



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

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

JUL 1 1991

Mr. Fred Fuchs  
Assistant Director,  
Fire and Aviation Management  
U.S. Department of Agriculture  
Washington, DC 20250

*FAA*  
*John —*  
*Nels —*  
*any comments*  
*by 7-25*  
*Frank*

Dear Mr. Fuchs:

During a recent Federal Aviation Administration (FAA) special inspection into the operation of large surplus U.S. military aircraft certificated in the restricted category, the FAA discovered that some confusion exists as to under what circumstances persons or property may be carried. The purpose of this letter is to clarify the limitations concerning the carriage of persons or property by civil aircraft certificated in the restricted category in support of U.S. Department of Agriculture (USDA) Forest Service activities.

As you are aware, large surplus U.S. military airplanes, such as the C-130A, have been transferred to civilian operators under the Historical Aircraft Exchange provisions of the Federal Property Regulations (GSA Regulation 101-46.203). Such surplus U.S. military aircraft may be eligible to be certificated as civil aircraft in the restricted category under a special airworthiness certificate. It is our understanding that the aircraft titles are transferred at the completion of the exchange.

In your specific case, the aircraft are operated under contract between the aircraft recipients and the USDA Forest Service for use as firefighting airtankers in support of forest, brush, and rangeland protection.

Because of the special nature of the intended use of restricted category civil aircraft, their airworthiness certification standards are not designed to provide the same level of safety that is required for aircraft certificated under standard category airworthiness standards. The Federal Aviation Regulations (FAR) are very explicit with respect to limitations applicable to the operation of restricted category aircraft. The carriage of persons or property in restricted category aircraft for compensation or hire is not permitted under the FAR.


However, the carriage of persons or materials necessary for the accomplishment of a special purpose, such as forest and wildlife conservation, is authorized under Section 91.313 of the FAR when that carriage is necessary for that special purpose operation. The carriage of persons or materials not necessary for the accomplishment of the work activity associated with the special purpose is contrary to the FAR.

The Federal Aviation Act of 1958, as amended, requires the FAA to give full consideration to the duty resting upon air carriers to perform their services with the highest degree of safety in the public interest and to make classifications of such standards, rules, regulations, and certificates appropriate to the differences between air transportation and other air commerce. To fulfill this responsibility, the FAR specify that aircraft engaged in carrying persons or cargo for compensation or hire shall meet standard category airworthiness standards. Those standards are specifically designed to provide for the types of aircraft to be used for public air transportation and to provide for safety of flight in the public interest. Only air carriers or commercial operators certificated under Part 121, 125, or 135 of the FAR, who operate standard category aircraft, may engage in the transportation of persons or property for compensation or hire.

Therefore, when contracting with operators of restricted category aircraft, it is imperative that all parties understand the limitations associated with the operation of such civil aircraft.

We hope this information is helpful. If you need additional information concerning limitations associated with the use of civil aircraft certificated in the restricted category, please feel free to contact this office.

Sincerely,

  
Thomas C. Accardi  
Director, Flight Standards Service