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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 3

[Docket No. FAA-2003-15062; Notice No. 03-07]

RIN 2120-AG08

False and Misleading Statements Regarding Aircraft Products, Parts, and Materials

AGENCY: Federal Aviation Administration (FAA), (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes additional rules that would prohibit certain false or misleading statements regarding type certificated products, and parts and materials that may be used on type certificated products. The proposals would also allow increased inspection by the FAA of records and parts regarding the quality of aircraft parts. The additional rules are needed to help prevent persons from representing parts as suitable for use on type certificated products when in fact they may not be. The proposals are intended to provide assurance that aircraft owners and operators, and persons who maintain aircraft, have factual information on which to determine whether a part may be used in a given type certificated product application.

DATES: Send your comments by [~~Insert date 90 days after date of publication in the Federal Register~~] August 3, 2003

5/1/03 JMA

ADDRESSES: Address your comments to the Docket Management System (DMS), U.S. Department of Transportation, Room Plaza Level 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number "FAA-2003-15062" at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Beverly Sharkey, Suspected Unapproved Parts Program Office (AVR-20), Federal Aviation Administration, 45005 Aviation Drive, Suite 214, Dulles, VA 20166-7541; telephone (703) 661-0580, facsimile (703) 661-0113, e-mail beverly.j.sharkey@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to take part in this rulemaking by submitting written comments, data, or views. We also invite comments on the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference

a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the ADDRESSES section of this preamble between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the ADDRESSES section.

Before acting on this proposal, we will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal because of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of NPRMs

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (http://dms.dot.gov/search).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this proposed rule. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number of the item you wish to view.

You can also get an electronic copy using the Internet through the Office of Rulemaking's web page at http://www.faa.gov/avr/armhome.htm or the Federal Register's web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Background

Statement of the Problem

There has been a growing concern about the representation of parts used on aircraft. Under FAA regulations, the person installing parts on an aircraft is responsible for ensuring the parts are airworthy. Because airworthiness cannot be determined simply by inspecting a part, parts installers often have to rely on information provided by the persons who sold them the parts. Most parts in the aviation system are of the quality and condition described in their records. There

have been cases, however, in which false or misleading statements in advertisements and other records have led a person installing the part to believe the part was suitable for a particular use when, in fact, it was not.

Currently, there are few regulations concerning false or misleading statements regarding aircraft parts. Further, it may be difficult for the FAA to investigate apparent false or misleading statements because the FAA does not regulate parts distributors.

The FAA proposes to issue additional rules that would (1) help prevent misleading statements by extending the prohibition on fraudulent or intentionally false statements beyond those now covered by Title 14, Code of Federal Regulations (14 CFR) parts 21 and 43; (2) provide a regulation covering fraudulent and intentionally false statements that, if violated, would be addressed by FAA enforcement action; and (3) provide for FAA investigation of representations made regarding the quality of aircraft parts.

Petition for Rulemaking

The FAA received a petition for rulemaking to amend part 21 to prohibit false, fictitious, or fraudulent statements or representations associated with the sale or transfer of aircraft parts. The petition, submitted by Roger C. Forshee (Docket No. FAA-2000-8053), proposed rulemaking to address aircraft parts that are being offered for sale as "aircraft quality," when, in fact, the quality and origin of the parts are unknown. The FAA denied the petition as a separate rulemaking action because FAA had already undertaken the present rulemaking, which it considers responsive to the issues raised in Mr. Forshee's petition.

Current Requirements

Determining Status of Parts

Persons who own or operate aircraft are responsible for maintaining the aircraft in an airworthy condition. See, for instance, 14 CFR § 91.403.

Under 14 CFR § 43.13, persons performing maintenance, preventive maintenance, or alterations are required to use materials of such a quality that the aircraft, airframe, aircraft engine, propeller, or appliance after the maintenance is at least equal to its original or properly altered condition. Persons must use replacement products, parts, and materials that will allow them to return the aircraft to service in an airworthy condition.

To determine that a product, part, or material is suitable for use in a particular installation on a type certificated product, the person maintaining the product must use various information sources.
For aircraft, the airworthiness certificate and the maintenance records for the airframe and powerplant must be reviewed.

For airframes, engines, propellers, appliances, other parts, and materials, several items must be reviewed. For instance, the part number is important, and it is critical to know whether the part was produced by an FAA production

approval holder (PAH)[1] or a PAH approved supplier. If the part is required to be replaced or serviced after a specified time in service, or has a limited shelf life, it is essential to know time in service or time since manufacture.

