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

Office of the Chief Counsel
800 Independence Ave., SW.
Washington, DC 20591

DEC 11 2013

David Seavy
V.P. and General Manager
Aerospace Turbine Rotables, Inc.
3414 29th Street S.
Wichita, KS 67217

Re: Request for Legal Clarification Regarding When the FAA Would Take Action to Enforce 14 C.F.R. § 21.50(b) Requiring a Design Approval Holder to Provide Instructions for Continued Airworthiness (ICA) to a Person Entitled to Them, and Which FAA Entity Would Pursue that Enforcement.

Dear Mr. Seavy:

Thank you for your August 5 letter asking when the FAA, and which entity within the agency, would enforce the provision in 14 C.F.R. § 21.50(b) requiring a Design Approval Holder (DAH) to provide Instructions for Continued Airworthiness (ICA) to a person required to comply with any of the terms of those instructions. First, we note that your question does not seek a legal interpretation of a regulation. Rather, it implicates agency policy issues best addressed to one of the FAA's program offices that oversees either DAHs (Aircraft Certification Service) or maintenance (Flight Standards Service).

The FAA's position that DAHs must make ICA available to product owners, and to any other person required to comply with any of the terms of those instructions, has been articulated over the years in FAA legal opinions[1] and in the agency's Policy Memorandum No. AIR-100-11-002 you enclosed with your letter. Our opinion remains that section 21.50(b) requires DAHs to provide ICA to those persons who fit the descriptions in the regulation—product owners or any other person required to comply with any of the terms of those instructions.

On the information you provided, we cannot state with any certainty the answer to your question: "What time period must lapse before the FAA will determine that non responsiveness to appropriate written requests constitutes noncompliance of 14 CFR § 21.50(b)?" Each case must be addressed based on its own circumstances and merits; therefore, we cannot provide a definitive answer. Similarly, we cannot provide a definitive answer to your second question: "Who is the enforcing entity within the FAA if ICAs are denied?"

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[1] See Letter Interpretation to Sarah MacLeod, Aeronautical Repair Station Association, dated August 9, 2012, and Letter Interpretation to David Rain, Alcor Engine Company, Inc., dated April 14, 2003 (copies enclosed).

Enforcement actions generally result from an investigation of a possible regulatory violation conducted by the appropriate program office. With regard to non-compliance with section 21.50, the matter would be handled by a program office in the agency's Aircraft Certification Service or in its Flight Standards Service. If the program office determines that legal enforcement action is warranted, it refers the matter to an FAA legal office. That office, in turn, will review the evidence presented. If the evidence establishes a regulatory violation, the legal office generally will begin a legal enforcement proceeding.

We regret that we are unable to provide a legal clarification of your issue—again, this is because your questions implicate policy determinations made by FAA program offices. This response was prepared by Edmund Averman, an Attorney in the International Law, legislation, and Regulations Division in the Office of the Chief CounselIf you have any other questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Mark W. Bury
Assistant Chief Counsel for International Law,
Legislation, and Regulations, AGC-200

Enclosures