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

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

JUL 22 2014

Thomas M. Thorpe
Director of Compliance
FlyRight Holdings, Inc.
7275 West Winds Boulevard
Concord, North Carolina 28027

Dear Mr. Thorpe:

This letter responds to your April 25, 2014 request for a legal interpretation of 14 CFR §61.156, which was added to part 61 in the Pilot Certification and Qualification Requirements for Air Carrier Operations Final Rule. 78 Fed. Reg. 42324 (July 15, 2013)(Pilot Certification Final Rule). In particular, you asked whether a certificate demonstrating the successful completion of an airline transport pilot (ATP) knowledge test prior to August 1, 2014, would remain valid on or after August 1, 2014, given the provisions of §61.156. You assert that §61.156 permits FlyRight Holdings, an FAA-certificated part 142 training center, "to continue accepting ATP knowledge test results for students…provided those ATP knowledge test results are no more than 24 months old, on and after August 1, 2014." As explained below, we agree with your contention.

Section 61.156 requires that "*[a]fter July 31, 2014, a person who applies for* the knowledge test for an airline transport certificate with an airplane category multiengine class rating must present a graduation certificate from an authorized training provider…certifying the applicant has completed" certain academic and flight simulator training device (FSTD) training, as provided in paragraphs (a)-(b) of this section (emphasis added). As indicated above, the training prerequisites for taking an ATP knowledge test that are set forth in §61.156(a)-(b) were added in the Pilot Certification Final Rule.

Also relevant to your question are the requirements of 14 CFR §61.39. Section 61.39(a) and (d) lists the necessary qualifications that must be met before an applicant is considered qualified to take a practical test for an airline transport pilot certificate with a multiengine class rating or type rating. Among these qualifications is the requirement that an applicant must pass the requisite knowledge test. *See* §61.39(a)(1). The knowledge test results, including ATP knowledge test results as referenced in §61.156, generally remain valid and may be used to qualify for the practical test for a 24-calendar-month period. *See* §61.39(a)(1)(i). However, a knowledge test result indicating the passage of an approved ATP Certification Training Program (CTP), pursuant to §61.156, may be used by an individual to qualify for the practical test for a 60-calendar-month period before the test results will be considered expired. See §61.39(a)(1)(ii). The introductory text of §61.156 plainly requires that only those individuals who seek to take the knowledge test after July 31, 2014 (i.e. beginning on August 1, 2014), must show completion of the training program requirements in that section to qualify for the knowledge test. The qualifying language in the first line of this section -- "after July 31, 2014…" -- clearly indicates

that compliance with the requirements of §61.156 is required beginning on August 1, 2014. In addition, the text clearly limits the applicability to those persons who "apply for" the knowledge test after July 31, 2014. Since an individual with valid knowledge test results indicating a passing grade received within the previous 24 months would generally not be required by §61.39 to retake the knowledge test, unless or until the results expire, then that individual would not be required to "apply for" another knowledge test after August 1, 2014.

The regulatory text of §61.156 does not include any restrictive or limiting language that would render a valid knowledge test result (completed on or before July 31, 2014) invalid on August 1, 2014, simply by virtue of the compliance deadline for this provision.[1] As long as the knowledge test was completed successfully by an individual within the previous 24 months, the test results would remain valid for purposes of qualifying to take the practical test for an ATP certificate.

An ATP airplane multiengine knowledge test result obtained after July 31, 2014, indicates the prerequisite passage of an approved ATP Certification Training Program (CTP) pursuant to §61.156. Satisfactory results of this knowledge test may be used by an individual to qualify for the practical test for a 60-calendar-month period before the knowledge test results will be considered expired. *See* §61.39(a)(1)(ii).

The preamble to the Pilot Certification Final Rule supports this interpretation. In the preamble, the FAA specifically noted that "until August 1, 2016—the date that all knowledge test results completed without completion of the ATP CTP will have expired—air carrier training classes could be comprised of some pilots who have completed the ATP CTP and some pilots who have not completed the course." 78 Fed. Reg. 42342. Therefore, the rule clearly contemplated that some pilots would have valid knowledge test results pre-dating August 1, 2014, that would remain valid despite the addition of the ATP CTP training requirements, which only apply to those pilots who seek to take the knowledge test after July 31, 2014.

We have included the following examples in an effort to illustrate how §61.156 should be applied in practice:

Example 1. Applicant A applies for the knowledge test on July 15, 2014. Applicant A does not need to demonstrate completion of the ATP CTP at the time of the knowledge test. Applicant A passes the knowledge test on July 15, 2014. Applicant A's knowledge test results are valid for 24 calendar months. Applicant A applies to take the practical test on August 5, 2014. Because the knowledge test results have not expired, Applicant A is eligible for the practical test.

Example 2. Applicant B applies for the knowledge test on July 15, 2014. Applicant B does not need to demonstrate completion of the ATP CTP at the time of the knowledge test. Applicant B passes the knowledge test on July 15, 2014. Under §61.39(a)(1)(i), Applicant B's knowledge test results are valid for 24 calendar months. Applicant B applies to take the practical test on August

[1] We note that §61.39(b) and (c) lists the particular circumstances when an expired knowledge test may nonetheless be used to qualify for taking the practical test for an airline transport pilot (ATP) certificate. However, this interpretation is intended to focus primarily on the validity of knowledge test results, which have not yet "expired."

5, 2016. Because knowledge test results have expired, Applicant B is not eligible for the practical test. Applicant B must complete the ATP CTP and reapply for the knowledge test.[2]

Example 3. Applicant C applies to take the knowledge test on August 10, 2014. Applicant C must demonstrate successful completion of an approved ATP CTP course before he or she can be permitted to take the knowledge test. Under §61.39(a)(1)(ii), Applicant C's knowledge test results are valid for 60 calendar months.[3]

In closing, we reiterate that any unexpired knowledge test completed successfully by an individual before August 1, 2014, should be treated as valid, and may be used to qualify for the practical test after July 31, 2014, until the knowledge test results would be considered expired (i.e. within 24 months pursuant to §61.39(a)(1)(i)).

This response was prepared by Bonnie C. Dragotto, an attorney in the International Law, Legislation and Regulations Division of the Office of the Chief Counsel, and was coordinated with the General Aviation and Commercial Division and the Air Transportation Division of the Flight Standards Service. If you need further assistance, please contact our office at (202) 267-3073.

Sincerely,

Mark W. Bury
Assistant Chief Counsel for
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[2] Under § 61.39(b), Applicant B may not use an expired knowledge test result to take the practical test because he or she passed the knowledge test before August 1, 2014.

[3] Under § 61.39(b), Applicant C may take the practical test with an expired knowledge test result if he or she meets the employment requirements of that section because the applicant took the knowledge test after July 31, 2014.