U.S. Department
of Transportation
Federal Aviation Administration

Office of the Chief Counsel

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

SEP -8 2014

Mr. Steven Saint Amour
Managing Director
Eclipse Group, Inc.
1997 Annapolis Exchange Parkway, Suite 300
Annapolis, MD 21401

Dear Mr. Saint Amour:

This letter is in response to your request for a legal interpretation concerning whether a part 141 Pilot School can conduct aerial survey work for hire under 14 CFR 119.1(e)(4). Your company is a U.S. Navy contractor that is routinely requested to provide fixed-wing aircraft for aerial observation of affected ocean areas. You further state that your vendor options are limited in some cases, and you inquire whether you can subcontract with a part 141 Pilot School to perform the aerial survey for hire.

In general, when a flight involves the carriage of persons or property for compensation or hire, the operator must hold a part 119 air carrier or commercial operator certificate and operate such flights under part 121 or 135 rules. However, part 119 provides certain exceptions for several categories of operations involving the use of an aircraft for compensation or hire, such as aerial work operations, and those operations are excluded from the certification requirements of part 119. *See* § 119.1(e)(4); Legal Interpretation to Gregory S. Winton from Mark W. Bury, Acting Assistant Chief Counsel for International Law, Legislation, and Regulations (Feb. 14, 2013). Persons conducting operations described in § 119.1(e) may conduct an operation that would otherwise require a part 119 certification under part 91 rules.[1]

The FAA has consistently interpreted the term "aerial work" to mean work done from the air with the same departure and destination points, no property of another is carried on the aircraft, and only passengers essential to the operation are carried on board the aircraft. *See id.* Therefore, so long as the aerial work operations are conducted as defined above, you may subcontract with an operator that does not hold a part 119 operating certificate, and the operator may conduct these operations under part 91 rules. *See* Legal Interpretation to Ray Bonila from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (Sept. 7, 2011).

The FAA clarifies that the purpose of part 141 is to prescribe the requirements for issuing pilot school certificates, and associated ratings, and the general operating rules applicable to

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[1] Note that persons conducting operations under 14 CFR 119.1(e) must hold a commercial pilot certificate. *See* 14 CFR 61.123 & 61.133.

a holder of a certificate or rating issued under part 141. *See* 14 CFR 141.1. Whether or not an operator has a part 141 certificate is independent of their ability to conduct part 91 or § 119.1(e) operations as described above. Furthermore, part 141 contains advertising limitations, which prevent a part 141 Pilot School from "advertis[ing] that the school is certificated unless it clearly differentiates between courses that have been approved under part 141 of this chapter and those that not have been approved under part 141 of this chapter." In other words, a part 141 Pilot School cannot advertise services or training as "FAA approved" that has not specifically been approved under part 141. Therefore, hiring a pilot from a part 141 Pilot School to conduct aerial survey work under § 119.1(e)(4) is separate and distinct from the part 141 certificate, and services that are not specifically approved shall not be advertised as "FAA approved" under a part 141 certificate. *See* 14 CFR 141.23; *See also* Aircraft Flight Simulator Use in Pilot Training, Testing, and Checking and at Training Centers Final Rule, 61 FR 34508, 34538 (July 2, 1996) for a similar discussion on training center advertising limitations.

We appreciate your patience and trust that the above responds to your concerns. This response was prepared by Nancy Sanchez, an attorney in the International Law, Legislation, and Regulations Division of the Office of the Chief Counsel, and was coordinated with the General Aviation and Commercial Division of Flight Standards. Please contact us at (202) 267-3073 if we can be of further assistance.

Sincerely,

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