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

Office of the Chief Counsel

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

MAY 24 2012

Joseph C. Baginski
[redacted]

Dear Mr. Baginski,

This letter is in response to your request for a legal interpretation received on February 1, 2012 regarding 14 CFR § 91.155 Basic VFR weather minimums and § 91.157 Special VFR weather minimums. In your letter, you present a scenario concerning a fixed wing pilot on a VFR flight arriving at an uncontrolled airport in Class E airspace to the surface and question whether it complies with §§ 91.155 and 91.157. Background information, summary of the scenario you present, and responses to the questions follow below.

Section 91.155 provides weather minimums for persons operating an aircraft under VFR, specifying the flight visibility and distance from clouds depending on the airspace. *See* 14 CFR 91.155(a)-(e). Section 91.155(d) states that "[e]xcept as provided in § 91.157...no person may take off or land an aircraft, or enter the traffic pattern of an airport, under VFR..." unless ground visibility at the airport is at least 3 statute miles.

Section 91.157 allows for special VFR operations to be conducted under the weather minimums of the section and with an ATC clearance. Specifically, § 91.157(c) states that "[n]o person may take off or land an aircraft...under special VFR - (1) [u]nless ground visibility is at least 1 statute mile; or (2) [i]f ground visibility is not reported, unless flight visibility is at least 1 statute mile..."

You describe a scenario where a pilot on a VFR flight plan arrives at an uncontrolled airport in Class E airspace to the surface and picks up the AWOS information for that airport. The AWOS report states that there is a ceiling of 100 feet and visibility is 1/4th mile with calm winds.[1] You further explain that the pilot flies over the airport and determines that there is a fog bank over one end of the runway which obscures the last 1,000 feet but the other 9,000 feet are clear. The pilot then reports the flight visibility to ATC as unlimited and determines that he can remain clear of clouds and requests a special VFR clearance to land on the clear end of the runway. You pose the following two questions below.

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[1] Ground visibility is the prevailing horizontal visibility near the earth's surface as reported by the United States National Weather Service or an accredited observer. This interpretation assumes the pilot obtains the weather information from an official source. *See* FAA Pilot/Controller Glossary, available at: http://www.faa.gov/air_traffic/publications/atpubs/pcg/

Questions and Analysis

You asked whether a pilot in this scenario is in violation of § 91.155 if he lands at the airport. Yes, if the pilots lands at the airport in the scenario described above, he is in violation of § 91.155. In order for a pilot to land an aircraft or enter the traffic pattern of an airport, ground visibility at the airport must be at least 3 statute miles. *See* 14 CFR § 91.155 (d). The AWOS reported a ceiling of 100 feet and visibility of 1/4th mile. This clearly does not meet the visibility requirements as outlined in § 91.155.

You also asked whether ATC may grant special VFR clearance to land at the airport, in effect superseding the AWOS with the pilot's report of the flight conditions. No, ATC may not grant special VFR clearance in this scenario. Ground visibility must be at least 1 statute mile. *See* § 91.157(c). The AWOS reported a visibility of 1/4th mile. The pilot's report of flight conditions cannot supersede the AWOS in this scenario. The determination of the visibility by a pilot is not an official weather report or an official ground visibility report. *See* 14 CFR 91.157(d).[2] Finally, you asked whether this answer would apply to a part 135 operation as well. Please note that part 135 operations must also abide by the weather minimums provided in part 91 and depending on the airspace, may have additional VFR visibility requirements under part 135. *See* 14 CFR § 135.205.

We appreciate your patience and trust that the above responds to your concerns. This response was prepared by Nancy Sanchez, an attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the Air Transportation Division and General Aviation and Commercial Division of Flight Standards. Please contact us at (202) 267-3073 if we can be of further assistance.

Sincerely,

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

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[2] Section 91.157(c)(2) states that if ground visibility is not reported, flight visibility must be at least 1 statute mile. In this paragraph, flight visibility is the visibility from the cockpit of an aircraft in takeoff position and the airport at which the aircraft is located is a satellite airport that does not have weather reporting capabilities. However, the airport described in your letter has an AWOS and therefore the determination of flight visibility by the pilot does not apply in this situation. Similarly, § 135.213 states that for operations under VFR, the PIC may use the pilot's own observations *if an official weather report is unavailable* (emphasis added). *See* 14 CFR § 135.213(a) & (b).