Federal Aviation Administration

Memorandum

Date: June 8, 2017

To: Jeffrey Guzzetti, Manager, Accident Investigation Division (AVP-100)

From: Lorelei Peter, Assistant Chief Counsel for Regulations (AGC-200)

Subject: Legal Interpretation of 14 CFR § 121.651(a) in Response to NTSB Information Request 17-125

This memorandum responds to your request, on behalf of the National Transportation Safety Board (NTSB) information request 17-125, for a legal interpretation clarifying 14 C.F.R. § 121.651(a). Specifically, the NTSB asks: (1) whether § 121.651(a) requires that an airport's weather reporting capabilities be operational at the time of takeoff or (2) whether a pilot can rely on a weather report obtained prior to loss of weather reporting capabilities.

In making its inquiry, the NTSB provides the following facts related to an aviation incident on March 8, 2017, at Detroit-Willow Run Airport (YIP). Three hours before takeoff the operator obtained an Automated Surface Observing System (ASOS) weather report. Although not explicit in the request, we assume the ASOS weather report demonstrated that airport weather conditions met or exceeded the required minimums for takeoff. Subsequent to that weather report but prior to takeoff, the YIP air traffic control tower closed due to high winds, and the ASOS became non-operational due to a power loss. For takeoff, the operator had the ASOS weather report as well as current temperature (through a Real Time Mesoscale Analysis (RTMA) report) and barometric pressure.

Section 121.651(a) states, in relevant part:

> Notwithstanding any clearance from ATC, no pilot may begin a takeoff in an airplane under IFR when the weather conditions reported by the U.S. National Weather Service, a source approved by that Service, or a source approved by the Administrator, are less than those specified in—
>
> (1) The certificate holder's operations specifications; or
> (2) Parts 91 and 97 of this chapter, if the certificate holder's operations specifications do not specify takeoff minimums for the airport.

Although § 121.651(a) is silent on the operational capabilities of weather facilities and the recency of reported weather, reported weather conditions are a precondition for takeoff, which indicates a nearness in time. Furthermore, part 121 contains other weather report and aircraft performance regulations that require reports of weather conditions that are occurring at the time of takeoff. For example, § 121.189(e) requires, in relevant part, "correction . . . for the ambient temperature and wind component at the time of takeoff" when determining maximum weights, minimum distances, and flight paths.

Accordingly, to operate consistently with § 121.651(a) and other related regulations, a pilot must have reasonable certainty that conditions existing at the time of takeoff have been accurately reflected by the weather report that is used to determine the flight will meet or exceed the required minimums and thereby ensure safe operation of the aircraft.

We trust this response adequately addresses your questions. This response has been prepared by Rob Hawks, Manager of the Operations Law Branch, and coordinated with the Air Transportation Division of the Flight Standards Service. If you need further assistance, please contact my staff at (202) 267-3073.