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

Office of the Chief Counsel
800 Independence Ave., SW.
Washington, DC 20591

APR 16 2012

Greg McGowan
Flight Safety International
8972 Trinity Blvd.
Hurst, TX 76053

Dear Mr. McGowan:

This letter responds to your request for a legal interpretation dated November 29, 2011. Specifically, you have asked whether a proficiency check conducted in accordance with 14 C.F.R. § 61.58 or an airman certification test conducted in accordance with an approved part 142 curriculum satisfies the proficiency check requirements for training center instructors in 14 C.F.R. § 142.53(a)(7) and training center evaluators (TCEs) in § 142.55(a)(4).

The content of a proficiency check for training center instructors and evaluators under part 142 is determined by the curricula for which those instructors and evaluators hold authority. Section 142.53, which sets forth training and testing requirements for training center instructors, requires each instructor to "satisfactorily demonstrate to an authorized evaluator knowledge of, and proficiency in, instructing in a representative segment of each curriculum for which the instructor is designated to instruct[.]" 14 C.F.R. § 142.53(a)(1). That section also requires that each instructor who instructs in qualified and approved flight training equipment must pass a written test and annual proficiency check "on the subject matter and maneuvers of a representative segment of each curriculum for which the instructor will be instructing." 14 C.F.R. § 142.53(a)(7). In the 1996 final rule that established training centers, the FAA – in response to a comment by Flight Safety International – inserted the "representative segment" language into § 142.53(a)(1). The FAA explained the additional language would allow instructors to be evaluated "in a broad sampling of all subjects." The FAA noted, however, "an evaluation must include a representative segment from each curriculum" for which the instructor holds authority. 61 FR 34508, July 2, 1996. In a correction to the final rule, the FAA inserted the same "representative segment" language into § 142.53(a)(7). 62 FR 13788, Mar. 21, 1997.

As an example, a training center instructor could be authorized to provide instruction at a part 142 training center in (1) an approved course of training for an aircraft type rating (e.g. CE-500), and (2) an approved course of training for Category II pilot authorization. A proficiency check that includes all the tasks and maneuvers required for a CE-500 type rating but does not contain any of the maneuvers required for a Category II pilot authorization would be insufficient to meet the requirements of § 142.53(a)(7) even though such a check could satisfy the requirements of § 61.58.

Section 142.55 sets forth the requirements for TCEs. A TCE must comply with the training and testing requirements that apply to training center instructors. 14 C.F.R. § 142.55(a)(2).

In addition, § 142.55(a)(4) requires a TCE who evaluates in qualified and approved flight training equipment to "satisfactorily pass a written test and annual proficiency check in a flight training simulator or aircraft in which the evaluator will be evaluating." This paragraph was not proposed in the original 1992 notice of proposed rulemaking that established training centers. 57 FR 35888, Aug. 11, 1992. Rather, the FAA inserted paragraph (a)(4) into the final rule in response to a comment that evaluators should be required to complete "an annual written test and an annual proficiency check in each flight simulator, flight training device, and/or aircraft in which the instructor will be instructing."[1] FAA policy directs that this annual proficiency check for TCEs must cover (1) the knowledge and skill areas required for original issuance of the certificate for which the evaluator holds authority, and (2) all maneuvers and procedures listed in the practical test standards for the applicable certificate or rating. The proficiency check should also include "other crewmember functions that the TCE may be expected to evaluate" such as Category II or HUD/EVS approaches. FAA Order 8900.1, Chpt 54, Sec. 2, Para. 3-4355. As such, an evaluator authorized to conduct evaluations in the example provided above would not satisfy the requirements in § 142.55(a)(4) merely by completing an evaluation that consists of all tasks and maneuvers required for certification. Such a test or check would not include all tasks, maneuvers, and functions – in this example Category II authorization – that the evaluator is authorized to evaluate.[2] The FAA notes that, an evaluator who is completing a proficiency check in accordance with § 142.55 may request that the check be taken in conjunction with a § 61.58 proficiency check so long as the evaluator accomplishes all of the maneuvers and procedures required by § 61.58.

This response was prepared by Anne Moore, an attorney in the Regulations Division of the Office of the Chief Counsel, and coordinated with the Air Transportation Division 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

[1] Although the response to the comment refers to instruction, § 142.55 addresses evaluator requirements.
[2] Under §§ 142.53(a)(7) and 142.55(a)(4), instructors and evaluators also must pass a written test in addition to passing the flight proficiency check.