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

Office of the Chief Counsel

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

FEB 25 2011

Richard Boll II
[redacted]

Dear Mr. Boll:

This is in response to your email inquiry of November 3, 2010, concerning Title 14 of the Code of Federal Regulations, § 91.117, Aircraft speed and § 91.175(a), Takeoff and landing under IFR.

Section 91.117, paragraph (a) provides, in pertinent part, that

> Unless otherwise authorized by the Administrator, no person may operate an aircraft below 10,000 feet MSL at an indicated airspeed of more than 250 knots (288 m.p.h.).

You question whether the term "Administrator" in this paragraph refers to an air traffic controller when the controller is exercising his/her air traffic control duties and responsibilities or whether the authority rests with the Administrator.

As you note in your email, the FAA issued a correcting amendment[1] to the Airspace Reclassification Final Rule because ATC was incorrectly listed as the authority to approve deviations from the 250 knot speed restriction in § 91.117(a). The correcting amendment replaced the term "ATC" with "Administrator" in paragraph (a) of that section. Therefore, only the Administrator, or any person to who he has delegated his authority for this matter, may issue a deviation from the speed requirement in the subject paragraph. The authority to authorize such deviation is delegated to the Flight Standards Service.

You raise a similar question with respect to the term "FAA" in § 91.175. Paragraph (a) of that section provides, in pertinent part, that

> *Instrument approaches to civil airport.* Unless otherwise authorized by the FAA, when it is necessary to use an instrument approach to a civil airport, each person operating an aircraft must use a standard instrument approach procedure prescribed in part 97 of this chapter for that airport. This paragraph does not apply to United States military aircraft.

[1] 58 Fed. Reg. 43553; August 17, 1993

The Area Navigation (RNAV) and Miscellaneous Amendments Final Rule (72 Fed. Reg. 31662; June 7, 2007) changed the terminology from "Administrator" to "FAA" in the above paragraph. In reviewing this matter, we conclude that the appropriate term should be "Administrator." The Administrator's authority under this section is delegated to the Flight Standards Service. We have raised this matter to the program office and recommend that this paragraph be amended to reflect the correct term.

This response was coordinated with the FAA's Flight Standards Service, General Aviation and Commercial Division and the Flight Technologies and Procedures Division. Should you have questions regarding this interpretation, please contact Lorelei Peter at 202-267-3134.

Sincerely,

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