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

Office of the Chief Counsel

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

FEB 26 2010

Federico Helicopters, Inc.
Leonard A. Federico, President
4955 E. Anderson #115
Fresno, CA 93727

Dear Mr. Federico,

This is in response to your request for a legal interpretation submitted on November 16, 2009, regarding the scope of 14 C.F.R. § 119.63 and the requirement to maintain a full time pilot during an operator's off season. You note that your operation is a "14 CFR Part 135 single pilot, nine or less, Visual Flight Rules (VFR) Air Carrier Certificate holder that operates seasonally under contract with the Cal/Fire – California Department of Forestry (CDF)." You ask whether § 119.63 requires your operation to surrender its certificate because of low operating frequency, based on your seasonal requirements. You also ask whether you are required to maintain a full time pilot during the off-season.

14 C.F.R. § 119.63 states, in pertinent part, that

> [N]o certificate holder may conduct a kind of operation for which it holds authority in its operations specifications unless the certificate holder has conducted that kind of operation within 90 days [for on-demand operations] . . . .
>
> (b) If a certificate holder does not conduct a kind of operation for which it is authorized in its operations specifications within the number of calendar days specified in paragraph (a) of this section, it shall not conduct such kind of operation unless—
>
> (1) It advises the Administrator at least 5 consecutive calendar days before resumption of that kind of operation; and
> (2) It makes itself available and accessible during the 5 consecutive calendar day period in the event that the FAA decides to conduct a full inspection reexamination to determine whether the certificate holder remains properly and adequately equipped and able to conduct a safe operation.

Section 119.63 recognizes that operators may cease to engage in operations in excess of specified periods, and it establishes a mechanism for resuming operations. During such breaks in operations, provided the certificate holder notifies the FAA and makes itself available for inspection, the certificate holder is not required to surrender his certificate. Moreover, a seasonal operator is not required to surrender his operations specifications (OpSpecs) if he is equipped to resume operations. *See* FAA Order 8900.1, Vol. 3, Ch. 18, § 8, par. 3-1031(A)(2). You are not required to maintain a pilot full-time during the off-

season. However, you are required to notify the certificate-holding district office of any change in personnel before resuming operations. *See* 14 CFR § 119.69(d)(3). To receive an authorized OpSpec, you must provide the name of the new pilot-in-command. *See* FAA Order 8900.1, Vol. 2, Ch. 4, § 1, par. 2-342.

We appreciate your patience and trust that the above responds to your concerns. If you require further assistance, please contact my staff at (202) 267-3073. This response was prepared by David Pardo, attorney for the Operations Law Branch of the Regulations Division of the Office of the Chief Counsel, and coordinated with the Air Transportation Division of the Flight Standards Service.

Sincerely,

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