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

Office of the Chief Counsel

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

APR 21 2009

Mr. James B Hart
[redacted]

Dear Mr. Hart:

This responds to your September 2008 request for a reconsideration of the March 9, 2007, legal interpretation issued to Mr. Ronald E. Bush by this office. That interpretation addressed whether the term "authorized minimums" in § 121.613 of Title 14, Code of Federal Regulations (14 CFR) means that both ceiling and visibility values must be at or above authorized minimums for the purpose of dispatching or releasing an aircraft under IFR or over the top. Upon further review, and in response to your concerns and those of other stakeholders, I am issuing this interpretation to clarify the agency's response to Mr. Bush's November 10, 2006, request.

Section 121.613 currently states that "except as provided § 121.615, no person may dispatch or release an aircraft for operations under IFR or over-the-top, unless appropriate weather reports or forecasts, or any combination thereof, indicate that the weather conditions will be at or above the authorized minimums at the estimated time of arrival at the airport or airports to which dispatched or released." Although the term "authorized minimums" is not defined in § 1.1 of 14 CFR, authorized minimums are identified in various documents pertaining to the conduct of a flight, such as standard instrument approach procedures and operations specifications. Weather conditions at an airport must be at or above these minimums at an aircraft's estimated time of arrival if the aircraft is to be dispatched or released to that location.

In 1964, §121.613 required that both ceiling and visibility must be at or above the authorized minimums for the purpose of dispatching or releasing an aircraft under IFR or over the top. *See* 29 Fed. Reg. 19186, 19223 (Dec. 31, 1964). In 1967, the FAA recognized the need to "accommodate situations in which ceiling [values] alone are controlling, or ceiling and visibility [values] are controlling, depending on the procedure being used or the terms of the applicable operations specification." 32 Fed. Reg. 13909, 13910 (Oct. 16, 1967). The FAA revised the regulation, substituting the term "weather conditions" for "ceilings and visibilities" to allow for either, or both values, to be considered depending on the circumstances of the operation. Currently, under the U.S. Standard for Terminal Instrument Procedures (TERPS), most instrument approach procedures published within the United States do not contain a minimum ceiling value and therefore, visibility is generally the controlling authorized minimum for approach and landing. Accordingly, for the dispatch

and release of an aircraft under § 121.613, the visibility minimum alone may constitute the applicable "authorized minimum."

However, in certain circumstances, a ceiling may constitute an authorized minimum and therefore, must be considered by persons dispatching or releasing an aircraft for operations under IFR or over-the top in accordance with § 121.613. These situations in which ceiling requirements would constitute an element of an authorized minimum include, but may not be limited to:

(1) When the airport to which the aircraft has been dispatched or released has no instrument approach available.
(2) When a circle-to-land approach must be conducted at the airport to which the aircraft has been dispatched or released and minimum ceiling requirements are specified in the certificate holder's OpSpecs.
(3) When the instrument approach procedure for the airport specifies a minimum controlling ceiling value.
(4) When minimum ceiling requirements are otherwise specified in a certificate holder's OpSpecs.

The FAA has also addressed this issue in FAA Information for Operators (InFO) 08050, a copy of which is attached to this interpretation.

We hope this response has been helpful to you. Please contact us at (202) 267-3073 if we can be of further assistance. This interpretation was prepared by Paul Greer, an attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the Air Transportation Division (AFS-200) of the Flight Standards Service.

Sincerely,

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

Attachment: InFO 08050

cc: Mr. Ronald E. Bush