For a used part, it is important to know whether maintenance has been performed on the part, what was done, who performed the work, and whether the part has been approved for return to service by an appropriately certificated person. If it is a life-limited part, the installer must know the current life status of the part. All of this information is used to determine whether the part may be used in a given application, and whether it must be serviced in any way before use.

Similarly, persons producing aircraft, engines, propellers, appliances, and other parts must use materials and parts that will allow them to produce a product that conforms to the approved design. They obtain materials and parts from various sources. Producers have extensive procedures in place to assure that they are using quality parts, but they, too, must rely on representations made by others regarding the parts and materials.

There are several sources of this information. The status of a part is not completely apparent simply by visual examination, and usually various records must be used.

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[1] Production approval holders are persons that have been approved by the FAA to produce aircraft products or parts. Production approvals include parts manufacturer approvals (PMA) (Part 21, Subpart K), production certificates (PC) (Part 21, Subpart G), technical standard order authorizations (TSAO) (Part 21, Subpart O), and approved production inspection systems (APIS) (Part 21, Subpart F).

This may start with an advertisement claiming the part meets FAA standards, or is of aviation quality. On receiving the part, the installer must make sure the part is appropriate for the intended use. Some parts are required to be marked, and those markings contain some of the required information. Markings, however, do not contain information regarding the part's time in service, overhaul, or repair history. Additional information needed may be on an FAA Form 8130-3 (Authorized Release Certificate - Airworthiness Approval Tag), a Joint Aviation Authorities (JAA) Form One (Authorized Release Certificate), or another record completed by a repair station or appropriately authorized person.

Other necessary information may come from a shipping document, invoice, maintenance log, or other record showing the manufacturer, part number, time in service, and other information.

Current Regulations and Laws

Existing laws and regulations partially cover the statements made in parts records regarding quality and condition of such parts. For instance, 14 CFR § 21.2 prohibits fraudulent and intentionally false statements, but only on applications for certificates or approvals under part 21, and on records that are kept, made, or used to show compliance with part 21. Part 21 does not cover all distribution and sale of aircraft parts by brokers, dealers, and other persons who are not producing those parts.

Similarly, 14 CFR § 43.12 prohibits fraudulent and intentionally false statements, but only on records kept, made, or used to show compliance with part 43. That part applies to the maintenance, preventive maintenance,

rebuilding, and alteration of type certificated aircraft. While it covers some records used in distributing parts, it does not cover all of them.

Some criminal sanctions may apply. The Aircraft Safety Act of 2000 added section 38 to Title 18 of the United States Code (18 U.S.C. 38) to safeguard against the dangers posed by the installation of nonconforming, defective, or counterfeit aircraft and space vehicle parts. This law prohibits certain false or fraudulent representations regarding the sale or installation of aircraft and space vehicle parts. Specifically, the law prohibits any falsification or concealment of any material fact concerning any aircraft or space vehicle part; prohibits any materially fraudulent representation concerning any aircraft or space vehicle part; and prohibits the making or use of any materially false writing, entry, certification, document, record, data plate, label, or electronic communication concerning any aircraft or space vehicle part. The law also prohibits fraudulent representations relating to the export, import, introduction, sale, trade, or installation of aircraft or space vehicle parts. There are criminal sanctions for violations of section 38, as well as civil remedies, such as ordering the destruction of the parts.

Also, 18 U.S.C. 1001, provides criminal penalties for whomever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry.

Existing laws and regulations also provide the FAA with the means to investigate potential violations. The FAA may conduct investigations, as necessary, to carry out its duties under 49 U.S.C. 40113. Parts dealers and other persons that do not hold FAA certificates, however, are not required to cooperate with the investigation unless the FAA issues a subpoena.

General Discussion of the Proposals

New Part 3

The additional rules proposed here would not fit well within any existing CFR part. The FAA proposes to create a new part 3 that would contain rules that apply broadly. It would have two sections, dealing with applicability (§ 3.1) and false and misleading 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 or material for use on type certificated products. Such records are the kind that are relied on by owners, operators,

producers, and maintainers to determine the airworthiness of an aircraft, or the acceptability of aircraft products and parts for a given application; therefore, they must be truthful.

Paragraph (c)(2) would prohibit any reproduction or alteration, for fraudulent or intentionally false purpose, of any record that represents the airworthiness of a type certificated product, or the acceptability of any part or material for use on type certificated products.

