



James Sloan

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Dear Mr. Sloan:

This responds to your two letters sent to the Federal Aviation Administration (FAA) Chief Counsel dated September 25, 2020 requesting a legal interpretation. The request is specific to Title 14 of the Code of Federal Regulations (14 CFR) part 61, 61.129(a)(4)(ii) as it pertains to night takeoff and landing experience requirements, and §61.57(c) regarding instrument experience (currency) requirements. The Office of the Chief Counsel determined that your questions do not constitute a novel legal issue and forwarded your inquiry to the General Aviation and Commercial Division.

**Question #1:** Must takeoff and landings performed to meet §61.129(a)(4)(ii) requirements be to a full stop?

**Answer:** No. The language in §61.129(a)(4)(ii) does not stipulate that the landings must be to a full stop.

**Question #2:** Must landings performed to meet §61.109 or §61.129 requirements be performed between one hour after sunset and one hour before sunrise?

**Answer:** No. Sections 61.109 and 61.129 only state that the requisite takeoffs and landings be conducted at night. Section 1.1 defines night as the time between the end of evening civil twilight and the beginning of morning civil twilight, as published in the Air Almanac, converted to local time.

**Question #3:** Absent additional, specific language requiring full stop or a specific definition of “night”, why would the general definition of “night” from 14 CFR 1.1 not prevail?

**Answer:** The definition of “Night” under Part 1.1 is applicable. See answer to question #2.

You describe that several designated pilot examiners (DPEs) contend that the night landing experience requirements listed under §61.109 and §61.129 must meet the requirements of §61.57(b).

Section 61.57 contains the recent flight experience requirements for an individual to maintain pilot in command (PIC) privileges. However, the §61.57(b) PIC experience criteria for night takeoffs and landings do not have any bearing on the night takeoff and landing requirements listed in §61.109 or §61.129.

**Question #4:** Why would the landings for 14 CFR §61.129 be required to be made to a full stop?

**Answer:** They are not. Specific to §61.129(a)(4)(ii), these minimum takeoff and landing experience requirements are not required to be to a full stop.

To summarize, the second letter you provided to the Chief Counsel's office, also dated September 25, 2020, you requested an interpretation of §61.57(c) specific to instrument experience (currency) requirements. In your letter, you state that the regulation is ambiguous concerning how a pilot with an instrument rating might regain privileges to act as PIC during instrument meteorological conditions.

**Question #5:** May [a]the pilot fly in instrument conditions in controlled airspace on a IFR flight plan with another pilot who is not a CFII to order to regain currency?

**Answer:** Yes, the pilot may fly in instrument meteorological conditions (IMC), however someone on board the aircraft must be designated as the PIC for the flight and otherwise qualify to act as PIC under the requirements of §61.57(c).

In your second letter you provide the following scenario and conditions:

- Pilot A performed three approaches in January and three approaches, holds and intercepting and tracking navigational aids in March. To act as PIC after July 31, he must regain currency.
- Pilot B agrees to fly with pilot A on an IFR flight plan, allowing pilot A to be the sole manipulator of the controls and perform three approaches during which he remains in instrument meteorological conditions (IMC) on all segments of the approach.
- Pilot A is rated in the aircraft (which requires only one pilot or crewmember).
- Pilot B is rated in the aircraft, instrument current, has a valid medical and flight review, and is otherwise qualified to act as PIC of the flight.
- Pilot B is not a certificated flight instructor (CFI) or instrument instructor.

In response to your questions.

**Question #6:** Does pilot A regain his currency in this scenario?

**Answer:** Yes. However, pilot A would need to be the sole manipulator of the controls performing all the required tasks listed in §61.57(c)(1). This assumes you are referring to this pilot regaining currency after completion of the required tasks during flights in January and March of the same year.

**Question #7:** What other requirements, if any, are there for pilot A to regain his currency?

**Answer:** None. As long as pilot A has accomplished all of the required tasks listed in §61.57(c), in the previous six calendar months.

**Question #8:** May pilot B log any time in this scenario?

**Answer:** No. Pilot B would only be “acting” as the PIC. (See Speranza Legal Interpretation (Dec. 4, 2009) and Walker Legal Interpretation (Dec. 14, 2011)).


**Question #9:** Is pilot A a passenger with respect to pilot B?

**Answer:** Yes. Since the scenario you describe has pilot B “acting” as the PIC (who is not a Flight Instructor with an Instrument-Airplane or Instrument-Helicopter rating) and the aircraft operation only requires one crewmember, anyone else on board the aircraft would be considered a passenger. However, pilot A can log pilot PIC time while sole manipulator of the controls, if appropriately rated for the aircraft. [see §61.51(e)(1)]

Please contact the Airmen Training and Certification Branch at 202-267-1100 or [9-AFS-800-Correspondence@faa.gov](mailto:9-AFS-800-Correspondence@faa.gov) should you have any further questions.

Sincerely,

**EVERETTE C  
ROCHON JR**

 Digitally signed by EVERETTE  
ROCHON JR  
Date: 2020.11.06 07:11:17 -05'

Everette C. Rochon, Jr.  
Aviation Safety  
Manager, Airmen Training and Certification Branch  
General Aviation and Commercial Division

Enclosures (2)

September 25, 2020

Ms. Lorelei Peter, Assistant Chief Counsel  
Federal Aviation Administration  
800 Independence Avenue SW  
Washington, DC 20591

Ms. Peter:

I write to request an interpretation of the requirements of 14 CFR part 61.57(c), which states that a pilot who has not performed the requisite approaches, holds, and navigation in the 6 months preceding the month of a flight may not act as PIC in instrument conditions. The regulation is ambiguous as to how that pilot may regain the ability to act as PIC once it is lost. Specifically, may the pilot fly in instrument conditions in controlled airspace on an IFR flight plan with another pilot who is not a CFII in order to regain currency?

Let me offer a specific scenario:

- Pilot A performed 3 approaches in January and 3 approaches, holds, and intercepting and tracking navigational aids in March. To act as PIC after July 31, he must regain currency.
- Pilot B agrees to fly with pilot A in instrument conditions on an IFR flight plan, allowing Pilot A to be the sole manipulator of the controls and perform 3 approaches during which he remains in IMC on all segments of the approach.
- Pilot A is rated in the aircraft (which requires only one pilot or crewmember).
- Pilot B is rated in the aircraft, instrument current, has a valid medical and flight review, and is otherwise qualified to act as PIC of a flight. Pilot B is not a CFI or CFII.

Specific questions:

- a) Does Pilot A regain his currency in this scenario?
- b) What other requirements, if any, are there for Pilot A to regain his currency?
- c) May Pilot B log any time in this scenario?
- d) Is Pilot A a passenger with respect to Pilot B?

Thank you for your consideration of this matter.

James Sloan, Commercial Pilot, Flight Instructor, and Airplane Owner

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