

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC 20591

In the matter of the petition of

**Advanced Composite Structures
Florida**

For an exemption from § 21.9(c)
of Title 14, Code of Federal
Regulations

Exemption No. 17569
Regulatory Docket No. FAA-2017-0101

GRANT OF EXEMPTION

By letter dated January 31, 2017, and supplemental information provided on June 16, 2017, Ryan M. Poteet, Regulatory Counsel for Advanced Composite Structures Florida, Obadal, Filler, MacLeod & Klein, P.L.C, 117 North Henry Street, Alexandria, VA 22314-2903 petitioned the Federal Aviation Administration (FAA) on behalf of Advanced Composite Structures Florida (ACSF) for an exemption from § 21.9(c) of Title 14, Code of Federal Regulations (14 CFR). This exemption, if granted, would permit ACSF to sell surplus military composite main rotor blades (CMRB) and represent those articles as suitable for installation on aircraft type certificated in the restricted category when those articles were not declared surplus by the U.S. Armed Forces or intended for use on those aircraft.

The petitioner requests relief from the following regulation:

Section 21.9(c) prescribes, in pertinent part, that:

Except as provided in paragraphs (a)(1) through (a)(2) of this section, a person may not sell or represent an article as suitable for installation on an aircraft type certificated under §§ 21.25(a)(2) or 21.27 unless that article—

- (1) Was declared surplus by the U.S. Armed Forces, and
- (2) Was intended for use on that aircraft model by the U.S. Armed Forces.

The petitioner supports its request with the following information:

ACSF states that 14 CFR § 21.9 prohibits a person from selling or representing surplus military articles as suitable for installation on aircraft type certificated under § 21.25(a)(2) unless the article was first accepted for use and declared surplus by the U.S. military. ACSF states that the regulations allow, and indeed require, the installation of replacement articles that meet an approved design and are in condition for safe operation.

ACSF states that the purpose of its petition is to allow a certificated and appropriately rated repair station (in this case ACSF) to determine whether specific CMRB that were designed for the U.S. military, but sold to and operated by a foreign military, were produced to that design, conform to a design approved by the FAA, and are in a condition for safe operation.

ACSF states that, after the airworthiness of each CMRB is established, the exemption will allow ACSF to sell the CMRBs with a maintenance record that meets the requirements of § 43.9. The maintenance record and validating information will enable installers to determine whether a rotor blade is eligible for installation on a restricted category helicopter with an FAA-issued certificate of airworthiness.

ACSF notes that restricted category helicopters serve a variety of public functions, including fighting forest fires, performing search and rescue and disaster relief missions, and assisting law enforcement agencies. Almost all restricted category type certificated helicopters, including the Bell UH-1 series, fly missions under contract for Federal, state, and local governments. In addition, many government agencies, ranging from the U.S. Forest Service to municipal public safety departments, operate these helicopters. The continued operation of the UH-1 helicopter is vital to the lifesaving firefighting and disaster relief missions, policing actions, placing power lines, weather observation, and wildlife conservation. The aging fleet of restricted category helicopters is in need of airworthy replacement parts. This exemption will enable these helicopters to continue to perform vital public operations. Granting this exemption, ACSF states, will not adversely affect safety because it provides a source of airworthy replacement parts that will enable the continued operational safety of an aging fleet of restricted category helicopters.

ACSF also states that the regulations provide that a replacement article is airworthy if it conforms to an approved design and is in a condition for safe operation. ACSF states it can establish the existence of an FAA-approved design, that each of the surplus CMRBs was produced to that design, and that each CMRB was operated and maintained to that design. However, ACSF notes that it is unable to sell or represent the CMRBs as eligible for installation on restricted category helicopters because the rotor blades were not accepted for use and declared surplus by the U.S. Armed Forces, as required by 14 CFR § 21.9.

ACSF states that the FAA has issued type certificates for helicopters that include—and therefore approved—the design of the CMRB. The type certificate data sheet (TCDS) for the approved designs provides operational requirements and rotor blade control and rigging information. Additionally, ACSF states that the TCDS specifically reference the U.S. Army's UH-1H Operations Manual, Maintenance Manual, and Parts Manual as the sources for determining the eligibility of the replacement articles for installation.

ACSF notes that a type design consists of the drawings and specifications necessary to define the configuration of a product as well as information on the dimensions, materials, and processes used for production. ACSF states that it has the engineering, manufacturing, and substantiating data related to each CMRB, which will be used to confirm that the rotor blades were produced according to an FAA-approved type design. In addition, ACSF states that its documentation establishes that the U.S. military contracted for the design and production of the UH-1 series helicopters, including the specific CMRBs it intends to sell. ACSF can further demonstrate that: (1) licenses were subsequently issued to entities to manufacture the CMRB using the same design and production data (i.e., drawings, specifications, materials, dimensions, fabrication processes) and the same part number as required by the licensor's contract with the U.S. military; (2) the licensee-produced CMRBs were delivered to a particular foreign military; and (3) the rotor blades were operated according to specified performance data and maintained using the same data as the U.S. military.

