

be prohibited from advertising the part as acceptable for use in type certificated products.

The "appropriate records" that would form a basis for stating or implying that a part is acceptable would be the records that a mechanic or repairman would use in determining that a part properly could be installed on an aircraft. Guidance on such records is found in Advisory Circulars (ACs) 21-9, 20-62, and 00-56, Voluntary Industry Distributor Accreditation Program.

#### *Section 3.5(e) FAA Airworthiness Standards*

Proposed paragraph (e) would apply to records that make statements regarding FAA airworthiness standards. It would provide that if a person expresses or implies, or causes to be expressed or implied, in any record that a product, part, or material meets FAA airworthiness standards, the person must ensure that either (1) the product, part, or material was produced under an FAA production approval, such as a production certificate, parts manufacturer approval, or technical standard order authorization; or (2) the record clearly and expressly states that the part was not produced under an FAA production approval.

To obtain an FAA design approval, an applicant must show compliance with FAA airworthiness standards, which the FAA adopts to establish the minimum level of safety. They are set forth in 14 CFR parts 23-35. Under 14 CFR part 21, these approvals are issued in the form of type certificates, changes to type certificates (supplemental and amended type certificates), TSOAs, and PMAs. The FAA also issues production approvals to persons who demonstrate that they can consistently produce a product or part that meets the design standard. An example of a production approval is a production certificate under part 21 to manufacture the Boeing 777. Some approvals include both a design approval and a production approval, such as a TSOA and a PMA.

Statements that a product, part, or material is produced under a production approval essentially is a statement that it meets FAA airworthiness standards. For instance, a statement that a part "is PMA'd" is heavily relied on by the industry to show the part is acceptable for use. If the statement is false or misleading, the person installing the part could install a part that does not meet the FAA airworthiness standards and may create a danger in flight. Similarly, if a record states that a part "meets TSO XXX" it implies the part was made under a TSOA or otherwise has an approved design and has been

produced under an FAA approval. If this is not true, the product or part may not in fact be eligible for installation. Standard parts, described in § 21.303(b)(4) as nuts, bolts, etc., conform to established industry of U.S. specifications. The FAA does not require that standard parts be produced under an FAA production approval. The subject of standard parts is discussed in more detail later in this document.

#### *Section 3.5(f) Inspection*

To allow the FAA to better monitor compliance with this proposed rule, § 3.5(f) would provide that the FAA could inspect aircraft, and aircraft products, parts, and materials to determine compliance with the statute and § 3.5. This would apply to any person who expressly or by implication represents, or causes to be expressly or by implication represented, in any record that a type certificated product is airworthy, or a part or material is acceptable for installation on a type certificated product. This would give the FAA more tools to use in investigating possible false and misleading statements under proposed § 3.5.

The design, manufacture, and maintenance of aircraft products, parts, and materials used in the civil aviation industry are highly regulated. Promoting the integrity of records in the system is equally important. If any person chooses to represent a type certificated product as airworthy or a part or material as acceptable for installation on a type certificated product, that person must be prepared to show why the representation is true. The proposed rule would not apply to persons who do not represent parts as acceptable for aviation products. Persons who sell items without representing those parts as acceptable for type certificated product use would not be subject to § 3.5(f).

#### *Application of the Proposed Rule*

This proposed rule refers to statements that a type certificated product is airworthy, or that a part or material is acceptable for installation on type certificated product. These terms are intended to cover any statements that express or imply the product, part, or material is acceptable for use on type certificated products.

A statement regarding the airworthiness of a type certificated product or the acceptability of a part or material for installation on type certificated product includes records that represent that the product, part, or material is approved by the FAA, or otherwise is acceptable for use in

maintenance, preventive maintenance, rebuilding, alteration, or production of type certificated products, airframes, aircraft engines, propellers, appliances, or component parts. These statements may take many forms.

Statements made in advertisements or shipping documents that compare an aircraft part to aviation standards or FAA approvals, such as "aviation quality," "TSO'd," "FAA certification," "FAA/PMA," and "STC'd," imply the part has been found acceptable for installation on type certificated products. Similarly, statements made regarding the ability to use an aircraft part on type certificated products, such as "direct replacement for aircraft XX," "ready to use in your aircraft," "reproduction of part number XX," "fits aircraft model number XX," "original," "direct replacement," and "replaces aircraft model XX part number YY," can be reasonably interpreted to mean that all FAA requirements for use on a specific type certificated product have been met. Under the proposed § 3.5(c) and (d), such statements would be prohibited if they were false or misleading. If a record states the part "fits aircraft model number XX," but the part is not approved or otherwise acceptable for use on the aircraft, the statement would be in violation of the proposed rule. Under proposed § 3.5(e), the person making the statement must ensure that either the product, part, or material was produced under an FAA production approval, or must state the product, part, or material was not produced under an FAA production approval.

Less direct statements, but just as misleading, include statements that suggest the producer of the part was authorized to produce approved parts, when in fact the part being sold is not approved. Statements on an invoice or advertisement, such as "authorized supplier to (an aircraft producer)" imply the part is made under that authorization, unless the record clearly states the part is not approved. Statements on an invoice letterhead that the producer is a PMA holder imply the part was made under the PMA, unless the record clearly states that it was not.

The use of a part number, or a number confusingly similar to a part number, used on an aircraft product, part, or material that is approved by or acceptable to the FAA, is a direct method of stating or implying the product, part, or material is approved or acceptable to the FAA. For instance, it is a common practice for PMA holders who produce replacement parts to use a part number that is the same as the original part, with a prefix or suffix to