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

Office of the Chief Counsel

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

NOV 10 2010

Captain Mike White
Director of Flight Operations
Trans States Airlines, LLC
11495 Navaid Road, Suite 340
S. Louis, MO 63044

Dear Captain White,

This letter is in response to your request for a legal interpretation received on June 9, 2010 concerning the preparation of load manifest forms as required by 14 C.F.R. § 121.665.

You provide the following background: your auditors and flight managers routinely review your files maintained in your station and, at times, discover errors or omissions on the load manifest forms. Under your current policy, the pilot in command (PIC) is notified and instructed to correct his error or omission on the load manifest form. Finally, you explain that the St. Louis Flight Standards District Office rejected your request to have a formalized load manifest correction process placed into your General Operations Manual.

You asked whether a PIC may correct an omission or error on the load manifest after takeoff, or whether a PIC may correct an omission or error on the load manifest once the aircraft has departed the gate but before takeoff. In addition, you also questioned if an auditor or flight manager may correct an omission or error on the load manifest form discovered during an audit of the files maintained in your station.

As stated in 14 C.F.R. §121.665, "each certificate holder is responsible for the preparation and *accuracy* of a load manifest *form before each takeoff*" (emphasis added). Therefore, section 121.665 does not allow your PIC, auditor or flight manager to alter or correct any errors or omissions on the load manifest form after takeoff. The FAA has defined takeoff as "the act of beginning flight in which an aircraft is accelerated from a state of rest to that of flight." *See* Legal Interpretation to Charles Lewis from Donald P. Byrne, Assistant Chief Counsel for Regulations (April 17, 1997); *see also* Legal Interpretation to John C. H. Miller from Donald P. Byrne, Acting Assistant Chief Counsel for Regulations and Enforcement (September 18, 1990).

Additionally, section 121.665 requires that the form must be "prepared and signed for each flight by employees of the certificate holder who have the duty of supervising the loading of aircraft and preparing the load manifest forms or by other qualified persons authorized by the certificate holder." Note your General Operations Manual must contain procedures for

completing the load manifest, including who may prepare and sign the form prior to takeoff. *See* FAA Order 8900.1, Vol. 3, Ch. 47, § 1, par. 3-3988(A)-(B).

Weight and balance control is one of the most important factors affecting safety and flight, and responsibility for maintaining proper weight and balance control begins with the operator. *See* FAA Order 8900.1, Vol. 3, Ch. 47, § 1, para. 3-3975(A). Therefore, it is the operator's responsibility to ensure that aircraft loading and manifest preparation discrepancies are reported and addressed. *See* Advisory Circular 120-27E. The FAA encourages each operator to develop a reporting system in order to account for any discrepancies or errors in documentation, and to further determine the cause of each discrepancy and take appropriate corrective action. *See id.* Section 121.665 does not, however, allow alterations to the original load manifest after takeoff.

We appreciate your patience and trust that the above responds to your concerns. This response was prepared by Anne Bechdolt, an attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the Air Transportation Division of Flight Standards Service. Please contact us at (202) 267-3073 if we can be of further assistance.

Sincerely,

Rebecca B. MacPherson