Federal Aviation Administration

Memorandum

Date: MAR 25 2010

To: George David Cawthra, Manager, Salt Lake City Flight Standards District Office

Thru: Sean Howe, Attorney, Office of Regional Counsel, ANM-7

From: Rebecca B. MacPherson, Assistant Chief Counsel for Regulations, AGC-200

Subject: Public Aircraft Operations by Utah Valley University Aviation Department

My office received email correspondence you sent to ANM-230 regarding certain aircraft operations conducted by the Utah Valley University (UVU) Aviation Department. Your request was forwarded to the Office of the Regional Counsel, ANM-7, and from them to this office.

The correspondence includes an email from the UVU Aviation Director of Academic Support, and includes input from the FAA (Dennis Seals) regarding whether UVU can charge for transporting the Utah Commissioner of Higher Education and foreign nationals visiting the university. Mr. Seals's reply to UVU is the earlier item in the memo sent to us; the incoming request to Mr. Seals was not included. Mr. Seals indicated that you told him:

If the person requesting the flight & the university flight department were operating out of a common treasury the flight would be considered a "Public Use" flight and one department could reimburse the other as long as passengers were employees of the University and the flight was conducted in accordance with Part 91.

We are of the opinion that the UVU may not qualify as an entity eligible to conduct public aircraft operations (please note that we no longer use the term "Public Use"). The applicable language of the statute defining public aircraft (49 USC 40102 (a) (41)) is as follows:

> [P]ublic aircraft means any of the following:
>
> (C) An aircraft owned and operated by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of those governments, except as provided in section 40125(b).

We do not automatically presume that a university is part of the government of a state or is a 'political subdivision' of the government of any state. We are open to individual states making determinations that certain of its universities are considered part of the state government or are some qualifying political subdivision as that term is used in the statute. Given the differences between states regarding university organization, governance and funding, however, we will not presume that any university qualifies without other information.

Even if we presume that the state of Utah considers UVU to be a part of the state government or is a political subdivision, the described operations would also fail to qualify as public aircraft operations under the statute. In the citation above there is reference to an exception in §40125(b). That section states:

> ***Aircraft owned by governments.***—*An aircraft described in [40102(a)(41)(C)] does not qualify as a public aircraft under such section when the aircraft is used for commercial purposes or to carry an individual other than a crewmember or qualified non-crewmember.*

The description provided by UVU indicates that they are providing air transportation, which would be considered a commercial purpose under section §40125(a). Even if the commercial purpose were absent, the persons described in the email are not qualified non-crewmembers. A qualified non-crewmember is an individual aboard an aircraft "whose presence is required to perform, or is associated with the performance of, a governmental function." Providing air transportation, even for state government officials, is not considered a governmental function under §40125(a)(2), and passengers are not qualified non-crewmembers. While the list provided in the statute is not exclusive, air transportation cannot be read as included, especially considering the lengths to which it is specifically described and excluded by separate definition and reference in §40125.

Accordingly, we have no reason to conclude that the operations being conducted by UVU Aviation Department, as described, qualify as a public aircraft operation under the statute.

Given the findings here and the dearth of information in the emails from UVU, including the type of aircraft they are operating, we are not addressing any questions they might have regarding §91.501(b) on common carriage.

We caution all FAA employees that questions of public aircraft operation often turn on the facts of an individual flight and are made on a case-by-case basis. We also caution staff that the current agency guidance is outdated and should be consulted with caution; new guidance is in coordination at headquarters. As this memo indicates, there are myriad concepts and considerations involved in determining public aircraft operation status.

If you have any further questions, please contact my staff at 202-267-3073. This response was prepared by Karen Petronis, Senior Attorney for Regulations, in my office. Any questions regarding this opinion may be directed to her.

Federal Aviation Administration

Memorandum

Date: JUL 21 2010

To: Gary Baxter, AGL-230D

Thru: Regional Counsel, Great Lakes Region, AGL-7

From: Rebecca MacPherson, Assistant Chief Counsel for Regulations, AGC-200

Subject: Charitable donation funding of public aircraft operations

We were forwarded a request for interpretation from Eileen Wilson of your office dated December 17, 2009. The request originated in the DuPage County Flight Standards District Office (FSDO) and contains an analysis by FSDO personnel of certain law enforcement operations. The questions concern two Illinois law enforcement agencies and whether they are conducting public aircraft operations. The 2009 FSDO memo is based on an unsigned 2005 memo from AGL-200 to AFS-800 requesting an interpretation of public aircraft operations funded by charitable donations. There is no indication that AGL-200 received a response from AFS-800.

