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

JUN - 7 2013

Mr. Peter Kelly
[redacted]

Dear Mr. Kelly:

This letter is in response to your June 27, 2012 request for legal interpretation of the applicability of part 133 of Title 14, Code of Federal Regulations to a proposed rotorcraft external-load operation. You state in your letter that you are considering conducting operations involving the transportation of passengers for hire by helicopter from marine vessels stationed approximately 50 nautical miles offshore into the United States. You also state that the passengers will be hoisted from the marine vessels into the helicopter. You ask whether part 133 would apply to your proposed operation.

During a conversation with my staff you indicated that your operations will be conducted only in United States and international airspace and will not cross into any other country's airspace. The entire hoist operation will be conducted outside of United States airspace and passengers will be carried inside the aircraft to a destination in the United States. Operations will be conducted in a standard category aircraft registered in the United States.

Part 133 applies only to rotorcraft external-load operations conducted in the United States. *See* § 133.1(b). An "external load" is a "load that is carried, or extends, outside of the aircraft fuselage." *See* § 1.1. United States airspace extends to 12 nautical miles from the coast of the United States (including its territories). *See* § 1.1 (definition of United States); Legal Interpretation to Michael Di Marco, from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (July 10, 2008). Therefore, your proposed operation, in which the external load would be hoisted into the aircraft in international airspace, would not need to be conducted pursuant to a part 133 certificate. Any external load operation would need to be completed prior to entering United States airspace.

Next, we must evaluate whether you would be required to hold a part 119 operating certificate to conduct the operations described in your letter. In general, rotorcraft operations for compensation or hire must be conducted under the air carrier certification rules of part 135. *See* 14 C.F.R. § 119.25. Because you would be transporting people for compensation or hire using United States registered aircraft in United States airspace, and your proposed operations do not qualify for the exceptions found in § 119.1(e), you would be required to hold a part 119 certificate and conduct your operations pursuant to the part 135 operating rules subject to FAA approval. *See* § 119.1(e); 119.25; 135.1; Legal Interpretation to Marshall S. Filler, from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (Dec. 4, 2009).

Finally, we note that when the aircraft is being operated outside of the United States under part 135, you must comply with Annex 2 to the Convention on International Civil Aviation or the regulations of any foreign country, whichever applies, and with the rules of parts 61, 91, and

135 that are more restrictive than Annex 2 or those regulations and that can be complied with without violating Annex 2 or those regulations. 14 C.F.R. § 135.3(a)(2).

This response was prepared by Dean E. Griffith, an attorney in the International Law, Legislation, and Regulations Division of the Office of the Chief Counsel. It was coordinated with the Air Transportation Division and General Aviation and Commercial Division of Flight Standards Service. Please contact us at (202) 267-3073 if we can be of additional assistance.

Sincerely,

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