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

Office of the Chief Counsel

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

NOV 19 2008

Mr. Peter Bunce
General Aviation Manufacturers Association
1400 K Street, N.W., Suite 801
Washington, DC 20005-2485

Dear Mr. Bunce:

This is in response to your May 6, 2008, email request for a legal interpretation regarding whether 14 C.F.R. § 61.113 allows volunteer private pilots to be reimbursed for operating expenses incurred in transporting individuals who are ill or injured and cannot financially afford commercial transportation to medical treatment facilities. Specifically, you question whether, in these instances, a volunteer pilot and his or her passengers may be deemed to share a common purpose in the charitable flight, such that the pilot may seek a pro rata share of the operating expenses of the flight from the passengers under §61.113(c). Based on the following, such a construction is not permissible.

In the situation you present, the choice of destination, i.e. the medical treatment facility, is dictated by the passenger, not the pilot. The only purpose the volunteer pilot has in making the flight is to provide transportation for the sick or injured passenger. In such cases, the FAA has permitted these flights to be conducted under part 91 provided that the pilot receives no compensation for the flight. Reimbursement for the pro rata share of operating expenses constitutes compensation and would be considered a commercial operation for which a part 119 certificate is required. *See* Legal Interpretation to Joseph Kirwan, from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (May 27, 2005) (recognizing that charitable medical flights that involve point to point transportation for which any kind of compensation is received would be considered commercial operations); Legal Interpretation 1985-26 (Dec. 26, 1985) (recognizing that the "only allowable share-the-costs operations are those which are *bona fide*, i.e., joint ventures for a common purpose," and concluding that there is no "common purpose" if the pilot is flying to a destination where he or she has no particular business to conduct).

The humanitarian efforts of these volunteer pilots are commendable and the FAA recognizes the value to the public of the services rendered by these individuals, especially given the rising costs of fuel. However, when money is exchanged for transportation, the public expects, and the FAA demands, a higher level of safety for the flying public. In these instances, the FAA may consider a petition for exemption from §61.113(a), submitted by a volunteer pilot or volunteer pilot organization, that would allow for reimbursement of fuel expenses provided additional safety conditions and limitations are in place during these

operations. The FAA may consider, among other conditions and limitations, increased flight time hours for pilots, aircraft equipment requirements, etc.

We appreciate your patience and trust that the above responds to your concerns. If you need further assistance, please contact my staff at (202) 267-3073. This response was prepared by Anne Bechdolt, an attorney in the Operations Law Branch of the Regulations Division of the Office of the Chief Counsel, and coordinated with the General Aviation and Commercial Division of Flight Standards Service.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for Regulations, AGC-200