Federal Aviation Administration

Memorandum

Date: JUN 1 - 2011

To: Dennis E. Roberts, Director of Airspace Services, AJV-1

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

Subject: Interference with a Crewmember via Laser, 14 C.F.R. § 91.11

This memorandum is in response to your request for legal interpretation on whether directing a laser at an aircraft from the ground could constitute interference with a crewmember under 14 C.F.R. § 91.11. The FAA's understanding of the plain language of § 91.11, and the purpose of the regulation, indicate that the answer to this question is "yes."

Section 91.11 establishes that "[n]o person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated."

This regulation was initially adopted in 1961 in reaction to increased hijackings of aircraft. *See* 26 Fed. Reg. 7009 (Aug. 4, 1961). The FAA intended to "provide additional controls over the conduct of passengers in order to avoid a serious threat to the safety of flights and persons aboard them." *Id.* In a later amendment to the rule, the FAA stated that this section was "clearly intended to apply to passengers . . . and any other 'person' on board the aircraft." 64 Fed. Reg. 1076, 1077 (Jan. 7, 1999).

Although the primary focus of the regulation, as explained in the 1999 amendments to the rule, was persons on board the aircraft, the plain language of the regulation does not specify that the person interfering with a crewmember must be on board the aircraft. We note that the FAA has successfully invoked this section to assess a civil penalty against a pilot who walked up to a helicopter that was on the ground preparing for takeoff, reached into the helicopter and physically assaulted the pilot. *See Adm'r v. Siegel*, NTSB Order No. EA-3804 (Feb. 10, 1993), 1993 WL 56200. Accordingly, the rule, and prior FAA interpretation, as evidenced by the *Siegel* case, support a finding that an individual does not need to be on board the aircraft to violate § 91.11.

The FAA is aware of an increasing number of incidents of lasers being pointed at aircraft, a scenario that could not have been contemplated by the drafters of the initial rule. The FAA has recognized "that the exposure of air crews to laser illumination may cause hazardous effects (e.g., distraction, glare, afterimage flash blindness, and, in extreme circumstances, persistent or

permanent visual impairment), which could adversely affect the ability of air crews to carry out their responsibilities." FAA Advisory Circular 70-2 (Jan. 11, 2005). Distracting or impairing a crewmember's vision during operation of an aircraft could reasonably be construed to constitute interference with a crewmember's duties aboard an aircraft.

Therefore, the FAA would consider a situation in which a laser beam, aimed at an aircraft by a person who is not on board the aircraft, interferes with a crewmember's performance of his or her duties aboard the aircraft to be a violation of § 91.11. We note that this interpretation would apply equally to the similarly worded provisions of §§ 121.580, 125.328, 135.120.

This response was prepared by Dean E. Griffith, Attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the Air Transportation, Flight Technologies and Procedures, and General Aviation and Commercial Divisions of Flight Standards Service. It was also coordinated with Airspace Services in the Air Traffic Organization's Office of Mission Support Services. Please contact us at (202) 267-3073 if we can be of additional assistance.