

The UPDATE Report



CONGRATULATIONS TO THE FOLLOWING COMPANIES:

AVTRADE
Albourne, West Sussex,
United Kingdom

MAJESTIC AEROSPACE, LLC
West Des Moines, IA

**UNITED AEROSPACE
CORPORATION**
Miramar, FL

FOR THEIR ACCREDITATION, AND

**AIR PARTS INTERNATIONAL
SALES, INC.**
Burbank, CA

**DIVERSIFIED AERO
SERVICES, INC.**
Miami, FL

(Continued on Page 3)



EXPORT TIPS

Brokering

You hear it again and again: “Aviation is a global marketplace.” When the U.S. aviation market gets slow, many ASA members have turned to the non-U.S. marketplace as a source of business; and when the U.S. market picks up again, having the export business available is a nice addition to the lines of customers that ASA’s members enjoy.

The problem with international business, though, is that it requires you to understand a whole new set of laws and regulations. The United States export laws have been around for a long time, but in recent years they have received much more attention as the United States has used them to better ensure national security. Several high profile enforcement actions have focused new attention on export law compliance.

This month’s export tip discusses the role of the broker – who is considered a broker under the export laws and what are the duties of a broker?

U.S. export laws are not just important to U.S. companies!

If you are outside the United States, then now is NOT the time to turn the page! U.S. export laws are important to the entire world because of the long reach of the U.S. legal system. Even if you are located outside the United States, the United States Government can still bring enforcement actions against your company. The government can list your company on a denied parties list (prohibiting U.S. companies from exporting to you) and can adversely affect the business interests of your business partners in the United States as well.

Continued on Page 3

INSIDE:

President’s Message	2	Traceability - 8130.21	4	Member Profile	18
Publication Information	2	Government Contracting	4	Calendar of Events	20
Association Information	2	FAA Manufacturing Rules	6		

MESSAGE FROM ASA'S PRESIDENT

THE UPDATE Report

is the monthly newsletter of the Aviation Suppliers Association.

OUR COMMITMENT

ASA is committed to providing timely information to help members and other aviation professionals stay abreast of the changes within the aviation supplier industry.

The UPDATE Report is just one of the many benefits that ASA offers members. To learn more about our valuable educational programs, please contact ASA.

The UPDATE Report Staff

Publisher Michele Dickstein
Editor Jason Dickstein
Advertising and Production Editor Caroline Bruenderman

QUESTIONS ?

Please send questions to:

Jason Dickstein
Aviation Suppliers Association
734 15th Street, NW, Suite 620
Washington, DC 20005
voice: (202) 347-6899
fax: (202) 347-6894
email:
jason@washingtongaviation.com

Dear Members,

ASA will soon be publishing the registration packages for the ASA Annual Conference. This year's annual conference will be held on July 14-17, 2007 at the Miami Four Seasons. As usual, we will also hold the ASA Quality Assurance Committee meeting on Saturday (July 14). The hotel is already accepting reservations so feel free to make your reservations now (305) 358-3535.

This month we have several short articles on traceability, export and government contracting. Next month we will start two new series of articles on hazmat and on security issues facing distributors. Our aim is to provide more regular information on these subjects. If you have a topic area that you would like to see more regular features addressing, please contact us so we can make sure that The UPDATE Report focuses on the issues that you want to hear more about.

In next month's issue, you will see our final economic analysis of the proposed changes to the repair station (Part 145) regulations. This will be based on our second round of comments on the Part 145 regulations – the first round of comments addressed the substantive regulates and the second round will focus on the economic impact of the proposed rule. Our economic analysis is based in large part of the answers that you have provided to us in response to our recent survey about the costs of quality assurance systems. Thank you to all of the ASA members who helped us by answering that survey.

Last month's issue addressed the substantive changes being proposed to part 145. For all ASA members who may be affected by the proposed changes Part 145, please make sure that you file you comments by the deadline (that is April 16, pursuant to 72 Fed. Reg. 8641).

Also, don't forget that personal taxes are due April 17th this year (another item from last month's issue).

Take care,
Michele Dickstein

BOARD OF DIRECTORS

Richard Levin (818) 842-6464
A.J. Levin Company

Greg McGowan (206) 662-7233
Boeing Commercial Airplanes

Mike Molli (847) 836-3100
Technitrade, Inc.

Karen Odegard (253) 395-9535
Pacific Aero Tech, Inc.

Roy Resto (414) 875-1234
Tracer Corporation

Brent Webb (972) 488-0580
Aircraft Inventory Management
& Services Ltd.

Mitch Weinberg (305) 685-5511
International Aircraft Associates, Inc.

LIST OF ADVERTISERS

AviTrader7
Component Control14

ASA Membership5,19
ASA Annual Conference10
Advertising in TUR13
ASA Workshops17

**Want to expand your
marketing opportunities?**

Advertise in The UPDATE Report!
For more information, e-mail:
caroline@aviationsuppliers.org
or call (202) 347-6898

OFFICERS:

Karen Odegard
(253) 395-9535
Corporate Treasurer

Jason Dickstein
(202) 347-6899
Corporate Secretary

Michele Dickstein
(202) 347-6899
President

Continued from Page 1

When is a broker regulated?

The United States has written specific rules regulating export brokers of defense-related articles. These regulations require that a broker must be registered with the State Department and must also obtain licenses for all exports of defense related articles unless the article is excepted from the regulations.

Many aircraft parts are considered defense-related articles. This includes anything that is included within the scope of the United States Munitions List (USML), which is a part of the International Traffic in Arms Regulations (ITARs). ASA has conducted workshops on how to distinguish which aircraft parts are subject to the ITARs and will be addressing this subject again in the export compliance seminar at the ASA Annual Conference.

So what exactly is a broker?

A broker is defined in the Code of Federal Register as “any person who acts as an agent for others in negotiating or arranging contracts, purchases, sales, or transfers of defense articles or defense services in return for a fee, commission, or other consideration.” If you are involved in an export transaction, and you do not fall into the manufacturer or exporter definitions, then you are probably acting as a broker.

Broker Registration

Any U.S. person, regardless of location in the world, is required to register with the Office of Defense Trade Controls (ODTC) if he/she engages in any “brokering activities...with respect to the manufacture, export, import, or transfer of any defense article...or any ‘foreign defense article or defense service’.”

