

CAP PAMPHLET 70-1
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Guide to FAA Exemptions

NATIONAL HEADQUARTERS CIVIL AIR PATROL
Maxwell Air Force Base, Alabama

OPR: CAP/DO

CAP AIRCRAFT OPERATIONS UNDER FAR EXEMPTIONS

Revisions since July 2021 Version. This version of CAPP 70-1 reflects several updates since the July 2021 version.

- Effective on and after 22 December 2022, the FAA has amended FAR 61.3(c)(2)(xiv), 61.23(c)(3)(i)(C) through (E), 61.113(i), 68.3(a) and (b), and 68.9(a) so that a pilot operating under BasicMed need not do so solely as PIC. The most important practical effect of this change is that a pilot operating under BasicMed may serve as a non-PIC required crewmember, such as a safety pilot. This version takes this change into account.
- The FAA renewed and modified Exemption 18672 (now 18672A) effective 21 November 2022, expiring 31 January 2025. As to orientation flights, the former version of the exemption specified certain types of orientation flights to which the exemption applied (e.g., CAP, AFROTC or AFJROTC orientation flights). The FAA has since removed that enumeration so that exemption now includes all “USAF/CAP approved orientation flights.”
- The FAA renewed Exemption 18673 (now 18632A) effective 10 January 2023, expiring 31 January 2025. The FAA did not modify the exemption, but provided a clarification confirming that the exemption applies to AFAMs as well as C missions).
- Other revisions do not result from changes to the exemptions or the FARs, and merely clarify the content of this pamphlet.

Nature of CAP Aircraft Operations. The FAA has ruled that CAP aircraft operations are considered those of “civil aircraft” and **not** “public aircraft” and are therefore subject to the Federal Aviation Regulations (FARs). For the avoidance of doubt, CAP aircraft and operations are always operated under the FARs, and not under Title 10 (Armed Forces).

FAA Exemptions for CAP Operations: All CAP operations are conducted under the FARs unless specifically exempted by the FAA. CAP has exemptions in two areas.

1. FAR Part 61 – Reimbursement of Private Pilots (AFAMs)

- The FAA exemption from FAR 61.113(a) and (e), [Exemption 18672A](#) (renewed 21 November 2022 and expiring 31 January 2025) allows CAP members who are exercising private pilot privileges while flying Air Force assigned missions (A and B missions, or “AFAMs”) to be reimbursed for (or not pay for) certain expenses incurred while serving on AFAMs.
- Pilots exercising pilot in command (PIC) privileges under this exemption may operate under BasicMed or an FAA medical certificate.
- Reimbursement for member-furnished aircraft is included.
- Only reimbursement of specified expenses, and per diem as provided for in CAP Regulation 173-3, *Payment for Civil Air Patrol Support*, are allowed, and only at the

rates and in accordance with the procedures set forth in the exemption and that regulation.

2. FAR Part 91, Subpart F – FAR 91.501, et. seq.

- This exemption, [Exemption 18673A](#), (renewed 19 January 2023 and expiring 31 January 2025) applies to CAP flights within the scope of, and incidental to, CAP's corporate purposes and United States Air Force Auxiliary status.
- Essentially, the exemption allows CAP to operate its aircraft under [Subpart F of FAR Part 91](#), which ordinarily applies to corporate-jet operators who move their employees and guests around using those aircraft.
- CAP can receive limited payment while operating small aircraft under the General Operating and Flight Rules of FAR Part 91 instead of Part 135. All the additional rules of FAR 91.501 to 91.535 apply.
- The exemption allows CAP:
 - To carry officials, employees, guests, and property of CAP on an airplane operated by CAP when the carriage is within the scope of, and incidental to, CAP's business (other than transportation by air); and
 - To receive payment (not more than the cost of owning, operating, and maintaining the airplane).
- The CAP pilot in command (PIC) conducting operations under this exemption must hold at least a commercial pilot certificate with appropriate category and class ratings for the aircraft to be used in the operation. The PIC also must hold an instrument rating except when conducting day VFR flights within 50 nautical miles of the departure airport.
- The PIC conducting operations under this exemption must hold at least a current second-class medical certificate.
- The aircraft used for operations conducted under this exemption must be maintained and have 100-hour and annual inspections performed in accordance with FAR Parts 43 and 91.