We would like to caution everyone that the current FAA guidance concerning public aircraft operations is confusing, and in some instances does not reflect current agency policy or legal interpretation. While those materials are being updated, my office is considering public aircraft operation determinations on a case-by-case basis starting with the terms of the current statute, 49 USC §§ 40102(a)(41) and 40125.

The considerable analysis that originated in the DuPage FSDO attempts to make a generalized finding of public aircraft operation for two entities. We emphasize that determinations of public aircraft operation are made on a flight by flight basis. We do not give advisory opinions on operations in general since the circumstances of each flight – including the purpose of a flight and the personnel on board -- may change the legal determination.

The 2005 AGL memo draws certain conclusions based on the limited set of circumstances it contains. After finding that the contributing charity is a 501(c)(3) organization (Section 501(c)(3) of the Internal Revenue Code describes certain charitable organizations), the memo describes an aircraft "operated solely to meet the 501(c)(3) mission" that is both funded by 501(c)(3) funds and under the operational control of the

501(c)(3) entity." We agree with the conclusion that this cannot qualify as a public aircraft operation.

The memo's second set of circumstances describes a "Countryside Police Department mission" funded solely by department resources with the Police Department having operational control, and concludes that "public use aircraft status" can be claimed. We caution that this conclusion may be faulty since the statute requires consideration of both the purpose of the flight and the status of the personnel on board under the statute. Simply having an aircraft funded by and under the operational control of the Countryside Police Department does not render any flight the Department makes a public aircraft operation.

We have re-framed the first question presented in the 2009 memo as follows: Does the acceptance of charitable contributions for aircraft operation funding alone change the status of an otherwise valid public aircraft operation conducted by a law enforcement agency?

We do not find that it does. As a matter of public policy, the supplemental funding of a law enforcement aviation operation that otherwise meets the terms of the statue for public aircraft operation should not affect that status. We caution, however, that these circumstances are limited to flight operations that meet all of the statutory requirements, including a governmental purpose and the presence of only crew and qualified non-crewmembers. It would not include, for example, flights to carry donors or members of the charitable organization, regardless of compensation, flights to carry persons or property on behalf of a donor or organization, or the funding of any operation that was not allowable law enforcement activity under the statue. Any activity or persons on board that would take the operation outside the scope of 49 USC 40125 would be prohibited, as it would be whether charitable donations were involved or not. As a consequence, any funds received from charitable donors must be given without restriction for their use in flight operations. We understand that these circumstances could get complicated quickly, and it is up to any governmental organization accepting such funds to maintain proper records of the circumstances of their flights if they are claiming public aircraft operation status.

The third situation addressed in the 2005 memo concerns the status of certain personnel on board. The records of the charitable organization involved "indicate that local law enforcement tactical officers will be used for support operations." The memo goes on to note that it is not clear if the tactical officers are part of the Countrywide Police Department or of another law enforcement entity. The memo concludes that if they act as "staff to meet the 501(c)(3) mission, they are serving solely as volunteers" with no law enforcement powers or authority. It also states that the operational control and personnel issues are not clear enough for the FAA to make any finding regarding public aircraft operation status.

We agree that there are not enough facts concerning the relevant circumstances of the operations to make a determination. We are also unclear how the finding that the tactical officers are 'volunteers' leads to a public aircraft determination. As stated previously, we find that any operation that involves a charitable organization (except for unrestricted donations to funding) does not qualify as a public aircraft operation.

The fourth question presented in the 2009 FSDO analysis was not addressed in the 2005 memo and is framed as follows: May a law enforcement organization in one state conduct operations in another state and still retain public aircraft operation status for an individual flight?

Under certain conditions, we find that it may. Central to this analysis is whether the operating law enforcement entity is seeking reimbursement for operations from the second state. The only circumstances under which such payments can be made and retain public aircraft operation status is contained in the statutory definition of commercial purpose in §40125 (a)(1). Under that definition, commercial purpose does not include reimbursement "by one government on behalf of another government under a cost reimbursement agreement if the government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation is necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator is reasonably available to meet the threat."

