U.S. Department
of Transportation
**Federal Aviation
Administration**

28 October 2104

Bill Landis
Director of Operations
Mayo Aviation
7735 South Peoria Street
Englewood, CO 80112

Dear Mr. Landis:

On March 14, 2013, you requested an interpretation of the flight recorder requirements of §135.151(a) for your aircraft. We apologize for the delay in responding to your request.

Your first question concerns "the applicability of … Section 135.151(a)" to your airplane, a "BE20" which we presume means a Beech 200, that you operate in IFR conditions under the authority of §135.101, and that you state is "certified for single pilot operations."

Section 135.151(a) addresses cockpit voice recorders and 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….

Section 135.101, addressing second in command requirements for IFR, states:

> Except as provided in § 135.105, no person may operate an aircraft carrying passengers under IFR unless there is a second in command in the aircraft.

Section 135.105 allows for the use of an autopilot in lieu of a second in command. Accordingly, although you are required to have two pilots to operate in IFR conditions under §135.101, you are able to operate using one pilot and an autopilot under the exception allowed in §135.105. When qualified under those circumstances, you ask whether a cockpit voice recorder is required under §135.151(a). Yes, a CVR is required for IFR operations. Section 135.151 includes in its applicability the phrase "and for which two pilots are required by certification or operating rules" (emphasis added). As noted, §135.101, an operating rule, requires a second pilot when operating under IFR. This triggers the §135.151(a) requirement for a CVR when two pilots are required by an operating rule.

The ability to operate under the exception in §135.105 using an autopilot system instead of a second pilot does not negate the need for a cockpit voice recorder. The exception in §135.105 allows for the substitution of an autopilot for the second pilot in §135.101 when

operating IFR. Section 135.101 references §135.105; §135.105 in turn references other crew regulations and when they apply. The exception in §135.105 cannot be used to negate other operating or certification requirements that are not referenced, including an equipage rule such as §135.151 that requires a CVR when two pilots are required for operation.

We addressed a similar situation in an interpretation to the FAA's General Aviation Branch in Kansas City, and stated the following:

> Nothing about the use of a single pilot plus an autopilot 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 the sole investigative tool.

(Memo from Rebecca MacPherson to Jack Swenson dated February 29, 2012.)

Your final question notes that the Master Minimum Equipment List (MMEL) for your aircraft allows the CVR to be inoperative for a maximum of three days as category A. You then state that "it would seem that the IFR operations could be conducted without the CVR for the period allowed for the autopilot deferral Category C," which would be 10 days. We disagree. The requirement that your aircraft be equipped with a CVR derives from your choice to operate IFR in accordance with §135.101. The fact that you are allowed under a separate regulation to use an autopilot system that has a different MMEL category cannot change the MMEL category for the CVR. While use of both the CVR and the autopilot on your aircraft originates in §135.101, the two pieces of equipment cannot be equated to share MMEL requirements, especially when they are already called out separately in the MMEL. The maximum period for an inoperative CVR is three days pursuant to your MMEL, regardless of whether you use a second pilot or an autopilot system.

This interpretation was prepared by Karen Petronis, Senior Attorney for Regulations in my office. It was coordinated with the Avionics Maintenance Branch, AFS-360 and the Air Transportation Division, AFS-200 of the Flight Standards Service. If you have further questions about this interpretation please contact my staff at 202-267-3073.

Sincerely,

Mark W. Bury
Assistant Chief Counsel for International Law,
Legislation and Regulations