U.S. Department
of Transportation
Federal Aviation Administration

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

SEP 4 2015

Michael Origel
[redacted]

Subject: Section 135.269 Interpretation Regarding Requirements for a PIC on an Augmented Crew

Dear Mr. Origel:

This letter is provided in response to your request for a legal interpretation sent to the Regulations Division of the Office of the Chief Counsel on April 17, 2015. In your request for a legal interpretation, you question whether compliance with 14 CFR 135.243(a)(1) is sufficient to meet the requirements of 14 CFR 135.269(b)(7)(ii) for a second pilot in command (PIC) in a three-pilot augmented crew. Specifically, you ask whether there is a requirement for the 14 CFR 135.269(b)(7)(ii) second PIC to "maintain a §§ 135.297 or 135.299 check."

Section 135.269 establishes the flight time and duty limitations and rest requirements for three-and four-pilot crews in unscheduled operations. Section 135.269(b)(7) prohibits a certificate holder from assigning any pilot to an augmented crew of three pilots unless the crew contains: at least a PIC who meets "the applicable flight crewmember requirements of subpart E of part 135" and at least a second PIC who meets the "applicable flight crewmember requirements of subpart E of part 135, except those prescribed in § 135.244 and § 135.247." Section 135.244 is the operating experience requirement for a PIC of a commuter operation, and § 135.247 is the recent experience requirement for a pilot in command of an aircraft carrying passengers.

Subpart G prescribes the testing and checking requirements for flightcrew members in part 135 operations, with §§ 135.297 and 135.299 listing the mandatory testing requirements for operation as a pilot in command. Section 135.297 states "No certificate holder may use a pilot, nor may any person serve, as a pilot in command of an aircraft under IFR unless, since the beginning of the 6th calendar month before that service, the pilot has passed an instrument proficiency check under this section administered by the Administrator or an authorized check pilot." Similarly, § 135.299 states "No certificate holder may use a pilot, nor may any person serve, as a pilot in command of a flight unless, since the beginning of the 12th calendar month before that service, that pilot has passed a flight check in one of the types of aircraft which that pilot is to fly."

Both pilots serving as PIC must meet the applicable requirements of subpart E of part 135. The qualifications for the PIC identified in § 135.269(b)(7)(i) and the second PIC identified in § 135.269(b)(7)(ii), intended to relieve the § 135.269(b)(7)(i) PIC, are the same, except for the exclusion of §§ 135.244 (operating experience for a pilot in command of a commuter operation) and 135.247 (recent experience for a pilot in command of an aircraft carrying passengers).

The FAA did not intend to eliminate crewmember testing requirements for a pilot in command serving on an augmented three or four pilot crew. Rather, § 135.269(b)(7)(i) and (ii) simply provide relief from the operating experience and recency requirements, where applicable. Testing requirements for every pilot in command operate autonomously outside of § 135.269 and are a prerequisite for operating as a PIC. Excepting all pilots in an unscheduled operation from the PIC testing and checking requirements of subpart G would be unreasonable because in that case, no pilot would be fully qualified as PIC during the operation.

We appreciate your patience and trust that the above responds to your concerns. If you need further assistance, please contact us at (202) 267-3073. This letter has been prepared by Courtney Freeman, an attorney in the Regulations Division of the Office of the Chief Counsel, and coordinated with the Air Transportation Division of the Flight Standards Service.

Sincerely,

Lorelei Peter
Acting Assistant Chief Counsel for Regulations, AGC-200