U.S. Department of Transportation
Federal Aviation Administration

Office of the Chief Counsel

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

# Memorandum

Date: July 28, 2026

To: FILE

From: Brett Daee, Acting Chief Counsel

BRETT T DAEE Digitally signed by BRETT T DAEE Date: 2026.07.30 09:59:53 -04'00'

Prepared By: Courtney Kaplar, Acting Manager, Airman Certification & Training, AGC-240

Subject: Rescission of Lincoln – Soaring Society of America Legal Interpretation (Nov. 6, 1990)

This memorandum memorializes that the Lincoln – Soaring Society of America (Lincoln SSA) Legal Interpretation (Nov. 6, 1990) is rescinded as of July 28, 2026. The Lincoln SSA Legal Interpretation found that (1) towing a glider is not considered carrying passengers or property under § 61.118, and (2) the logging of flight time while acting as pilot in command of an aircraft is considered compensation. After the Lincoln SSA Legal Interpretation was published, the FAA relocated § 61.118 to § 61.113 and amended it to clarify that private pilots may, for compensation or hire, tow gliders or ultralights as long as the pilot in command is in compliance with § 61.69.[1] Due to subsequent regulatory updates and existing agency precedent, the Lincoln SSA Legal Interpretation is no longer valid and may not be relied upon for any purpose.[2] If you require further assistance, please contact my staff.

[1] *See* Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules Final Rule, 62 FR 16220, 16266 (Apr. 4, 1997), https://www.govinfo.gov/content/pkg/FR-1997-04-04/pdf/97-7450.pdf.

[2] The FAA will not rely on information that has been outdated by subsequent regulatory updates, including the "opinions" referenced in the now rescinded Lincoln – Soaring Society of America Legal Interpretation discussing outdated § 61.118. These "opinions" are not available as legal interpretations on the FAA's Dynamic Regulatory System webpage.

Ms. Judy Lincoln
President, Soaring Society of America
P.O. Box E
Hobbs, NM 88241-1308

Dear Ms. Lincoln:
This is in further response to your letter dated July 19, 1990, and follows the August 14, 1990, interim response of Mr. George Thompson, Assistant Chief Counsel of the Federal Aviation Administration's (FAA) Northwest Mountain Region. You asked for a clarification of several FAA opinions concerning whether private pilots may act as pilot-in-command of an aircraft towing gliders.

Based on your letter and a memorandum to our office from Mr. Thompson, we understand that in the specific circumstances applicable to the Soaring Society of America (SSA), no money is paid to the private pilot. However, the glider pilot does pay a tow fee to the glider club, which provides the tow aircraft without charge to the tow pilot.

The opinions at issue are:

1. Letter dated February 11, 1978, from Clark Onstad, Chief Counsel, to Mr. Forrest Blossom of SSA.

2. Memo dated February 22, 1978, from Jonathan Howe, Acting Chief Counsel, to AEA-

3. Letter dated April 5, 1978, from Edward Faberman, Deputy Assistant Chief Counsel, Regulations and Enforcement Division, to Mr. Leonard E. Samuelson, Jr.

4. Letter dated June 26, 1980, from William Sacrey, Chief, Operations Branch, to Ms. Loretta Belter.

5. Memo dated April 28, 1982, from Joseph Budro, Chief, Flight Standards Branch, to Chief, General Aviation and Commercial Division.

6. Memo dated May 1982 from Bernard Geier, Chief, General Aviation and Commercial Division, to Chief, Flight Standards Division.

Your concern, as outlined in your letter and the attached commentary, is that the 1978 opinions (Documents 1, 2 and 3 above) appear to support the position that the tow pilot under the circumstances described need not have a commercial pilot certificate, while Document No. 6 says that such operations would require a commercial pilot certificate. I believe that these two lines of opinions can be explained by reference to the specific sections of §61.118 of the Federal Aviation Regulations (FAR), (Title 14 of the Code of Federal Regulations), to which they apply.

§61.118 provides, in relevant part:

> Except as provided in paragraphs (a) through (d) of this section, a private pilot may not act as pilot in command of an aircraft that is carrying passengers or property for compensation or hire; nor may he, for compensation or hire, act as pilot in command of an aircraft.

