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

Office of the Chief Counsel

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

MAY 21 2015

Thomas Hoy

Re: Section 61.58 proficiency checks

Dear Mr. Hoy:

This letter responds to your request for legal interpretation emailed to my office on January 21, 2015. You have asked whether § 61.58(i) creates a "grace month" during which a pilot may continue to act as pilot in command (PIC) despite his or her currency lapsing.

Under § 61.58(a), no person may act as PIC of an aircraft that is type certificated for more than one required flight crewmember or is turbojet-powered unless (1) within the preceding 12 calendar months, the pilot has completed a proficiency check in an aircraft that is type certificated for more than one required pilot flight crewmember or is turbojet-powered, and (2) within the preceding 24 calendar months, the pilot has completed a proficiency check in the particular type of aircraft in which that person will serve as PIC that is type certificated for more than one required pilot flight crewmember or is turbojet-powered.

Section 61.58(i) states that, if a pilot completes the proficiency check in the calendar month before or the calendar month after the month it is due, "the pilot is considered to have taken it in the month in which it was due for the purpose of computing when the next pilot-in-command proficiency check is due."[1]

You have asked whether the language in paragraph (i) creates a "grace month" during which a pilot whose currency has lapsed under paragraph (a) may continue to act as pilot in command. The FAA has previously stated in a legal interpretation that § 61.58 includes a "grace month" for purposes of complying with the 12- and 24-month proficiency check requirements. We did not explicitly state, however, that a pilot may continue to act as PIC during this grace month. Legal Interpretation to Sean Conlin (Feb. 24, 2000). We have indicated, however, that similar provisions in parts 121 and 135 create a "grace month" during which a pilot may to continue to act as PIC during the month after the pilot's

[1] Prior to 1997, the regulation stated: "If a pilot takes the proficiency check required by paragraph (a) of this section in the calendar month before, or the calendar month after, the month in which it is due, he is considered to have taken it in the month it is due." In the preamble to the final rule, the FAA did not explain the intended effect of the new language "for the purpose of computing when the next pilot-in-command proficiency check is due."

currency has lapsed.[2] Legal Interpretation to Gregory S. Winton (2006), Legal Interpretation to J. Dennis Vanatta (June 25, 1996).

The FAA intended the grace month to limit disruptions in operations conducted under parts 121 and 135 by accommodating pilots who are unable to complete recurrent training requirements in the month they are due. At the same time, the FAA did not want operators to use the grace month as a means of regularly extending a 12-month proficiency check to a 13-month proficiency check. For that reason, a proficiency check under part 121 or part 135 that is completed in the grace month is considered to be completed in the month it is due. The FAA believes that the same approach is appropriate for § 61.58 proficiency checks. As such, a pilot may continue to act as pilot in command during the month after a § 61.58 proficiency check is due. However, when a pilot completes a §61.58 proficiency check during this grace month, it is considered to have been completed during the month it was due for the purpose of calculating the next proficiency check.

This response was prepared by Anne Moore, an attorney in the Regulations Division of the Office of the Chief Counsel and coordinated with the Airman Training and Certification Branch of the General Aviation and Commercial Division of the Flight Standards Service. If you have any additional questions regarding this matter, please contact my office at (202) 267-3073.

Sincerely,

Lorelei Peter
Deputy Assistant Chief Counsel for Regulations

[2] Section 121.401(b) states: "Whenever a crewmember or aircraft dispatcher who is required to take recurrent training, a flight check, or a competence check, takes the check or completes the training in the calendar month before or after the calendar month in which that training or check is required, he is considered to have taken or completed it in the calendar month in which it was required. Similarly, § 135.301(a) states: "If a crewmember who is required to take a test or a flight check under this part, completes the test or flight check in the calendar month before or after the calendar month in which it is required, that crewmember is considered to have completed the test or check in the calendar month in which it is required." The language in § 61.58(i) differs from the provisions in parts 121 and 135 because it has the additional language "for the purpose of computing when the next pilot-in-command proficiency check is due."