MAR 16 2000

Mr. Bruce L. Helmich

[redacted]

Dear Mr. Helmich:

This is in response to your January 3 request for an interpretation concerning the transponder requirements for civil aircraft operating in Class C airspace. Specifically, you question the validity of a waiver issued under section 91.215 of Title 14 of the Code of Federal Regulations (CFR).

Section 91.215, in pertinent part, requires an operable coded radar beacon transponder for all aircraft operating in Class A, Class B, and Class C designated airspace. Paragraph (d) of this section provides for air traffic control (ATC) authorized deviations from this requirement under certain conditions as follows:

> (d) *ATC authorized deviation.* Requests for ATC authorized deviation must be made to the ATC facility having jurisdiction over the concerned airspace within the time periods specified as follows:
>
> (1) For operation of an aircraft with an operating transponder but without an operating automatic pressure altitude reporting equipment having a Mode C capability, the request may be made at any time.
>
> (2) For operation of an aircraft with an inoperative transponder to the airport of ultimate destination, including any intermediate stops, or to proceed to a place where suitable repairs can be made or both, the request may be made at any time.
>
> (3) For operation of an aircraft that is not equipped with a transponder, the request must be made at least one hour before the proposed operation.

Section 91.215 specifically provides for the issuance of an ATC authorized deviation or waiver from the transponder in view of the above-cited circumstances. Any waiver issued by the FAA under this section is considered a "valid" waiver. Please be advised that these waivers are issued by the local facility and that for operational reasons, the process may vary depending on the facility. I urge you to contact the appropriate facility for your operation as soon as possible to discuss the process for obtaining the necessary authorization.

If you have questions concerning this matter, please contact Ms. Lorelei Peter at 202-267-3073.

Sincerely,

Donald P. Byrne
Assistant Chief Counsel for Regulations
Office of the Chief Counsel