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

Office of the Chief Counsel

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

Memorandum

Date: November 27, 2024

To: Lawrence Fields, Executive Director, Flight Standards Service, AFX-1

From: Laura Megan-Posch, Assistant Chief Counsel for Regulations, AGC-200

Cc: Lynsey Scott, Manager, AGC-240

Subject: Rescinding the Ratini Legal Interpretation (Apr. 30, 2014)

LAURA JANE MEGAN-POSCH
Digitally signed by LAURA JANE MEGAN-POSCH
Date: 2024.12.04 07:27:32 -05'00'

This memorandum memorializes that the Ratini Legal Interpretation (Apr. 30, 2014) is rescinded as of December 2, 2024.[1] The purpose of the Ratini Legal Interpretation was to explain whether the carriage of government furnished equipment and personnel to conduct flight test services constituted carriage for compensation or hire under § 91.319. The Office of the Chief Counsel is rescinding this Legal Interpretation because it is no longer necessary due to subsequent updates to FAA regulations.[2] Therefore, the Ratini Legal Interpretation is no longer valid and may not be relied upon for any purpose. If you require further assistance, please contact my staff.

[1] See Public Aircraft Logging of Flight Time, Training in Certain Aircraft Holding Special Airworthiness Certificates, and Flight Instructor Privileges Notice of Proposed Rulemaking (NPRM), 88 FR 41194 (June 23, 2023). This NPRM stated that the Ratini Legal Interpretation (Apr. 30, 2014) would be rescinded should the NPRM's proposed modifications to part 91 become final. The final rule was published on October 2, 2024, with an effective date of December 2, 2024, 89 FR 80310 (Oct. 2, 2024).

[2] See Public Aircraft Logging of Flight Time, Training in Certain Aircraft Holding Special Airworthiness Certificates, and Flight Instructor Privileges Final Rule, 89 FR 80310 (Oct. 2, 2024).

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APR 30 2014

Joy Ratini
BAE Systems
16880 Flight Systems Drive
Mojave, CA 93501-2002

Dear Ms. Ratini,

This letter is in response to a request for a legal interpretation that we received from BAE Systems on September 17, 2013. Specifically, the request involves the conduct of flight test services for the Naval Air Warfare Center Weapons Division (NAWCWD) using BAE aircraft certificated in the experimental category (N39[illegible] and N442RM). The services are to include the carriage of government furnished equipment and personnel to conduct the testing under a contract between BAE and NAWCWD.

The request for interpretation acknowledged that the experimental certificates for each aircraft contain the following operating limitations:

> (12) No person may operate this aircraft for carrying persons or property for compensation and hire, and
>
> (13) No person may be carried on this aircraft during flight unless that person is essential to the purpose of the flight.

The basis for these operating limitations is found in 14 C.F.R. § 91.319, which provides in pertinent part:

> **§91.319 Aircraft having experimental certificates: Operating limitations.**
>
> (a) No person may operate an aircraft that has an experimental certificate—
> (1) For other than the purpose for which the certificate was issued; or
> (2) Carrying persons or property for compensation or hire.
>
> * * * * *
>
> (i) The Administrator may prescribe additional limitations that the Administrator considers necessary, including limitations on the persons that may be carried in the aircraft.

Rescinded

Under the terms of the contract, BAE Systems would be carrying the property and persons of NAWCWD for compensation and hire. The FAA has interpreted "compensation and hire" broadly[1] and the contract services are just that, services that BAE is being compensated for.

The experimental certificate for research and development is limited to BAE's use of the aircraft for its own research and development, using BAE equipment and personnel. As such, BAE could only conduct these services for NAWCWD as a public aircraft operation with NAWCWD's approval and written declaration of that status to BAE. BAE cannot conduct the operations under contract to NAWCWD using NAWCWD property and personnel and comply with the operating limitations of its experimental certificates.

We appreciate your patience and trust that the above responds to your concerns. If you need further assistance, please contact my staff at (202) 267-3073. This letter has been prepared by Robert H. Frenzel, Manager, Operations Law Branch, Office of the Chief Counsel and coordinated with the Air Transportation and Aircraft Maintenance Divisions of Flight Standards Service.

Sincerely,

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

Encl.

Rescinded

[1] *See*, Letter to Bob Shaw from Rebecca B. MacPherson, Assistant Chief Counsel, Regulations Division (Feb. 4, 2008). *See also*, Letter to Gregory Winton from Mark W. Bury, Acting Assistant Chief Counsel for International Law, Legislation and Regulations (Feb. 14, 2013). Copies attached.