Paragraph (c) is modeled on similar provisions elsewhere in the regulations, such as §§ 21.2, 43.12, 61.59, and 65.20. These provisions have long been in the regulations and have worked well.

An intentionally false statement consists of (1) a false representation, (2) in reference to a material fact, (3) made with knowledge of its falsity. A fraudulent statement consists of these three elements, plus (4) it was made with the intent to deceive, and (5) action was taken in reliance upon the representation. See, Hart v. McLucus, 535 F.2d 516, 519 (9th Cir. 1976). There have been many cases under the existing rules interpreting these terms, which will assist in understanding the proposed rule.

Some differences from the current rules should be noted, however. Currently, § 21.2 refers to ". . . a false entry in any record or report that is required to be kept, made, or used to show compliance with any requirement for the issuance or the exercise of the privileges of any certificate or approval issued under this part." (Emphasis added.) For the most part, although a person may be required to show that an acceptable part was installed on an aircraft, the rules

do not require any particular records to be used to document aircraft products, parts, and materials, and, as discussed above, various records are used. To avoid any misunderstanding, the word "required" is not included in the proposed rule. The proposal is intended to cover any records that, in fact, represent the airworthiness of a type certificated product, or the acceptability of a part or material for installation on a type certificated product.

In addition, the words "kept, made, or used" that appear in current rules are not used in the proposed § 3.5(c); rather, the proposal refers to "any record that represents the airworthiness. . . ." The words of the current rules might be read by some as focusing on the intent of the person making the record. It is the FAA's view, however, that the important issue is whether the record represents to the reader that an aircraft is airworthy, or a part is acceptable, because the reader may rely on the record in making decisions that affect safety. The proposed wording is intended to avoid confusion on this point.

Section 3.5(d) Preventing misleading statements

Proposed § 3.5(d) would provide that no person in any record may express or imply, or cause to be expressed or implied, that a type certificated product is airworthy, or a part or material is acceptable for installation on type certificated products, unless the person can show with appropriate records the representation is true. Under this rule, a person would have to have a demonstrable basis for stating or implying the aircraft is airworthy, or part or material is acceptable for installation. Examples of a demonstrable basis include

that the part was produced under a production certificate (PC), parts manufacturer approval (PMA), or technical standard order authorization (TSOA).

There currently is little regulation concerning misleading statements. Some statements may be literally true, but mislead. A statement that a part "fits" a Cessna 172, for instance, may be literally true. But, that statement may mislead a potential buyer to think the part is acceptable for use in a Cessna 172, when it may not be.

In advertisements, shipping papers, inserts in parts boxes, and other records the FAA has seen examples of statements that are worded in such a way that a person may be misled to believe the part is approved by the Administrator or is otherwise acceptable, when neither fact has been demonstrated. Proposed § 3.5(d) is intended to prevent such statements.

In developing this proposal, we have reviewed the Federal Trade Commission's (FTC) regulation of deceptive advertising, and discussed with the FTC staff the relevance to this proposal of their approach. Although our purposes are quite different--the FTC is concerned primarily with consumer protection, whereas we are concerned exclusively with aviation safety--we've concluded that the FTC's regulatory approach to deceptive advertising establishes an excellent model for this proposal. Therefore, we intend to rely heavily on precedents established by the FTC in resolving interpretative issues that may arise in the application of this proposed rule. The following discussion is, therefore, derived from our review of the FTC regulatory scheme.

For the purposes of this rule a misleading statement requires (1) a material representation or omission (2) that is likely to mislead the consumer (3) acting reasonably under the circumstances.

Misleading statements include misrepresentations as well as a failure to disclose material information regarding the product. A misrepresentation is an express or implied statement that is contrary to fact. A misleading omission occurs when information necessary to prevent a representation, or a reasonable expectation or belief, from being misleading is not disclosed. In determining whether the omission is deceptive or misleading, we will examine the overall impression created by the representation. Unlike the definition of an intentionally false statement, there does not have to be knowledge that the statement would mislead; nor must there be the intent to deceive. The issue with which the FAA is concerned is whether the representation is *likely to mislead* rather than whether it causes actual deception.

A representation or omission is considered material if it is likely to affect the consumer's decisions about the product. The claim must be likely to be believed and acted on in a certain way, and injury must be found likely to exist because of the representation. Injury exists if the consumer would have chosen differently but for the deception. Some statements, especially those affecting health or safety, are presumptively material in nature.