The full text of these exemptions is available at <http://aes.faa.gov/>.

The following table summarizes the applicable FAA rules for various types of CAP missions.

The table covers all air operations, whether within the scope of the exemptions or otherwise. *CAP anticipates conducting operations under the FAA exemptions whenever possible.* The rows reflecting operations under the exemptions are unshaded and cover most CAP missions. The rows reflecting operations not dependent on the exemptions are highlighted in yellow.

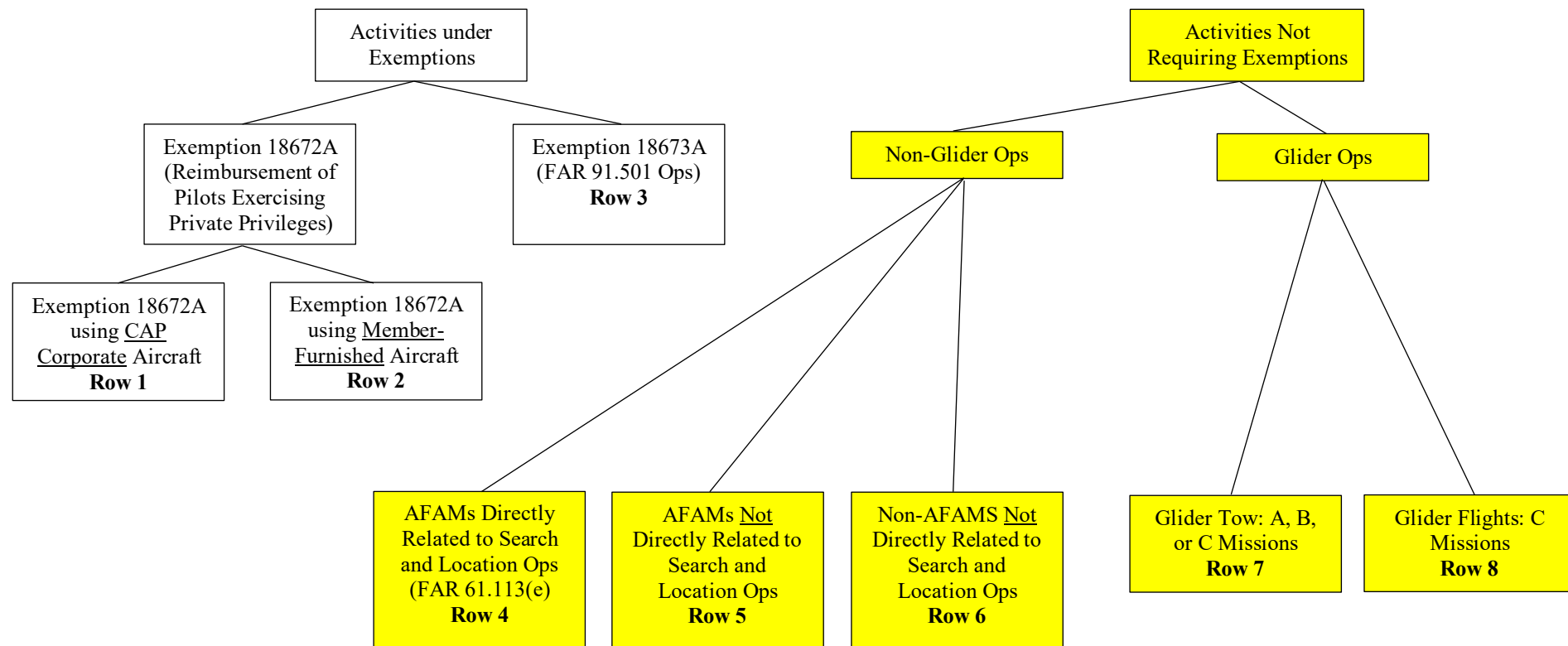
Every effort has been made to assure that the information in the table is accurate and duly reflects the regulatory environment (both FAA and CAP). Even considering that the table is as detailed as it is, it is a summary and not the actual exemptions and regulations. Members having questions regarding the table or other matters addressed in this Pamphlet should address those questions through their chains of command.

