



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

Office of the Chief Counsel

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

JAN - 4 2010

Taylor Grayson
6900 Amersham Drive
Memphis, TN 38119

Dear Mr. Grayson:

This letter responds to the request for a legal interpretation that you mailed to this office on August 25, 2009. Your letter seeks clarification regarding the flight instructor limitations and qualifications set forth in 14 CFR § 61.195. Specifically, you have asked whether a flight instructor who holds only an instrument-airplane rating on his or her flight instructor certificate may conduct instrument training in a single or multiengine airplane if he holds those ratings only on his commercial pilot's certificate.

In order to be eligible for a flight instructor certificate under 14 CFR § 61.183, a person must hold either a commercial pilot certificate or an airline transport pilot (ATP) certificate with the aircraft category and class rating that is appropriate to the flight instructor rating sought. In addition, if the person is applying for a flight instructor certificate with an airplane category and class rating, a powered-lift rating, or an instrument rating, the pilot certificate must also contain an instrument rating or privileges that are appropriate to the flight instructor rating sought. For example, in order to obtain a flight instructor certificate with an airplane multiengine class rating, a person must first hold a commercial pilot certificate with an airplane multiengine class rating and instrument-airplane rating or an ATP certificate with an airplane multiengine class rating.

Section 61.195(b), which addresses flight instructor limitations and qualifications with regard to aircraft ratings, directs that a flight instructor may not conduct flight training in any aircraft for which he does not hold "a pilot certificate and flight instructor certificate with the applicable category and class rating[.]" As such, a flight instructor is precluded from providing flight training in a specific class of airplane if the instructor does not have that class rating on his or her flight instructor certificate.

Revised § 61.195(c), which became effective on October 21, 2009, addresses flight instructor limitations and qualifications with regard to instrument ratings. It states that "[a] flight instructor who provides instrument training for the issuance of an instrument rating, a type rating not limited to VFR, or the instrument training required for commercial pilot and air transport pilot certificates must hold an instrument rating on his or her pilot certificate and flight instructor certificate that is appropriate to the category and class of aircraft used for the training provided."

As you noted in your letter, the rule formerly stated that “a flight instructor providing instrument training for issuance of an instrument rating or a type rating not limited to VFR must hold an instrument rating on his or her flight instructor certificate and pilot certificate that is appropriate to the category and class of aircraft in which the instrument training is being provided.” You suggested that the change in the order of the certificates in this provision now restricts a flight instructor from providing instrument training in a particular class of airplane if the instructor does not have that class rating on his flight instructor certificate.

As we recently noted in the preamble of the Pilot, Flight Instructor, and Pilot School Certification Final Rule (74 FR 42500, Aug. 21, 2009) the revision to § 61.195(c) was intended to clarify that, in order to provide the instrument training required for a commercial pilot certificate or ATP certificate, a flight instructor must have an instrument rating on his flight instructor certificate that is applicable to the aircraft category for which the training is provided. We distinguished this requirement from the qualifications required for those instructors who provide flight training on the “basic instrument maneuvers” in § 61.107 and the “control and maneuvering of an airplane solely by reference to the instruments” in § 61.109 necessary for private pilot certification. Flight instructors providing this type of flight training are not required to have an instrument rating on their flight instructor certificates.

In addition to clarifying that a flight instructor providing instrument flight training for a commercial or ATP certificate must have an instrument-airplane rating on his or her flight instructor certificate, we explained that, under § 61.195, a flight instructor may not conduct instrument flight training in a multiengine airplane unless that flight instructor holds the appropriate airplane category multiengine class rating on both his or her pilot certificate and flight instructor certificate. This requirement also applies to instrument flight training for the issuance of an instrument rating and type rating not limited to VFR. We note that FAA Order 8900.1, 5-503, which you referenced in your letter, is inconsistent with the current regulation.

This response was prepared by Anne Moore, an Attorney in the Regulations Division of the Office of the Chief Counsel and coordinated with the Certification and General Aviation Operations Branch of Flight Standards Service. We hope this response has been helpful to you. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,



Rebecca B. MacPherson
Assistant Chief Counsel Regulations Division, AGC-200