July 30, 1997

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RE: Part 91 Interpretation Request

Dear Mr. Jung:

This is in response to your letter of July 3, 1997, in which you seek confirmation of the following:

14 CFR Section 91.501(b)(4) provides that:

"Flights conducted by the operator of an airplane for his personal transportation or the transportation of his guests when no charge, assessment or fee is made for the transportation."

Query #1: The section in question only addresses the carriage of "guests." Does this mean the company that owns an airplane cannot transport its employees, officials, or property under (b)(4), unlike Section 91.501(b)(5)? It is our understanding that (b)(4) contemplates employees, officials, and property of the company that operates the airplane. Is this correct?

Answer: Your understanding is correct. We could consider the transport of the operator's employees, officials, or property to fall within the scope of flights conducted by the operator for his/her personal transportation.

Query #2: It is our understanding that Section 91.501(b)(5) requires the company that owns the airplane to have an ongoing business as its primary operation other than operating the airplane. Does the same requirement hold true for subsection (b)(4)? In other words, if no charge, assessment, or fee is made for the transportation of guests (officials, employees, and property) under (b)(4), does the company must still have an ongoing business as the primary operation in addition to operating the airplane? Our interpretation is that this is not a requirement under subsection (b)(4) if no charge, assessment, or fee is made for the transportation. Please confirm.

Answer: (b)(4) does not require that the company operating the aircraft have an ongoing business as the primary operation in addition to operating the aircraft. However, if the primary or only business of the company is operating the airplane, I think we

would be curious as to whether the air operations are, in themselves, a major enterprise for profit. If so, it would appear that the operation would meet the "major enterprise" test of 14 CFR 1.1 as an operation for compensation or hire.

Sincerely,

George L. Thompson
Regional Counsel