The registration requirement also applies to foreign nationals who are situated in the United States and acting as brokers.

In order to register, someone empowered to act on behalf of the company must fill out and sign Department of State Form DS-2032. These forms can be found online at <http://www.state.gov/m/a/dir/forms/>. The intended registrant must send proof of incorporation or authorization to do business in the U.S. The business must also include a signed transmittal letter that states:

- (1) whether the intended registrant, or any of its officers, officials or directors has ever been indicted for or convicted of violating any of the U.S. criminal statutes enumerated in Sec. 120.27 of this subchapter
- (2) whether the intended registrant, or any of its officers, officials or directors is ineligible to contract with, or to receive a license or other approval to import defense articles or defense services from, or to receive an export license or other approval from, any agency of the U.S. Government (e.g. if any of those parties have been debarred or otherwise restricted from contracting/exporting)
- (3) whether the intended registrant is owned or controlled by foreign persons. If the intended registrant is owned or controlled by foreign persons, the letter shall also state

(Continued from Page 1)

FLIGHT LOGISTICS GROUP
Davie, FL

FOR THEIR REACCREDITATION

to the ASA-100 standard
and the
FAA's AC 00-56A
Voluntary Industry
Distributor
Accreditation
Program

Not Accredited Yet?

Learn why ASA-100
is the number one
Quality Audit System
chosen by distributors
worldwide.

(202) 347-6899

info@aviationsuppliers.org
www.aviationsuppliers.org

ASA-100 ACCREDITED



Continued on Page 4

Continued from Page 3

whether the intended registrant is incorporated or otherwise authorized to engage in business in the United States.

The letter should be accompanied by a check or money order for the registration fee (currently \$1750 for one year or \$3,500 for two years).

Brokering Restrictions

If you are in the brokering business and want to engage in brokering activities, you must ensure that you do not do business with any forbidden or embargoed party. Lists of these parties are available online, and the locations of those online resources have been discussed in ASA's past articles and export classes, and they will be discussed again in future export articles in this series.

Some brokering activities need prior written approval (license) from the ODTC. Among these activities include brokering activities regarding certain defense articles described in Part 121 and brokering activities involving defense articles or defense services.

And, of course, there is always the paperwork. In addition to completing Shipper's Export Declarations and retaining copies of these for five years, anyone who is required to register with the State Department's Office of Defense Trade Controls (ODTC) must also submit an annual report to ODTC describing its brokering activities by quantity, type, U.S. dollar value, and purchaser(s) and recipient(s), license(s) numbers for approved activities and any exemptions utilized for other covered activities."

TRACEABILITY

FAA's Change One to 8130.21

The FAA publishes instructions for completing the 8130-3 tag in FAA Order 8130.21.

The current version of the instructions for completing the 8130-3 tag is known as 8130.21E. ASA expects that the FAA will publish a change to these instructions next week. The revision will be known as "change one," so the main document will continue to be known as the "E" revision.

It is likely that the "F" revision will be published in about two years, and will feature instructions for electronic transfer of airworthiness information as well as an instruction set that has been substantially harmonized with the comparable European and Canadian instructions for completing airworthiness authorization certificates.

Tune into next month's issue for more updates on the changes to the instructions!

GOVERNMENT CONTRACTING CORNER

Proposed Ethics Provisions for Government Contractors

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend Part 3 of the Federal Acquisition Regulations to include a new Contractor Code of Ethics and Business Conduct. The proposed amendments would establish procedures for displaying the Office of the Inspector General's (OIG) Fraud Hotline Poster.

The Federal Acquisition Regulations are issued by the Federal government to regulate business transactions between the government and its contractors. The government has proposed to amend the part of the regulations (FAR Part 3) that addresses improper business practices and personal conflicts of interest. At present, this portion of the Federal Acquisition Regulations does not address the contractor's responsibilities with regard to code of ethics and business conduct and the avoidance of improper business practices. The proposal would add this element to the list of items addressed by Part 3.

Continued on Page 6

ASA Members: A Reputation for Quality

Join Us!

*Quality
Assurance...*

*Parts
Traceability...*

*Parts
Approval...*

*How do these
values fit
into your
organization?*

ASA

AVIATION SUPPLIERS ASSOCIATION

The ASA Member Logo is recognized by airlines worldwide as a symbol of quality parts and materials. All ASA members are eligible to use the ASA member logo on their Web sites, stationary and other printed materials.



In addition to use of the ASA logo, all members are listed on the ASA Web site and included in the Aviation Distribution Directory, which is distributed at all major aviation trade shows and events, including ACPC, the Airline Purchasing Expo, MRO, MRO Europe and RAA.

Government Representation

As the voice of aviation distributors, ASA works with regulators both in the U.S. and abroad to improve the regulatory environment for distributors while promoting aviation safety to the highest level. ASA has strong ties with the Federal Aviation Administration (FAA), U.S. Congress and the European Aviation Safety Agency (EASA).

In addition, ASA works to create critical mass with industry segments and regulatory bodies in order to provide universal standards and cooperation in aviation worldwide.

Education and Training

ASA offers educational opportunities to keep members abreast of the many complex legal and regulatory changes that affect their businesses. Members receive discount attendance fees for the following events:

ASA Annual Conference - Comprehensive seminars and workshops from regulators and industry leaders.

Regulatory Workshop Series - One-day workshops providing annual update on regulatory changes, offered at various locations throughout the U.S. and abroad.

Hazmat Training - Certification that satisfies Federal Regulatory Requirements.

News and Information

Member Bulletins - monthly bulletin sent exclusively to members providing membership and industry updates

Member Alerts - periodic notices that provide immediate updates on industry news as it happens

Continued from Page 4

The new proposal would establish a consistent policy for what the contractor's responsibilities are in regard to the code of ethics and business conduct. It would also establish a policy designed to help avoid improper business practices.

There are several proposed amendments to FAR Part 3, however the most note-worthy ones include:

- All contractors should have an ethics and business conduct code (note: this will likely become a de facto requirement for contacts in the future, as it will probably become an element of the contract award review process);
- Contractors who receive awards of more than \$5,000,000 must have a written code of ethics and business conduct clause, unless the performance period is less than 120 days;
- Contractors receiving awards of more than \$5,000,000 will be required to display the OIG Fraud Hotline Poster. They will also have to display disaster relief posters from the Department of Homeland Security when applicable;
- If the contractor hires a subcontractor, the subcontractor must adhere to the provisions regarding awards of more than \$5,000,000;
- If the contractor fails to comply with the clauses set forth, appropriate actions will be taken, including fines or suspension/debarment.

