



**Policy Statement, PS-AIR-21.50-01: Inappropriate DAH
Restrictions on the Use and Availability of ICA**

Comments on the Draft Policy Statement
Announced at 76 Fed. Reg. 61999 (October 6, 2011)
And published online for public comment

Submitted to the FAA via email at john.cerra@faa.gov
and via the comment function at regulations.gov
Docket ID: FAA-2011-1097

**Submitted by the
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December 5, 2011

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Federal Aviation Administration
Mike Monroney Aeronautical Center
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Oklahoma City, OK 73169

Dear Mr. Cerra:

Please accept these comments in response to the Policy Statement, PS-AIR-21.50-01: Inappropriate DAH Restrictions on the Use and Availability of ICA, which was announced for public comment at 76 Fed. Reg. 61999 (October 6, 2011).

ASA supports the Policy Statement and welcomes the FAA's efforts to improve safety by establishing clear guidelines for its acceptance of ICA distribution mechanisms.

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Who is ASA?

Founded in 1993, ASA represents the aviation parts distribution industry, and has become known as an organization that fights for safety in the aviation marketplace.

ASA and ASA's members are committed to safety and seek to give input to the United States Government regarding government policies so that the aviation industry and the government can work collaboratively to create the best possible guidance for the industry and the flying public.

ASA supports efforts to increase safety. ASA has a number of programs to support aviation safety, and ASA works with the FAA and other non-US regulatory authorities to develop and maintain programs designed to support safety as it relates to distribution, maintenance and installation of aircraft parts.

ASA Members' Interest in ICAs

Historically, the aviation parts distribution industry has only been interested in one element of the ICAs: the Illustrated Parts Catalogs (IPCs). This has changed with recent changes in the regulations.

ASA's member have an interest in seeing consumers, like air carriers and repair stations, have an opportunity to choose the right parts to support safe flight. To this end, ASA has championed traceability paradigms in the industry that help to ensure that customers know what they are getting and get what they need. These traceability paradigms have helped to address suspected unapproved and counterfeit aircraft parts issues in the industry.

An important element of modern aircraft parts distribution is the transparent ability of anyone in the system to be able to review the appropriate documentation for an aircraft part and identify its approval basis from that documentation.

It is normal in the industry for distributors to buy parts in need of overhaul, and manage the overhaul process. These parts are then made available for use in the aviation community (the distributor may be managing the logistics for an air carrier or other operator, or the distributor may own the parts and then offer the overhauled parts for exchange or for outright sale). ASA members rely on the maintenance community to inspect and repair rotatable parts and they need them to have the right data to support those efforts.

ASA Members' Need for Access to Commercial Parts Lists from the ICAs

The FAA's recent changes to the Part 21 manufacturing regulations implemented a new definition for the term "commercial parts." This new definition is different from the common industry usage of that term in the past. Under the new definition, the only "commercial parts" are those parts listed in the commercial parts list of the ICAs.

Recent Unapproved Parts Notices have listed distributors who have handled the unapproved parts as if the distributors were 'guilty parties.' The FAA has admitted in the Federal Court system that UPNs are "orders." Avia Dynamics, Inc. v. FAA, 641 F.3d 515, 519 (D.C. Cir. 2011). Therefore, it is a matter of compliance that distributors must forbear from selling unapproved parts. See FAA Advisory Circular 21.29C change 2, Detecting and Reporting Suspected Unapproved Parts (August 17, 2011). The only way to identify whether a part is or is not a "commercial part" is to have access to the commercial parts lists published as part of the ICAs.

Therefore, distributors of aircraft parts now have a practical need to comply with certain elements of the ICAs.

Recommendation: Reflect the Need for Distributors' Access to the CPLs

In light of the fact that distributors now need to comply with the Commercial Parts Lists (CPLs) of the ICAs, this guidance should make it clear that distributors are now among the parties who need access to the ICAs/CPLs. We specifically recommend that the following paragraphs be added to the policy:

Making ICA Available to Aircraft Parts Distributors

One of the elements of an ICA is a detailed description of the product and its components. E.g. 14 C.F.R. Part 33 App'x A33.3(a)(2). This is generally accomplished by publishing an illustrated parts catalog.

Distributors of aircraft parts rely on the illustrated parts catalog (IPC) in the ICAs to help identify parts and to ensure, at the time of receiving inspection, that parts appear to be genuine and correctly labeled.

The recent rule change permitting manufacturers to create commercial parts lists (CPLs) makes it clear that the CPLs are part of the ICAs. Aircraft parts distributors need access to the CPL in order to ensure their continued compliance with approved parts obligations.

The FAA maintains a list of accredited aircraft parts distributors pursuant to the requirements of Advisory Circular 00-56 (Voluntary Industry Distributor Accreditation Program). Aircraft Parts Distributors identified on this list are among the class of parties who must have access to the CPLs and IPCs. Unless the distributor is entitled to other parts of the ICAs for other reasons (such as qualification under Order 8110.54), a distributor's entitlement to the ICAs is limited only to the IPC and CPL.

An owner/operator or repair station also has the right under §21.50(b) to obtain the ICA from the DAH and then provide the IPC and CPL to the parts supplier(s) of its choice.

This text will ensure that the distributors' need for IPCs and CPLs is respected, while at the same time making it clear that the distributors' limited need entitles them only to those discrete elements of the ICAs that distributors have traditionally accessed.

ASA Supports the Policy Statement

Aside from our recommendation of additional text, ASA is fully in support of the Policy Statement.

Anti-competitive use of safety data to secure competitive advantage does more than harm the marketplace. It also jeopardizes safety by limiting the access to safety data among those need that safety data. The safety data found in ICAs is used to inspect and maintain aircraft parts - the sort of aircraft parts that ASA members are buying and selling to support the civil aviation fleet.

ASA believes that this Policy Statement will improve the free flow of safety information, and will curtail anti-competitive use of safety data that threatens aviation safety. We therefore fully support the Policy Statement.

Conclusion

Your consideration of these comments is greatly appreciated.

Respectfully Submitted,

A handwritten signature in black ink that reads "Jason Dickstein". The signature is written in a cursive style with a large, looped initial "J".

Jason Dickstein
General Counsel
Aviation Suppliers Association