

MAR 20 2003



U.S. Department  
of Transportation

**Federal Aviation  
Administration**

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

March 18, 2003

John S. Yodice  
General Counsel  
Aircraft Owners and Pilots Association  
421 Aviation Way  
Frederick, MD 21701-4798

Dear Mr. Yodice:

This is in further response to your letter of September 18, 2002, regarding whether states may regulate the activities of flight schools and flight instructors, or otherwise impose restrictions on persons seeking to obtain initial or advanced flight instruction, and to bring to your attention a recent FAA rulemaking action that is relevant to your inquiry.

On January 24, 2003, the FAA published a direct final rule that provides for the immediate suspension or revocation of a pilot certificate, or the immediate abatement or termination of an application for an airman certificate, of any person found by the Transportation Security Administration (TSA) to pose a security threat. This regulation (copy attached) is a companion to one issued on the same date by the TSA, dealing with the process for making such determinations. Both the FAA and TSA regulations were prompted by the tragic events of September 11, 2001, and the subsequent enactment by Congress of the Aviation and Transportation Security Act, Public Law 107-71, directing the Undersecretary of Transportation for Security to establish procedures to notify the Administrator of the FAA of the identity of persons known to pose, or suspected of posing, a risk to aviation security. Under the new regulatory scheme, persons who pose a security threat as determined by the TSA are ineligible to hold FAA airman certificates.

As I stated in my previous letter, we believe that the regulation of airman qualifications is appropriate only at the federal level, and these recent rulemakings by both the FAA and the TSA are further evidence of that fact.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Whitlow".

James W. Whitlow  
Deputy Chief Counsel