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

Office of the Chief Counsel

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

MAY 20 2008

Mr. David M. Shinn
6264 East Saddleback Street
Mesa, AZ 85215

Dear Mr. Shinn:

This letter is in response to your letter, dated December 20, 2007, regarding Sections 121.513 and 121.521 of the Federal Aviation Regulations. It also concerns a letter from the Regulations Division to you, dated August 10, 2003.

In your recent correspondence, you ask about the legality of an all-cargo flight operating from JFK to EWR (Newark) to Frankfurt, Germany under Part 121 Supplemental Rules. You write that if the stop at EWR is only a "tech" stop to pick up fuel, then this two-segment flight would retain its "international" flavor and thus would be eligible to be regulated under Section 121.521. We agree. You ask, however, whether it is appropriate to use an "additional airman", which is allowed under the international rules, for the JFK-EWR segment – a segment that loses its international flavor because the carrier drops off and picks up additional cargo at EWR.

You have not pointed to any safety rule that would prohibit a Part 121 all-cargo operator from using the services of an additional airman on the short flight from JFK to EWR, which shortly thereafter proceeds to Frankfurt. We have not identified any safety rule that bars this practice. As you pointed out, on a "tech" stop at EWR, the entire first flight segment would retain its international flavor and three flight crewmembers could and would be used. The fact that the cargo operator may offload and load cargo at Newark, thus making the first flight segment a US-mainland flight under Section 121.513, does not mean that having the third flight crewmember on board is illegal or unsafe.

This response has been coordinated with the Air Transportation Division of Flight Standards Service.

Sincerely,

Rebecca MacPherson
Assistant Chief Counsel Regulations Division