

petition, submitted by Roger C. Forshee (Docket No. FAA-2000-8053), proposed rulemaking to address aircraft parts that are being offered for sale as "aircraft quality," when, in fact, the quality and origin of the parts are unknown. The FAA denied the petition as a separate rulemaking action because FAA had already undertaken the present rulemaking, which it considers responsive to the issues raised in Mr. Forshee's petition.

Current Requirements

Determining Status of Parts

Persons who own or operate aircraft are responsible for maintaining the aircraft in an airworthy condition. See, for instance, 14 CFR 91.403.

Under 14 CFR 43.13, persons performing maintenance, preventive maintenance, or alterations are required to use materials of such a quality that the aircraft, airframe, aircraft engine, propeller, or appliance after the maintenance is at least equal to its original or properly altered condition. Persons must use replacement products, parts, and materials that will allow them to return the aircraft to service in an airworthy condition.

To determine that a product, part, or material is suitable for use in a particular installation on a type certificated product, the person maintaining the product must use various information sources. For aircraft, the airworthiness certificate and the maintenance records for the airframe and powerplant must be reviewed.

For airframes, engines, propellers, appliances, other parts, and materials, several items must be reviewed. For instance, the part number is important, and it is critical to know whether the part was produced by an FAA production approval holder (PAH)¹ or a PAH approved supplier. If the part is required to be replaced or serviced after a specified time in service, or has a limited shelf life, it is essential to know time in service or time since manufacture.

For a used part, it is important to know whether maintenance has been performed on the part, what was done, who performed the work, and whether the part has been approved for return to service by an appropriately certificated person. If it is a life-limited part, the

installer must know the current life status of the part. All of this information is used to determine whether the part may be used in a given application, and whether it must be serviced in any way before use.

Similarly, persons producing aircraft, engines, propellers, appliances, and other parts must use materials and parts that will allow them to produce a product that conforms to the approved design. They obtain materials and parts from various sources. Producers have extensive procedures in place to assure that they are using quality parts, but they, too, must rely on representations made by others regarding the parts and materials.

There are several sources of this information. The status of a part is not completely apparent simply by visual examination, and usually various records must be used.

This may start with an advertisement claiming the part meets FAA standards, or is of aviation quality. On receiving the part, the installer must make sure the part is appropriate for the intended use. Some parts are required to be marked, and those markings contain some of the required information. Markings, however, do not contain information regarding the part's time in service, overhaul, or repair history. Additional information needed may be on an FAA Form 8130-3 (Authorized Release Certificate—Airworthiness Approval Tag), a Joint Aviation Authorities (JAA) Form One (Authorized Release Certificate), or another record completed by a repair station or appropriately authorized person.

Other necessary information may come from a shipping document, invoice, maintenance log, or other record showing the manufacturer, part number, time in service, and other information.

Current Regulations and Laws

Existing laws and regulations partially cover the statements made in parts records regarding quality and condition of such parts. For instance, 14 CFR 21.2 prohibits fraudulent and intentionally false statements, but only on applications for certificates or approvals under part 21, and on records that are kept, made, or used to show compliance with part 21. Part 21 does not cover all distribution and sale of aircraft parts by brokers, dealers, and other persons who are not producing those parts.

Similarly, 14 CFR 43.12 prohibits fraudulent and intentionally false statements, but only on records kept, made, or used to show compliance with part 43. That part applies to the

maintenance, preventive maintenance, rebuilding, and alteration of type certificated aircraft. While it covers some records used in distributing parts, it does not cover all of them.

Some criminal sanctions may apply. The Aircraft Safety Act of 2000 added section 38 to Title 18 of the United States Code (18 U.S.C. 38) to safeguard against the dangers posed by the installation of nonconforming, defective, or counterfeit aircraft and space vehicle parts. This law prohibits certain false or fraudulent representations regarding the sale or installation of aircraft and space vehicle parts. Specifically, the law prohibits any falsification or concealment of any material fact concerning any aircraft or space vehicle part; prohibits any materially fraudulent representation concerning any aircraft or space vehicle part; and prohibits the making or use of any materially false writing, entry, certification, document, record, data plate, label, or electronic communication concerning any aircraft or space vehicle part. The law also prohibits fraudulent representations relating to the export, import, introduction, sale, trade, or installation of aircraft or space vehicle parts. There are criminal sanctions for violations of section 38, as well as civil remedies, such as ordering the destruction of the parts.

Also, 18 U.S.C. 1001, provides criminal penalties for whomever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry.

Existing laws and regulations also provide the FAA with the means to investigate potential violations. The FAA may conduct investigations, as necessary, to carry out its duties under 49 U.S.C. 40113. Parts dealers and other persons that do not hold FAA certificates, however, are not required to cooperate with the investigation unless the FAA issues a subpoena.

General Discussion of the Proposals

New Part 3

The additional rules proposed here would not fit well within any existing CFR part. The FAA proposes to create a new part 3 that would contain rules that apply broadly. It would have two sections, dealing with applicability (§ 3.1) and false and misleading

¹ Production approval holders are persons that have been approved by the FAA to produce aircraft products or parts. Production approvals include parts manufacturer approvals (PMA) (Part 21, Subpart K), production certificates (PC) (Part 21, Subpart G), technical standard order authorizations (TSOA) (Part 21, Subpart O), and approved production inspection systems (APIS) (Part 21, Subpart F).