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

800 Independence Ave., SW.
Washington, DC 20591

Mike Granby
[redacted]

Dear Mr. Granby:

In a letter dated February 10, 2006, you asked us about the meaning and application of Title 14, Code of Federal Regulations (14 CFR) section 91.130(c)(1) which addresses arrival or through flight in Class C airspace. 14 CFR § 91.130(c)(1) states in relevant part:

> Each person operating an aircraft in Class C airspace must meet the following two-way radio communications requirements: Each person must establish two-way radio communications with *the* [emphasis supplied] ATC (including foreign ATC in the case of foreign airspace designated in the United States) providing air traffic services prior to entering that airspace and thereafter maintain those communications while within that airspace.

In your letter, you inquired whether use of the definite article "the", which is italicized above, indicates a requirement to contact the air traffic control (ATC) facility charged with managing the specific Class C airspace or whether contact with any ATC facility would suffice. The answer is that the regulation requires that the operator contact the specific ATC facility responsible for the Class C airspace in question. In the case of Class C airspace, that facility is the Terminal Radar Approach Control (TRACON).

Also in your letter you posited a situation in which a pilot operating under visual flight rules (VFR) is communicating with an Air Route Traffic Control Center (ARTCC or Center) while approaching the boundary of Class C airspace. In your hypothetical, you inquired whether a pilot would be in violation of section 91.130(c)(1) if he enters the Class C airspace while in two-way communication with the Center and not the TRACON. You further inquired if the Center's "failure to hand him off" would relieve the pilot of the responsibility to establish two-way communication with the TRACON prior to entering their Class C airspace.

The operator of the aircraft would be in violation of section 91.130(c)(1) in the hypothetical that you present. Under section 91.3, the pilot in command is directly responsible for and is the final authority as to the operation of the aircraft. The receipt of traffic advisories from a Center or any other ATC facility does not relieve the pilot of the responsibilities of section 91.3.

Advisory services such as flight following are furnished to VFR traffic as a courtesy when workloads permit. By providing this courtesy, the Center does not obligate itself to advise pilots operating under VFR of their geographic position nor of their obligations under section 91.130(c)(1) or any other sections of 14 CFR . However, the FAA does recognize that there could be circumstances that mitigate the violation depending on the actual contents of the two-way communication between the pilot and the Center.

If you have any further questions please contact Mr. Naveen Rao of my staff at (202) 267-3073. Thank you for your inquiry.

Sincerely,

Rebecca MacPherson
Assistant Chief Counsel, Regulations