This situation is considerably limited by its terms. A law enforcement organization may not routinely carry out an operation on behalf of another jurisdiction and seek reimbursement unless it is conducting valid civil operations. Routine operations would be a commercial purpose under §40125. The fact that one government is in a different state is not relevant; the circumstances of the operation and the reimbursement are the relevant conditions that must be met under the terms of the statute, which does not limit the location of the jurisdictions.

This response was prepared by Karen Petronis, Senior Attorney for Regulations in my office, and was coordinated with AFS-830, the General Aviation Operations Branch of the Flight Standards Service. If you have questions about this interpretation, please contact my office at 202-267-3073.

Federal Aviation Administration

Memorandum

Date: SEP 28 2009

To: Gayle Fuller, Managing Attorney, ASO-7

From: Rebecca B. MacPherson, Assistant Chief Counsel for Regulations, AGC-200

Prepared by: Karen Petronis, Senior Attorney, AGC-200

Subject: Request for Interpretation by Drug Enforcement Administration

Thank you for your request for interpretation dated June 18, 2009, which forwarded a request made by Drug Enforcement Administration (DEA) agent Frazier Moreman to the Atlanta Flight Standards District Office (FSDO).

The transmittal from Theresa Dunn included her research that found an error in FAA materials regarding public aircraft definitions and substantive law. We are aware of these problems, and are participating in the agency efforts to update the guidance material on public aircraft definitions and operations.

The underlying request in the email string from the DEA to the Atlanta FSDO was a bit difficult to parse out, but appears to ask whether it is a public aircraft operation if the DEA gives the state of Georgia money to use the state's aircraft to effectuate marijuana eradication. The original request included identification of the aircraft as surplus military OH-58 helicopters, questioning whether §91.313 applied or if there was an exemption for surplus military aircraft. In the email string within the agency, there were some interim findings and questions concerning the airworthiness certification of the aircraft in question as well as their status as public aircraft.

The same question was asked by the DEA in 1998, and a copy of our legal interpretation issued October 8, 1998 is attached. At that time, based on the funding arrangements described by the DEA, such operations were found to be for commercial purposes, and were considered civil aircraft operations subject to the regulations in 14 CFR. In the email from Mr. Moreman, he clearly indicates that that the DEA would be paying the state of Georgia for "blade time." The criteria used in our 1998 determination included whether the DEA grant money was either required or envisioned to be used for aircraft operations. Nothing in Mr. Moreman's emails indicate that the circumstances of reimbursement have changed, and our 1998 interpretation stands that it is not a public aircraft operation.

We trust that this interpretation responds to the various questions raised in your transmittal. If you have any questions, please contact my staff at 202-267-3073. This response was prepared by Karen Petronis, Senior Attorney for Regulations in my office. Any questions regarding public aircraft operations may be directed to her.

Attachment

OCT - 8 1998

Carol J. Harrison
Attn: DOL
Drug Enforcement Administration
700 Army-Navy Drive
Arlington, Virginia 22202

Dear Ms. Harrison:

This responds to your request for the Federal Aviation Administration's (FAA) position regarding the status of aircraft operations by state or local governments to conduct drug interdiction efforts pursuant to grants from the Drug Enforcement Administration (DEA). This letter supersedes the FAA's April 2, 1998, letter to Mr. Thomas Stafford of the DEA's office in Nashville, Tennessee, that addresses this matter.

Generally, when a federal agency reimburses a state agency for conducting aircraft operations on its behalf, the aircraft operation is considered to be "for commercial purposes." Unless the federal agency certifies that the operation was necessary to respond to a significant and imminent threat to life or property and that no service by a private operator was reasonably available to meet the threat, the aircraft operation would be a civil aircraft operation. Advisory Circular No. 00- 1. 1, Government Aircraft Operations, at Chapter 1, paragraph 2.a.(2). In the case of a federal agency grant to a state agency, the operation of an aircraft to carry out the purpose for the grant is considered to be "for commercial purposes," if either the grant specifies that the money is, at least in part, for aircraft purposes, or the nature of the grant clearly requires or envisions the money being spent for aircraft operations. Unless the federal agency makes the required certifications stated above, such an aircraft operation would be a civil aircraft operation.