The government, therefore, has many factors to consider when deciding which contractor to hire. For example, if there are two contractors vying for a government contract, and if all the credentials are the same but one contractor has a code of ethics and business conduct clause and the other doesn't, it would be advisable to select the contractor with the clause because of the security the clause provides. The aim of these amendments is to insure that there is a uniform contractor code of ethics and business conduct and to avoid improper business conduct. With these provisions in place, contractors will have a harder time getting away with wrongdoings and improper business behavior.

Further information on this proposed rule is available from Mr. Ernest Woodson, Procurement Analyst, at (202) 501-3775. For information pertaining to status or publication schedules, you can contact the FAR Secretariat at (202) 501-4755. Please cite FAR case 2006-007 when referring to this proposed rule. If you wish to file comment on this regulatory proposal, comments are due to the government by April 17. You can link to (and review) the entire federal register notice at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2007_register&docid=fr16fe07-20.pdf

FAA Rulemaking Manufacturing Rules

ASA filed additional comments in response to the proposed manufacturing rule, further refining the Association's position on the costs and benefits of the proposal.

The proposed rule, on Production and Airworthiness Approvals, Part Marking, and Miscellaneous Proposals was published October 5, 2006 in the Federal Register Notice and the extension of the comment period closed on April 2 (note that late-filed comments are accepted and reviewed so long as the review does not inhibit the rulemaking process - it is not too late to file comments).

ASA's latest supplemental comments were filed as a joint effort with the Aircraft Electronics Association. The comments were offered specifically to address the costs of the proposed rulemaking, and to respond to the Initial Regulatory Flexibility Analysis (IRFA).

ASA members may recall that the FAA had published the original rule without an IRFA, despite the fact that the IRFA is legally required. ASA pointed out the legal problems with this failure during its initial comments and as a remedy the FAA published the IRFA, announced the IRFA in the Federal Register, and reopened the comment period to accept comments on the IRFA.

Continued on Page 7

Continued from Page 6

What ASA found was that the regulations addressed a number of matters about which the IRFA was silent. And many of these matters were the ones that most directly affect ASA's members. ASA has asked the FAA to consider these economic analysis elements and to consider dropping certain elements of the proposed rule because the costs far outweigh the benefits.

The IRFA Fails to Address Impact on Some Small Entities

The IRFA specifically fails to address the direct impact of the rule on some of parties who will suffer the most adverse economic effects. The small entities that will be impacted most include distributors, repair stations and maintenance facilities that do not hold repair station (air agency) certificates. Because the FAA has failed to address these parties, the IRFA fails to provide a clear explanation of the need for and objectives of certain elements of the rule. It fails to develop and analyze all major cost factors, and it fails to adequately consider some of the alternatives that will allow the agency to accomplish its regulatory objectives while minimizing the impact on small entities. It also fails to adequately address the competitiveness and business closure analyses required by law.

The vast majority of the aircraft parts distributors, repair stations and maintenance facilities that do not hold repair station (air agency) certificates in the United States are small businesses, and as such, they are protected by the requirements of the Regulatory Flexibility Act.

The Commercial Parts Definition Creates Costs

The IRFA states that the intent of the proposed Commercial parts definition "is to create a replacement parts classification for commercial parts, allowing commercial parts manufacture without PMA." This stated intent is illusory, in light of the fact that the existing regulations already carve out a category of parts that may be produced without PMA. These parts are those that fall outside the scope of the regulations in 14 C.F.R. § 21.303. See In the Matter of Pacific Sky Supply, Inc., FAA Order No. 93-19 (June 10, 1993).

Continued on Page 8



Avitrader
AVIATION NEWS

~~I don't~~ like Monday mornings!

COVER STORIES

British Airways issues tender for wide-body fleet renewal

AviTrader WEEKLY AVIATION

New \$2.5 billion titanium deal

All ASA Members Receive 15% Off on Advertising

WWW.AVITRADER.COM

The preamble to the regulation admits that the term “commercial parts” is a term in current usage in the aviation industry. It is a term that is referenced in FAA guidance in Guide for Developing a Receiving Inspection System for Aircraft Parts and Material, FAA Advisory Circular 20-154 App’x 2. (Dec. 12, 2005). In current usage, this term generally connotes a part that is produced outside of the scope of 14 CFR 21.303(a), which regulates the production of replacement and modification parts made with the intent that they be offered for sale for installation on a type certificate product. Parts that fall outside this scope include (but are not limited to):

- Parts manufactured with no intent that they be offered for sale, like those manufactured by a repair station to support a maintenance activity;
- Parts manufactured by a party that has no specific intent that they be used on an aircraft (e.g. parts made with general industrial or commercial usage, but that are known in the aviation industry to be appropriate for use in certain aircraft installations, including parts like light bulbs, materials like tape, and raw materials like sheet metal);
- Parts manufactured by a party that has no specific intent that they be used on a type-certificated aircraft (e.g. parts made with the specific intent that they be used only on experimental aircraft).

Under the existing rules, there is no restriction on parties producing or selling parts that are not intended (at the time of production) to be installed on aircraft. Under the existing rules, at the time of installation, all such parts must be determined to meet appropriate standards in order to meet the installer’s regulatory obligations under 14 C.F.R. § 43.13(b) (“at least equal to original or properly altered condition”). The proposed definition of “commercial parts” changes the common industry understanding of this term, and it would impose new restrictions on the production of such parts.

This would also have a logical downstream effect on the use of such parts.

Effect on Purchasers

Among buyers of parts, there is an industry-wide desire to purchase “approved” parts as that term has come to be understood by the industry (evidence of this can be seen in the large volume of aircraft parts sold by companies listed on the AC 00-56 list of accredited companies). Because commercial parts are necessary to the safe operation of aircraft, it has been understood within the industry that commercial parts are acceptable for purchase and installation.

The FAA has encouraged quality systems among distributors that assure that aircraft parts that are sold fit into “pigeon holes” like the commercial parts category. A discussion of the pigeon holes into which such parts may be sorted can be found in FAA guidance. See, e.g., Guide for Developing a Receiving Inspection System for Aircraft Parts and Material, FAA Advisory Circular 20-154 (Dec. 12, 2005) (including commercial parts and materials). Many companies have developed quality assurance systems and operating manuals that limit what sort of parts a company may purchase. These include manuals that have been encouraged and approved by the FAA.