CAP MISSIONS AND LIMITATIONS

Unshaded rows address operations under CAP's FAA exemptions, which cover most CAP flight operations.

Yellow shaded rows address operations other than under CAP's FAA exemptions. *CAP generally expects to conduct operations under its exemptions where applicable.* The shaded rows provide a resource helpful (a) if and when one or more CAP exemptions is rescinded or expires without renewal or (b) where CAP desires to operate without reliance on the particular exemption.

The rows are organized generally as follows.



Row	Dependent on FAA Exemption? (1)	Nature of Flight	Persons on Board	Aircraft	Privileges Exercised by PIC ⁽²⁾	Permitted Reimbursement to PIC	Who May Log Time	Reference
1	Yes	Any AFAM (A or B Mission) ⁽⁵⁾	(a) CAP pilot crewmembers; (b) other CAP members; ⁽¹⁰⁾ (c) members of U.S. armed services; and (d) Non-flight-crewmembers officially authorized by the CAP under CAPR 70-1 to aid in the performance of the approved flight activity.	CAP corporate. (For member-owned, see Row 2.)	Private or Commercial	Commercial: Any. Private: (a) aircraft operating expenses limited to fuel, oil, supplemental oxygen, fluids, lubricants, servicing, and maintenance of the aircraft directly related to the CAP mission; (b) non-air operating expenses directly related to the CAP mission, limited to preheating, deicing, and airport expenses; and (c) if operational considerations require an overnight stay away from the pilot's home base and while on a CAP mission, per diem up to amounts stated in CAPR 173-3.	Any pilot may log time or events as and if permitted by FAR 61.51. ^{(3) (4)}	FAR 1.1 and 61.51, FAA Exemption 18672A, CAPR 173-3

Row	Dependent on FAA Exemption? (1)	Nature of Flight	Persons on Board	Aircraft	Privileges Exercised by PIC ⁽²⁾	Permitted Reimbursement to PIC	Who May Log Time	Reference
2	Yes	Any AFAM (A or B Mission) ⁽⁵⁾	(a) CAP pilot crewmembers; (b) other CAP members; ⁽¹⁰⁾ (c) members of U.S. armed services; and (d) Non-flight-crewmembers officially authorized by the CAP under CAPR 70-1 to aid in the performance of the approved flight activity.	Member-furnished ⁽⁸⁾ (For CAP corporate, see Row 1.)	Private or Commercial	Commercial: Any Private: (a) Aircraft operating expenses at the fixed rate in CAPR 173-3 (b) non-air operating expenses directly related to the CAP mission, limited to preheating, deicing, and airport expenses; and (c) if operational considerations require an overnight stay away from the pilot's home base and while on a CAP mission, per diem up to amounts stated in CAPR 173-3.	Any pilot may log time or events as and if permitted by FAR 61.51 ⁽³⁾ ⁽⁴⁾	FAR 1.1 and 61.51, Exemption 18672A, CAPR 173-3

Row	Dependent on FAA Exemption? ⁽¹⁾	Nature of Flight	Persons on Board	Aircraft	Privileges Exercised by PIC ⁽²⁾	Permitted Reimbursement to PIC	Who May Log Time	Reference
3	Yes	(a) Any AFAM (A or B Mission) ⁽¹⁰⁾ and (b) corporate (C mission) airplane flights; as described in FAR 91.501(b), ⁽¹²⁾ such as ferry, training, aerial work (e.g., photography, survey), and carriage of CAP officials, employees, guests, and/or property. ⁽¹¹⁾	Persons permitted by FAR 91.501(b) (e.g., officials, employees, guests, and property of CAP) and other property.	CAP corporate	Commercial. Requires instrument rating if other than day VFR within 50 nm of departure airport.	Any	Any pilot may log time or events as and if permitted by FAR 61.51 ^{(3) (4)}	FAA Exemption 18673A; FAR Part 91, Subpart F (FAR 91.501 to 91.535)
4	No	AFAM (other than glider tow): A and B missions from the following: A1, A4, A5, A7, A12, A23, B5, B7, B10, B12, B13, B14, B21, B23 to the extent “directly related to search and location operations” as contemplated by FAR 61.113(e)	Any person permitted by CAP regulations. ⁽¹⁰⁾	CAP corporate or member-furnished ⁽⁸⁾	Private or Commercial	Commercial: Any. Private: Aircraft operating expenses that are directly related to search and location operations, provided the expenses involve only fuel, oil, airport expenditures, and/or rental fees.	Private or Commercial may log time as and if permitted by FAR 61.51.	FAR 61.113(e), FAR 61.51, FAR 61.57