It is our understanding that DEA grants to state agencies anticipate that grant money will be used to fund aircraft fuel and aircraft maintenance. Additionally, given the nature of certain illegal drug activity, e.g., marijuana growth in remote areas, DEA grants for purposes of drug interdiction would seem to require or at least envision that grant money would be used to fund aircraft operations. Therefore, assuming that the aircraft operation was not necessary to respond to a significant and imminent threat to life or property, a state aircraft operation to conduct drug interdiction pursuant to a DEA grant is considered .a civil aircraft operation. Such an aircraft operation by the state is considered a civil aircraft operation regardless of whether the grant mentions that aircraft will be used to
carry out the purpose of the grant.

While state aircraft operations to conduct drug interdiction efforts pursuant to DEA grants are considered civil aircraft operations, this does not necessarily mean that the state needs a part 1 19 certificate to conduct such operations. For example, aircraft operated by the state for aerial surveillance to locate marijuana fields would likely fall within the aerial work operations exception to the applicability of part 119. The state would not need a part 119 certificate to conduct such operations; however, the state would have to comply with all statutory and regulatory requirements that apply to the operation of civil aircraft under part 91 of the Federal Aviation Regulations. Any questions regarding whether a part 119 certificate is needed to conduct a certain operation should be directed to the appropriate Flight Standards District Office for the jurisdiction involved.

I hope this satisfactorily responds to your request. If you need additional information or have any questions, please contact Cindy Dominik, a manager in the Enforcement Division, at 202-267-7560.

Sincerely,

ORIGINAL SIGNED BY
NICHOLAS G. GARAUFIS

Nicholas G. Garaufis
Chief Counsel

Federal Aviation Administration

Memorandum

Date: June 8, 2009

To: Office of Accident Investigation, Hooper Harris, AAI-100

From: Assistant Chief Counsel for Regulations, AGC-200

Subject: Public Aircraft Operation Status of Carson Helicopter Services, Inc. N61AZ

You have requested that the Office of the Chief Counsel render its opinion on the public aircraft operation status of a helicopter that crashed in Weaverville, California.

The helicopter, a Sikorsky S-61N, U.S. registration N61AZ, was owned by Carson Helicopter Services, Inc. and was under contract to the United States Forest Service (USFS) for firefighting at the time it crashed. On August 5, 2008, the helicopter was transporting firefighters departing from Helispot 44 in the Shasta Trinity National Forest when it experienced a loss of power to the main rotor during initial takeoff climb. The accident resulted in fatal injuries to the pilot and eight firefighters; the second pilot and three other firefighters were seriously injured.

Based on the information available to us, we believe the flight to have been a public aircraft operation within the meaning of the statute and FAA guidance material.

The applicable statutory provisions are 49 USC 40125, Qualifications for Public Aircraft Status, and the definition of public aircraft found in 49 USC 40102(a)(41). An aircraft may qualify for public aircraft operation status if used only for the United States Government in the performance of a governmental function. An exception in §40125(b) states that an aircraft does not qualify as public when it is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

The statute includes in the definition of governmental function "an activity undertaken by a government, such as ... firefighting...." (§40125(a)(2))," as was contracted for by the USFS. There is nothing in the information we reviewed to indicate that it was being operated for any commercial purpose. Finally, the only persons on board were the pilots and the firefighters being transported. The firefighters qualify as individuals "whose presence is required to perform, or is associated with the performance of, a governmental function."

Accordingly, under the information available to us at this time, we consider the flight of N61AZ to have been a public aircraft operation at the time the accident occurred.

We are aware that internal agency materials may not be consistent in the consideration of the statutory factors or historical decisions. Those materials are being updated, and persons using them are cautioned to consult with us for consideration of specific factors when making a determination of public aircraft operations.

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

FEB 4 2008

Bob Shaw
Flight Support, Inc.
223 Bolivar Drive
Yorktown, VA 23692-4915

Dear Mr. Shaw:

This is in response to your e-mail of May 2, 2007, in which you requested an FAA interpretation as to whether the receipt of revenue for certain operations of an aircraft with an experimental airworthiness certificate would be prohibited by 14 CFR§ 91.319(a)(2).