The industry has already followed FAA guidance to limit purchase of parts to those that fall within one of the FAA’s defined “pigeon-hole” categories of parts. By defining commercial parts in a more narrow fashion than is currently understood, the FAA will have the effect of limiting the sort of parts that these companies will be able to buy and sell; this limit will be more narrow than the interests of safety require, and it will be so narrow that it will exclude some parts that are reasonably needed in the industry for safe operation of aircraft.

There is no Requirement to Support the Commercial Parts Definition

There is an assumption under the commercial parts definition that design approval holders will designate certain parts as commercial and will apply for FAA confirmation of this status. If this designation and confirmation does not occur, then the new commercial parts definition becomes an anchor on the productivity of the industry. There is a real possibility that design approval holders will not support the commercial parts definition.

Existing design approval holders who choose to designate commercial parts will incur costs associated with their own review (to support designation) and with the FAA's designation-approval process. They may also incur new liabilities for these designated parts as a consequence of the designation. These costs and liabilities are disincentives to designation.

The proposed regulation imposes no obligation on a design approval holder to designate commercial parts. Thus, one of the following will happen with each aircraft type:

- 1) The design approval holder will be unable to designate commercial parts (e.g. because the design approval holder is out of business) or the design approval holder will be unwilling to designate commercial parts (e.g. because of concerns over liability, or practical inability to commit resources to the designation project); or
- 2) The design approval holder will designate some parts as commercial parts, but will not designate all possible commercial parts. This may be because of a lack of resources for designation, or it may be because of exclusivity clauses in contracts that the design approval holder has signed with the design approval holder's suppliers. This will give design approval holder the power to designate *de facto* monopolies over such parts. A limited number of manufacturers of 'commercial off-the-shelf' parts may pursue PMAs in order to obtain the sales that are lost by the lack of designation (joining the monopolist's market), but most will not be able to do this because the cost of obtaining a PMA for low-value parts makes it uneconomical to do so; or
- 3) The design approval holder will commit resources to designating all possible commercial parts as commercial. This option is extremely unlikely because the design approval holder will have no incentive to do this, and there are significant economic and legal disincentives to such a designation (e.g. product liability concerns).

Under the proposed rule, a manufacturer who recognizes a reasonable likelihood that its part may be installed on a type certificated product will be required to obtain a PMA, unless the parts meet one of the other qualifications (like the commercial parts category). Among commercial parts manufacturers, this rule change will require the manufacturers to make a choice – they must do one of the following:

- 1) They may undertake the costs of FAA certification (which can be significant);
- 2) They may take affirmative steps to absolutely prevent aviation parties from using their parts for aviation purposes;
- 3) They may solicit from the design approval holder a designation as a commercial part – an application that will be absolutely at the discretion of the design approval holder and an application that will also be subject to the approval of the FAA – approval that may be withheld for any reason, due to the fact that there is no legal or regulatory standard requiring the FAA to approve a designation application; or
- 4) They may ignore the rule (which many will do) – this imposes potential liability on these manufacturers to the extent that they knew or reasonably should have known that their parts were being purchased for use in the aircraft.

Many manufacturers of parts that are considered “commercial” today will not have their parts named as commercial parts under the proposed regulatory scheme – either because they do not pursue this designation or because they are refused designation by the design approval holders (who may refuse to pursue designation at their discretion). This will impose an economic burden on the purchasers, distributors and installers of such parts.

Many of the companies that are purchasers, distributors and installers of what are currently known as “commercial parts” have already implemented quality assurance systems in which the system requires that parts fall into a known category in order to be received into inventory in the company – “commercial parts” represents a known category that is commonly used in the aviation industry (so the FAA proposed rule would be redefining this known category). The receiving inspection aspects

Gateway to New Opportunities ASA 2007

MIAMI, FLORIDA • JULY 14-17

ASA Annual Conference • www.ASA2007.org

Accommodations: \$159 • Four Season Hotel • 305-358-3535



Continued from Page 9

of these quality assurance systems generally include written receiving inspection requirements and limitations. See Guide for Developing a Receiving Inspection System for Aircraft Parts and Material, FAA Advisory Circular 20-154 para. 6(f) (Dec. 12, 2005). Such quality assurance systems have been implemented in accordance with FAA policy (e.g. FAA Advisory Circular 00-56A) and/or in accordance with FAA approval (e.g. air carrier general maintenance manuals describing receiving inspection systems approved by the FAA). It is normal for such systems to require parts to meet at least one set of requirements as a condition of entry into the system, and one of the possible requirements is that the part is considered a “commercial part.” See *id.* at appendix 2.

Costs

The following costs should have been considered by the FAA in the Regulatory Flexibility Analysis associated with the commercial parts definition:

- 1) the costs of certification to the limited number of commercial parts manufacturers who obtain PMAs;
- 2) the costs to commercial parts manufacturers who lose indirect sales to the aviation industry;
- 3) the compliance costs to commercial parts manufacturers who must take affirmative steps to prevent their parts from being installed on aircraft;
- 4) the increased costs to the purchasers of commercial parts, as a natural consequence of the monopolies that may be created by sole-source designation of commercial parts;
- 5) the devaluation of existing commercial parts inventory; this existing inventory was not subject to designation, and therefore cannot be considered to have been fabricated in accordance with the new rules (as a matter of normal industry practice, the industry will no longer purchase parts that do not meet the new regulatory standard, so aviation parts distributors holding inventories of such commercial parts will likely find that the parts can not be sold to the exiting customer base of the distributor); the results of this devaluation would be that the distributor would either:
 - a. sell the parts at a loss to recoup some of the investment;
 - b. invest in marketing to a new, non-aviation industry (if one is readily available and does not require special qualification or certification for participation); or
 - c. scrap the parts for a total loss;
- 6) the costs of aircraft that may have to be grounded because there are no longer commercial parts (meeting the new definition) that may be purchased and installed on these aircraft.

Benefits

As previously stated, the IRFA explains that the intent of the proposed commercial parts definition “is to create a replacement parts classification for commercial parts, allowing commercial parts manufacture without PMA.”