Row	Dependent on FAA Exemption? (1)	Nature of Flight	Persons on Board	Aircraft	Privileges Exercised by PIC ⁽²⁾	Permitted Reimbursement to PIC	Who May Log Time	Reference
5	No	AFAM (other than glider tow): A and B missions not listed in Row 4 (i.e. flights <u>not</u> “directly related to search and location operations” as contemplated by FAR 61.113(e)	Any person permitted by CAP regulations. ⁽¹⁰⁾	CAP corporate or member-furnished ⁽⁸⁾	Private or Commercial	Commercial: Any Private: None in excess of pro rata expenses. ⁽⁷⁾	Commercial may log time as and if permitted by FAR 61.51. If Private <u>acts as PIC</u> and <u>does</u> pay at least pro rata expenses, ⁽⁷⁾ Private may log time. If Private <u>acts as PIC</u> and <u>does not</u> pay at least pro rata expenses, ⁽⁷⁾ Private may not log time. If Private <u>does not act as PIC</u> (e.g., a CAP instructor acts as PIC), Private may log takeoffs/landings, approaches, etc. required by FAR 61.57 and PIC time to the extent that the Private pilot is the sole manipulator of the flight controls, as and if permitted by FAR 61.51(e). ⁽⁹⁾ Instructor may log time while serving as an authorized instructor (per FAR 61.51(e)(3)) even if exercising only private privileges. ⁽⁴⁾	FAR 61.113, FAR 61.51, FAR 61.57, FAA Interpretation 1997-23 (Harrington)

Row	Dependent on FAA Exemption? (1)	Nature of Flight	Persons on Board	Aircraft	Privileges Exercised by PIC ⁽²⁾	Permitted Reimbursement to PIC	Who May Log Time	Reference
6	No	CAP corporate (other than glider tow): C missions not “directly related to search and location operations” as contemplated by FAR 61.113(e)	Any person permitted by CAP regulations. ⁽¹⁰⁾	CAP corporate or member-furnished ⁽⁸⁾	Private or Commercial	Commercial: Any Private: None in excess of pro rata expenses. ⁽⁷⁾	Commercial may log time as and if permitted by FAR 61.51. If Private <u>acts as PIC</u> and <u>does</u> pay at least pro rata expenses, ⁽⁷⁾ Private may log time. If Private <u>acts as PIC</u> and <u>does not</u> pay at least pro rata expenses, ⁽⁷⁾ Private may not log time. If Private <u>does not act as PIC</u> (e.g., a CAP instructor acts as PIC), Private may log takeoffs/landings, approaches, etc. required by FAR 61.57 and PIC time to the extent that the Private pilot is the sole manipulator of the flight controls, as and if permitted by FAR 61.51(e). ⁽⁹⁾ Instructor may log time while serving as an authorized instructor (per FAR 61.51(e)(3)) even if exercising only private privileges. ⁽⁴⁾	FAR 61.113, FAR 61.51, FAR 61.57, FAA Interpretation 1997-23 (Harrington)

Row	Dependent on FAA Exemption? (1)	Nature of Flight	Persons on Board	Aircraft	Privileges Exercised by PIC ⁽²⁾	Permitted Reimbursement to PIC	Who May Log Time	Reference
7	No	Glider tows (tow plane): A, B, or C	Tow pilot. May also include trainee if permitted by CAPR 70-1.	CAP corporate or member-furnished ⁽⁸⁾	Private or Commercial. Qualified to tow per FAR 61.69.	Private or Commercial: Any	Any pilot may log time or events as and if permitted by FAR 61.51 ⁽³⁾ (4)	CAPR 70-1, FAR 61.113(g), FAR 61.57, FAR 61.69.

