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

Office of the Chief Counsel

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

JUN 2 2009

Ronald B. Levy
[redacted]

Dear Mr. Levy:

This responds to your February 13, 2009, emailed request for a legal interpretation. Your email requested clarification concerning what constitutes dual controls required for flight instruction under 14 C.F.R. § 91.109(a).

Your email discusses an interpretation issued in 2000 that states brakes are not required "dual controls" under section 91.109(a). Your email asks whether power controls are required at both control stations to constitute dual controls for flight instruction or whether flight instruction could be given in an aircraft without power controls accessible at the second control station. Your email also notes that section 91.109 uses the term "flight instruction," but 14 C.F.R. § 61.1(b)(6) defines the term "flight training." "Flight instruction" and "flight training" have been used interchangeably by the FAA in several rulemakings and legal interpretations, and both terms mean "training, other than ground training, received from an authorized instructor in flight in an aircraft." 14 C.F.R. § 61.1(b)(6). For the purposes of this response, the term "flight instruction" will be used because that term is used in section 91.109.

Section 91.109(a) states, in relevant part, that no person may operate a civil aircraft being used for flight instruction unless that aircraft has fully functioning dual controls. Additionally, there are two regulations that provide guidance in answering the question presented. Section 61.45(c) of 14 C.F.R. states, in relevant part, that an aircraft used for a practical test must have engine power controls and flight controls that are easily reached and operable by both pilots unless the examiner determines that the practical test can be conducted safely. Section 141.39(d) of 14 C.F.R. states, in relevant part, that each aircraft used in flight training must have "at least two pilot stations with engine-power controls that can be easily reached and operated in a normal manner from both pilot stations."

In 2000, the FAA issued an interpretation that the definition of dual controls under section 91.109(a) does not include brakes. *See* Interpretation to Robert Hackman (April 4, 2000). That interpretation stated that the "term 'dual control' under section 91.109(a) refers to flight controls (e.g., pitch, yaw, and roll controls)." *Id.* That interpretation did not address whether power controls are included in the definition of "dual controls" because the question presented concerned only brakes. However, the use of "e.g., pitch, yaw, and roll controls" does not exclude power controls from the dual controls definition because pitch, yaw, and

roll controls were provided as nonexclusive examples of required flight controls. Accordingly, section 91.109(a) requires that engine power controls must be easily reached and operable from both pilot stations during flight instruction. This conclusion is supported by similar requirements in sections 61.45(c) and 141.39(d). However, the FAA does not require aircraft to be equipped with two sets of power controls (as is implied by the term "dual controls") provided that the power controls are accessible and operable from both pilot stations.

This response was prepared by Robert Hawks, an Attorney in the Regulations Division of the Office of 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 for Regulations, AGC-200