracking system and the matter closed. If not, the AOV Employee briefs the AOV Division Manager.

**g.** The AOV Division Manager attempts resolution with his/her counterpart at the ATO-S Directorate level. Note: This step may result in information flowing between AOV and ATO-S.

**h.** Once the AOV Division Manager has discussed the matter with his/her counterpart, he/she determines if the ATO-S resolution is approved.

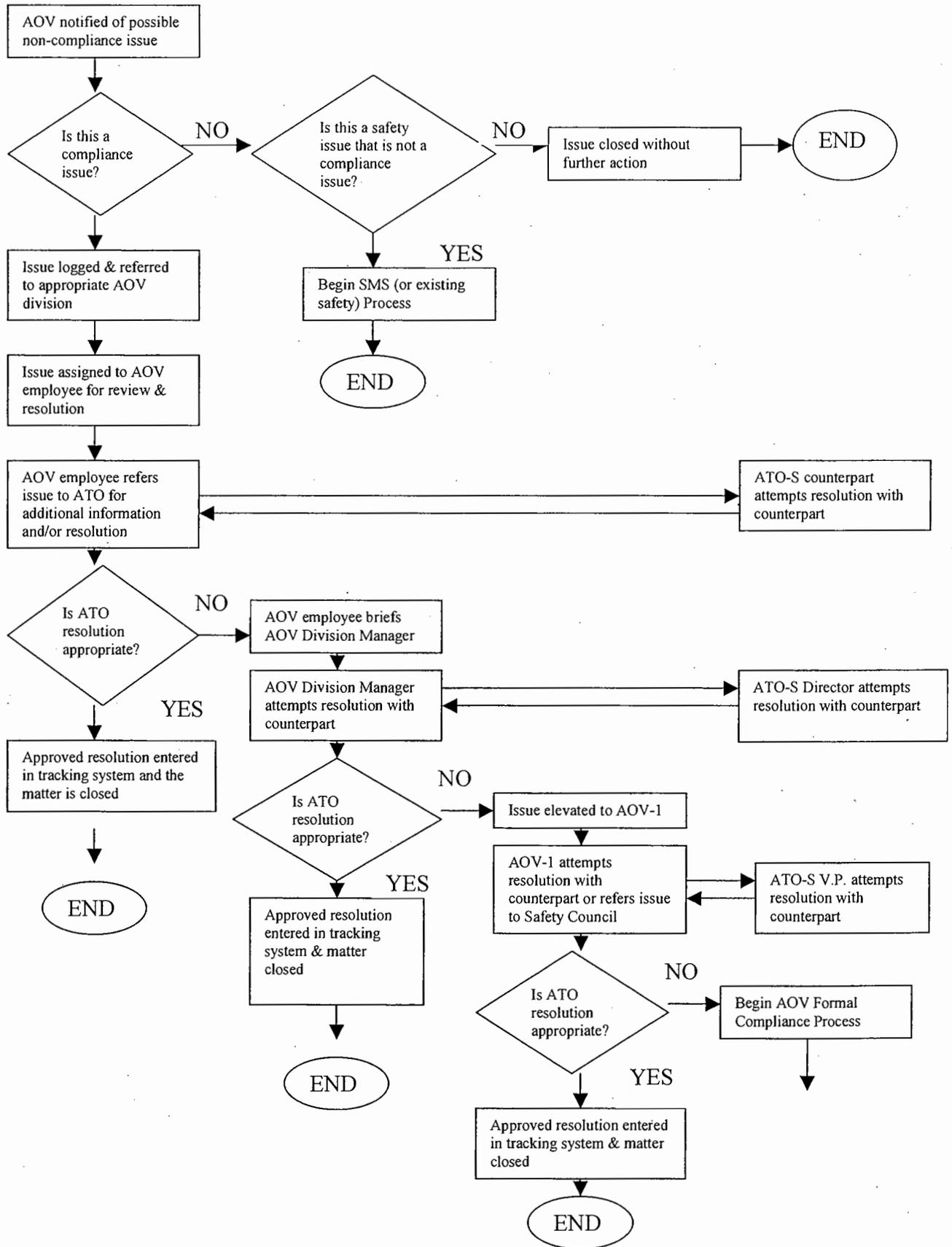
**(1)** If it is, the approved resolution is entered in the tracking system and the matter is closed.

**(2)** If the ATO-S resolution is not appropriate, or if a resolution is not proposed, then the issue is elevated to AOV-1’s level.

**i.** AOV-1 has the choice of referring the issue to the Safety Council and/or attempting to resolve the non-compliance issue with the ATO Vice President for Safety.

