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

Office of the Chief Counsel

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

JUL - 1 2011

Jared Testa
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3700 Willow Creek Road
Prescott, AZ 86301-3720

Dear Mr. Testa:

This letter responds to your request for legal interpretation emailed to this office on March 1, 2011. In your letter, you ask for clarification of 14 C.F.R. § 141.5(d), which sets forth the quality of training standard required to obtain an initial pilot school certificate or, by reference in § 141.83, to renew an existing pilot school certificate.

On September 17, 2010, the FAA published a technical amendment to § 141.5 in order to restore language that was inadvertently removed in an August 2009 final rule and to clarify the quality of training standard. 75 FR 56857. As modified through the technical amendment, an applicant for a pilot school certificate or renewal of an existing pilot school certificate must demonstrate that, within the preceding 24 months, the applicant:

> [h]as established a pass rate of 80 percent or higher on the first attempt for all knowledge tests leading to a certificate or rating, practical tests leading to a certificate or rating, or end-of-course tests for an approved training course specified in appendix K of this part.

Question 1: How does a course approved in accordance with appendix B, C, or D of part 141 and for which a pilot school holds examining authority under subpart D of part 141 count toward the requirements of § 141.5(d)?

Section 141.67(c) requires that the "tests administered by a pilot school that holds examining authority must be approved by the Administrator and be at least equal in scope, depth, and difficulty to the comparable knowledge and practical tests prescribed by the Administrator under part 61." As such, in order to satisfy the quality of training standard in § 141.5(d), a pilot school that holds examining authority must establish an 80 percent or higher pass rate for those tests that have been approved as equivalent to the FAA Knowledge Test and practical test. Currently, all pilot schools that hold examining authority use the FAA Knowledge Test administered by a testing center designee rather than utilizing their examining authority to administer a test equivalent to the FAA knowledge test. In addition, the FAA requires pilot schools that hold examining authority to conduct a comprehensive

end-of-course test that encompasses all of the tasks and maneuvers outlined in the Practical Test Standards for the certificate or rating being sought. FAA Order 8900.1, Vol. 3, Chpt 53, Sec. 1, 3-4290.

As noted in your email, your students take the FAA Knowledge Test at the completion of the ground training stage and a comprehensive end-of-course test that includes an oral component and flight component at the completion of the flight training stage. For purposes of § 141.5(d), both of these tests are "leading to a certificate or rating" because a student cannot obtain a certificate or rating without successfully completing them. We note that interim academic tests and interim stage checks are not calculated in the overall pass rate because they are not equal to the practical test in scope, depth and difficulty.

Question 2: Will the knowledge tests that are conducted in accordance with a complete ground and flight training course count in determining the pass rate according to § 141.5(d)?

As noted above, the 80% pass rate for your school is based on the results of both the FAA Knowledge Test and the comprehensive end-of-course practical test for courses that result in a certificate or rating. This position is consistent with the 1997 final rule that first introduced knowledge tests to the quality of training calculation. In the notice of proposed rulemaking for that rule, the FAA explained that a provisional pilot school that graduates 5 students from a private pilot certification training course approved under former appendix A to part 141 would count the results of 5 knowledge tests and 5 practical tests in determining its pass rate. In the final rule, the FAA did not alter the inclusion of knowledge tests and, in fact, expanded the "quality of training" counters to include end-of-course tests for appendix K courses. Although the 2009 final rule and the subsequent technical amendment made changes to § 141.5, the FAA stated that the changes were intended to clarify, not alter, the existing rule requirements.

Question 3: Is the overall pass rate required in § 141.5(d) calculated by combining all attempts and successes of all knowledge tests, practical tests, and appendix K end-of-course tests?

In addition to the quality of training requirement in § 141.5(d), § 141.5(e) requires a provisional pilot school to graduate 10 different people from its approved training courses over a 24-month period. To satisfy the quantity of training standard under § 141.5(e), a pilot school must graduate 10 different people from its approved training courses. A person graduates from a training course upon successful completion of all of the training course requirements. As clarified in the recent technical amendment, a person who graduates from more than one approved training course during the 24-month period may be counted only once to satisfy the quantity of training requirement. On the other hand, the quality of training requirement under § 141.5(d) is calculated based on the percentage of successful first attempts on all knowledge tests, practical tests, and end-of-course tests for appendix K courses. For example, a student who graduates from more than one approved training course in a 24-month period could have multiple test results counted toward the pilot school's pass

rate (141.5(d)) but would be counted only as one person towards the pilot school's minimum graduate requirement (141.5(e)).

In addition, although examining authority is based on individual training courses, the 80 percent pass rate for renewal of a pilot school certificate is calculated based on the percentage of successful first attempts of all tests administered to the students of the pilot school. For example, if a pilot school has six approved training courses and holds examining authority for only three of those courses, then the 80 percent pass rate is based on the combined percentage of (1) the FAA knowledge tests and practical tests that were passed on the first attempt for those training courses for which the school does not hold examining authority, and (2) the tests approved in accordance with § 141.67(c) as equivalent to the FAA knowledge test and practical test that were passed on the first attempt for those training courses for which the school holds examining authority. The FAA notes that a pilot school that holds examining authority must maintain records clearly indicating whether a student passed the comprehensive end-of-course "practical" test on the first attempt.

This response was prepared by Anne Moore, an Attorney in the Regulations Division of the Office of the 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