ACSF states that it can also establish that the licensor provided oversight, advisory personnel, and technical assistance throughout the licensee's production of the CMRB. This oversight ensured that the rotor blades satisfied the quality requirements of the licensor's contract with the U.S. military. Even though the particular rotor blades in ACSF's possession were not accepted for use by the U.S. military, ACSF states that they were produced so that they could have been. Instead, the CMRBs were used to fulfill a foreign military contract.

ACSF states that the historical record for each CMRB demonstrates that the rotor blades were operated and maintained by a foreign military in accordance with U.S. military standards. More specifically, ACSF states that it can demonstrate that the manuals used by the foreign military contain the same information as the U.S. Army's UH-1H Flight Manual, Maintenance Manual, and Parts Manual. As such, ACSF asserts that it can establish that each surplus foreign military CMRB meets the FAA-approved design, operating, and maintenance requirements.

ACSF requests that it be allowed to exercise the privileges of its repair station certificate to develop and perform an inspection in accordance with § 43.13 using the CMRB's design and production data and historical records. The objective of the maintenance action will be to establish that each serialized blade meets the UH-1 approved design and is in a condition for safe operation. The maintenance action will include a review of the design, production, operation, and maintenance records as well as an appropriate physical inspection. The complete review and inspection will be recorded in accordance with § 43.9.

The FAA's analysis is as follows:

A summary of the petition was published in the Federal Register on April 14, 2017 (82 FR 18071). No comments were received.

The FAA finds, after review of the petition, that a grant of exemption would provide an equivalent level of safety to the regulation for which the relief is required.

The FAA has reviewed the information submitted by ACSF and has determined that ACSF has the engineering and manufacturing documentation to demonstrate that the U.S. military contracted for the design and production of the UH-1 series helicopters, including the specific CMRBs specified in this exemption. ACSF can also demonstrate that: (1) licenses were subsequently issued to entities to manufacture the CMRB using the same design and production data (i.e., drawings, specifications, materials, dimensions, fabrication processes) and the same part number as required by the licensor's contract with the U.S. military; (2) the licensee-produced CMRBs were delivered to the German military; and (3) the rotor blades were operated according to specified performance data and maintained using the same data as the U.S. military. ACSF also has historical records and substantiating design and production data that can be used to establish the airworthiness of each serialized CMRB specified in this exemption.

The FAA has also determined that ACSF has the requisite design and production data and historical records to enable it—and the FAA—to make competent airworthiness determinations. The FAA agrees that ACSF does not have the authority to make a determination that the CMRBs are eligible for installation on a particular aircraft and that such responsibility will remain with the maintenance provider installing the rotor blade. This grant of exemption will allow ACSF to sell CMRBs with appropriate maintenance records and the necessary validation data so that an installer can make the eligibility determination.

The FAA has issued restricted category type certificates for UH-1 helicopters that include the design of the CMRB ACSF intends to sell. The FAA agrees with ACSF that this exemption would be in the public interest because many restricted category type certificated helicopters, including the Bell UH-1 series, fly missions under contract for federal, state, and local governments. Restricted category helicopters serve a variety of public functions including agricultural use, forest and wildlife conservation (such as fighting forest fires), and external load operations (such as power line construction, inspection and maintenance). The continued operation of the UH-1 helicopter is vital to these missions. The FAA agrees with ACSF that granting this exemption will not adversely affect safety because it provides for an additional source of airworthy replacement parts for an aging fleet of military surplus helicopters.

The FAA's Decision

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 106(f), 40113, and 44701, delegated to me by the Administrator, I hereby grant Advance Composite Structures Florida (ACSF) an exemption from 14 CFR § 21.9(c) to the extent necessary to sell surplus military composite main rotor blades (CMRB) and represent those articles as suitable for installation on aircraft type certificated in the restricted category when those articles were not declared surplus by the U.S. Armed Forces or intended for use on those aircraft, subject to the conditions and limitations listed below.

Conditions and Limitations

1. ACSF must establish that each foreign surplus military CMRB that it sells or represents as suitable for installation on an aircraft certificated in the restricted category was produced, operated, and maintained in accordance with an FAA-approved design and is currently in a condition for safe operation
2. All records and supporting documentation must be in English, translated to English, or be understandable by English speakers.
3. A receiving inspection procedure must be developed that requires the review of the documentation of each rotor blade. The inspection procedure must be added to the repair station manual for ACSF, Repair Station No. 6A8R903.
4. Maintenance records required by §§ 43.9 and 43.11 (as applicable) must be maintained per the repair station manual and the approval for return to service of the CMRB must be documented on an FAA Form 8130-3 that clearly indicates the history and source of the blades in regard to this exemption and their limitation for installation on restricted category aircraft only. The form must also clearly state that determination of eligibility for installation on a specific aircraft is ultimately the responsibility of the installer.
5. All data used to support this petition for exemption and to establish the design, production, operation, and maintenance status of each rotor blade must be made available for inspection by the FAA upon request.
6. This exemption is limited to the following 16 serialized CMRB: 1002, 1077, 1316, 1533, 1544, 1315, 1396, 1011, 1318, 1569, 1003, 1073, 1362, 1019, 1013, and 1348.

This exemption terminates on September 30, 2019, unless sooner superseded or rescinded.

Issued in Washington, D.C., on September 28, 2017.

/s/

David W. Hempe
Deputy Executive Director for Regulatory Operations
Aircraft Certification Service