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

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

JUL 11 2012

Andrew Roberts
[redacted]

Dear Mr. Roberts:

This letter is in response to your inquiry regarding whether a private pilot acting as a safety pilot, on a flight with another private pilot who is logging instrument time in simulated instrument conditions, must pay a pro-rata share of the costs of the flight under 14 C.F.R. § 61.113(a).

Section 61.113, which sets forth the privileges and limitations of a private pilot certificate, states "[e]xcept as provided in paragraphs (b) through (h) of this section, no person who holds a private pilot certificate may act as pilot in command of an aircraft that is carrying passengers or property for compensation or hire; nor may that person for compensation or hire, act as pilot in command of an aircraft." 14 C.F.R. § 61.113(a). Under § 61.113(c), a private pilot acting as pilot in command "may not pay less than the pro rata share of the operating expenses of a flight with passengers[.]"

You have suggested that a safety pilot is required to pay a pro rata share of a flight under § 61.113(c) because the safety pilot is getting compensation in the form of logging flight time while serving as safety pilot. We note that a private pilot is only required to pay a pro rata share of the expenses of the flight if he or she is (1) acting as pilot in command, and (2) the flight is carrying passengers. In the scenario you present, the FAA expects the purpose of the flight is to build aeronautical experience towards obtaining or maintaining an instrument aircraft rating. Section 91.109(b) prohibits a pilot from operating a civil aircraft in simulated instrument flight unless a safety pilot is present. As such, both pilots are required crewmembers during the portion of a flight that is conducted in simulated instrument conditions. The safety pilot is not required to pay a pro rata share of the operating expenses of the flight regardless of whether he is acting as PIC since neither individual is a passenger.

The safety pilot could offer to pay a pro-rata share of the costs of the flight, but there is no requirement that he do so, and not doing so is not a violation of § 61.113.

We hope this response is helpful to you. If you have additional questions regarding this matter, please contact my staff at (202) 267-3073. This response was prepared by Neal O'Hara, an attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the General Aviation and Commercial Division of the Flight Standards Service.

Sincerely,

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