Row	Dependent on FAA Exemption? (1)	Nature of Flight	Persons on Board	Aircraft	Privileges Exercised by PIC ⁽²⁾	Permitted Reimbursement to PIC	Who May Log Time	Reference
8	No	Glider flights: C missions	Any person permitted by CAP regulations. ⁽¹⁰⁾	CAP corporate or member-furnished ⁽⁸⁾	Private or Commercial	Commercial: Any Private: None in excess of pro rata expenses. ⁽⁷⁾	Commercial may log time as and if permitted by FAR 61.51. If Private <u>acts as PIC</u> and <u>does</u> pay at least pro rata expenses, ⁽⁷⁾ Private may log time. If Private <u>acts as PIC</u> and <u>does not</u> pay at least pro rata expenses, ⁽⁷⁾ Private may not log time. If Private <u>does not act as PIC</u> (e.g., a CAP instructor acts as PIC), Private may log takeoffs/landings, approaches, etc. required by FAR 61.57 and PIC time to the extent that the pilot is the sole manipulator of the flight controls, as and if permitted by FAR 61.51(e). ⁽⁹⁾ Instructor may log time while serving as an authorized instructor (per FAR 61.51(e)(3)) even if exercising only private privileges. ⁽⁴⁾	FAR 61.113, FAR 61.51, FAR 61.57, FAA Interpretation 1997-23 (Harrington)

NOTES to TABLE

(1) **Exemptions.** FAA Exemptions 18672A and 18673A, and any renewals thereof.

(2) **Privileges Exercised**

No CAP operations contemplate or require ATP privileges, and no such operations contemplate Recreational or Sport Pilot privileges, so only Commercial and Private are addressed in the table.

“**Commercial**” means that the pilot is qualified to exercise commercial pilot privileges, i.e.

(a) holds an ATP or commercial pilot certificate with at least commercial privileges in the applicable category and class and (b) if other than glider, a medical certificate carrying Class 1 or Class 2 privileges.

“**Private**” means that the pilot is qualified to exercise only private pilot privileges, i.e. (a) holds an ATP, commercial, or private certificate with at least private privileges in the applicable category and class and (b) if other than glider, a medical certificate carrying at least Class 3 privileges, or BasicMed.

Note: (i) BasicMed restrictions apply to airmen operating under BasicMed (e.g., aircraft limited to MTOW of not more than 6,000 pounds and six seats, etc.) and (ii) glider flying requires no medical certificate or BasicMed and is instead subject to FAR 61.23(b) and 61.53(b).

(3) **Instructors.** CFI in category and, if other than glider, has current Class 1, 2, or 3 medical certificate or BasicMed.

(4) **Compensation and Instructors.** Any compensation received by a CFI (whether loggable flight time, reimbursement, or otherwise) is presumptively under the CFI’s *instructor certificate*, not the CFI’s *pilot certificate*. A CFI need not exercise commercial privileges (or any other privileges greater than private) while instructing and need only exercise private privileges as it relates to serving as PIC. See [62 Federal Register 16220, 16242](#); [FAA AC 68-1A](#).

(5) **Missions Covered by Exemption 18672A.** “[F]lights that are directly related to USAF-assigned missions or missions assigned by the USAF in accordance with memoranda of understanding with United States Government agencies and are within the CAP’s purpose as defined within Title 36 of the United States Code, part B, chapter 403, section 40302. The relief provided by this exemption includes flights operated by CAP for the purpose of USAF/CAP approved orientation flights.”

Note: The prior version of this exemption called out specific types of orientation flights (CAP/Air Force Reserve Officer Training Corps (AFROTC) and Air Force Junior Reserve Officer Training Corps (AFJROTC) cadet orientations). To clarify that this is not an exclusive list, the FAA revised the language to “USAF/CAP approved orientation flights.” Thus, any orientation flight is within the exemption as long as it is “USAF/CAP -approved.”

(6) **[Reserved.]**

(7) **Pro Rata Expenses.** Per FAR 61.113(c), “[a] private pilot may not pay less than the pro rata share of the operating expenses of a flight with passengers, provided the expenses involve only fuel, oil, airport expenditures, or rental fees.” Note that, in instructional scenarios, neither an airman receiving instruction nor an instructor giving instruction is a “passenger”

for purposes of pro rata calculations (see FAA Interpretations *in re Kortokrax* (22 August 2006) and *in re Olshok* ((4 May 2007)). The FARs do not expressly define “passenger” or expressly make the distinction between “passenger” and “crewmember.”

