

Unanswered questions remain after Fargo Allegiant Airlines incident

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WASHINGTON (CBS News) - It has become increasingly clear that there remain many unanswered questions about the circumstances leading to the emergency landing of Allegiant Airlines flight 426 at Fargo, North Dakota's Hector International Airport last Thursday.

The unexpected landing was triggered when the Allegiant pilot told air traffic controllers that he was low on fuel and needed to land in the airspace, which at the time was temporarily closed. The airline told CBS News Thursday evening, "The company and the FAA found that the pilot operated flight 426 in a safe manner and within the bounds of all regulations."

But FAA spokesman, Ian Gregor wrote in an email, "We are still looking into this event and have not made any determinations."

"We're at Bingo fuel here in about 3-4 minutes and I gotta come in and land," said the pilot according to air traffic control radio recordings obtained from LiveATC.net.

The pilots of flight 426 from Las Vegas, Nevada to Fargo, declared the fuel emergency in order to land at the airport, which had been closed to allow for a Blue Angels practice before last weekend's airshow. The U.S. Navy aerial performance team was subsequently moved to a holding pattern in a different airspace.

The pilots have been identified as airline executives Greg Baden, Vice President of Flight Operations and Michael Wuerger, Allegiant's Director of Flight Safety.

"We don't have enough fuel to go anywhere else," the pilot told the tower, "I'm going to have to declare an emergency and come in and land." The air traffic controller told flight 426, "There'll be a window opening in about 20 minutes for a landing." "Yeah, I don't have 20 minutes," the pilot responded.

But, Allegiant now says the pilot of flight 426, who was heard pleading with air traffic controllers to land, was not critically low on fuel. In fact, the airline says the MD-80 with 144 passengers and 6 crew aboard landed safely with "approximately 42 minutes" of fuel remaining. FAA rules require passenger airliners to have at least 45 minutes of extra fuel in the event a plane has to be diverted to another airport.

That admission by Allegiant has some aviation experts questioning the use of the term "Bingo fuel," by the Allegiant airline executives behind the controls that day. The phrase is military slang generally understood to mean an aircraft is nearly out of fuel.

"Bingo to me means I'm running down to where I need to be on the ground, " said former National Transportation Safety Board Member Mark Rosenker.

"Using the phrase 'Bingo Fuel' sets off alarms in air traffic controllers," said former FAA Associate Administrator Scott Brenner.

He told CBS News he takes that phrase to mean a pilot has less than 10 minutes of fuel left.

"When a pilot nonchalantly throws out 'Bingo Fuel' because he wants to land and cut through all the nonsense he thinks is going on is an absolute abuse of the trust between air traffic controllers and pilots."

According to the FAA website, "Bingo fuel is not standard phraseology and pilots should not use the term."

Last Thursday was the latest in a series of incidents for the ultra-low fare carrier. In June the airline saw several flights make emergency landings. A flight to Boise even saw passengers evacuate to the wing of the aircraft. In June, the union representing Allegiant pilots sent a letter to the company's board of directors decrying what it called a "bare minimum approach" to safety and operations.

Allegiant says the safety of its passengers and employees is its top priority.

The FAA confirmed a Temporary Flight Restriction (TFR) was in effect for the airspace around Fargo's airport on Thursday July, 23rd from 12pm until 5pm. The TFR, as it's known, was announced on July 15th and says in part, "Aircraft operations are prohibited within a 5 [nautical mile] radius...unless authorized by ATC."

In a statement the FAA said, "The Fargo airport management had notified airlines of the planned airspace closure, practice and air show as far back as December, and...Notices to Airmen (NOTAM) were issued 72 hours in advance. It is a requirement for pilots to review NOTAMs before flight."

The tower told the pilots before landing, "Your company should've been aware of this for a number of months."

While the airline says it was aware of the TFR, it provided a document to CBS News it describes as "release papers from when flight 426 was dispatched" showing an NOTAM issued by the Fargo airport indicating it was still open for scheduled passenger flights.

Allegiant said in a statement that the notice "clearly exempted scheduled air carriers from the air field closure." Allegiant COO Steve Harfst, who wrote the statement, added that "it wasn't until the aircrew contacted Fargo tower directly that they were advised that the airfield was closed to all traffic." Allegiant also maintained that its captain "exercised sound judgment in the operation of his aircraft."

Flight 426 was scheduled to arrive before the TFR went into effect at noon but was delayed an hour in Las Vegas due to a passenger medical emergency. Flightaware.com shows 15 flights landed at the Fargo airport during the TFR, with one declared an emergency.

Allegiant says its airliner was cleared by air traffic control to descend to 6,000 feet for landing, but was then told by ATC the airport was closed. The FAA told CBS News Tuesday the Fargo tower was expecting the delayed flight to divert to Grand Forks, North Dakota because of its delayed departure.

"Fargo tower talked to Allegiant's operations and was assured that the flight did have an extra 45 minutes of fuel on board, as required by FAA regulation...Allegiant's operation center told the FAA the flight had an extra 45 minutes of fuel on board. However, according to Allegiant the pilot estimated his fuel differently," said the FAA statement.

While employees on the ground attempted to reach controllers by phone, flight 426 held at 14,000 feet. After approximately 18 minutes, the airline says the pilot made the bingo fuel call because flight 426 was "now 2-3 minutes from starting to use their reserve fuel."

"Whatever misunderstanding of whether the airport was open or not, having that pilot declare an emergency landing was not appropriate," says Brenner.

The FAA investigation is continuing, and the agency could take enforcement action if deemed warranted.

"To me there is a clearly a failure here, a gap, that needs to be understood. How it happened, why it happened and how they can keep it from happening again," says Rosenker. "This is senior management doing this. It doesn't make any sense to me."

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