**j.** If AOV-1 determines that the ATO-S resolution is appropriate, the approved resolution is entered in the tracking system and the matter is closed. If not, the issue is referred to the “Formal Compliance Process.”

FIGURE 1. COMPLIANCE RESOLUTION FLOWCHART (“INFORMAL” MODEL)



## **2. FORMAL COMPLIANCE PROCESS (“FORMAL” PROCESS).**

**a.** If the Informal Process fails to result in correction of the alleged non-compliance, AOV issues a Letter of Investigation (LOI) to ATO-S. The LOI may include a request for information.

**b.** ATO-S must respond in writing to LOI within 10 working days of receipt of the letter.

**c.** AOV determines whether additional information is required. If additional information is required, AOV requests ATO-S to provide it.

**d.** If AOV determines that the additional information indicates that a violation has not occurred, the non-compliance issue is recorded in the tracking system and closed.

**e.** If AOV determines that a violation has occurred, AOV must determine whether the violation was appropriately corrected. If the violation was appropriately corrected, a Letter of Correction is issued and entered in the tracking system.

**f.** If AOV determines that the violation was not appropriately corrected, a Warning Notice is issued. It warns that a Safety Directive will be issued if the non-compliance is not appropriately corrected

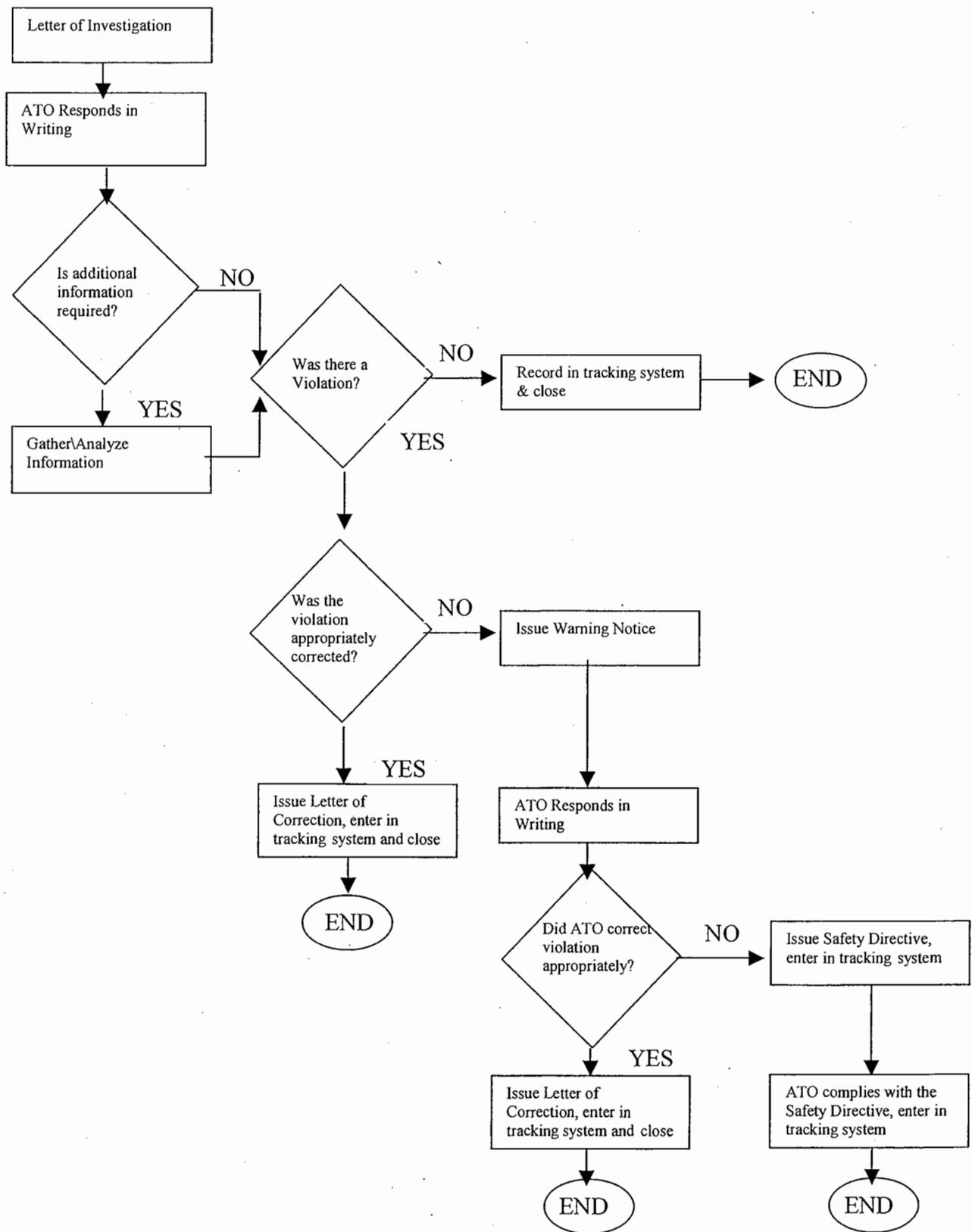
**g.** ATO is required to respond in writing to the Warning Notice within 10 working days of receipt of the notice

**h.** AOV determines if ATO’s response indicates that the non-compliance was appropriately corrected. If it was, a Letter of Correction is issued and entered in the tracking system.

