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

Office of the Chief Counsel

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

SEP 23 2011

Mr. Mark E. Millard
[redacted]

Dear Mr. Millard,

This letter responds to your June 16, 2011 request for an interpretation of 49 U.S.C 44112. While your inquiry discusses limitation of liability issues in the context of this provision, we limit this response to the specific question you raise regarding the meaning of the term "civil aircraft" as used in this section, specifically, whether 49 U.S.C 44112[1] is applicable to foreign-registered aircraft. For the following reasons, we conclude that §section 44112 is not limited to U.S.-registered aircraft.

49 U.S.C 40102 establishes definitions applicable to Part A of Subtitle VII – Aviation Programs, which includes chapter 441. Section 40102 (a) (16) defines a civil aircraft as "an aircraft except a public aircraft."[2] The statute also clarifies that a civil aircraft is to be distinguished from "a civil aircraft of the United States," which is "an aircraft registered under chapter 441 of this title."[3] *See* §40102 (a)(17). The limitation of liability provisions of §44112 apply only to a lessor, which is defined by §44112 (a) (1) (for the purpose of that section only) as a "person leasing for at least 30 days a civil aircraft, aircraft engine, or propeller." Based on plain language of these definitions, and the absence of a specific reference in any provision of §44112 to "civil aircraft of the United States," there is no basis

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[1] 49 U.S.C 44112. Limitation of liability

(a) Definitions.--In this section--

(1) "lessor" means a person leasing for at least 30 days a civil aircraft, aircraft engine, or propeller.
(2) "owner" means a person that owns a civil aircraft, aircraft engine, or propeller.
(3) "secured party" means a person having a security interest in, or security title to, a civil aircraft, aircraft engine, or propeller under a conditional sales contract, equipment trust contract, chattel or corporate mortgage, or similar instrument.
(b) Liability.--A lessor, owner, or secured party is liable for personal injury, death, or property loss or damage on land or water only when a civil aircraft, aircraft engine, or propeller is in the actual possession or control of the lessor, owner, or secured party, and the personal injury, death, or property loss or damage occurs because of--
(1) the aircraft, engine, or propeller; or
(2) the flight of, or an object falling from, the aircraft, engine, or propeller.

[2] See 49 USC 40102 (a) (41) for the definition of "public aircraft."
[3] Chapter 441 of title 49 establishes conditions for the registration of aircraft in the United States.

on which to conclude that §44112 is limited to U.S.-registered aircraft. Therefore, any aircraft, regardless of the State of Registry is covered by that provision.

This interpretation was prepared by Lorna John, Senior Attorney, in the Regulations Division of the Office of the Chief Counsel. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

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