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

Office of the Chief Counsel

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

JAN 23 2013

Gregg W. Beaty, D.D.S.
[redacted]

Dear Mr. Beaty,

This is in response to your request for a legal interpretation dated August 19, 2012. In your request, you asked whether a safety pilot as second-in-command (SIC) needs an instrument rating on his pilot certificate, and whether a safety pilot as SIC needs to be instrument current per 14 CFR § 61.57.

In your request for interpretation you ask about a scenario in which a pilot flying with a view-limiting device (Pilot A) is instrument rated and current. Pilot A is also acting as pilot-in-command (PIC) for the flight. The flight is conducted in visual meteorological conditions (VMC) on an IFR flight plan. Pilot B is the safety pilot and holds a private pilot certificate in category and class of the aircraft used for the flight. Pilot B also has a current medical. In your request, you state that Pilot B will be "SIC as a required crewmember under 14 CFR § 91.109."

Section 61.55 states in pertinent part: "A person may serve as second-in-command of an aircraft type certificated for more than one required pilot flight crewmember or in operations requiring a second-in-command pilot flight crewmember. . . ." 14 CFR § 61.55(a)(2). To respond to your questions, we assume that the aircraft Pilot A is flying is type certificated for a single pilot flight crewmember. This assumption is based on the fact that you state in your request that Pilot B is a required crewmember under § 91.109, which deals with safety pilots. You do not state that Pilot B is required because the aircraft is type certificated for more than one required pilot flight crewmember, nor do you state the operation being conducted requires a second-in-command pilot flight crewmember. Because the aircraft is type certificated for a single pilot, and because the operation does not require a designated SIC (e.g. an operation conducted under 14 C.F.R. § 135.101 which requires an SIC under IFR), Pilot B is a safety pilot and not an SIC.[1] Therefore, the requirements in § 91.109 apply to Pilot B. The second-in-command requirements in § 61.55 do not apply because the aircraft is not type certificated for more than one required pilot flight crewmember and the operation being conducted does not require a second-in-command pilot flight crewmember. Additionally, § 61.57 does not apply because that section applies to recent flight experience for a pilot-in-command.

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[1] This does not preclude the safety pilot from logging time as SIC, however. *See* Legal Interpretation to Ted Louis Glenn, from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (December 1, 2009) (stating a pilot may log SIC time for the portion of the flight during which she was acting as safety pilot because the pilot was a required flight crewmember for that portion of the flight under § 91.109(b).)

In response to your first question, a safety pilot must possess at least a private pilot certificate with category and class ratings appropriate to the aircraft being flown. 14 C.F.R. § 91.109 (c)(1). Section 91.109 does not require that the safety pilot be instrument rated or instrument current.

I hope this information has been helpful. This response was coordinated with Flight Standards Service, General Aviation and Commercial Division. If you have further questions concerning this response, please contact Sabrina Jawed on my staff at 202-267-3073.

Sincerely,

Mark W. Bury
Acting Assistant Chief Counsel for
International Law, Legislation and Regulations Division
AGC-200