U.S. Department
of Transportation
Federal Aviation
Administration

Office of the Chief Counsel

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

APR 25 2013

Kenneth C. Karas
[redacted]

Dear Mr. Karas,

This is in response to your request for a legal interpretation dated August 29, 2012. In your request, you asked several questions regarding 14 CFR 91.123(a) and (b). We will respond to whether 14 C.F.R. 91.123(b) applies to a pilot flying under visual flight rules (VFR) in Class E airspace. With regard to your remaining questions, we have determined that they are not appropriate for legal interpretation.

Section 91.123 deals with compliance with ATC clearances and instructions. Section 91.123(b) states: "Except in an emergency, no person may operate an aircraft contrary to an ATC instruction in an area in which air traffic control is exercised."

Pilots flying in controlled airspace must comply with all ATC instructions, regardless of whether the pilot is flying VFR or IFR, in accordance with § 91.123(b). ATC instructions include headings, turns, altitude instructions and general directions. The Pilot/Controller Glossary of the Aeronautical Information Manual (AIM) defines ATC instructions as "[d]irectives issued by air traffic control for the purpose of requiring a pilot to take specific actions; e.g., 'Turn left heading two five zero,' 'Go around,' 'Clear the runway.'" *See* AIM, Pilot/Controller Glossary. In contrast, the Glossary defines advisory as "[a]dvice and information provided to assist pilots in the safe conduct of flight and aircraft movement." *Id.*

A pilot flying VFR in Class E airspace, which is controlled airspace, is not required to communicate with ATC; however, if a pilot is communicating with ATC and ATC issues an instruction, the pilot must comply with that instruction.

I hope this information has been helpful. This response was coordinated with Flight Standards Service - General Aviation and Commercial Division and Airspace Policy and ATC Procedures Group. 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, International Law,
Legislations & Regulations Division,
AGC-200