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

Office of the Chief Counsel

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

DEC 0 4 2012

Mr. Stephen E. Schroeder
[redacted]

Dear Mr. Schroeder:

This letter is provided in response to your request for a legal interpretation sent to the Office of the Chief Counsel on August 7, 2012. In your request, you presented a recurrent training history scenario for a pilot serving in part 135 operations and then asked the agency for a determination as to the pilot's currency, based on this scenario. Specifically, in your request for a legal interpretation, you asked whether a pilot, who successfully completed recurrent training in November 2002, was current to serve as a pilot in part 135 operations in January 2004 and whether a written test regarding "company specific/general ground training" meets the requirements of 14 C.F.R. § 135.293.

Certificate holders must ensure that each pilot used in part 135 operations receives recurrent training within the 12 months prior to service. *See* 14 C.F.R. § 135.343. Each pilot must be adequately trained and proficient for the aircraft type and crewmember position involved. *See* 14 C.F.R. § 135.351(a). Recurrent pilot training for a pilot serving in part 135 operations requires the certificate holder to provide a quiz or other review to determine the pilot's knowledge of the aircraft and crewmember duty position. *See* 14 C.F.R. § 135.351(b)(1). Further, certificate holders must also provide recurrent ground training. However, it may be provided "as necessary" in the subjects required for initial ground training for pilots serving in part 135 operations. *See* 14 C.F.R. § 135.345 (requiring initial ground training for pilots to include training in general subjects and aircraft type specific subjects) and § 135.351(b)(2) (requiring certificate holders to ensure that each crewmember receives instruction as necessary in the subjects required for initial ground training, required by subpart H, as appropriate, including low-altitude windshear training and training on operating during ground icing conditions as prescribed in § 135.341 and described in § 135.345, crew resource management training as prescribed in § 135.330, and emergency training as prescribed in § 135.331). Thus, while initial ground training requires general subjects and aircraft type specific knowledge, § 135.351 allows a certificate holder to determine the appropriate amount of recurrent training.

For recurrent evaluation, the agency requires pilots serving in part 135 operations to complete a written or oral test on the pilot's knowledge in general and company specific subject areas and aircraft type specific knowledge. *See* 14 C.F.R. § 135.293(a). The agency also requires part 135 pilots to complete a competency check to determine the pilot's competence in practical skills and techniques in the aircraft type that the pilot operates. *See* 14 C.F.R. § 135.293(b). A pilot who has not successfully completed an evaluation on the

aircraft specific knowledge identified in § 135.293(a)(2) and (a)(3), has not met part 135 recurrent training and evaluation requirements.

In your request for a legal interpretation, you presented a scenario in which a pilot completed certain part 135 recurrent training in November 2002 and served in part 135 operations in January 2004.[1] The pilot then completed recurrent training and testing in February 2004. Specifically, you question whether the pilot in this scenario, who completed "company specific/general ground training" in November 2002, met part 135 recurrent training requirements in January 2004. If we assume for purposes of this legal interpretation only, that the pilot in your scenario did not complete an evaluation on the subjects identified in § 135.297(a)(2) and (a)(3), then the pilot would not meet the requirements of § 135.297 because the recurrent evaluation would be considered incomplete. Accordingly, the pilot may not serve in part 135 operations.

Your request also questions when pilot training and evaluation is due. A certificate holder may not use a pilot in part 135 operations unless the pilot has completed recurrent training and evaluation within the previous 12 months. *See* 14 C.F.R. §§ 135.293 and 135.351. However, if the pilot completes the recurrent training and evaluation in the calendar month before or the calendar month after the month in which it is required, the pilot is considered to have completed the recurrent training or evaluation in the month it was required. *See* 14 C.F.R. §§ 135.301(a) and 135.323(b). The month in which the training or evaluation is required or due may also be referred to as the base month.

If the pilot in your scenario completed all required recurrent training and evaluation in November 2002, the pilot may be current through January 2004. We note that in your scenario, you tell us the month in which the pilot completed recurrent training and evaluation but you do not tell us when the recurrent requirements are due. A pilot who completes training and evaluation in November 2002 may have a base month of October, November, or December, depending on the circumstances.

If we assume that the pilot's base month is December, and the pilot completed recurrent training and evaluation in November 2002 (the month before it was due), the pilot's next recurrent training and evaluation is still due December 2003. In this case, the pilot may complete recurrent training and evaluation in November 2003, the month before it is due (the base month) or January 2004, the month after it is due (the base month). If the pilot does not complete the recurrent requirements by the end of January 2004, the pilot must complete requalification requirements. *See* 14 C.F.R. § 135.321(b)(8). If, however, we assume that the pilot's base month is October or November, then the pilot must complete all recurrent requirements by the end of November or December respectively.

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[1] The hypothetical recurrent training history includes recurrent training and evaluation completed at various intervals from December 1999 through November 2002, as well as recurrent training and evaluation completed February 2004. However, for purposes of determining whether the pilot in this scenario is current in January 2004, the only relevant recurrent training and evaluation is that which occurred in November 2002 and February 2004.

We appreciate your patience and trust that the above responds to your concerns. If you need further assistance, please contact my staff at (202) 267-3073. This response was prepared by Sara Mikolop, Attorney, Operations Law Branch of the Regulations Division of the Office of the Chief Counsel, coordinated with the Air Transportation Division of the Flight Standards Service.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for International Law,
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