Federal Aviation Administration

Memorandum

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To: John S. Duncan, Division Manager, Air Transportation Division, AFS-200

From: Rebecca B. MacPherson, Asst. Chief Counsel, Regulations Division, AGC-200

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Subject: Request for legal interpretation regarding 14 C.F.R. §§ 61.23 and 121.437

The following is in response to a request for a legal interpretation submitted by Allegiant Air through the Las Vegas, NV Flight Standards District Office (FSDO) regarding Information for Operators (InFO) 09017, issued October 15, 2009, that addresses the issue of medical requirements for second-in-command pilots (SICs) conducting flag or supplemental operations. Specifically, Allegiant questions whether the InFO only applies to pilots conducting a supplemental flight that is scheduled in excess of eight hours, such that more than two pilots would be required for the operation, or if it applies to a series of flights scheduled during a 24-hour consecutive period, that when combined, exceed eight hours. In the second instance, Allegiant typically augments the crew to avoid a scenario in which one of the crewmembers may exceed eight hours of flight deck duty. Allegiant notes that in these scenarios, the intent of the third pilot is not to provide for in-flight relief, but to change flight deck duty assignments on the subsequent legs that occur during the 24 consecutive hour period.

InFO 09017 was issued to clarify the medical requirements for pilots serving as second in command during supplemental or flag operations that require three or more pilots. The InFO correctly states that U.S. pilots flying in foreign airspace are required to meet the licensing requirements of the respective country, which often require compliance with International Civil Aviation Organization's licensing standards. In this instance, §121.437 requires that a pilot serving as an SIC in a flag or supplemental operation that requires three or more pilots must hold an airline transport pilot certificate and an appropriate type rating for that aircraft. For individuals exercising the privileges of an airline transport pilot certificate, §61.23(a)(1) requires that they hold a first-class medical certificate.

Based on the limited facts presented, we assume that Allegiant is scheduling supplemental operations in accordance with the provisions 14 C.F.R. §121.507. Under this provision, a certificate holder is prohibited from scheduling a pilot for more than eight hours of flight deck duty in an aircraft that has a crew of three pilots. In addition to the limitation on flight deck duty, this provision also limits certificate holders from scheduling the pilots for more than 12 hours

aloft in any 24 consecutive hours, and to be on duty for more than 18 hours in any 24 consecutive hours. 14 C.F.R. §121.507(a)(2),(b).

In this scenario, it appears that Allegiant is scheduling three-pilot crews on these flights because although the eight hour flight deck duty limitation may not be exceeded, the multiple flight segments will likely result in the crewmembers being aloft for 12 hours, or on duty for 18 hours, in a 24 consecutive hour period. *See* 14 C.F.R. §121.507(a)(2),(b). Furthermore, although Allegiant notes that the intent of the third pilot is not to provide for in-flight relief, scheduling the third pilot on these flights would likely result in such relief if, while en route on one of the segments, another crewmember approaches the eight-hour flight deck duty limitation. Thus, the provisions of §121.437 and §61.23, as addressed in InFO 09017, would apply to any of the following scenarios where three pilots would be necessary under the provisions of 121.507: a crewmember is scheduled (1) for eight hours of flight deck duty (either on one flight or a series of flights in a 24 hour period); (2) for 12 hours aloft in any 24 consecutive hours (either on one flight or a series of flights); or (3) for 18 hours of duty in any 24 consecutive hours.