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

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

JUL 10 2015

Mr. Terrence K. Keller, Jr.
[redacted]

Re: Guidance Regarding Failure to Perform Maintenance Deemed Mandatory by Manufacturers of Aircraft or Aircraft Components and/or Systems Installed on Aircraft Issued Special Light-Sport Aircraft (S-LSA) Airworthiness Certificates

Dear Mr. Keller:

This letter responds to your February 25, 2015 request for a legal interpretation regarding the failure to perform maintenance deemed mandatory by manufacturers of aircraft or aircraft components and systems installed on aircraft issued special light-sport aircraft (S-LSA) airworthiness certificates.

In your letter you asked four initial questions and an additional three questions to be answered depending on the FAA's response to the initial questions. We will respond to your initial four questions below and not address to the additional three questions.

1. Is an S-LSA airworthiness certificate rendered invalid when mandatory schedules for overhaul or replacement of components are disregarded and a component or system has exceeded a life limit specified in a manufacturer's maintenance manual?

The short answer to your question is no, an airworthiness certificate cannot be "rendered invalid," though it may be rendered ineffective. Under § 21.190(b)(1)(ii) and (c) the FAA will issue a special airworthiness certificate in the light-sport category if the aircraft meets the FAA's requirements. If maintenance on an aircraft is not performed in accordance with 14 CFR parts 43 and 91, the aircraft's airworthiness certificate is ineffective under 14 CFR § 21.181(a)(3)—this would render the certificate neither appropriate nor current[1] for the purposes of § 91.203(a)(1), which requires that an appropriate and current airworthiness certificate be in an aircraft when it is operated. The term invalid in this context does not appear in the FAA's relevant regulations. Nevertheless, the airworthiness certificate may be ineffective and, if operated while ineffective, the operator may be subject to enforcement action.

[1] *See* Legal Interpretation to Mr. Michael Mertens from Rebecca MacPherson, Assistant Chief Counsel for Regulations (June 1, 2012).

2. Does the FAA consider such an aircraft operated as presumed above to still be airworthy and should the agency take no enforcement action against owners or operators of an aircraft operated with components and/or systems beyond time between overhauls (TBO) and/or outside manufacturer specified life limits as described in the manufacturer's maintenance manuals?

The aircraft would not be airworthy if operated beyond TBO or outside the manufacturer's specified life limits. Section 21.181(a)(3)(ii) states that "a special airworthiness certificate in the light-sport category is effective as long as the aircraft conforms to its original configuration, except for those alterations performed in accordance with an applicable consensus standard and authorized by the aircraft's manufacturer or a person acceptable to the FAA." An aircraft that is operated after components have exceeded life limits specified in the manufacturer's maintenance manual or other procedures developed by a person acceptable to the FAA would not comply with § 21.181.

You presented the following facts in a hypothetical: (1) schedules for overhaul or replacement of components were disregarded, (2) a component or system has exceeded a life limit specified in a manufacturer's maintenance manual, and (3) alterations or repairs were not performed in accordance with an applicable consensus standard authorized by the aircraft's manufacturer or by a person acceptable to the FAA. Therefore, in this situation the aircraft no longer conforms to its original configuration and its airworthiness certificate is no longer effective. Any operation of an aircraft with an ineffective airworthiness certificate would cause the operator to be subject to enforcement action.

3. May an owner, operator, or maintenance technician simply rely on its own home-made alternative maintenance program, which it alone has deemed sufficient without outside approval, where it deviates from the requirements of a manufacturer's maintenance manual with respect to exceeding mandatory maintenance overhaul or replacement schedules?

The short answer is no. An owner, operator, or maintenance technician may not rely upon its own "homemade" alternative maintenance or inspection procedures. Under § 91.327(b)(1), maintenance and inspection procedures must be developed by the aircraft manufacturer or a person acceptable to the FAA. Unless the owner, operator, or maintenance technician is the manufacturer or is a person acceptable to the FAA, that person may not rely upon that person's own alternative maintenance program to meet the requirements of § 91.327(b)(1).

4. Is the only person acceptable to the FAA who may grant approval of an alternate method of meeting the maintenance requirements, including the determination of the propriety of exceeding manufacturer's life limits and/or TBO schedules, the manufacturer or an entity who has assumed responsibility for the aircraft subsequent to the original manufacturer going out of business, and if not, who else may be considered a person acceptable to the FAA?

The short answer is no, the manufacturer or the manufacturer's successor in interest are not the only persons that may be acceptable to the FAA. The manufacturer or an entity that has assumed

responsibility for an aircraft after the manufacturer has gone out of business would be acceptable to the FAA, but they are not the only persons acceptable to the FAA. Other persons acceptable to the FAA may be determined on a case-by-case basis upon the presentation of specific facts to the FAA.[2]

In your request, you asked the FAA to answer questions five through seven only if we respond to the first four questions in a specific manner. We have explained above that (1) overhaul and replacement times in a manufacturer's maintenance manuals are mandatory unless otherwise authorized by the aircraft's manufacturer or by a person acceptable to the FAA, (2) violations of § 91.327(b)(1) are subject to enforcement action, and (3) an SLSA's airworthiness certificate is ineffective if the operator does not comply with the repair and overhaul schedules of the manufacturer or a person acceptable to the FAA. Therefore, due to our responses to your first four questions, it is not necessary for us to address questions five through seven.

This response was prepared by Benjamin Borelli, an attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the Flight Standards Service. If you need further assistance, please contact our office at (202) 267-3073.

Sincerely,

Lorelei Peter
Acting Assistant Chief Counsel for Regulations

[2] The FAA will be guided by the preamble discussion of the term "person acceptable to the FAA" in the final rule Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft, 69 Fed Reg. 44772, 44854 (July 27, 2004).