



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

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

July 30, 2012

Exemption No. 5100K  
Regulatory Docket No. FAA-2001-10857

Mr. Steven Pennington  
Executive Director  
Department of Defense Policy Board on Federal Aviation  
1480 Defense Pentagon  
Washington, DC 20301-1480

Dear Mr. Pennington:

This letter is to inform you that we have granted your petition to extend Exemption No. 5100, as amended. It explains the basis for our decision, describes its effect, and lists the conditions and limitations.

### **The Basis for Our Decision**

By letter dated May 14, 2012, you petitioned the Federal Aviation Administration (FAA) on behalf of the Department of Defense (DOD) for an extension of Exemption No. 5100, as amended. That exemption from §§ 91.117(a) and (b), 91.159(a), and 91.209(a)(1) and (b) of Title 14, Code of Federal Regulations allows the DOD to conduct air operations in support of drug law enforcement and traffic interdiction without meeting certain requirements pertaining to (1) aircraft speed, (2) cruising altitudes for flights conducted under visual flight rules, and (3) the use of aircraft position lights and anticollision light systems.

In your petition, you requested that this exemption be extended for 3 years. The FAA finds that since this is a long standing exemption it will grant that request.

In your petition, you indicate that there has been no change in the conditions and reasons relative to public interest and safety that were the basis for granting the original exemption.

AFS-12-432-E

The FAA has determined that good cause exists for not publishing a summary of the petition in the Federal Register because the requested extension of the exemption would not set a precedent, and any delay in acting on this petition would be detrimental to DOD.

### **Our Decision**

The FAA has determined that the justification for the issuance of Exemption No. 5100, as amended, remains valid with respect to this exemption and is in the public interest. Therefore, under the authority provided by 49 U.S.C. 40113 and 44701, which the FAA Administrator has delegated to me, I grant your petition, subject to the conditions and limitations listed below.

### **Conditions and Limitations**

1. The pilot of an aircraft engaged in operations authorized herein is not relieved from the requirements of § 91.113.
2. Operations under this exemption are authorized only to the extent necessary for the interdiction aircraft to obtain positive identification of, and maintain visual contact with, a suspect aircraft.
3. The pilot shall ensure that a dedicated observer, in addition to the pilot, is on board the petitioner's aircraft.
  - a. That observer's sole responsibility shall be to assist the pilot in seeing and avoiding other traffic; or
  - b. When use of a dedicated observer in the interdiction aircraft is not possible due to aircraft configuration, the use of primary radar equipment that is capable of detecting all aircraft operating in the vicinity of the DOD aircraft, or a dedicated spotter aircraft with a qualified observer on board, may be used to assist the pilot of the interdiction aircraft in seeing and avoiding other aircraft.
    - i. Spotter aircraft or aircraft having onboard primary radar equipment for the purpose of detecting other aircraft must maintain two-way radio communications with the interdiction aircraft to provide the pilot of the interdiction aircraft with advisories regarding the relative positions of other aircraft in the area.
    - ii. Spotter aircraft and primary radar surveillance aircraft shall be operated for the sole purpose of detecting other aircraft in the vicinity and advising the pilot of the interdiction aircraft of potential collision hazards and shall not be engaged in the interdiction operation.
4. Operations in noncompliance with § 91.209(a)(1) are authorized only for those aircraft engaged in air interdiction operations and only when one of the following alternative means of deriving traffic information is used:
  - a. Primary radar equipment capable of detecting all aircraft operating within the vicinity of the DOD interdiction aircraft; or



**The Effect of Our Decision**

Our decision extends the termination date of Exemption No. 5100, as amended, to September 30, 2015, unless sooner superseded or rescinded.

Sincerely,

/s/

John Duncan

Acting Director, Flight Standards

Service