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

Office of the Chief Counsel

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

FEB 19 2009

Mr. Erik James Kientzy
The Kientzy Law Firm, LLC
7905 Big Bend Blvd Suite 200
Saint Louis, MO 63119

Dear Mr. Kientzy:

This responds to your request for an interpretation of 14 C.F.R. section 61.39 as it pertains to expired knowledge tests. Your letter presents three fact patterns that contain separate scenarios in which a pilot seeks to use an expired knowledge test to apply for the airline transport pilot (ATP) practical test. The fact patterns in your letter each present an applicant who has completed and passed an ATP knowledge test. The applicant then becomes employed by a certificate holder under parts 121, 125, or 135 sometime after (in some fact patterns, several years after) passing the knowledge test. Once employed as a flight crewmember by a certificate holder, the applicant satisfactorily passes that operator's approved pilot-in-command aircraft qualification training program and qualification training requirements, both appropriate to the certificate and rating sought. The core question derived from these fact patterns is whether a practical test applicant may use an expired knowledge test report if the applicant meets the section 61.39(b) requirements at the time of the practical test. This response will address that question rather than address the individual, fact-specific questions presented in the request.

Section 61.39(a) sets forth the prerequisites for taking a practical test for a certificate or rating, including requirements that an applicant must pass "the required knowledge test within the 24-calendar-month period preceding the month the applicant completes the practical test" and present the knowledge test report when applying for the practical test, if a knowledge test is required. Section 61.39(b), in relevant part, allows an applicant for an ATP certificate to take the practical test if the knowledge test report is expired, provided the applicant is "employed as a flight crewmember by a certificate holder under part 121, 125, or 135 . . . at the time of the practical test and has satisfactorily accomplished that operator's approved":

(i) Pilot in command aircraft qualification training program that is appropriate to the certificate and rating sought; and
(ii) Qualification training requirements appropriate to the certificate and rating sought.

The FAA intended section 61.39(b) to allow an applicant to avoid the burden of retaking the knowledge test if the applicant is employed by a certificate holder and current with that certificate holder's training appropriate to the certificate and rating sought. The section 61.39(b) exception allows the applicant to forego the requirements of section 61.39(a) indefinitely based on the expired knowledge test report. *See* Interpretation 1979-3 (Jan. 19, 1979). However, if the applicant is not employed by a certificate holder nor meets the other training requirements at the time of the practical test, the section 61.39(b) exception does not apply, and therefore the applicant must have passed a written knowledge test within the previous 24 months.

This response was prepared by Viola Pando, an Attorney in the Regulations Division of the Office of Chief Counsel and coordinated with the Certification and General Aviation Operations Branch of Flight Standards Service. We hope this response has been helpful to you. 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 Regulations Division, AGC-200