Finally, a representation or omission will be considered from the perspective of a reasonable consumer under the circumstances. In evaluating a particular representation, we will look to the effect of the representation on a

reasonable member of the targeted audience. To be considered reasonable, an interpretation of a statement does not have to be the only one. For instance, if an advertiser's representation suggests more than one meaning to a reasonable consumer, one of which is misleading, the advertiser would be liable for the misleading interpretation.

Proposed § 3.5(d) is also intended to prevent persons from stating or implying that a part is acceptable when the person does not know whether it is acceptable. An example is where a person obtains surplus military parts that lack sufficient documentation to determine whether the parts are approved or acceptable for use on type certificated products, yet advertises them as acceptable parts. Under this proposed paragraph, the person would 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 show who produced the replacement part. This practice helps in identifying what parts may be used as replacements for the original, and the FAA allows this practice.

The proposed §§ 3.5(c) and (d) would prohibit the use of such numbers when they are false or misleading. For instance, if a producer assigned a part number to a replacement part that was the same as, or confusingly similar to an approved part, but the replacement part was not approved or acceptable, the producer would be in violation of the proposed §§ 3.5(c) or (d). The producer of the part might also be in violation of § 3.5(e) unless the producer clearly stated the part was not produced under an FAA production approval.

Another example is a PAH that produces a part with both a type-certificated application and a military application. The military version may not be produced under all the requirements of the FAA production approval, including design and quality control standards. If the military part is assigned the <u>same</u> part number as the FAA-approved version, that number could erroneously imply the part is acceptable for use on type certificated product. That practice would constitute a violation of the proposed § 3.5(d). A military part, however, may be eligible for installation on a type-certificated product provided the documentation accompanying the part establishes the part meets the standards to which it was manufactured, interchangeability with the original part can be established, and the part is in compliance with all applicable airworthiness directives (ADs).

Another example is where a PAH contracts with a supplier to produce a given number of approved parts under the PAHs approval. The PAH is responsible under the regulations for ensuring the parts conform to the approved design and that all approved processes and materials were used in the production of the parts. If the supplier produces additional parts not authorized

by the PAH and marks them with the PAHs part number, that supplier is stating or implying that those additional parts were made under the PAHs approval when in fact they were not. The additional parts are not approved parts.

Illustrated parts catalogues (IPC) are another type of document that may contain misleading statements regarding what parts are approved or acceptable for use in maintaining an aircraft. Manufacturers typically publish IPCs to inform their customers of sources of replacement parts, and operators and repair stations widely use IPCs for that purpose. Some manufacturers make little or no effort to ensure their IPCs are current or the identified suppliers have obtained FAA production approvals (for example, PMA). Thus, a manufacturer's "current" IPC might include suppliers who not only do not have PMA, but whose contracts with the manufacturer may have been canceled for various reasons. Yet many parts buyers assume that, because a supplier is listed in an IPC, their parts are acceptable. The FAA recognizes that for business reasons the manufacturers often do not wish to expend the resources necessary to ensure the IPC is always current. The FAA also recognizes, however, that given the potential reliance on the IPC it should avoid misleading people who use it to maintain aircraft. The IPC would comply with this rule if it clearly stated that the suppliers listed may not currently hold FAA approvals and the maintainer must determine whether the supplier's parts can be used.

Other statements may be misleading when representing a part's life status, such as the cycles or hours accumulated on the part. For instance, a record may indicate that a life-limited part has no time in service (is new) when,

in fact, the part actually has some time in service. This may influence an aircraft owner to use the part beyond its service life. Such a statement would be in violation of either § 3.5(c) or (d), or both.

Continuing responsibility of owners, operators, mechanics, and repair stations

The owner or operator of an aircraft is responsible for maintaining the aircraft in an airworthy condition. See, for instance, § 91.403(a). Further, each person maintaining or altering an aircraft, or performing preventive maintenance, is responsible for ensuring the aircraft will be at least equal to its original or properly altered condition. See § 43.13(b). The proposed § 3.5 would not change these responsibilities.

These proposed rules are intended to assist owners, operators, and maintainers by prohibiting false and misleading statements in the records they rely on. But, these rules would not replace the current responsibility of owners, operators, and maintainers to obtain appropriate documentation for aircraft and products, parts, and materials. For instance, even though these rules would prohibit false and misleading statements in advertisements, advertisements alone are not sufficient documentation for parts used to maintain or alter aircraft. Before a person returns an aircraft to service following maintenance, preventive maintenance, or alteration, the person must have a reasonable basis to believe the aircraft will be in at least its original or properly altered condition, in accordance with § 43.13. To do so, the person must take care to obtain and examine the records on replacement and alteration products, parts, and materials, to ensure they are appropriate for the task. FAA Advisory Circular

(AC) 20-62 has further guidance regarding the documentation that should be used.

