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

Office of the Chief Counsel

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

OCT 16 2009

Mr. Angel E. Negron
[redacted]

Dear Mr. Negron,

This is in response to your May 14, 2009, request for a legal interpretation. Specifically, you question whether a pilot, conducting operations under part 135, may merely estimate his or her flight and duty time on a record that is required to be kept to show compliance with the flight time limitation and rest requirements of part 135, and be in compliance with 14 C.F.R. § 61.59.

Section §61.59(a)(2) prohibits a person from making, or causing to be made, any "fraudulent or intentionally false entry in any logbook, record or report that is required to be kept, made, or used to show compliance with any requirement for the issuance or exercise of the privileges of any certificate, rating, or authorization under [part 61]." 14 C.F.R. § 61.59. Section 61.59 would apply to your scenario if the pilot in question needed to use the record to show compliance with any requirement under part 61 for his or her certificate or rating. *See* Legal Interpretation 1997-8 (Apr. 9, 1997). Furthermore, whether §61.59 has been violated is a question of fact that relies on the knowledge and intent of the individual when making such entries and whether such entries are material and actually relied upon by the FAA. *Id.* Based on the limited factual scenario you have provided, we cannot say whether the FAA would view such an estimation of flight time to be fraudulent or intentionally false under §61.59.

We note, however, that pursuant to §135.63, each certificate holder is required to keep an individual record of each pilot that conducts operations. That record must provide, among other things, the "pilot's flight time in sufficient detail to determine compliance with the flight time limitations of [part 135]." 14 C.F.R. §135.63(a)(4)(vii). An estimation of flight time, especially an estimate that understates the number of hours flown, would not be sufficient to show compliance with §135.63. Furthermore, to the extent the pilot may use that record as a basis for determining whether to accept an assignment under any of the provisions of subpart F of part 135, such a determination may not be made on a mere estimation. That record must contain accurate information of sufficient detail to show compliance with the flight and duty time limitations of subpart F.

We appreciate your patience and trust that the above responds to your concerns. If you need further assistance, please contact my staff at (202) 267-3073. This response was prepared by Anne Bechdolt, Acting Manager of the Operations Law Branch of the Regulations Division of the Office of the Chief Counsel, and coordinated with the Air Transportation Division of Flight Standards Service.

Sincerely,

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