Under the existing regulations there is already a category of parts that may be produced without PMA – these parts are those that fall outside the scope of the regulations in 14 C.F.R. § 21.303. Thus, the existing regulations do not require a replacement parts classification for commercial parts, allowing commercial parts manufacture without PMA. The FAA is creating the need for this category in the proposed rule, by dropping the “for sale” language from the scope of parts subject to the PMA rule. Thus, there is no pre-existing need for this definition. The new change (dropping the “for sale” language) is not necessary - there is no safety benefit to that change, either – so there is no real benefit, either directly or indirectly, to the new commercial parts definition.

The new limits and the new definition would not change commercial parts in any way that would promote safety. Thus, there is no offsetting benefit to counter the actual costs of this proposed regulation.

Continued on Page 12

Limits on Distribution Must be Analyzed in Terms of their Chilling Effect on Commerce

The proposed language found in 21.9(c) has an extremely broad effect – much broader than the plain language of the rule might reveal – and therefore the costs of this proposed rule will be tremendous. The IRFA fails to address any of the costs that this proposal would impose on the aviation marketplace.

Under the proposed section 21.9(c)(3), a person who wants to sell a part that falls within the scope of subsection 21.9(c) must determine the part is in a condition for safe operation. This is an airworthiness finding made pursuant to an inspection. As such, it is a finding that may only be made by the FAA (or a FAA designee with appropriate privileges) or by an FAA certificate holder authorized to perform work under 14 C.F.R. § 43.3. Non-certificated distributors would not be permitted to make this finding. Thus, the language of proposed 21.9(c)(3) would preclude distributors from selling parts for military surplus aircraft.

The clauses of 21.9(c)(1) and 21.9(c)(2) are equally problematic in that they impose requirements related to the chain of commerce that might not be provable for some parts currently in inventories.

Furthermore, the general prohibition on selling or representing parts as suitable for certain aircraft under 21.9(c) represents a much broader prohibition than it appears to represent on its face. At first glance these limits appear to apply only to military derivative aircraft type certificated under 21.25(a)(2) or 21.27 but one cannot always tell the certification basis of the ultimate destination of an aircraft part when that part is sold, and as a consequence, it can be difficult to really know the certification basis of the ultimate aircraft when you are selling aircraft parts, even though you are expected to represent that the part is appropriate for use.

Examples

Here are some examples that help put the proposed 21.9(c) into perspective, and that show that the likely effect of the rule will reach beyond the 21.25 and 21.27 limits stated in the proposed rule.

Imagine that you are an engine distributor. It is quite possible to sell someone an engine or part that is suitable for an aircraft, and not realize that the aircraft in question was type-certificated under 21.25(a)(2) or 21.27 (instead of the normal 21.21).

This can be a problem for anyone that gets involved in engines that could find their way onto a military model or military derivative aircraft. For example, imagine that you are selling an Allison 501-D22A engine. You need to know whether the engine is going to be installed on an L-100 or if it is being installed on a C-130 (these engines are permitted on certain C-130s by type design data sheet – e.g. TCDS A5SO – and could be permitted on others by Supplemental Type Certificate). You cannot sell it for the customer's aircraft unless you are certain that the customer is flying L-100s and not converted C-130s (which are restricted category 21.25 aircraft). If the customer has a mixed fleet, then the seller could really be in trouble, because such a fleet is more likely to be using a uniform engine - meaning that the engines will be the same on military derivative and civilian models of the aircraft!

This becomes even more of a problem when a distributor is selling an aircraft part (rather than a complete product). The buyer asks for a part number and the seller represents that it is airworthy and suitable for the buyer's fleet. But the fleet may include some aircraft that are military derivative (e.g. 21.25) and some that are not. Those aircraft may all use the same part!

Another example of the ambiguities in discerning compliance standard exists for the S-61L. It was type certificated by Sikorsky under CAR7, and then it was also later type certificated by Carson Helicopters under 21.25. How would a distributor know whether the helicopter for which YOU are selling an engine (or any other part) falls under the Sikorsky TC or the Carson TC? Both use GE CT58s ... and although they were TCed using different dash numbers of the CT58, it is not unusual

Advertise!

The UPDATE Report

wide distribution

The UPDATE Report reaches air carriers, repair stations, manufacturers, government officials, consultants and attorneys worldwide.

online resource

All previous issues of The UPDATE Report are available online, providing a valuable, ongoing resource to readers. Many industry professionals use the online format for research long after the publication date.

primary news outlet

ASA members and industry professionals regard The UPDATE Report as a primary resource on news and events. With in-depth reports on regulations, Unapproved Parts Notifications and the Industry Events Calendar, The UPDATE Report is *the* intelligence resource for aviation suppliers.

Please contact Caroline Bruenderman for information on size, pricing and deadlines
caroline@aviationsuppliers.org or 202-347-6898.

Continued from Page 12

to see aircraft with an engine that is from the same family, but is different from the engine of the original certification (e.g. by STC). Further, both engines use a lot of the same parts. Without doing A LOT of extra work and investigation and asking the customer for a lot of information (information that the customer likely does not know), the distributor who represents that this is the right part for the customer's S-61L (according to common industry declarations) does not know whether he is in violation of 21.9(c) or not!

Imagine, for a final example, a distributor of engine parts. The distributor sells a part that is common to both the engines that are installed in C-130s and the engines that are installed in L-100 aircraft (e.g. a part from an Allison 501-D22A engine). Pursuant to industry norm, the distributor represents that the engine part that it is selling is appropriate for installation in the customer's engine. But if the customer then installs the engine on a C-130 that is type certificated under 21.25, then the distributor has violated the letter of the new regulation, despite the fact that the distributor was accurate in stating that the part was correct for installation (remember, the distributor cannot meet the requirements of 21.9(c)(3) because it is not eligible to exercise such a privilege). This effectively prohibits distributors from engaging in any transaction involving a part that might possibly find its way onto a 21.25 or 21.27 aircraft.

So even though the 21.9(c) rules appear to be limited to only certain aircraft, these rules under 21.9 actually could cause big problems where the actual certification basis of the destination aircraft is ambiguous or unknown.

Costs

The current norm in the industry is that the certification basis of the destination aircraft is not known to the distributor who sells the aircraft part. It is likely that distributors will in many cases be unable to tell whether a part is destined for a 21.25 or 21.27 type certificated aircraft.

