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

MAY 12 2015

Jason R. Walker
[redacted]

Re: Foreign Pilot Eligibility for a Flight Instructor Certificate under § 61.73

Dear Mr. Walker:

This letter responds to your November 23, 2014 request for a legal interpretation, requesting clarification as to your eligibility for an FAA-issued flight instructor certificate under § 61.73 of Title 14 of the Code of Federal Regulations (14 CFR). In your letter, you describe yourself as a "member of the Canadian Air Force . . . presently stationed at Fort Rucker, Alabama, on a three-year military exchange as a [Chinook] CH-47F Instructor Pilot (IP) with the U.S. Army." You also note that you "recently obtained [an] FAA Commercial pilot certificate (with Chinook endorsement) based on [your] U.S. military qualifications," and that you are "now trying to do the same for" your instructor certificate and ratings. You also state that you have been "trained by the U.S. Army to the same standard and level of qualification as [your] U.S. Army [instructor pilot] peers." However, despite your U.S. military training, as a military pilot from a foreign country you are not eligible under § 61.73 for a flight instructor certificate.

Section 61.73 sets out numerous "special rules" by which current and former military pilots may obtain pilot or flight instructor certificates from the FAA. The section begins with § 61.73(a), which states that a current or former military pilot "in the U.S. Armed Forces" may obtain a commercial pilot certificate if certain other conditions are satisfied. Subsequent paragraphs of § 61.73 refer back to § 61.73(a)—including § 61.73(c), which sets out the special rule for military pilots from certain foreign countries, including Canada.[1] Section 61.73(c) states that "a person who is a military pilot in the Armed Forces of a foreign [ICAO Member State] and is assigned to pilot duties in the U.S. Armed Forces . . . may apply for a commercial pilot certificate and ratings under [§ 61.73(a).]" However, neither § 61.73(a) nor § 61.73(c) provides a means by which a military pilot from a foreign contracting State may obtain a *flight instructor certificate* from the FAA.

You also note in your letter § 61.73(g), which sets out how a current or former "U.S. military pilot" may obtain a flight instructor certificate and ratings. That section, however, is not applicable to you as a foreign pilot on assignment to the U.S. military. The express terms of § 61.73(g) state that only a "person who can show . . . documentation of being a

[1] More specifically, § 61.73(c) applies to "a pilot in the Armed Forces of a foreign contracting State to the Convention on International Civil Aviation"—in other words, a Member State of the International Civil Aviation Organization (ICAO)—who is "assigned to pilot duties in the U.S. Armed Forces . . . ." Canada is an ICAO Member State, and a list of other such States is available at *http://www.icao.int/MemberStates/Member%20States.English.pdf.*

U.S. military instructor pilot or U.S. military pilot examiner . . . may apply for and be issued a flight instructor certificate . . . ." (Emphasis added.) You describe in your letter that you have received training from the U.S. military "to the same standard and level of qualification as your U.S. Army [instructor pilot] peers." In this case, however, the plain language § 61.73, as well as the regulatory history supporting the rule, clearly differentiate between "U.S. military pilots" and foreign pilots "assigned to pilot duties in the U.S. Armed Forces." It would therefore be inappropriate to interpret the term "U.S. military instructor pilot" in § 61.73(g) to include foreign military personnel on assignment with the U.S. military.

This response was prepared by Benjamin Jacobs, an attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the Airman Certification and Training Branch (AFS-810) of the Flight Standards Service. If you need further assistance, please contact our office at (202) 267-3073.

Sincerely,

Lorelei Peter
Deputy Assistant Chief Counsel for Regulations