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

APR 30 2014

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Michael Origel
[redacted]

Dear Mr. Origel,

This letter responds to your November 11, 2013 request for a legal interpretation regarding the applicability of 14 C.F.R. § 135.399 to a turbopropeller small nontransport category airplane with fewer than 10 passenger seats. Specifically, your letter stated, "[f]or a turbopropeller small nontransport category airplane with less than 10 passenger seats I am assuming 135.399(a) and (b) is not applicable." We agree with your interpretation of the regulation for the reasons described below.

Subpart I of Part 135 prescribes performance operating limitations applicable to certain categories of airplanes. As you stated in your letter, § 135.363(e) requires that "each certificate holder operating a small nontransport category airplane shall comply with § 135.399."

Section 135.399 in turn prescribes numerous operating limitations applicable to small nontransport category airplanes. As a threshold matter, however, the terms of §§ 135.399(a) or (b) clearly limit the regulation's application to aircraft certificated under the provisions of § 135.169(b). As you stated in your letter, none of the provisions of § 135.169(b) applies unless an airplane is configured with 10 or more passenger seats. Therefore, neither § 135.169(b) nor § 135.399 applies to a small nontransport category airplane with fewer than 10 passenger seats.

This response was prepared by Benjamin Jacobs, an attorney in the International Law, Legislation, and Regulations Division of the Office of the Chief Counsel, and was coordinated with the Air Carrier Operations Branch (AFS-250) of the Flight Standards Service. If you need further assistance, please contact our office at (202) 267-3073.

Sincerely,

Mark W. Bury
Assistant Chief Counsel for International Law,
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