Continued on Page 15

Quantum Control

Business Software *Integrated with the StockMarket*



Inventory Management*

The cornerstone for the Quantum Control system. The parts summary screen provides a central viewpoint for all information and activity related to a given part.



The StockMarket

Quantum users can search, buy, and sell parts with other Quantum Users in real time without leaving the software. Inventory postings are automatic and can include details such as serial numbers, images, time life and prices.



Quotation Processing*

Manages the customer quotation process and the recording of supplier responses from outgoing RFQs.



Vendor Quotes*

Provides a tool to locate sources for part procurement and send out requests for quotes to multiple vendors, including multiple lines.



Sales Orders*

Manages the customer order process to include back order management, invoice preparation and product returns.



Invoice Management*

Provides the opportunity to manage the invoice process by viewing system wide for open sales orders and determining if these can be expedited or consolidated with existing invoices, etc.



Purchase Orders & Requests*

Manages the purchasing process including request routing and approval by dollar amount and employee position. Manages purchasing activity for stock, non-stock and exchange.



Purchase Management*

Provides the capability to manage purchasing activities by being able to review all parts needed for procurement based upon sales order requirements and below minimum level stock quantities.



Integrated Accounting

The Accounting Module includes General Ledger, Accounts Receivable, Accounts Payable, and more - all integrated with Sales, Purchasing, Repair, Exchange, Work Order and Invoicing modules.



Physical Inventory*

Manages the physical inventory process. Generates count sheets for manual or barcode counting efforts.



Receiving and Inspection*

The receiving module is a powerful tool for efficient, cost-saving receiving, intermediate and final inspection, and defect recording.



Shipping Management

Manages the shipping and order consolidation process to include user defined stages and statuses. Creates custom invoices, packing slips and certification forms within one shipment.



Demand Planning

Optimizes material and production planning by analyzing historical usage and projecting future demand. Recommends minimum and maximum order quantities based on lead time and forecasted demand.



Lot Costing

Manages lot purchases and assembly teardowns. Provides total tracking of acquisition costs, overhaul expenses, component part sales, profit margins and full traceability.



Data Services

Provides flexible tools to manage the process of both importing and exporting data to/from the Quantum database. Integration points include ILS, USA Info, Partsbase and AvRef.



Management Reports*

Produces hard copy and screen oriented reports supporting all modules throughout the system.



Crystal Reports 11 Pro

Create flexible, feature-rich reports allowing unlimited reporting from Quantum, using the de facto standard for business reporting today.



Aircraft Maintenance

Manages on wing maintenance and includes Engineering Configuration Management, Maintenance Program Management, Maintenance Recording, Technical Records and Flight Log Processing Modules.



Shop Control

Manages the complete Component and Assembly Repair and Overhaul process. Includes real-time Cost and Schedule Management functions that put you in complete control of your shop's activity.



Manufacturing

The Manufacturing Module addresses all aspects of the manufacturing process including product lines, floor control, inspections, materials planning, purchasing and outside servicing.



Repair Orders*

Manages the preparation, pulling from inventory, shipping and receiving of components sent out for repair. The Repair Order module provides historic as well as current repair cost per component, detailed by parts, labor and miscellaneous charges.



Contact Management

This module provides a tool for sales, service or support centers to record, track, status and assign contact activity. Email list management and broadcasting is also included.



Document Imaging

Provides the ability to attach images or documents against part number, stock line, work order, and company.



Company Management*

Contains both customer and vendor information including pre-defined settings such as payment terms, preferred method of shipping, discounts, tax and more. It can also group vendors and suppliers for marketing purposes and provide detailed history information for each vendor and supplier.



Internet Quantum™ (iQ)

The Internet Quantum module (iQ), utilizes Stock Market technology to allow customers to login to your website and view RFQ, or purchase from your existing stock in real-time. Information such as condition, time & cycles remaining, tag info, scanned documents, delivery time and more is available to assist users in their purchasing decisions.



Max-Q

With Max-Q you get Aviation's leading Business Application, Quantum Control, implemented with the latest database technology from Oracle to provide the ultimate in database Security, Reliability, Scalability and Performance.



Bar Coding

Prints bar codes and allows for the scanning of physical inventory to track and manage stock and account for all parts when shipping, receiving, etc.



Repair Manual Tracking

Tracks all publications and revision dates and review dates. Provides for manual effectivity by part, customer and ATA. Integrated with the Shop Control module providing specific manual requirements for individual work orders.



Rental and Leasing

The Rental and Leasing module has the versatility to handle all of your rental and leasing transactions including flight-time based billing.



GFI Faxmaker

This is a fax manager that supports "background" faxing from all Quantum users by using a service based system. This is a third party MAPI compliant fax manager supporting multiple fax servers and Citrix.



AVREF Catalog Files

The AVREF Catalog System provides the latest OEM pricing information along with access to Government MCRL cross reference data. Completely integrated with the Quantum Inventory Module.

*Standard Quantum Module

Ask About Our Referral Program



Component Control ~ 619.696.5400 ~ in fo@componentcontrol.com ~ 1731 Kettner Blvd., San Diego, Ca, 92101



Continued from Page 13

The IRFA failed to genuinely address the real effect of this proposed section. The IRFA states (about 21.9(c)) “[t]he intent of this proposed regulation is to provide a means for approval of surplus military parts that are used on certificated surplus military aircraft.” A method of for approval of surplus military parts that are used on certificated surplus military aircraft is not required under 14 C.F.R. Part 21. This function is presently covered under 14 C.F.R. Part 43. See Eligibility and Evaluation Of U.S. Military Surplus Flight Safety Critical Aircraft Parts, Engines, and Propellers, FAA Advisory Circular 20-142 (Feb. 25, 2000) (discussing the methods for analysis of military surplus parts). Therefore the stated reason for the provision is false, in that a method for approval of surplus military parts is not necessary because the existing regulatory methods are adequate.

The IRFA also fails to account for the economic cost of the chilling effect of this regulation, which would be considerable, as a consequence of the fact that the type certificate basis of the airframe is not always known, even though the model of the aircraft may be known.

