1999 WL 34788057 (D.O.T.)

Department of Transportation (D.O.T.)

Federal Aviation Administration

Legal Interpretation

Interpretation 1999-11

August 27, 1999

Marshall S. Filler

**\*1** Thank you for your letter dated August 9, 1999, to the Office of the Chief Counsel, Federal Aviation Administration (FAA), requesting the review of a legal interpretation issued on March 18, 1999, to Mr. Frederick A. Stein, Manager, Flight Standards District Office (FSDO), Teterboro Airport. The interpretation concerned the duty time limit for training center instructors under section 142.49(c)(1) ([14 CFR section 142.49(c)(1))](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000547&cite=14CFRS142.49&originatingDoc=I776cbda13ae111dc8120b359c1a23e50&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Search)). Specifically, this section provides that “a training center may not allow an instructor to, excluding briefings and debriefings, conduct more than 8 hours of instruction in any 24-consecutive-hour period.” The interpretation stated that this duty time limit applies to classroom instructors, flight simulator instructors, and flight instructors employed by a part 142 training center while instructing in the classroom, flight simulator, aircraft, or any combination thereof. The interpretation was based on the plain reading of the rule language.

In your letter you state that you represent Flight Safety International (FSI) and that it is FSI's position that [section 142.49(c)(1)](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000547&cite=14CFRS142.49&originatingDoc=I776cbda13ae111dc8120b359c1a23e50&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Search)) does not apply to classroom instructors or classroom instruction. Your position is based upon several references in the preambles of both the notice of proposed rulemaking (NPRM) and the final rule that established 14 CFR part 142. These references imply that subpart C (14 CFR part 142, subpart C), which includes [section 142.49(c)(1)](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000547&cite=14CFRS142.49&originatingDoc=I776cbda13ae111dc8120b359c1a23e50&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Search)), applies only to those instructing in an aircraft, a flight simulator, or a flight training device. Accordingly, you urge the FAA to review all pertinent information (the preambles to the NPRM and final rule of 14 CFR part 142, the comments received in response to that rulemaking, etc.) and revise the March 18, 1999, legal interpretation of [section 142.49(c)(1)](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000547&cite=14CFRS142.49&originatingDoc=I776cbda13ae111dc8120b359c1a23e50&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Search)).

After an extensive review of the preambles to the NPRM and the final rule of 14 CFR part 142, we have concluded that it was reasonable for commenters to think that subpart C did not apply to classroom instructors or classroom instruction. As a result, the issue of classroom instructors and classroom instruction under subpart C, in particular the applicability of duty time limitations, was not adequately put forth for comment. Therefore, this interpretation revises the March 18, 1999, interpretation to the manager of the Teterboro FSDO. Subpart C, in pertinent part [section 142.49(c)(1)](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000547&cite=14CFRS142.49&originatingDoc=I776cbda13ae111dc8120b359c1a23e50&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Search)), is interpreted to apply only to flight instructors, flight simulator instructors, and flight training device instructors while instructing in an aircraft, a flight simulator, a flight training device, or any combination thereof. Subpart C is not interpreted to apply to classroom instructors or classroom instruction.

A copy of this interpretation will be sent to the manager of the Teterboro FSDO. We hope this satisfactorily answers your question.

Donald Byrne

Assistant Chief Counsel

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