Federal Aviation Administration

Memorandum

Date: NOV 12 2008

To: Gary Davis, Acting Assistant Division Manager,
Air Transportation Division, AFS-201

From: Rebecca B. MacPherson, Assistant Chief Counsel for Regulations, AGC-200

Subject: Legal Interpretation- 14 C.F.R. 121.309©(4) Location of Fire Extinguishers on Flight Deck-Requirements

By memo dated July 10, 2008, you requested a legal interpretation of 14 CFR § 121.309(c)(4) as it relates to the placement of fire extinguishers on the flight deck. You cited a January 2006 incident in which a passenger-carrying Boeing-757 (Delta Airlines) had a fire erupt by the captain's window, producing smoke and flames. Since the pilots had donned oxygen masks, they were unable to reach the fire extinguisher mounted at the back of the flight deck without first removing their oxygen masks – an unsafe condition in a smoke-filled cockpit. You ask whether the regulatory intent of the language "conveniently located on the flight deck for use by the flight crew" contained in that paragraph requires that the fire extinguisher be in a location where it can be easily reached by at least one flightcrew member from a seated position.

INTERPRETATION

Section 121.309(c)(4) clearly states that "at least one hand fire extinguisher must be conveniently located on the flight deck for use by the flight crew." This regulatory requirement must also be read in conjunction with §121.309(b) which states that "each item of emergency and flotation equipment listed in this section ... must be readily accessible to the crew...." The requirement to make all emergency equipment "readily accessible to the crew" adds an additional layer of safety to enable the crew to appropriately and quickly address an emergency.

On March 18, 1981, the FAA's Assistant Chief Counsel, AGC-200, issued an interpretation of the terms "accessible" and "readily" relying upon dictionary definitions. This interpretation restates its previous determination that since the preamble to § 121.309 did not specify definitions of "accessible" or "readily," the FAA chooses to use the common meanings for these terms. The Merriam-Webster dictionary lists definitions of "accessible" to mean "capable of being reached" and "being within reach." "Readily" is defined as "in a ready manner" and "without hesitating."

If the fire extinguisher in the crew compartment is not accessible (within reach) during an emergency situation in which the crew must don oxygen masks, the extinguisher's location does not meet the requirement of § 121.309(b)(2) which directly affects any determination of compliance with § 121.309(c)(4). The additional modifier "readily" in paragraph (b)(2), makes this requirement for accessibility even more immediate. If the crew must hesitate to retrieve the fire extinguisher by either removing an oxygen mask or by leaving the crewmember's seated position, the emergency equipment is not "readily accessible." The flightcrew compartment on the aircraft must contain at least one fire extinguisher. That fire extinguisher must be reachable by at least one flightcrew member from that crewmember's seated position at all times, to include those instances when flightcrew members have donned oxygen masks.

This response was prepared by Bruce Glendening, Attorney in the Regulations Division of the Office of the Chief Counsel.

Rebecca B. MacPherson