In the case of gliders, generally speaking, the expenses would be the \$10 per-flight fee payable to CAP NHQ for use of the glider.

- (8) Member-Furnished Aircraft.** Where a member furnishes the aircraft and also acts as aircrew, Wing DO consultation is advisable prior to operation to assure that the operation can be conducted under FAR Part 91 and that a “wet lease” (providing both aircraft and aircrew, which risks requiring Part 135 certification) is not inadvertently created.
- (9) Acting as PIC vs. Logging PIC Time.** *Acting as PIC* (see, e.g., FAR 1.1 and 61.113) is entirely different from *logging PIC time* (see FAR 61.51). An airman need not act as PIC to log PIC time.

FAR 61.51 provides, in the parts most relevant to CAP, that a pilot may log PIC time:

[W]hen the pilot is the sole manipulator of the controls of an aircraft for which the pilot is rated . . . [FAR 61.51(e)(1)(i)]

When the pilot . . . acts as pilot in command of an aircraft for which more than one pilot is required under . . . the regulations under which the flight is conducted [FAR 61.51] [Note that FAR 91.109(c)(1) requires a safety pilot when the other pilot is operating with a view-limiting device, so the safety pilot may log PIC time under such circumstances.]

Further:

A certificated flight instructor may log pilot in command flight time for all flight time while serving as the authorized instructor in an operation if the instructor is rated to act as pilot in command of that aircraft. [FAR 61.51(e)(3)]

- (10) CAP Members; Persons Permitted by CAP Regulations.** Note that different categories of membership carry different flight privileges.

Generally speaking, senior members, cadet members, and federal and state legislative members are permitted to fly with CAP (subject to CAPR 70-1 and any other applicable regulations).

Other CAP members are limited, in particular by CAPR 39-2. Examples follow.

Patron members may not ride in, or fly, CAP aircraft. This prohibition extends to member-owned aircraft on CAP flights.

Prospective cadets (youth who are not yet CAP cadet members) are not permitted to fly with CAP. (Note that this may change if USAF tasks CAP with youth outreach flights for non-CAP youth.)

Aerospace education members are not authorized to fly in CAP corporate aircraft unless, and then only when, participating in the CAP Teacher Orientation Program (“TOP”). Note: CAP presently contemplates that all TOP flights will be flown as AFAMs and not C missions.

- (11) **A and B Missions.** In the renewal of Exemption 18673 (Exemption 18673A), the FAA clarified that the exemption covers all A and B Missions. This resolved confusion by some members over the wording, “CAP’s corporate purposes” and questions about whether the exemption applied solely to C Missions. The exemption applies to all A and B missions and to the C missions that meet the description in the exemption.
- (12) **FAR 91.501(b) Activities.** The permitted activities under FAR 91.501, as they practically apply to CAP, are as follows. [Square-bracketed] language is added for clarification. Language (in parentheses) appears this way in the regulation.
- (1) Ferry or training flights;
 - (2) Aerial work operations such as aerial photography or survey, or pipeline patrol, but not including fire fighting operations;
 - ...
 - (5) Carriage of officials, employees, guests, and property of [CAP] on an airplane operated by [CAP] . . . when the carriage is within the scope of, and incidental to, the business of [CAP] (other than transportation by air) and no charge, assessment or fee is made for the carriage in excess of the cost of owning, operating, and maintaining the airplane [here meaning the CAPR 173-3 rates], except that no charge of any kind may be made for the carriage of a guest of [CAP], when the carriage is not within the scope of, and incidental to, the business of [CAP];
 - ...
 - (7) The carriage of property (other than mail) on an airplane operated by a person in the furtherance of a business or employment (other than transportation by air) when the carriage is within the scope of, and incidental to, that business or employment and no charge, assessment, or fee is made for the carriage other than those specified in paragraph (d) of this section;
- (13) **Glider Tow Pilots.** FAR 61.113(g) contains an exclusion from the prohibition from compensation or hire. “A private pilot who meets the requirements of [FAR] 61.69 may act as a pilot in command of an aircraft towing a glider or unpowered ultralight vehicle.”