



U.S. Department  
of Transportation

**Federal Aviation  
Administration**

OCT 17 2009

Office of the Chief Counsel

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

Randy Haralson  
1136 Von Trina Drive  
Elberton, GA 30635

Dear Mr. Haralson:

This letter responds to the request for a legal interpretation that you mailed to this office on May 27, 2009. Your letter seeks clarification concerning the aeronautical experience requirements for an instrument rating under 14 C.F.R. § 61.65(d). Specifically, you have asked whether an applicant for an instrument flight test may satisfy the required “50 hours of cross-country flight time as pilot in command” by crediting flight time with an instructor in actual instrument conditions during which time the applicant was the sole manipulator of the controls. The answer is yes.

Subsection 61.51(e) permits a pilot to log pilot-in-command time during the time that he or she is “the sole manipulator of the controls of an aircraft for which the pilot is rated[.]” As you note, there is a distinction between logging pilot-in-command time for the purpose of meeting aeronautical experience requirements and acting as pilot in command for the purpose of determining who has final authority and responsibility for the operation and safety of the flight.

Subsection 61.65(d), which governs the aeronautical experience requirements for an instrument-airplane rating, directs that an applicant for such rating “must have logged . . . [a]t least 50 hours of cross-country flight time as pilot in command, of which 10 hours must have been in an airplane[.]” You suggest that, because the language in § 61.65(d)(1) requires logging “cross-country flight time as pilot in command” rather than logging “pilot-in-command flight time,” a non-instrument-rated pilot operating an aircraft with an instructor in actual instrument conditions may not use this time to satisfy the cross-country flight time requirement even though he is the sole manipulator of the controls. In support, you cite § 61.3(e), which provides that no person may “act as pilot in command under IFR or in weather conditions less than the minimums prescribed for VFR flight” unless, among other things, that person holds the appropriate instrument rating for the airplane being flown.

Although § 61.65(d)(1) refers to logging time “as pilot in command” rather than the more frequently referenced logging “pilot-in-command time,” the fundamental purpose of the subsection is to set forth the requisite aeronautical experience for obtaining an instrument rating rather than establishing legal responsibility for the operation of a flight. Assuming that the required criteria for a valid cross-country flight exist and the pilot in question holds the appropriate aircraft rating, the applicant for an instrument flight test may satisfy the required “50 hours of cross-country flight time as pilot in command” by crediting flight time

with an instructor in actual instrument conditions during which time the applicant was the sole manipulator of the controls. This position is consistent with an earlier interpretation, wherein we indicated that the requirements of § 61.65(d)(1) and (d)(2) – 40 hours of actual or simulated instrument time – may be accrued concurrently.

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,

A handwritten signature in black ink, appearing to read "Rebecca B. MacPherson", with a long horizontal flourish extending to the right.

Rebecca B. MacPherson  
Assistant Chief Counsel, Regulations Division