The IRFA also states that “There are no additional costs associated with this change because it is current practice in the industry.” This is false for several reasons, as described above. Distributors sell parts for surplus aircraft today without making the findings described in proposed 21.9(c)(3). The limits imposed by 21.9(c) on selling and representing parts are new limits that do not exist under the current regulatory structure. Thus, there are prohibitions in the proposal that did not exist under the existing regulations, and that will have a direct economic effect, as well as a clear indirect economic effect on non-regulated transactions due to the likely chilling effect of the proposed regulations.

The “For Sale” and “Reasonably Likely” Language Would Impose Significant Costs on the Maintenance Community

The FAA has proposed to drop the “for sale” language which is currently found in section 21.303 of the regulations but would be moved to 21.9 in the proposed regulations. The FAA is also changing the current “substantially certain” standard in that regulation to a “reasonably likely” standard. These two changes, taken together, will have a severe economic effect that is not addressed in the IRFA.

Effect on the Maintenance Community

Under existing rules, someone who produces aircraft parts for consumption in maintenance is not producing them “for sale.” Because this sort of fabrication is not specifically forbidden by the regulations, it may be permitted as a matter of policy. The FAA has a long-standing policy permitting fabrication in the course of maintenance. See Fabrication of Aircraft Parts by Maintenance Personnel, FAA Advisory Circular 43-18 (Mar. 24, 2006); Repair Station Production of Replacement or Modification Parts, FAA Order 8000.50 (Sept. 10, 1981). The proposed changes would create regulatory language that forbade this sort of conduct, so the policy permitting fabrication in the course of maintenance could no longer remain in place.

Under existing rules, someone who produces aircraft parts with the intent that they be consumed during maintenance does not have a substantial certainty that they will be subsequently offered for sale, but the language of the proposed rule would make a definite difference in the interpretation of the rule, as that language reflects the litigation position taken by the FAA trial attorney and rejected by the Administrator in the Pacific Sky Supply case. In the Matter of Pacific Sky Supply, Inc., FAA Order No. 93-19 (June 10, 1993).

Costs

Today, there is very a significant volume of aircraft parts that are fabricated in the course of maintenance by repair stations and other maintenance entities. This sort of fabrication happens when parts are unavailable (e.g. extinct manufacturers or long lead times), when parts are uneconomical to procure (e.g. due to rarity in the marketplace or monopolistic pricing schemes by

Continued on Page 16

manufacturers), and even when the design approval holder has provided instructions to fabricate in the maintenance manual. This proposed rule would make it illegal to fabricate aircraft parts in the course of maintenance because such parts would be “reasonably likely” to be installed on type certificated aircraft and would not fit into any of the exceptions found in 21.9(a). The costs associated with this change should have been taken into account in the IRFA.

The following costs should have been considered by the FAA in the Regulatory Flexibility Analysis associated with the decision to drop the “for sale” language from the regulations (as moved to proposed sub-section 21.9(a)):

- 1) the costs of certification to the limited number of maintenance entities who can afford to obtain PMAs for maintenance-produced parts;
- 2) the costs imposed on repair facilities who lose the ability to maintain certain components and aircraft because they cannot fabricate a necessary detail part that is otherwise unavailable;
- 3) the costs imposed on aircraft owners/operators who must purchase a new component rather than more economically maintain that component (or the aircraft) because their maintenance provider cannot fabricate a necessary detail part that is otherwise unavailable;
- 4) the increased costs to the purchasers of certain components, as a natural consequence of the monopolies that may be created where a repair used to compete with the sale of new replacement components, but that repair becomes impossible to perform because an otherwise unavailable detail part may no longer be fabricated by the maintenance-provider;
- 5) the costs of aircraft that may have to be grounded because they may no longer be repaired if the maintenance-provider cannot fabricate a necessary but otherwise-unavailable detail part.

Benefits

The IRFA states that the intent of the removal of the “for sale” language is to “remove any implication that owner or operator produced parts may be produced for sale.” This goal may be accomplished in another way.

It should be noted that air carriers sell their surplus inventories in order to eliminate the inventory carrying costs associated with inventory that they are no using. Distributors purchase these lots of surplus inventory and sell the valuable items out of the lot (generally they scrap the unsaleable items). It is not unusual for the distributor to find, upon inspection, that the lot includes owner-operator produced parts. The industry norm is to scrap these parts rather than reselling them for installation, unless such parts can be proven to be airworthy (e.g. through data approved by the FAA – this is an unusual circumstance usually performed in coordination with FAA Aviation Safety inspector oversight and participation). Whether the parts are scrapped or proven to be airworthy, either option supports the FAA’s safety goals.

The FAA’s goal of limiting sale may be better accomplished by removing the “for sale” language where it was placed in 21.9 and modifying the proposed 21.9(a)(5) to read “Produced by an owner or operator for maintaining or altering that owner or operator’s product, and without the intent of offering the article for sale.” This alternative language accomplishes the FAA’s stated goal of imposing limits on owner-operators produced parts, while remaining consistent with past case law and also permitting the marketplace to treat surplus lots according to existing ordinary and safe industry practices.

There is no safety need for adding the “for sale” language where it has been proposed to be added, nor is there a need to make the change envisioned by the “reasonably likely” language. In both cases, the existing regulations already adequately ensure FAA oversight of the fabrication process. See 14 C.F.R. § 43.13(b); Fabrication of Aircraft Parts by Maintenance Personnel, FAA Advisory Circular 43-18 (Mar. 24, 2006).

2007 European Workshop

The Intelligence Resource Serving the Aviation Parts Supplier Community



Get Educated!

Topics Include:

Export Rules

**Supporting Your
Customers' Regulatory
Obligations**

**Documentation &
Traceability**

**Commercial Business
Issues**

**Let ASA Keep you
Updated!**

To register:

Phone: 202-347-6899

Email:
info@aviationsuppliers.org

Online:
www.aviationsuppliers.org

Date: May 8

Location: London

Renaissance London Heathrow Hotel
Bath Road
Hounslow, TW6 2AQ
United Kingdom
Reservations: 44 208 564 6166

Accommodations:

Rooms are available at the Renaissance for £105.00 until **30th April**. Please use reference code LH4 and indicate that you are with the Aviation Suppliers Association.

About the Workshop:

ASA's 1-day regulatory workshops provide attendees with comprehensive information on the aviation regulatory environment.

In this constantly changing industry, suppliers must be aware of changes that affect their businesses.

Can you afford to miss it?

