

and that the documentation they provide is critical in establishing acceptability of a part for use on type certificated products. When distributors do not provide necessary or forthright documentation, the airworthiness of a part is questionable.

The FAA strongly endorses the voluntary industry oversight of distributors through third-party accreditation. In 1996, the FAA published AC 00-56, Voluntary Industry Distributor Accreditation Program. Under this type of accreditation, an independent entity, other than the distributor and the buyer, provides a quality system standard that describes acceptable system elements, including mandatory documentation, which are subsequently audited for adherence to that standard. Parts procured from such "accredited distributors" should convey an assurance to the buyer that the parts are the quality stated and that the appropriate documentation is on file at the distributor's place of business.

The Aviation Suppliers Association (ASA) is the trade association that represents the interests of the aircraft parts distributor community. ASA was formed in 1993 and was one of the organizations that helped FAA in developing the Voluntary Industry Distributor Accreditation Program. ASA currently maintains the program database that tracks distributors accredited in accordance with AC 00-56. Since 1998, the number of accredited distributors has increased from 86 to 218.

Although increasing numbers of distributors are restructuring company procedures to meet the accreditation requirements, some distributors continue to be less than forthright in their documentation associated with the sale of aircraft parts. The FAA's Suspected Unapproved Parts (SUP) Program Office database shows that parts distributors were either the primary or secondary focus in 22 percent of all SUP investigations conducted between 1998 and 2001. Approximately one-fourth of all SUP investigations relates to distributors.

The proposed rule would apply to all persons who make records regarding the airworthiness of a type certificated product, or the acceptability of any part or material for use on a type certificated product, whether the person holds an FAA certificate or not. It would, therefore, apply to parts distributors, which are the source of many of the parts for mechanics, repair stations, and others who maintain aircraft.

Relationship of Proposal to Compliance and Enforcement

The FAA could take compliance and enforcement action for violation of the proposed rules. The action could range from counseling and corrective action through civil penalties (currently \$1,100 per infraction) under 49 U.S.C. 46301 and 14 CFR 13.15 and 13.16, and suspension or revocation of an FAA certificate held by the violator under 49 U.S.C. 44709 and 14 CFR 13.19. The action taken by the FAA would depend on all the circumstances of the violation.

If the FAA believed that the person had made misleading statements in violation of proposed § 3.5, for instance, in the first instance the FAA might first seek to have the person take corrective action to avoid misleading owners, operators, maintainers, and others in aviation. If the statements were not corrected, the FAA might take stronger action. Depending on the seriousness of the offense, however, even the first instance of making misleading statements in violation of the rule could result in the FAA taking strong enforcement action.

If the evidence establishes that a person made fraudulent or intentionally false statements, however, the FAA generally takes the strongest enforcement action, including revocation of any FAA certificates held by the person. In appropriate cases, the FAA refers such cases for criminal investigation.

Relationship of Proposal to Experimental Aircraft

Not all experimental aircraft must be maintained in accordance with part 43, and for most parts, the regulatory standards are far less stringent than for aircraft that must be maintained under part 43. Although it is important that people who build and maintain these aircraft have accurate information on which to make informed decisions as to which parts to use, applying the rule to experimental aircraft, parts, and materials may have an unduly chilling effect on the experimental aircraft community. Persons who build experimental aircraft are responsible for evaluating claims and making decisions accordingly regarding which parts and materials to use on such aircraft. They use both FAA-approved products and parts, and items not otherwise considered to be aviation products and parts. The FAA is not aware of significant problems with false or misleading statements regarding products, parts, and materials used in experimental aircraft.

For instance, an engine manufacturer that does not have any FAA design or production approval may be aware that its engine is used for experimental aircraft. That manufacturer may provide information to builders regarding the engine's performance, maintenance requirements, and so on. If proposed § 3.5 were to apply to those statements, the manufacturer might hesitate to provide such information, because it may not have developed that information using all the rigorous requirements called for in the FAA regulations for FAA-approved engines. The FAA does not want to discourage such a manufacturer from providing information to persons who build experimental aircraft. Thus, the manufacturer could provide such information to the experimental aircraft builder without being subject to proposed § 3.5, so long as the information did not express or imply that the engine was acceptable for use in a type certificated product. The manufacturer would be subject to proposed § 3.5(e), however, if it expressed or implied that the engine met FAA airworthiness standards, without also clearly and expressly stating that engine was not produced under an FAA production approval.

This exception for experimental aircraft does not apply, however, if FAA regulations or the terms of the aircraft's airworthiness certificate require certain parts to be approved. Statements made in records regarding these parts, even when installed in experimental aircraft, must be truthful and not misleading. The fact that the part or material is eventually installed on an experimental aircraft does not make the false or misleading statement acceptable.

Relationship of Proposal to Parts for Military Aircraft

Military aircraft are not civil aircraft, and proposed § 3.5 would not apply to parts that are for military aircraft and are not represented to be acceptable for civil application. If the records regarding military parts, by implication, represent, however, that they are acceptable for use in type certificated products, proposed § 3.5 would apply.

Some former military aircraft have been put into civil use and are now operated on a special or standard airworthiness certificate. Some unique parts that otherwise are only manufactured for military designed aircraft may be needed to maintain these aircraft. Records regarding these parts should not state or imply that the parts are acceptable for use in type certificated products, other than the