Your request states that your client, Flight Support, Inc. owns a transport category business jet with an experimental airworthiness certificate and wants to lease the aircraft to a Department of Defense (DOD) contractor. The contractor, in turn, will lease the aircraft to a third company (third party subcontractor), who will then lease the aircraft to DOD.

In addition to providing the aircraft to DOD, the third party subcontractor will maintain and operate the aircraft with its own crew. The aircraft will be used for developing, testing, and evaluating defense related systems.

In a phone conversation with a member of my staff on September 6, 2007, you acknowledged that the nature of the intended operations may change over any given period of time; some operations possibly qualifying as public aircraft operations while some will be civil aircraft operations.

Because this office does not know the specific details of any particular operation, we are not able to determine which would qualify as public aircraft operations or which would be civil operations. However, your request for an opinion assumes the civil operation of the aircraft. Our response addresses the applicability of section 91.319(a)(2) to civil aircraft operations.

Section 91.319(a)(2) prohibits the operation of an aircraft with an experimental certificate that involves carrying persons or property for hire or compensation. Your letter asserts that the prohibition against the carriage of persons or property for hire only applies when such carriage is a major enterprise for profit and does not apply when the activity is incidental to the course of other business. You state that the third party subcontractor's carriage of persons and property (for hire) would be incidental to the course of flight testing and, in itself, is not a major enterprise for profit. Accordingly, you seek the FAA's opinion as to whether the flight test activities described are restricted by the "compensation or hire" provision of the rule.

14 CFR §1.1 defines "commercial operator" as a person who, for compensation or hire, engages in the carriage by aircraft in air commerce of persons or property. The definition further states that *"Where it is doubtful that an operation is for "compensation or hire,"* the test applied is whether the carriage by air is merely incidental to the person's other business or is, in it self, a major enterprise for profit." (Emphasis added). In other words, you do not apply the "major enterprise for profit" test unless it is doubtful whether an operation is for compensation or hire.

Given the facts you describe, it appears there will be compensation for the operations described above. Thus, the subcontractor would be a "commercial operator." That stated, the original question remains; are these operations prohibited under 14 CFR 91.319(a)(2)?

The FAA has consistently taken the position that an operation for compensation or hire is prohibited under §91.319(a)(2) when it involves the transportation by air of persons or property of another, but not when it involves the transportation of the operator's employees or property. More precisely, flights are not considered for compensation or hire if the operator is carrying only his own employees who are necessary for the purpose of the flight. However, if the operator carries persons or property of another and receives compensation that operation would be a violation of section 91.319(a)(2). In your case, the scenario would apply to the carriage of DOD employees even if they are on board the flight in furtherance of the primary purpose of the flight; e.g., equipment flight testing.

Also, be advised that as a general rule, when flights involve the carriage of persons or property for compensation or hire, they must be conducted with a commercial operating certificate under 14 CFR part 121 (for large airplanes) or part 135 (for rotorcraft and smaller airplanes). However, 14 CFR part 119 provides that certain operations do not have to be conducted under part 135. Section 119.1(e) excludes aerial work operations from part 135 application. Examples of aerial work operations include flights that have the same departure and destination points and flights that are conducted for the purpose of positioning an airplane to a second location. These operations may be conducted under part 91. If an additional purpose of the flight is to transport persons to a place other than the place of origin, i.e., dual purpose flights, the flight is not considered an aerial operation. Such an operation, if it is conducted for compensation or hire, is properly conducted under part 121 or part 135.

Finally, §91.319(a)(1) states that no person may operate an aircraft that has an experimental certificate for other than the purpose for which the certificate was issued. Accordingly, the operator is responsible for obtaining an airworthiness certificate for civil aircraft operations and operating the aircraft within the limits of that certificate.

The following discussion outlines four potential scenarios that may pertain to your proposed operations. All scenarios assume that the aircraft is issued an experimental certificate, flights are conducted within the operating limitations of that certificate, and compensation is received for the operation.

A. If the operator conducts an aerial flight with his own employees or property aboard the airplane, there is no violation of parts 121 or 135 or section 91.319(a)(2). The flight is not considered for compensation or hire.

B. If the operator conducts a dual purpose flight with his own employees or property aboard the airplane, there is no violation of parts 121 or 135 or section 91.319(a)(2) because the flight is not considered for compensation or hire.