* * * * *

In this paragraph from §61.118 there are two distinct prohibitions that apply to a private pilot. The first prong of §61.118 says a private pilot may not act as pilot in command of an aircraft that is carrying passengers or property for compensation or hire. As the question arises in the glider context, the first issue to be addressed is whether an aircraft towing a glider is "carrying passengers or property."

Document No. 1, the Onstad letter, concluded (in paragraph 5) that "a glider and its occupants are not considered to be property or passengers that are being carried by the aircraft towing them." From this premise, it followed that a tow pilot with only a private pilot certificate would not be violating the first prong of §61.118. Once it was decided that the glider and its occupants were not property or passengers, the issue of compensation or hire became irrelevant to the first prong of 61.118.

The Documents cited above are consistent in supporting this conclusion. See, in addition Document No. 1, No. 2 (paragraphs 3 and 4), and No. 3 (paragraph 3).

The second prong of §61.118 says that a private pilot may not, "for compensation or hire, act as pilot in command of an aircraft". There is no question that the pilot of the tow plane is acting as pilot in command of an aircraft. The issue is whether he is so acting "for compensation or hire". With regard to this second prong of §61.118, the agency has repeatedly taken the position that building up flight time is considered compensatory in nature when the pilot does not have to pay the costs of operating the aircraft and would, therefore, be deemed a form of "compensation" to the private pilot under §61.118.

Only one of the documents you enclosed with your letter squarely addresses this issue. In Document No. 6, paragraph 4, Bernard Geier noted

> that a private pilot may not serve as pilot in command of such an operation [towing gliders] even when he/she elects to forego actual monetary compensation for service as pilot in command since, as stated, the private pilot is rendering his/her services to build (flight) time. This act, within itself, constitutes an operation for gain or advantage, other than for transportation alone. As such, it would be considered an operation for compensation or hire.

In summary we are left with two conclusions that may seem contradictory as applied to the tow plane situation. On the one hand, there is the Onstad letter (Document No. 1) and others holding that since a glider and its occupants are not considered to be property or passengers that are being carried by the aircraft towing them, a private pilot may tow a glider without running afoul of the first prong of §61.118.

On the other hand, there is the conclusion of the Geier letter (Document No. 6) that building flight time by towing gliders is considered to be an operation for compensation or hire; thus a private pilot towing a glider would run afoul of the second prong of §61.118.

One explanation is that Mr. Onstad and the others who reached the same conclusion simply did not address the second prong of §61.118. It appears that Mr. Onstad skirted the issue when he noted that the tow plane pilot does not "receive any remuneration other than the eligibility of flying the tow plane." It is unclear what "eligibility" means in this context, but in any event Mr. Onstad did not directly address the question of building flight time in this letter. In the sixth paragraph of his letter, he took at face value SSA's statement that the pilot received no remuneration for his service, and did not consider whether building flight time was considered "compensation or hire."

That means the Onstad letter is correct as far as it goes, but is an incomplete analysis of the issues. To the extent that it was intended to address the second prong, or can be reasonably read to address the second prong, this opinion, not the Onstad letter, now controls.

It could be argued that the accumulation of flight time is not always of value to the pilot involved. The FAA does not consider it appropriate to enter into a case-by-case analysis to determine whether the logging of time is of value to a particular pilot, or what the pilot's motives or intentions are on each flight.

One solution to this problem would be for private tow plane pilots not to log their time, a practice which I understand the Palouse Soaring Society (PSS) pilots have already adopted (according to Mr. Thompson's August 14, 1990 letter to SSA). I gather that this is not a hardship, since, as you note in your commentary:

> In the case of the PSS, each private rated tow pilot has already logged flight time in excess of the commercial pilot minimums noted in 61.129(b), and thus has no motive to 'build flight time' towing gliders. If compensation, hire, gain or advantage were desired, any of these pilots could readily obtain his commercial pilot rating and find a more efficient means to 'build flight time'....

Another alternative would be for the PSS pilots to obtain their commercial pilot ratings, which would resolve the §61.118 prohibitions concerning private pilots.

This interpretation has been coordinated with the General Aviation and Commercial Division of the Office of Flight Standards at FAA Headquarters. We hope that it satisfactorily responds to your inquiry.

Sincerely,

Donald P. Byrne
Acting Assistant Chief Counsel Regulations and
Enforcement Division

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