

statements regarding aircraft parts (§ 3.5).

Aircraft and parts may be bought and sold, and records about them created, by various persons, some of which are currently subject to FAA regulation, such as manufacturers (see part 21), repair stations and mechanics (see parts 43, 65, and 145), and air carriers or other aircraft operators (see parts 119, 121, 125, and 135). These proposals would also cover persons who are not currently directly regulated by the FAA, such as distributors and brokers. Note that 18 U.S.C. 38 applies to both certificated and non-certificated persons.

Eventually part 3 may contain other rules of broad applicability.

### *Section 3.1 Applicability*

This part applies to persons engaged in aviation-related activities, as set forth in this part.

### *Section 3.5(a) Applicability of this Section*

Paragraph (a) would set forth the applicability of this section. The section would apply to all records regarding aircraft and aircraft products, parts, and materials, except that paragraph (c) of this section does not apply to records made under part 43, Maintenance, preventive maintenance, rebuilding, and alteration. That part already has a section prohibiting intentional falsification and fraud (§ 43.12), and other sections that govern the content and meaning of records under that part, such as § 43.2, Records of overhauling and rebuilding; and § 43.9, Content, form, and disposition of maintenance, preventive maintenance, rebuilding, and alteration records. For this reason, the new requirements of proposed § 3.5(c) would not be necessary for part 43 records. While part 43 already contains prohibitions against false or fraudulent statements, it does not address misleading statements. This proposal intends to address misleading statements in records including those required under part 43 by applying proposed § 3.5(d).

### *Section 3.5(b) Terms Used in this Section*

Paragraph (b) would define two terms used in this section.

The term “product” means an aircraft, aircraft engine, or propeller. This is the same meaning as in § 21.1(b).

The term “record” includes all forms of records, including paper, microfilm, identification plates, stamped marks on parts, bar codes, and electronic records. “Record” includes logbooks, inspection records, reports, advertisements, and

labels. The term is defined broadly to include any means that communicates to aircraft owners, operators, producers, mechanics, and repairmen the airworthiness of a type certificated product, or acceptability of a part or material for use on type certificated products. Examples of marks on parts include the marks required under § 45.14 on critical components and the marks required under § 45.15 on parts produced under a PMA. An example of an electronic record is a company’s web page that represents the quality of aircraft parts the company is offering for sale.

There are other terms used in this proposal that are not specifically defined in proposed § 3.5(b). Throughout the FAA’s enabling statute and regulations, there are various words and phrases used to describe aircraft parts, including such terms as appliance, equipment, apparatus, component, accessory, assembly, airframe, and appurtenance. The FAA has attempted to avoid being unduly wordy, yet to use the words in a manner consistent with the statute, the regulations, and with common industry practice. The FAA, therefore, refers throughout the proposed rule to “part or material for use on a type certificated product.”

In this proposal, the term “part or material for use on a type certificated product” is used extensively, but is not defined in the rule itself. “Aircraft part” frequently is used broadly in the industry to refer to anything that is, or could be, used as a piece of an aircraft, aircraft engine, or propeller, including appliances and component parts. The FAA proposes to use this term in the same manner here. For instance, the word “part” is used in § 21.303 to refer to all portions of an aircraft, including standard parts. Software, as used in some flight systems and instruments, also is considered a “part” for purposes of these rules. Under this proposed rule, false or misleading statements regarding the acceptability of the software would be prohibited.

“Material” normally is used to refer to the substances of which a thing is made or composed. It generally includes such things as sheet metal, unformed wood, and bolts of fabric. The concepts of “part” and “material” often overlap in common usage, but for this proposed rule it does not matter whether an item is a “part” or a “material,” both are considered under this proposal.

The proposed rule also refers to the “acceptability” of aircraft products, parts, and materials. There are various ways a part can be shown to be “acceptable.” The most common is for the part to be an approved part.

“Approved,” under part 1, means approved by the Administrator, and, in this context, generally means the part was produced by a PAH or a PAH approved supplier. To be acceptable, used parts must also have been maintained in accordance with the regulations. This derives from § 43.13 which requires that the condition of the product or part used in maintenance be at least equal to its original or properly altered condition.

The FAA intends these terms to be interpreted broadly to fulfill the purposes of the rule. The FAA specifically requests comments on whether these terms are sufficiently clear, whether they should be defined in the regulations, or whether different terms should be used.

This proposal does not cover statements regarding fluids, that is, substances that are used to service an aircraft or product or that may be added to an engine, container, or fitting. Fluids include fuel, oil, grease, and metal treatments. Fuel and other fluids are not approved (nor does FAA develop the standard) as a material under part 21, Subpart K—Approval of Materials, Parts, Processes, and Appliances. The FAA only judges acceptability of a fluid for use in a proposed type design. The FAA recognizes that false or misleading records regarding fluids could have a detrimental safety impact. The FAA is considering adding to the final rule prohibitions on false or misleading statements regarding fluids. We request comments on whether there is a significant problem with false or misleading records regarding fluids used in aviation, and whether the final rule should apply to records regarding fluids.

### *Section 3.5(c) Prohibition Against False Statements*

The proposed rules would apply to statements representing the airworthiness of a product for which the FAA has issued a type certificate; or the acceptability of any part, or material for use on a product for which the FAA has issued a type certificate. The FAA issues type certificates for aircraft, aircraft engines, and propellers. Applying the proposed rules to type certificated products means, for instance, that the proposed rules would not apply to aircraft for which Special Airworthiness Certificates in the experimental category (experimental aircraft) have been issued, or military aircraft.

Paragraph (c)(1) would prohibit any fraudulent or intentionally false statement in any record that represents the airworthiness of a type certificated product, or the acceptability of any part