May 11, 1995

Mr. Pritchard H. White

[redacted]

Dear Mr. White:

This refers to your letter of May 5, 1995, requesting an interpretation of Section 135.1(b)(4)(iii) of the Federal Aviation Regulations (FAR) as it applies to the operations, which you propose to conduct.

You indicate that you intend to use your airplane in aerial photography and survey work, sometimes acting as the photographer yourself, and at other times either hiring a photographer or providing an "aerial platform" to be used by other photographers.

You further indicate that your proposed aerial survey work would include environment assessment, wildlife and natural resources surveys, and airborne collection of air samples for meteorology studies.

Your specific request is for an interpretation as to whether these proposed activities would fall within the "aerial photography or survey" exception to the applicability of Part 135 of the FAR. You indicate that your own interpretation is that these operations would fall within the exception, thus permitting you to conduct them under the provisions of Part 91, rather than the more rigorous provisions of Part 135. You ask that we confirm whether your interpretation is correct.

From the information presented by you, it would appear that the sole purpose of your flights would be for aerial photography and survey work. If this is the case, then your operations would appear to fall within the cited exception, and may be conducted under the provisions of Part 91 FAR.

In the event your proposed operations may involve the carriage of passengers from one point to another in addition to aerial photography or survey work, the answer we have provided to you would change. The Agency has consistently interpreted Section 135(b)(4) so that if an aircraft lands at a site other than its origin, the aerial photography or survey exception does not apply. This is due to the fact that the flight takes on the "dual purpose" of both aerial photography or survey and transporting passengers from one point to another for compensation or hire. In this case, the rules of Part 135 would need to be complied with.

One further point requires clarification. You have not indicated what type of pilot certificate you hold, i.e., private pilot certificate, or a commercial pilot certificate, or higher.

To the extent that your operation would be in furtherance of your own business of aerial photography or survey, and you are not carrying persons or property for compensation or hire, then you may do so holding a private pilot certificate. However, to the extent that your operation would involve operating your aircraft as an aerial platform for other photographers, etc., for compensation or hire, you would need to be the holder of at least a commercial pilot certificate in order to act as the pilot.

We hope that this has adequately answered your questions. If we can be of further assistance, please do not hesitate to contact us.

Very truly yours,

Leland S. Edwards, Jr.
Attorney