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

Office of the Chief Counsel

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

JAN 5 2011

John Muldowney
[redacted]

Dear Mr. Muldowney:

This is in response to your request for a legal interpretation regarding whether a water ferry is considered an "open assembly of persons" as referenced in 14 C.F.R. section 91.119(b).

In your request, you stated you observed an aircraft flying low over a North Carolina DOT passenger ferry. The ferry was on the Cape Fear River and had eighty-eight people on board. Because the aircraft was operating over open water and not in a congested area, section 91.119(c) applies.

Section 91.119(c) provides in pertinent part:

> Except when necessary for takeoff or landing, no person may operate an aircraft below the following altitudes . . . (c) *Over other than congested areas.* An altitude of 500 feet above the surface, except over open water or sparsely populated areas. In those cases, the aircraft may not be operated closer than 500 feet to any person, vessel, vehicle, or structure.

We look to the plain language meaning of the words "vessel" and "open water". Applying the plain language meaning, a ferry is a vessel and the Cape Fear River constitutes open water. Under section 91.119(c), the aircraft may not be operated closer than 500 feet to the ferry.

I hope this information has been helpful. This interpretation has been coordinated with Flight Standards Service, General Aviation and Commercial Division. If you have further questions concerning this interpretation, please contact Sabrina Jawed on my staff at 202-267-3073.

Sincerely,

Rebecca MacPherson
Assistant Chief Counsel for Regulations, AGC-200