Federal Aviation Administration

Memorandum

Date: FEB 29 2012

To: Jack Swenson, Manager, Technical Support – General Aviation Branch, ACE-230

From: Rebecca B. MacPherson, Assistant Chief Counsel for Regulations Division, Office of the Chief Counsel, AGC-200

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Subject: Request for Legal Interpretation

This memorandum is in response to your request for a legal interpretation regarding the application of 14 C.F.R. § 135.151, which requires the use of a cockpit voice recorder (CVR) in part 135 operations.

Your memo indicates that the subject operator, Jet Lynx LLC operates two Cessna CJ-525 aircraft. You stated that pursuant to 14 CFR §135.151, one of the aircraft is "equipped from the factory with a CVR" because it is over 12,500 pounds, while the other is under 12,500 pounds and "no CVR is required."

This is a misreading of the regulatory requirement. Section 135.151 states:

> (a) No person may operate a multiengine, turbine powered airplane or rotorcraft having a passenger seating configuration of six or more and for which two pilots are required by certification or operating rules unless it is equipped with an approved cockpit voice recorder [that:].

The applicability the cockpit voice recorder (CVR) requirement is not based on weight, but on the seating configuration and whether two pilots are required. This requirement was put in place in 1988 and has been required for operation since 1991.

Your submission to us also includes a memo from the Lincoln, NE Flight Standards District Office. That memo states that a Cessna CE-525 may be flown with only one pilot plus an autopilot system pursuant to §135.105, and that when flown with one pilot, a CVR is not

required. That memo asks the following:

> It is understood that the CVR would not be required while operating the aircraft in single-pilot mode, however, if the company elects to operate the aircraft with two fully qualified crew members, does this change that requirement?

This is also a misreading of the regulatory requirement. The assessment of whether a CVR is required hinges on the information in the type certificate data sheet (TCDS). The subject airplanes are certificated for two pilots. Only by resorting to a second regulation for certain operations is operation using one pilot plus an autopilot system permissible. Neither of these airplanes is certificated for a single pilot operation. The subject airplanes are certificated for two pilots, and must have an approved CVR whether they are operated with two pilots or one pilot and an autopilot system.

Nothing about the use of a single pilot plus an autopilot system may be read to change the requirements in §135.151. The need for CVRs was established as a critical tool for investigators following accidents and incidents. Since these aircraft are not required to have flight data recorders, the CVR remains as the sole investigative tool.

Your memorandum also references the logging of SIC time in a Cessna 525 in part 135 operations and refers to the Legal Interpretation to Scott Nichols from Rebecca B. MacPherson (Apr. 2, 2009). That legal interpretation does not impact the above discussion and remains the current Agency policy for when a pilot is able to log SIC time under 14 C.F.R. § 61.51.