**i.** If ATO’s response indicates that the non-compliance was not appropriately corrected, a Safety Directive is issued and recorded in the tracking system.

**j.** ATO complies with the Safety Directive, and the information is entered in the tracking system.

FIGURE 2. FORMAL COMPLIANCE FLOWCHART



**APPENDIX 1. SAMPLE LETTER OF INVESTIGATION**

To: ATO-S V.P.  
From: AOV-1  
Cc: ATO (COO)  
Re: Letter of Investigation  
File No. 2004AV 01001

We are investigating ATO's approval of a waiver issued to JFK ATCT on May 7, 2004 that authorizes a reduction in separation minima. We believe that ATO failed to:

1. Obtain prior approval from AOV.
2. Follow the approved Safety Management System (SMS) requirements.

Since we have not been able to resolve this matter informally with your office, we are commencing formal compliance procedures. Please provide a written response, including any information or statements, regarding this matter within 10 days of your receipt of this letter.

John David Smith  
Director

**APPENDIX 2. SAMPLE LETTER OF CORRECTION**

To: ATO-S V.P.  
From: AOV-1  
Cc: ATO (COO)  
Re: Letter of Correction  
File No. 2004AV01001

Investigation of the installation of NEXCOM MDR equipment at Gaviotta RCAG site on October 30, 2003 indicates that ATO installed this equipment prior to the In-Service Decision scheduled for February 7, 2004. This ATO installation was not in compliance with the following:

1. The Safety Management System
2. The Acquisition Management System

As a result, ATO took the following corrective actions:

1. In accordance with the approved Safety Management System, ATO has developed the required risk management documentation.
2. ATO has requested and received approval for a waiver for early delivery and installation of the NEXCOM MDR equipment.

We have determined that these corrective actions are sufficient to correct the non-compliance noted and to prevent future occurrences. We are issuing this letter that will be made a matter of record.

John David Smith  
Director

**APPENDIX 3. SAMPLE WARNING NOTICE**

To: ATO-S V.P.  
From: AOV-1  
Cc: ATO (COO)  
Re: Warning Notice  
File No. 2004AV01001

An investigation by AOV has determined that ATO failed to follow procedures authorized as FAA Order XXXX.XX by operating with improper wind sensor equipment at Raleigh-Durham United Airport.

By reason of the foregoing, ATO failed to comply with the following:

1. Order XXXX.XX
2. The Safety Management System.

To date, ATO has failed to take appropriate steps to correct its non-compliance with the foregoing requirements. Unless ATO takes immediate steps to correct its non-compliance, a Safety Directive will be issued mandating that:

ATO cease tail wind operations at RDU until equipment is appropriately sited in accordance with Order XXXX.XX or ATO submit and receive approval of a waiver of Order XXXX.XX.

Please respond in writing within 10 days of receipt of this notice with the steps ATO plans to take to comply with this Warning Notice or with any other information it would like us to consider in determining whether a Safety Directive should be issued.

John David Smith  
Director

**APPENDIX 4. SAFETY DIRECTIVE**

To: ATO-S V.P.  
From: AOV-1  
Cc: ATO (COO)  
Re: Safety Directive  
File No. 2004AV01001

By Warning Notice dated April 4, 2004, ATO was notified that it was not in compliance with FAA Order 7110.65, Air Traffic Control. Specifically, by allowing air carriers to taxi through the ILS critical area for 16L at Seattle-Tacoma Airport, ATO created an unsafe condition.

To date ATO has failed to take steps to correct this non-compliance or to provide us any information that leads us to conclude that a Safety Directive is not warranted. Therefore, pursuant to FAA Order 8000.XX, this Safety Directive is issued mandating that ATO take the following steps, effective on the date of this Directive:

Cease taxiing aircraft through the ILS critical area or suspend arrival operations to Runway 16L whenever the airport is operating at or below IMC conditions.

Please provide a written confirmation that ATO has taken the steps outlined above within 5 days. Expect an audit of this facility within 1 month.

John David Smith  
Director