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

Aviation Safety

800 Independence Ave
Washington, DC 20591

December 31, 2024

Devan Plantamura
Consultant and Expert Witness
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Dear Devan Plantamura:

This letter is in response to your emails dated May 10, 17, and August 5, 2024 requesting a legal interpretation of the difference between an aircraft, unmanned aircraft, and a munition. Specifically, you ask whether constructive intent is part of the definition for an unmanned aircraft, unmanned aircraft system, and a munition. In your emails, you describe the following fact pattern and circumstances related to your questions:

You want to conduct testing of a munition that shares very similar characteristics with a UAS, that you define as a munition, guided munition, destructive device, and missile on private property. You state that you do not intend to conduct flights of UAS with explosives attached, affixed, or integrated into a UAS. You want to find a safe and legal way to conduct testing of such devices and to sell these products to the Department of Defense. You also describe that the device would be surface launched from a launcher/truck mounted launcher or surface maritime vessel launcher. You also state the device(s) as guided munitions would be under their own power and be able to launch and fly under their own power to their predetermined destination. Eventually, you plan to add a warhead to the device for testing purposes.

The Office of Chief Counsel's legal interpretations are limited to regulations promulgated by the FAA. 14 CFR § 1.1 defines the term "aircraft" as a device that is used or intended to be used for flight in the air. Additionally, 14 CFR § 1.1 defines "unmanned aircraft" as an aircraft operated without the possibility of direct human intervention from within or on the aircraft. Constructive intent is neither a part of the definition of unmanned aircraft nor unmanned aircraft system.[1] The device(s) you describe meet the definition of an aircraft as well as an unmanned aircraft.

The FAA's regulations under Title 14 of the Code of Federal Regulations do not contain a definition of the term "munition" nor do they reference the term "munition" itself. Accordingly, this Office is unable to provide you with an interpretation of that term. If you need assistance

[1] Please see 14 CFR § 1.1.

interpreting a regulation that uses the term "munition," we recommend you contact the agency that promulgated that regulation.

Because the device(s) you describe meet the definition of an aircraft as well as an unmanned aircraft, their operation generally would be subject to civil operating, airworthiness, and airmen certification requirements prescribed under 14 CFR. If, however, you own or operate these devices pursuant to a contract with the Department of Defense, the operations you seek to conduct may qualify as a public aircraft operation provided they meet the requirements in 49 U.S.C. 40125 (Qualifications for public aircraft status), specifically paragraph (c) (Aircraft owned or operated by the armed forces) as well as the statutory definition in 49 U.S.C. 40102(a)(41), and have received approval from a sponsoring agency to operate as a public aircraft operation. If you require additional guidance in how military capabilities are tested, we recommend you reach out to the military and request that information. Additionally, whether civil or public, the described operation of device(s) that include a warhead or other dangerous weapons would require an authorization from the Administrator in accordance with Section 363 of the FAA Reauthorization Act of 2018, Pub. L. No. 115-254, 132 Stat 3186.

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 response was prepared by Caroline Schleh, Senior Attorney in the Regulations Division of the Office of the Chief Counsel, and coordinated with the Emerging Technologies Division of the Office of Safety Standards in the Flight Standards Service as well as the Policy and Standards Division of Aircraft Certification Service.

Sincerely,

LAURA JANE MEGAN-POSCH

Digitally signed by LAURA JANE MEGAN-POSCH
Date: 2024.12.31 09:47:42 -05'00'

Laura Megan-Posch
Assistant Chief Counsel for Regulations