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

Office of the Chief Counsel

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

FEB 14 2013

Jason C. Honeycutt
Director of Operations
Charter Flight, Inc.
5319 Morris Field Drive
Charlotte, NC 28208

Dear Mr. Honeycutt,

We have reviewed your August 6, 2012 letter directed to the Charlotte Flight Standards District Office (FSDO) where you requested a legal interpretation on two questions related to portable electronic devices (PEDs) authorized for use as an electronic flight bag (EFB) in 14 C.F.R. § 135 on demand air carrier operations.

In your letter, you expressed Charter Flight's interest in using an iPad 3 (aka "New iPad") as a Class 1 EFB in your Citation XLS aircraft. You asked what regulation requires a part 135 on demand air carrier to be issued an operations specification to use a PED as an EFB. In addition, you asked if the restriction in operations specifications ("OpSpecs") A004, (Summary of Special Authorizations and Limitations) included the use of a PED as an EFB and how can the FAA prohibit an operator's use of an EFB when regulations do not support this prohibition.

Discussion.

The Charlotte FSDO issued Charter Flight, Inc. OpSpec A061 in January 2013 with a restriction and limitation in Table 1 clarifying the issuance of the OpSpec is to complete the required operational validation period which commenced on 01-04-2013, and that Charter Flight, Inc. must have required paper documents and charts available to crew at all times until reissuance of A061 removing this limitation. Concurrently OpSpec A004 was amended to reflect Charter Flight's authorization to use an EFB.

The FAA's authority for issuing OpSpecs, including A061 and A004, is set forth in 14 C.F.R. § part 119 (*see* §§ 119.7, 119.21, 119.33 and 119.49). As stated in your letter, § 135.144 generally addresses the use of PEDs onboard aircraft (primarily passenger use) and requires a certificate holder to evaluate a particular PED for interference with the navigation or communication systems. Thus, the regulation requires that any PED used onboard an aircraft meet this evaluation and determination before it can be used by anyone.

However, § 135.144 does not speak to the authority of a certificate holder to use a PED in the course of its operations and more specifically, it does not address a PED authorized for use as an EFB to replace required paper manuals or other applications required by regulations. Under § 119.21, part 135 operators are issued OpSpecs and "must comply with the certification and operations specifications requirements..." In addition, § 119.49 sets forth the basic content of OpSpecs for each type of operation and further provides that OpSpecs may include "any other item the Administrator determines is necessary."

In accordance with this authority, the Administrator has determined that 14 C.F.R. § part 91 subpart K (91K), 121, 125, 125 LODA, and 135 certificate holder's OpSpecs must include the authority to use an EFB. This requirement includes, but is not limited to, FAA evaluation of all operating procedures, pertinent training modules, checklists, operations manuals, training manuals, maintenance programs, minimum equipment lists (MEL), other pertinent documents, and reporting procedures related to EFB use. The process for seeking approval of a particular PED for use as an EFB is dependent on the class of hardware and type of software that the certificate holder seeks to use.

The FAA has processes in place for certificate holders to seek and obtain the authority in their OpSpecs to use a PED as an EFB and has issued guidance on this process. Advisory Circular (AC) 120-76B, *Guidelines for the Certification, Airworthiness, and Operational Use of Electronic Flight Bags*, provides guidance and information on installation, airworthiness requirements, and the general process to obtain an authorization for the operational use of the EFB through the issuance of OpSpec A061. While ACs are not regulatory and cannot mandate a specific method of compliance, ACs describe an acceptable means of compliance that a certificate holder may use in lieu of an alternative method. Additionally, FAA Order 8900.1, Volume 3, Chapter 1, Section 1, *General*, and, Volume 4, Chapter 15, Section 1. *Electronic Flight Bag Operational Authorization Process*, defines guidance FAA Principal Inspectors follow when a certificate holder requests authorization to use an EFB.

We appreciate your patience and trust that the information set forth above responds to your concerns. This response was prepared by Bonnie Dragotto, Attorney and Robert Frenzel, Operations Law Branch Manager, International Law, Legislation and Regulations Division of the Office of the Chief Counsel was coordinated with the Air Transportation Division of the Flight Standards Service. If you need further assistance, please contact my staff at (202) 267-3073.

Sincerely,

Mark W. Bury
Acting Assistant Chief Counsel for International Law, Legislation and Regulations, AGC-200

CC: Nancy Risso, Manager, NextGen Branch AEA-200