C. If the operator conducts an aerial flight under part 91 with the persons or property of another aboard the aircraft, there is a violation of section 91.319(a)(2); however, there is no violation of parts 121 or 135.

D. If the operator conducts a dual purpose flight with the persons or property of another aboard the airplane, and the flight was conducted under part 91, there is a violation of either part 121 or part 135 as well as a violation of section 91.319(a)(2).

This response was prepared by Angela Washington, Attorney in the Regulations Division of the Office of Chief Counsel and has been coordinated with the Flight Standards Service at FAA Headquarters. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for
Regulations Division, AGC-200

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

Office of the Chief Counsel

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

FEB 3 2011

John G. White
Field Manager, Sierra Nevada Corporation
524th Special Operations Squadron SNC/CLS
102 N. Torch Blvd.
Building 155
Cannon AFB, NM 88103-5100

Dear Mr. White,

This letter responds to your October 3, 2010, letter to the Federal Aviation Administration's (FAA) Flight Standards District Office (FSDO) in Lubbock, Texas. In your letter, you present several operational scenarios and request an interpretation whether they qualify as public aircraft operation in accordance with the United States Code. That letter was forwarded to my office for issuance of an interpretation.

For reference, we understand the following about Sierra Nevada Corporation (SNC) after speaking with the Lubbock FSDO.

SNC functions as a contractor to the United States Air Force (USAF). SNC owns but does not operate several aircraft, and does not hold any kind of operating certificate issued by the FAA. We understand that the USAF suggested to SNC that it acquire a Part 125 certificate, but that the FAA found that issuance of the certificate was not appropriate.

SNC owns and leases several aircraft to the USAF. SNC is also modifying the aircraft under USAF contract, and when the modifications are completed, the aircraft will be purchased by the USAF outright. Your questions concern the operation of those aircraft using USAF crews on USAF missions. You also include scenarios that include USAF-owned aircraft with USAF crews on USAF missions.

In general, the FAA does not issue advisory interpretations regarding public aircraft operations. The nature of the public aircraft statute (49 USC Sections 40102(a)(41) and 40125) is to define and describe application in terms of individual flights. The law is sensitive to who owns the aircraft, who operates it, the purpose of an individual operation, and the persons on board the aircraft during the flight. The variables are such that advisory opinions are often so broad as to be of no use and simply add confusion to a complex topic. However, we do think we are able to provide some guidance for your specific situation.

We must point out that the public aircraft statute applies only to operations that occur in the airspace of the United States. Once an aircraft leaves U.S. airspace, the law no longer applies, and the aircraft will have a different status. It is no longer a public aircraft under the law, even if it departed a location within U.S. airspace with that legal status. Some of your operational scenarios include operation outside the United States.

Further, we do not routinely review aircraft operations conducted by any part of the U.S. Department of Defense (DoD) when they appear to be validly conducted under Title 10 of the United States Code. The public aircraft statute includes specific requirements for such operations in Section 40125 (c). Unless our input is requested, we rely on the DoD to comply with the statute as a day to day matter. The DoD is also fully aware that when aircraft leave U.S. airspace, they lose public aircraft status; DoD agencies have their own procedures for having those flights properly redesignated as part of their routine operations without any involvement of the FAA.

The operations you describe do appear to be valid DoD operations as anticipated under the statute. If flights are conducted on USAF-owned (or contracted) aircraft by USAF crews in accordance with Title 10, or for a purpose described in Title 50, there does not appear to be any further analysis required, presuming all of those conclusions are correct. That the aircraft may be owned by SNC at the time of the flights does not change the analysis. If SNC was chartered as a carrier to provide transportation or other commercial air service to the USAF, then the provisions of Section 40125(c)(1)(C) might be at issue as to whether the flights remained under the FAA's oversight as a commercial operation. Since SNC does not have a commercial operating certificate and does not operate the airplanes, there appears to be no issue of whether the flights described were ever civil operations subject to FAA oversight. If the USAF requests our input on some facet of their operations under the public aircraft statute, we are ready to assist them in making a determination.

I hope this letter has helped to clarify your situation. This response was prepared by Karen Petronis, Senior Attorney in the Regulations Division of the Office of the Chief Counsel, and coordinated with the General Aviation and Commercial Division of the Office of Flight Standards. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for Regulations, AGC-200