U.S. Department
of Transportation
**Federal Aviation
Administration**

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

DEC 11 2006

Col. Michael R. Gallagher, USAF (Ret.)
[redacted]

RE: Fuel Requirements – 14 C.F.R. § 91.167

Dear Colonel Gallagher;

This letter responds to your letter dated June 13, 2006, requesting further clarification of an FAA legal interpretation of 14 C.F.R. § 91.167 dated January 28, 2004. The FAA interpretation was provided in response to your initial request dated December 7, 2003.

Your question is "...for IFR flights where an alternate is required, must the pilot carry sufficient fuel to complete an approach and landing at *both* the destination airport and alternate airports." The answer is yes. Obviously, the plane will not land at both airports, but the missed approach fuel used in attempting to land at the destination airport equals, for the purposes of this rule, fuel to land the airplane.

Upon review of your letter and accompanying diagram, the FAA continues to disagree with your belief that "the wording of FAR 91.167 allows for the pilot to plan fuel for an approach and landing at *either* the destination *or* the alternate in addition to fuel required to arrive at the destination, fly to the alternate, and then hold for 45 minutes."

The rule at issue is:

PART 91-GENERAL OPERATING AND FLIGHT RULES

Subpart B-Flight Rules

Sec. 91.**167** Fuel requirements for flight in IFR conditions.

(a) No person may operate a civil aircraft in IFR conditions unless it carries enough fuel (considering weather reports and forecasts and weather conditions) to--

(1) Complete the flight to the first airport of intended landing;
(2) Except as provided in paragraph (b) of this section, fly from that airport to the alternate airport; and
(3) Fly after that for 45 minutes at normal cruising speed or, for helicopters, fly after that for 30 minutes at normal cruising speed.

As stated in the FAA's January 28, 2004 letter, sufficient fuel to **complete** the flight under (a)(1) includes fuel for approach and landing (or missed approach).

Your question appears to arise from the phrase in (a)(2) that states "**fly** from that airport to the alternate airport." The FAA has determined this phrase also includes fuel for approach and landing. To promote aviation safety, the FAA's rule assumes the pilot will attempt to land at the destination airport and then **fly** to the alternate for the ultimate conclusion of the safe flight. This reasonable scenario includes an approach at **both** the destination airport and at the flight's final landing at the alternate.

The FAA believes marginal weather conditions change rapidly. A pilot may start an approach to the destination airport with adequate minimum weather, but the weather may change and force a missed approach. Accordingly, the FAA rules require fuel for approaches at **both** the destination and alternate airports.

This response was prepared by Bruce Glendening, Attorney, Regulations Division, Office of the Chief Counsel, and has been coordinated with the Air Transportation Division of Flight Standards Service. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Rebecca MacPherson
Asst. Chief Counsel, Regulations Division (AGC-200)