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

Office of the Chief Counsel

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

JUN 2 2009

Mr. Randy Long
Insurance & Financial Services Agent
Farmers Insurance
9332 E. Raintree Dr.
Suite 120
Scottsdale, Arizona 85620

Dear Mr. Long:

This responds to your e-mail of December 1, 2008 to Mr. Jay Tevis, Aviation Safety Inspector, Light-Sport Aviation Branch (AFS-610). In that e-mail you requested an interpretation clarifying whether the provisions of § 61.429 of Title 14, Code of Federal Regulations (14 CFR) would permit you to be issued a flight instructor certificate with a sport pilot rating if you hold a commercial pilot certificate with a balloon class rating and meet the provisions of § 61.419 applicable to holders of a flight instructor certificate with a sport pilot rating. You specifically note that your application for the issuance of a flight instructor certificate under these circumstances was denied by the Airmen Certification Branch (AFS-760) on October 30, 2008 based on the determination that "the applicant does not hold a Certified Flight Instructor (Sport Pilot) certificate and cannot add ratings via Proficiency Check until he passes the appropriate practical and written tests for the certificate." AFS-610 has requested that this office respond to your request.

Section 61.429 was initially adopted as part of the Final Rule "Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft" (69 FR 44772; July 27, 2004). This section was originally proposed as section 151 of Special Federal Aviation Regulation (SFAR) No. 89 in the notice of proposed rulemaking for that final rule (67 FR 5368; February 5, 2002). Section 151 addressed whether a person who holds a flight instructor certificate previously issued under part 61 may exercise the privileges of a flight instructor certificate with a sport pilot rating if certain requirements are met. It did not, however, address commercial pilots with an airship or balloon rating. Commercial pilots with an airship or balloon rating are permitted to provide ground and flight training in airships or balloons, as appropriate, without holding any flight instructor certificate.

The final rule adopted the provisions of proposed section 151 of SFAR No. 89 as § 61.429. It also specifically noted that the original proposal "did not reference commercial pilots with an airship or balloon rating" and stated that "as these pilots may provide flight instruction under current rules, and therefore may be considered authorized instructors, the FAA believes it is appropriate to permit these persons to exercise the privileges of a flight instructor certificate with a sport pilot rating in the classes of aircraft in which they are

currently authorized to provide training" (69 FR 44845-46). In accordance with the agency's intent to permit these persons to be treated in a manner similar to other authorized instructors, the agency revised the rule to include specific references to these pilots. As part of these revisions the agency stated in § 61.429(c) that a person may exercise the privileges of a commercial pilot certificate with an airship or balloon class rating in a category, class, or make and model of light-sport aircraft in which that person is not currently rated provided that person meets all applicable requirements specified in § 61.419.

Section 61.419 specifies the requirements applicable to a person holding a flight instructor certificate with a sport pilot rating seeking to provide training in an additional category or class of light-sport aircraft. Although § 61.419 specifically addresses persons who hold a flight instructor certificate with a sport pilot rating (i.e. the introductory language of that section begins with the conditional statement "if you hold a flight instructor certificate with a sport pilot rating,") the language of § 61.429(c) refers all flight instructors (to include those with other than a sport pilot rating, i.e. those instructors certificated under subpart H of part 61) and commercial pilots with an airship or balloon class rating to its provisions. If those persons seek to obtain privileges to provide training in an additional category and class of light-sport aircraft, § 61.429(c) mandates compliance with the requirements § 61.419 applicable to persons holding a flight instructor certificate with a sport pilot rating.

To interpret the provisions of § 61.429(c) to preclude a person holding a flight instructor certificate, a commercial pilot certificate with an airship rating, or a commercial pilot certificate with a balloon rating from meeting the provisions of § 61.419(a) through (d) because those persons do not hold a flight instructor certificate with a sport pilot rating would clearly nullify the plain language of § 61.429(c) and contradict the expressed intent of the preamble of the final rule. Section 61.429(c) was specifically drafted to permit those persons referenced in that paragraph to obtain privileges to provide training in an additional category and class of light-sport aircraft provided they meet the provisions of § 61.419 applicable to holders of a flight instructor certificate with a sport pilot rating.

A person holding a commercial pilot certificate with a balloon rating who seeks to obtain privileges to provide training in a category and class of light-sport aircraft in which that person is not currently rated is not required to hold a flight instructor certificate with a sport pilot rating as a prerequisite to obtaining those privileges. Accordingly, the October 30, 2008 denial of your application for a flight instructor certificate with a sport pilot rating based on the reasons specified in that letter was in error.

We hope this response has been helpful to you. Please contact us at (202) 267-3073 if we can be of further assistance. This interpretation was prepared by Paul Greer, an attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the Light Sport Aviation Branch (AFS-610) of the Flight Standards Service. That office will take action to ensure that your application for a flight instructor certificate with a sport pilot rating is processed in accordance with this interpretation.

Sincerely,

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