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

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

OCT - 4 2017

Mr. Kenneth E. Firestone
[redacted]

Re: Operation of primary kit-built aircraft certificated under 14 CFR § 21.191(h) and subject to operating limitations issued under 14 CFR § 91.319.

Dear Mr. Firestone:

This letter responds to your May 29, 2017 request for a legal interpretation of the provisions of §§ 21.191 and 21.193 of Title 14, Code of Federal Regulations (14 CFR). In your request you ask whether a company that you own, which is not engaged in any type of charter operation, may build a rotorcraft from a kit purchased from the holder of a production certificate for that aircraft and utilize the aircraft for company business. You specifically request to know whether such an operation would be permitted under the provisions of § 21.191(h).

From you letter it appears that you are seeking an interpretation regarding the operation of an aircraft issued an experimental certificate for the purpose of operating a primary kit-built aircraft.

Section 21.191 specifies those purposes for which experimental certificates are issued. Paragraph (h) of that section states that the FAA may issue an experimental certificate to operate "a primary category aircraft that meets the criteria of § 21.24(a)(1) that was assembled by a person from a kit manufactured by the holder of a production certificate for that kit without the supervision and quality control of the production certificate holder under § 21.184(a)." Section 21.193 specifies the information that an applicant must submit to obtain an experimental certificate for an aircraft.

While §§ 21.191 and 21.193 address the issuance of experimental certificates, to include certificates for primary kit-built aircraft, neither of these regulations specifically addresses the operation of these aircraft. Operating limitations for these aircraft are specifically addressed in 14 CFR § 91.319. Paragraph (a)(1) of that section states that the aircraft must not be operated "for other than the purpose for which the certificate was issued" and paragraph (a)(2) of that section states that the aircraft may not be operated "carrying persons or property for compensation or hire." Operation of your primary kit-built rotorcraft solely for business purposes would not be in contravention of paragraph (a) provided the aircraft does not carry persons or property for compensation or hire. Operation of your aircraft by a

single pilot employed by the company carrying property owned by the company, for example, would be permitted.

Section 91.319 also imposes additional requirements applicable to your aircraft with respect to operations outside of assigned areas, operations over densely populated areas and congested airways, and the flight rules under which those operations may be conducted. This interpretation assumes those provisions are complied with. Additionally, since you neither specify the particular business in which your company is engaged nor the particular nature of its operations, the FAA cautions you that whether a particular operation is in compliance with the regulations hinges on all the particular facts and circumstances of the particular operation.

You should also note that in accordance with § 91.319(l) the Administrator may prescribe additional limitations for the operation of the aircraft. These limitations are considered part of the aircraft's airworthiness certificate. You should closely review these operating limitations for your particular aircraft as they impose specific additional limitations that must also be complied with.

This response was prepared by Paul Greer, an attorney in the Regulations Division of the Office of the Chief Counsel and coordinated with the Policy and Innovation Division (AIR-600) of the Aircraft Certification Service and the General Aviation and Commercial Division (AFS-800) of the Flight Standards Service. If you need further assistance you may contact us at (202) 267-3073.

Sincerely,

Lorelei Peter
Assistant Chief Counsel
for Regulations, AGC-200

Kenneth E Firestone

[redacted]

5/29/17

US Department of Transportation

Federal Aviation Administration

Office of the Chief Counsel

800 Independence Ave SW

Washington DC 20591

Re: Experiment Certificates for Kit built Rotorcraft

Sir,

I am requesting a legal interpretation of the following regulations..FAR 21.191 & 21.193 under the following circumstances.

If a company that I own which is NOT engaged in any type of charter operations, builds and utilizes a kit built rotorcraft for company business and the kit is purchased from the holder of a production certificate for said kit, would this be legal under FAR 21.191(h)? The customer would NOT be chartering or renting the kit in any way. The kit would be flown single pilot and used strictly for company business.

Regards,

Kenneth E Firestone

[redacted]