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

MAR - 1 2012

Susan Fournier, Managing Director
Aviation Designee Association
111 Hunter Road
Freeport, Maine 04032

Dear Susan:

We have received your August 24, 2011, request for a legal opinion on the requirements of 14 CFR § 21.329 and § 21.331. Those sections provide:

**§ 21.329 Issuance of export certificates of airworthiness.**

(a) A person may obtain from the FAA an export certificate of airworthiness for an aircraft if—
(1) A new or used aircraft manufactured under subpart F or G of this part meets the airworthiness requirements under subpart H of this part for a—
(i) Standard airworthiness certificate; or
(ii) Special airworthiness certificate in either the "primary" or the "restricted" category; or
(2) A new or used aircraft not manufactured under subpart F or G of this part has a valid—
(i) Standard airworthiness certificate; or
(ii) Special airworthiness certificate in either the "primary" or the "restricted" category.
(b) An aircraft need not meet a requirement specified in paragraph (a) of this section, as applicable, if—
(1) The importing country or jurisdiction accepts, in a form and manner acceptable to the FAA, a deviation from that requirement; and
(2) The export certificate of airworthiness lists as an exception any difference between the aircraft to be exported and its type design.

**§ 21.331 Issuance of export airworthiness approvals for aircraft engines, propellers, and articles.**

(a) A person may obtain from the FAA an export airworthiness approval to export a new aircraft engine, propeller, or article that is manufactured under this part if it conforms to its approved design and is in a condition for safe operation.
(b) A new aircraft engine, propeller, or article need not meet a requirement of paragraph (a) of this section if—
(1) The importing country or jurisdiction accepts, in a form and manner acceptable to the FAA, a deviation from that requirement; and

(2) The export airworthiness approval lists as an exception any difference between the aircraft engine, propeller, or article to be exported and its approved design.
(c) A person may obtain from the FAA an export airworthiness approval to export a used aircraft engine, propeller, or article if it conforms to its approved design and is in a condition for safe operation.
(d) A used aircraft engine or propeller need not meet a requirement of paragraph (c) of this section if—
(1) The importing country or jurisdiction accepts, in a form and manner acceptable to the FAA, a deviation from that requirement; and
(2) The export airworthiness approval lists as an exception any difference between the used aircraft engine or propeller to be exported and its approved design.

In your letter you posed two questions:

Question 1: Would Chief Counsel agree that since the current and effective § 21.329(b) appears to provide relief from the §21.329(a)(2), in that eligible aircraft need not be issued a Standard (FAA Form 8100-2) or Special (FAA Form 8130-7) airworthiness certificate prior to export, as long as the provisions of § 21.329(b) are compiled with?

Answer 1: Yes, paragraph § 21.329(b) permits the issuance of an export certificate of airworthiness if the conditions of that paragraph are met.

Question 2: Would Chief Counsel agree that since the current and effective § 21.331(b) and (d) appear to provide relief from § 21.331(a) and (c) respectively, that a new or used engine, using the example sited, would be eligible for export to a third country as long as the provisions of § 21.331(b) or (d) as applicable, are compiled with?

Answer 2: Yes, paragraphs § 21.331 permits the issuance of export airworthiness approvals if the conditions of the respective paragraphs are met.

We trust that the above responds to your concerns. If you need further assistance, please contact me at (202) 267-3073. This response was prepared by John King, Staff Attorney, Regulations Division of the Office of the Chief Counsel, and coordinated with the Production and Airworthiness Division of the Aircraft Certification Service.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for Regulations

Enclosure [Copy of ADA Letter dated August 24, 2011]