Federal Aviation Administration

Memorandum

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To: Mike A. Pallatto, Atlanta Certificate Management Office-65, Atlanta, GA

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

Prepared by: John King, Staff Attorney, AGC-210

Subject: Legal Interpretation of the phrase "interruption to a flight under 14 CFR § 121.705

You have requested that our office provide a legal interpretation of the phrase "interruption to a flight" as that phrase is used in 14 CFR § 121.705 (a) for the Mechanical Interruption Summary (MIS) report. Various air carriers under your oversight may be reporting differently based upon whether the requirement for the MIS report is triggered at scheduled departure or at wheels off the ground. You question whether it is necessary to include in the MIS report a canceled flight because of an aircraft mechanical difficulty before takeoff, or if the aircraft has landed and has a mechanical difficulty before returning to the gate. Finally you suggest that MIS reports may not be necessary for ground or gate returns because the aircraft has not left the earth surface as per the definition of "during flight" in § 121.703 (b), Service Difficulty Reports.

§ 121.705 Mechanical interruption summary report.

Each certificate holder shall submit to the Administrator, before the end of the 10th day of the following month, a summary report for the previous month of:

(a) Each interruption to a flight, unscheduled change of aircraft en route, or unscheduled stop or diversion from a route, caused by known or suspected mechanical difficulties or malfunctions that are not required to be reported under §121.703.

(b) The number of engines removed prematurely because of malfunction, failure or defect, listed by make and model and the aircraft type in which it was installed.

(c) The number of propeller featherings in flight, listed by type of propeller and engine and aircraft on which it was installed. Propeller featherings for training, demonstration, or flight check purposes need not be reported.

§ 121.703 Service difficulty reports.

(b) For the purpose of this section *during flight* means the period from the moment the aircraft leaves the surface of the earth on takeoff until it touches down on landing.

We note that the definition of "during flight" is specifically restricted to § 121.703 and that implies that another definition of "during flight" may be contemplated in other sections of 14 CFR Part 121. We are unaware of a statutory or regulatory definition of the phrase "interruption to a flight" or "flight" that would be applicable to the situation you describe. Therefore it is necessary to derive a definition from the use of the term in the regulation.

Section 121.703 contains reporting requirements that are not linked to § 121.705. There is no requirement in § 121.703 that triggers a report under § 121.705. However, § 121.705 (a) contains a clear provision that indicates that reports under § 121.705 are not the same reports that are required under § 121.703. Thus while mechanical difficulties might be reported under § 121.703 or § 121.705, the air carrier must determine under which section the report is required and the applicable requirements for that section triggering a report. Section 121.703, paragraphs (a) and (c), contain a list of the reportable failures, malfunctions, or defects that must be reported under that section. Most, but not all, of the reportable items under § 121.703 are required to be reported if they occur "during flight." Subparagraphs (a)(1) through (a)(12), and (a)(16), contain items reportable "during flight." Subparagraphs (a)(13) through (a)(15), and (a)(17), do not contain the "during flight" provision and must be reported wherever they occur. Some parts of § 121.703 would apply to occurrences before takeoff and after landing. So even within § 121.703 some mechanical difficulties are reportable only if they occur "during flight" and others are reportable if they occur before takeoff and after landing.

Regulations need to be read as a whole and in such a manner that all their provisions have meaning. A principle of statutory or regulatory interpretation is that every word or phrase must be given effect. Additionally, words or phrases should be construed, unless the context otherwise requires, in accordance with the definition of the same or similar terms used in other regulations. This principle creates a presumption that the same word or phrase appearing in several regulations retains the same meaning throughout.

Paragraph (b) of § 121.705 clearly contemplates an event that occurs on the ground. Paragraph (b) would have no meaning if only engine removals that occurred "during flight" had to be reported. Alternatively, paragraph (c) clearly contemplates the "during flight" limitation. The FAA only wants to know about unplanned propeller featherings that occur "during flight." This reasoning is similar to the distinctions found in § 121.703.

Because the definition of "during flight" does not apply to § 121.705, and a definition is not specifically provided, it is within the agency's discretion to provide one. A definition found in the *Webster's Ninth New Collegiate Dictionary* defines "flight" as "an act or instance of

passing through the air by the use of wings." Therefore when reading paragraph (a) of § 121.705 we need to read the phrase in a consistent manner. Both the phrases "unscheduled change of aircraft en route" and "unscheduled stop or diversion from a route" contemplates the aircraft being in the air when the reportable event occurs. We think that the drafters intended a parallel structure in the regulation so the word "flight" in paragraph (a) of § 121.705 would also have the same meaning as "during flight." Thus we read the phrase "each interruption to a flight" to mean from takeoff to landing, or "during flight."

We trust that the above responds to your concerns. If you need further assistance, please contact my staff at (202) 267-3073. This response was coordinated with the Aircraft Maintenance Division of the Flight Standards Service.