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

Office of the Chief Counsel

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

FEB 17 2011

Mr. John G. Butler, III
Sands Anderson PC
Post Office Box 1998
Richmond, VA 23218-1998

Dear Mr. Butler,

This letter responds to your request for a legal interpretation regarding the minimum weather conditions for initiating an instrument approach under 14 CFR § 135.225. You asked whether a Part 135 pilot may legally commence an instrument approach if the reported visibility is at, or greater than, the minimum visibility published for the approach, even if the reported ceiling is below the published decision height.

The FAA finds that the reported ceiling is not a weather condition to be considered as a landing or approach minimum unless it is expressly referenced in the approach procedure or other operating limitation. Based on our research, the FAA concludes that a previous legal interpretation did not accurately interpret the meaning and intent of 14 CFR § 135.225. *See* Legal Interpretation to Glenn Rizner from Donald P. Byrne, Assistant Chief Counsel for Regulations and Enforcement (March 21, 1991). The current legal interpretation takes precedence over any prior interpretations reaching a different conclusion, specifically the 1991 Legal Interpretation to Glenn Rizner.

Your inquiry is directed at 14 CFR § 135.225(a), which prohibits a pilot conducting a Part 135 operation from initiating an instrument approach unless (1) the airport has an appropriate weather reporting facility, and "(2) [t]he latest weather report issued by that weather reporting facility indicates that weather conditions are at or above the authorized minimums for that airport." Thus, the issue becomes whether "weather conditions" as used in § 135.225(a)(2) includes the reported ceiling.

Prior to the implementation of Terminal Instrument Procedures (TERPs) in 1967, instrument approach procedures included ceiling values as part of the landing minimums. TERPs established minimum descent altitude (MDA) and decision height, in place of landing ceiling minimums, while retaining the visibility as the applicable landing minimum. 32 Fed. Reg. 13909 (Oct. 6, 1967). The adoption of TERPs as an amendment to Part 97 (adding subpart C) began the conversion of ceiling values to MDA and decision height for all existing standard instrument approach procedures listed in Part 97, subpart B. *Id.* at 13909-10. The 1967 rulemaking also amended Parts 121 and 135, substituting "weather conditions" for "ceiling and ground visibility" in the provisions dealing with instrument operations, to allow for either or both values to be considered depending on the circumstances of the operation. *Id.* at 13910; *see also* Legal Interpretation to James B. Hart from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (April 21, 2009).

Furthermore, the current version of Part 97 does not consider the ceiling as a factor for initiating an approach, as it defines ceiling as "the minimum ceiling, expressed in feet above the airport elevation, required for takeoff or required for designating an airport as an alternate airport. *See* 14 CFR § 97.3. Using the term "weather conditions" in § 135.225(a)(2) leaves open the potential applicability of ceiling values to allow for conversion of Part 97 for each approach procedure and for other operations requirements, such as operations specifications, that might incorporate ceiling values.

Each standard instrument approach procedure (SIAP) is authorized through Part 97, specific to the airport and runway. Part 97 authorizes the instrument approach, graphically depicted in the approach plate, and determines the authorized minimums. Your letter represents that the approach reflects a decision altitude, decision height, and visibility for an instrument landing system (ILS) approach at an airport you do not identify. You also indicate that the ceiling is not a criterion on the approach plate. We must assume that your reading of the approach plate is accurate, since your letter does not identify the airport, runway, and aircraft approach speed category. Based on the representations contained in your letter, the FAA concludes that a pilot may legally commence the instrument approach you describe regardless of the reported ceiling, if no operational requirement apart from the SIAP imposes a ceiling value limitation.

We appreciate your patience and trust that the above responds to your concerns. This response was coordinated with the Air Transportation and the Flight Technologies and Procedures Divisions of Flight Standards Service. Should you have any further questions, please contact Nancy Sanchez, an attorney in the Regulations Division of the Office of the Chief Counsel, at (202) 267-3073.

Sincerely,

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