Federal Aviation Administration

Memorandum

Date: AUG 17 2009

To: Christopher Bonanti, Director, FAA Office of Hazardous Materials

From: Rebecca B. MacPherson, Assistant Chief Counsel, AGC-200

Prepared by: Anne Bechdolt, Acting Manager, AGC-220

Subject: Transport of hazardous material in 14 C.F.R. part 133 External Load Operations

The FAA Office of Hazardous Materials has recently received requests from the Pipeline and Hazardous Materials Safety Administration (PHMSA) to review special permit requests from operators seeking authorization to carry hazardous materials, including forbidden hazardous materials as defined in 49 C.F.R. part 172, in external load operations conducted under 14 C.F.R. part 133. The FAA Office of Hazardous Materials has requested a legal interpretation regarding whether such transport is permissible under the provisions of part 133.

As stated in §14 C.F.R. §133.33(d), a "holder of a Rotorcraft External Load Operator Certificate may conduct . . . rotorcraft external load operations over congested areas if those operations are conducted without hazard to persons or property on the surface and comply with [133.33(d)(1) and (133.33(d)(2)]." In addition, 14 C.F.R. §133.33(e) places the same restriction on external load operations that require, for the purpose of the operation, that the rotorcraft be flown "below 500 feet above the surface and closer than 500 feet to persons, vessels, vehicles, and structures." Upon your review of these special permit requests, you noted that many of these operators are seeking authorization to externally transport, among other things, blasting explosives, diesel fuel, and other flammable liquids. Some of these items are considered forbidden hazardous materials under 49 C.F.R. part 172.

The FAA considers that the transport of hazardous materials, especially forbidden hazardous materials, in external load operations creates "a hazard to persons or property on the surface," which is not permitted under 14 C.F.R. §133.33(d) and (e). If operators authorized to conduct external load operations can produce a plan to mitigate the hazards created by the transport of these materials, which includes ensuring that personnel conducting these operations are trained to handle, accept, and transport such materials in the unique operating environments of part 133 operations, the FAA may determine that the hazards have been adequately addressed and the operation may be conducted safely under §133.33(d) and (e). Until such a plan has been coordinated with the Regional Hazardous Material Branch Manager, and approved by the operator's Principal Operations Inspector, the FAA considers such transport to create a hazard to persons and property on the ground, which is not permitted under 14 C.F.R. § 133.33.