<http://aviationsuppliers.org/training/Workshops.htm>

MEMBER PROFILE

W.S. Wilson Corporation – Redefining Excellence through People and Products

W.S. Wilson Corporation (WSW), a leading distributor of aircraft bearings and seals, has long been an example of excellence in customer service and value-add in the aviation industry. Commencing in 1917, the company built its reputation through strong supplier support, on-time delivery and continued expansion of services. The strengths of its people are professionalism, competence and knowledge. The value of its products and services rests on WSW's strong commitment to global quality standards. An exceptional combination of people, products, international customer base and constant pursuit of excellence, distinguish WSW as a globally recognized industry leader.

W.S. Wilson Corporation established itself with sales of industrial hardware, gauges, rubber goods, tires and safety equipment in New York City. By 1958, W.S. Wilson relocated its corporate office to Long Island, New York. That same year, Pan Am took possession of the Boeing-built 707-120 and ushered in round-the-world jet service to its passengers. In order to provide the necessary service for maintenance, repair and overhaul to keep those first jet planes flying, WSW began selling aircraft bearings and maintains this focus to the present day.

In addition to the headquarters and warehouse in New York, the company maintains European and Asian stocking centers, making it well positioned to serve the ever changing airline industry. As an authorized distributor for most major aircraft bearing manufactures, WSW can not only supply bearings to service every major aircraft, but also provides industry needs for JIT value added services. To accomplish this, the WSW quality system has been approved to AS 9120 and updated software processes are being implemented for more accurate management of WSW's \$30,000,000+ inventory. Customers will be able to order and track inventory 24 hours a day, 365 days a year.

ASA had a chance to speak with Joe Rivello, WSW's Director of Marketing. Joe commented on the opportunities for expansion in the ever changing supplier industry. He noted that future growth potential lies in cost saving value-added services. Rivello noted WSW's ability to expand can be attributed to the services it provides, freeing its customers to invest more time in their core competencies. WSW's goal is to deliver bearings based on the customer's schedule at a very low cost of possession. He stated WSW saves customers' resources by assuming the fixed costs associated with storing inventory. Rivello commented, "We get them the products they want, when they want them, at a very reasonable cost. If you're not doing that, they don't need you."

In turn, Joe feels that ASA's significance to WSW lies in providing education on critical issues pertaining to regulatory status and FAA directives, thereby liberating WSW to focus on its own core competencies.

Sadly, in January of 2007, W. S. Wilson lost not only a family member, but a respected colleague of the aerospace distributor community, when President and CEO Harry Baugher lost a two-year battle with cancer. He is succeeded as President by his brother, Jeff Baugher and Mike Russell, who has assumed the duties of Executive Vice-President and COO.

W.S. Wilson has been a member of ASA since 1994.

Membership Application Form



Please process this application for **Regular Membership**. We are a supplier, distributor, manufacturer, or surplus sales organization that is involved in the sale of aircraft parts. As a **Regular Member**, we will be entitled to all benefits, participation in committees (see below), ASA's technical library, meeting discounts, nomination and voting rights of the Board of Directors, The Update Report monthly newsletter, and more. See below for payment method to the **Aviation Suppliers Association** in the annual dues amount as indicated.

- | | | | |
|---|------------|--|------------|
| <input type="checkbox"/> 1 to 19 employees | \$1,200.00 | <input type="checkbox"/> 60 to 99 employees | \$2,400.00 |
| <input type="checkbox"/> 20 to 59 employees | \$1,800.00 | <input type="checkbox"/> 100 or more employees | \$3,000.00 |

Please process this application for **Associate Membership**. We do not meet the Regular Member criteria; however, we wish to support the activities of the Association. As an **Associate Member**, we will receive benefits similar to those listed above for annual dues in the amount of **\$600**. See below for payment method.

Application Information

(All ASA communication is conducted via e-mail, therefore it is essential that you provide an active e-mail address to receive important ASA information.)

Company Name: _____

Street Address: _____

Mailing Address: (if different from above) _____

Principal Location of Business: _____

Telephone Number: _____ Fax Number: _____

Name/Title of Representative to ASA: _____

E-mail of Rep to ASA: _____ Web site: _____

Our Type of Business: _____

Officers and/or Key Management: _____

How did you hear about ASA? _____

We are interested in the following committee(s): Quality Assurance

Payment method? Mastercard/Visa American Express Company Check # _____
(Be sure to enclose check with form.)

Credit Card Number _____ Exp. Date _____

Credit Card Holder Name _____ Card Holder Signature _____
(please print)

The undersigned hereby applies for membership in the *Aviation Suppliers Association* and agrees to abide by the rules and regulations adopted by the Association and to support its activities. I attest that all of the information provided on this application is true to the best of my knowledge. I agree that membership is subject to approval. Additionally, as noted above and by my signature below, I acknowledge and authorize ASA to charge my credit card for membership payment. Regardless of payment method, I understand Membership payments are non-refundable.

Signature _____ Date _____

CONTACT US!

ASA Staff is always interested in your feedback. Please contact us with any comments or suggestions.

Michele Dickstein
President
michele@aviationsuppliers.org

Caroline Bruenderman
Manager, Membership and Meetings
caroline@aviationsuppliers.org

Jason Dickstein
General Counsel
jason@washingtonaviation.com

Stephanie Brown
Program Coordinator
office@aviationsuppliers.org

Subscriptions to The UPDATE Report are FREE. To subscribe, please send your request to info@aviationsuppliers.org.

CALENDAR OF EVENTS!

ASA Events

ASA 2007 Annual Conference.....July 14-17, 2007

Four Seasons Hotel, Miami, FL

Reservations: 305-358-3535

Regulatory Workshop Series

May 8London, UK

Renaissance London Heathrow Hotel

Reservations: 44 208 564 6166

Other Industry Events

April 17-19.....MRO 2007 Conference & Exhibition, Cobb Galleria Centre, Atlanta, GA

**May 7-9.....SpeedNews 5th Annual Aerospace & Defense Industry Suppliers Conference
The Jonathan Town Club, Los Angeles, California**

May 9-10.....Airline Purchasing Expo, Olympia Exhibition Centre, London, UK

**September 17-19.....SpeedNews 8th Annual Aviation Industry Suppliers Conference
Toulouse (AISCT), Hotel Palladia, Toulouse, France**

**November 4-6.....SpeedNews 12th Annual Regional & Business Aviation
Industry Suppliers Conference, Location TBA**