Relationship of proposal to standard parts

Standard parts are described in § 21.303(b)(4) as nuts, bolts, etc., conforming to established industry or U.S. specifications. The FAA does not require they be produced under an FAA production approval. They are not unique to aviation and may be used in many different applications outside civil aviation.

Parts distributors and others, however, may actively advertise to the aviation industry as being able to provide standard parts for use in aviation. Records regarding standard parts would be subject to this proposed rule where the records express or imply that the standard parts are suitable for use on type certificated products. Records would also be subject to the proposed rule if, under the circumstances of the sale, it was apparent the standard parts were being sold for use on type certificated products, such as when the parts are sold to an aircraft producer. And, a record would be subject to the proposal if it expresses or implies that a part conforms to a particular standard. In such cases, the record would have to be not fraudulent or intentionally false under proposed § 3.5(c), and not misleading under proposed § 3.5(d).

Relationship of proposal to aircraft parts distributors

The FAA does not certificate or regulate aircraft parts distributors. Distributors include brokers, dealers, resellers, or other persons and agencies

engaged in the sale of parts that might be installed in type-certificated aircraft, aircraft engines, propellers, and appliances.

Past initiatives addressing direct FAA certification and regulation of distributors concluded that detailed regulation is not practicable because of the potential size of the group, estimated at several thousand entities, and the FAA's limited resources to conduct the required oversight. The FAA does, however, recognize the significant role distributors play in providing parts to the aviation industry, 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 product for which acceptability has been determined.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined there are no new information collection requirements associated with this proposed rule.

The FAA has considered whether proposed § 3.5(d) would create a burden within the meaning of the Paperwork Reduction Act. That section would require that if a person made certain representations regarding type certificated products, or parts and materials to be used on type certificated products, the

person would have to have records to support those representations (except for statements made under part 43, as explained above). It is FAA's experience that the industry in the normal course of its activities transfers the records called for under the proposed rule. For instance, when air carriers buy parts, the usual and customary practice is for the air carrier to require the dealer to provide the records that substantiate the source and quality of the part. The major practical effect of the proposal would be to provide for FAA enforcement action if those records proved to be intentionally false, fraudulent, or misleading within the meaning of the rule.

Accordingly, the FAA has determined that the resources necessary to comply with the proposal are excluded from the "burden" under 5 CFR 1320.3(b)(2), and there are no information collection requirements associated with this proposed rule within the meaning of the Paperwork Reduction Act.

The FAA requests comments on this determination. Individuals and organizations may submit comments by *[insert date 90 days after publication in the Federal Register]*, and should direct them to the address listed in the ADDRESSES section of this document.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards

and Recommended Practices and has identified no differences with these proposed regulations.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when changing regulations in Title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to all persons who may make or cause to be made records regarding products, parts, or material for use on type certificated products, it could if adopted, affect intrastate aviation in Alaska. The FAA, therefore, specifically, requests comments on whether there is justification for applying the proposed rule differently in intrastate operations in Alaska.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency propose or adopt a regulation only on a determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531-2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires agencies to consider international standards and, where

appropriate, use them as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation.)

In conducting these analyses, the FAA has determined that the economic impact of this proposed rule does not meet the standards for a "significant regulatory action" under section 3(f) of Executive Order 12866 and under the regulatory policies and procedures of the Department of Transportation. The FAA has determined, however, that because of the public interest in the subject of aircraft parts, this proposed rule is considered significant and, therefore, is subject to review by the Office of Management and Budget. This rule will not have a significant impact on a substantial number of small entities; will not constitute a barrier to international trade; and does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. These analyses, available in the docket, are summarized below.

Costs

The FAA estimates that the total cost expected to accrue from implementation of the proposed rule to be $176,700 annually in 2000 dollars or $1,241,000 over the next 10 years when costs are discounted at 7 percent. The FAA expects to incur all of the above costs. Costs to industry cannot be quantified with any degree of accuracy, but are expected to be small.

The FAA is seeking cost and benefits data to better quantify the impact of the proposed rule on potentially affected entities. To that extent, the FAA seeks information on the costs and benefits that manufacturers and operators would incur to comply with the proposed rule. Such cost estimates should include equipment costs, modification costs, etc. Documentation such as sources for the cost data should also be provided. Similarly, benefits estimates should include estimates of cost savings, etc. Again, documentation of these estimates should be included.

