Federal Aviation Administration

Memorandum

Date: December 17, 2010

To: Terry Homan, Assistant Principal Airworthiness Inspector, Delta Certificate Management Office

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

Prepared by: Sara Mikolop, Staff Attorney, AGC-200

Subject: Legal Interpretation Regarding 14 C.F.R. § 121.709

This memorandum is provided in response to your memorandum dated August 16, 2010, to the Regional Counsel for the Federal Aviation Administration's Southern Region requesting a legal interpretation. Specifically, you sought an interpretation regarding the legal definition of "aircraft log" as used in 14 C.F.R. § 121.709.[1] You are seeking this interpretation based on your concern that Delta believes that "a non-routine card and other maintenance records [such as] cabin maintenance and non-essential furnishings records" constitute an aircraft log.

Title 14 of the Code of Federal Regulations does not define the term "aircraft log," however, the regulations specify who must make certain log entries, the content of those log entries and the availability of the log entry. *See* 14 C.F.R. §§ 121.153, 121.701, 121.709; Advisory Circular 120-16E, Chapter 8, Section 809. A maintenance record may be deemed an aircraft log, if it

[1] **14 C.F.R. § 121.709(a) Airworthiness release or aircraft log entry.** (a) No certificate holder may operate an aircraft after maintenance, preventive maintenance or alterations are performed on the aircraft unless the certificate holder, or the person with whom the certificate holder arranges for the performance of the maintenance, preventive maintenance, or alterations, prepares or causes to be prepared--

(1) An airworthiness release; or

(2) An appropriate entry in the aircraft log.

(b) The airworthiness release or log entry required by paragraph (a) of this section must--

(1) Be prepared in accordance with the procedures set forth in the certificate holder's manual;

(2) Include a certification that--

(i) The work was performed in accordance with the requirements of the certificate holder's manual;

(ii) All items required to be inspected were inspected by an authorized person who determined that the work was satisfactorily completed;

(iii) No known condition exists that would make the airplane unairworthy; and

(iv) So far as the work performed is concerned, the aircraft is in condition for safe operation; and

(3) Be signed by an authorized certificated mechanic or repairman except that a certificated repairman may sign the release or entry only for the work for which he is employed and certificated.

meets the requirements of 14 C.F.R. § 121.701(b). Specifically, the record, whether paper or electronic, must be available in the airplane and accessible by each flightcrew member.

As mentioned above, the regulations specify who must make certain log entries, the content of those log entries and the availability of the log entry. For example, as you point out in your memorandum, 14 C.F.R. § 121.709 is one such requirement. 14 C.F.R. § 121.709(a) prohibits a certificate holder from operating an aircraft after maintenance, preventive maintenance or alterations are performed on the aircraft unless an airworthiness release or an appropriate entry in the aircraft log has been made.[2] 14 C.F.R. § 121.709(b) then describes how to make the airworthiness release or log entry required by § 121.709(a). Specifically, § 121.709(b) requires that the airworthiness release, or log entry must be prepared in accordance with the procedures set forth in the certificate holders manual and include certain certifications and signatures.[3] We note that, "Other than form or format, there is no legal or technical difference between an Airworthiness Release Form and a Log Entry." *See* Advisory Circular 120-16E, Chapter 8, Section 809.

Additionally, § 121.701(a) requires "Each person who takes action in the case of a reported or observed failure or malfunction of an airframe, engine, propeller, or appliance that is *critical to the safety of flight* shall make, or have made, a record of that action in the airplane's maintenance log." *Emphasis added.* §121.701(b) then requires a certificate holder to develop a procedure in its manual, "for keeping copies of the record required in paragraph (a)...in the airplane in a place readily accessible to each flight crewmember..." In a prior legal interpretation, we stated that, "The purpose of this regulation is to provide the flight crew with information concerning the repairs performed on the parts of the aircraft critical to the safety of flight." *See* Legal Interpretation1988-21. In order to meet the intent of the regulation, a person who repairs a part that is critical to the safety of flight must record that action in the aircraft maintenance log. *See* id.

Finally, § 121.563 requires a pilot in command (PIC) to "ensure that all *mechanical irregularities* occurring during flight time are entered into the maintenance log of the airplane at the end of that flight time." *Emphasis added.* A PIC must also "ascertain the status of each irregularity entered in the log at the end of the preceding flight." *See* 14 C.F.R. § 121.563.

Although none of the regulations cited above define the term "aircraft log," the criteria in § 121.701(b) must be met in order for the log to be legally sufficient. In other words, whatever the format (paper or electronic) and process used by a certificate holder to create the log and log entries, copies of the log must be available in the airplane and accessible by each flightcrew member. *See* 14 C.F.R. § 121.701(b). By meeting these criteria, the log can serve its intended purpose, which is to allow the flightcrew to assess the airworthiness status of an aircraft.

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[2] For purposes of this legal interpretation the terms "aircraft log", "maintenance log" and "aircraft maintenance log" have the same meaning.

[3] As background, the FAA has stated that generally, "the airworthiness release is executed each time the aircraft completes a scheduled check. A log entry is executed each time the aircraft is approved for return to service after unscheduled maintenance. [A certificate holder] may not operate the aircraft unless [the certificate holder] issue[s] an airworthiness release or approve[s] it for return to service." AC 120-16(D), section 605.

We note that additional aircraft log entries may be required by the certificate holder in accordance with the maintenance program described in its maintenance manual. *See generally* 14 C.F.R. § 121.133 (requiring certificate holders to create and keep current a manual for the use and guidance of flight, ground operations, and management personnel in conducting operations); 14 C.F.R. § 121.367 (requiring certificate holders to have an inspection program and a program covering maintenance, preventative maintenance and alterations that ensures that any maintenance, preventive maintenance or alterations are preformed in accordance with the certificate holder's manual; competent personnel and adequate facilities and equipment are provided to do the work; and each aircraft released to service is airworthy and has been properly maintained); 14 C.F.R. § 121.369 (stating manual requirements for required inspections, maintenance, preventive maintenance and alterations).

To summarize, Part 121 requires log entries to be made by a certificate holder or a person performing maintenance, preventive maintenance and alterations; by each person following actions taken to repair an aircraft part that is critical to the safety of flight; and by a pilot in command to document mechanical irregularities that occur during flight time. *See* 14 C.F.R. §§ 121.709, 121.701 and 121.563. Items such as non-routine maintenance cards which identify discrepancies during an inspection or maintenance, and nonessential furnishings documented for deferred maintenance constitute the identification of discrepancies. A § 121.709 log entry is required following any maintenance to correct these documented discrepancies and prior to returning an aircraft to service. Further, a § 121.701 entry is required for any action taken to remedy a discrepancy related to an aircraft part that is critical to the safety of flight.

We appreciate your patience and trust that the above responds to your concerns. If you need further assistance, please contact my staff at (202) 267-3073. This response was prepared by Sara Mikolop, Attorney, Operations Law Branch of the Regulations Division of the Office of the Chief Counsel, and coordinated with the Air Carrier Maintenance Branch of the Flight Standards Service.