Benefits

The potential benefits of the proposed rule are enhanced safety to the aviation community and flying public by ensuring that aircraft owners and operators and persons who maintain aircraft have factual information on which to determine whether a part may be used in a given civil aircraft.

Enhanced safety would be achieved because this rulemaking (1) would fill in gaps in the legal and regulatory structure, to extend the prohibition on fraudulent or intentionally false statements beyond those now covered by Title 14, Code of Federal Regulations (14 CFR) parts 21 and 43; (2) would provide FAA enforcement action for some fraudulent and intentionally false statements; and (3) would provide for investigation of representations made regarding the quality of aircraft parts.

For example, unapproved parts manufacturers might be less likely to fraudulently state the parts as coming from the prime manufacturer, and ship

them with look-alike packaging and paperwork. Thus, the frequency of a part being a look-alike and unsuitable for its intended function may be reduced.

Reducing the likelihood of an unapproved part from being installed would lessen the potential for an accident or an incident. The FAA has documented cases of fatal aircraft accidents where unapproved parts (that could have been installed due to false or misleading statements) have been installed on the subject aircraft. Unapproved parts that have been found installed in aircraft involved in accidents include fuel lines, propeller system/drive assemblies, engine bearings, and electrical systems.

Conclusions

Based on the low compliance cost coupled with the potential safety benefits, the FAA concludes that the proposed rule is cost beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to request and consider flexible regulatory proposals and to explain the reason for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

If an agency determines, however, that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

For the entities that would be affected by this proposed rule, the FAA expects the annualized compliance costs to be minimal. Thus, the FAA certifies that the rule will not have a significant economic impact on a substantial number of small entities. The FAA solicits comments from the public regarding this finding.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

In accordance with the above statute, the FAA has assessed the potential effect of this rulemaking and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This proposed rule does not meet the cost thresholds described above. Further, this proposed rule would not impose a significant cost on small governments and would not uniquely affect those small governments. The requirements of Title II of the Act of 1995, therefore, do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. We determined, therefore, that this notice of proposed rulemaking would not have federalism implications.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94-163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that

the proposed rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 3

Aircraft, Aviation safety, False, Fraud, Misleading.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to add a new part 3 to Chapter I of Title 14, Code of Federal Regulations as follows:

PART 3—GENERAL REQUIREMENTS

Sec.

3.1 Applicability.

3.5 Statements regarding aircraft, and aircraft products, parts, and materials.

Authority: 49 U.S.C. 106(g), 40113, 44701, and 44704.

§ 3.1 Applicability.

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

§ 3.5 Statements regarding aircraft, and aircraft products, parts, and materials.

(a) Applicability of this section. This section applies to all records regarding type certificated products, and to parts and materials that may be used on type certificated products, except that paragraph (c) of this section does not apply to records made under part 43 of this chapter.

(b) Terms used in this section.

Product means an aircraft, aircraft engine, or propeller.

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.

(c) Prohibition against false statements. No person may make or cause to be made—

(1) Any fraudulent or intentionally false statement in any record that represents the airworthiness of a type certificated product, or the acceptability of any part or material for use on type certificated product.

(2) Any fraudulent or intentionally false reproduction or alteration of any record that represents the airworthiness of any type certificated product, or the acceptability of any part or material for use on type certificated product.

(d) Preventing misleading statements. No person in any record may express or imply, or cause to be expressed or implied, that a type certificated product is airworthy, or that a part or material is acceptable for installation on type certificated product, unless the person can show with appropriate records that the product is airworthy or that the part or material is acceptable for installation on a type certificated product.

(e) FAA airworthiness standards. 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--

(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;

(2) The record clearly and expressly states that the part was not produced under an FAA production approval; or

(3) The part is a standard part (such as bolts and nuts) conforming to established industry or United States specifications.

(f) Inspection. In order for the Administrator to determine compliance with 49 U.S.C. Subtitle VII and this section, each 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 type certificated product, shall allow the Administrator to—

(1) Inspect and copy records relating to the source and acceptability of the product, part, or material; and

(2) Inspect the product, part, or material.

Issued in Washington, DC, on April 25, 2003

Beverly J. Sharkey

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Acting Manager, Suspected Unapproved Parts
Program Office

Certified to be a True Copy

Vanessa Wilkins