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FALSE AND MISLEADING STATEMENTS REGARDING AIRCRAFT PRODUCTS, PARTS AND MATERIALS

Propaganda, while being a complex subject to be regulated, is an important activity to be controlled in order to assure the safety of flight. Thus, we fully support the FAA initiative to issue a regulation about false and misleading statements regarding aircraft products, parts and materials.

Nevertheless, having the sole purpose of contributing for a better rule, we would like to make the following comments.

Comments

1. The rule applicability should be restricted to safety concerns

When the section 3.1, which states: "*Applicability. This part applies to persons engaged in aviation-related activities, as set forth in this part.*", is combined with section 3.5(d), which states: "*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.*", the possible results will encompass many situations other than those the rule was intended to consider.

All rules issued by FAA have the basic objective of preventing aircraft accidents from happening. In this specific NPRM, the objective is to preventing false and misleading statements that could lead someone else to install a non-airworthy product, part or material, in a certificated aircraft. Nevertheless, the combination of section 3.1 with section 3.5(d) allows any record, including those that are not used for indicating the airworthiness of a product, part or material, to be considered misleading. Hence, even an internal document of a manufacturer, FBO, or other aviation-related establishment, having no potential for misleading someone else, and not affecting the safety of aircraft, could constitute a FAR violation. If so, a significant amount of resources (personnel, time, and money) would be spent in activities that would not give return in safety improvements, which should always be the FAA objective.

Therefore, it seems that the applicability should be limited to records that, having misleading statements, could lead someone to install a non-airworthy product, part or material in a certificated aircraft.

2. The prohibition against false statements should be removed

The section 3.5(c) states: “*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.*”

The prohibition against fraudulent or false statement seems to be unnecessary. If the unintentional misleading record is to be considered a FAR violation, a deliberated attempt to deceive someone else obviously is condemned. Unless such misbehavior is not prohibited yet in the U.S.

laws and regulations, what seems to be illogical, the item regarding the prohibition of fraudulent or false statement should be removed in order to keep the new rule clear and objective.

3. The foreign products, parts and materials should be considered

The section 3.5(e) states: “*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*”.

Many aircraft made by foreign manufacturers, such as the Brazilian EMBRAER or the French Dassault, are registered in the United States. Although the FAA establishes the standards for authorizing those aircraft to fly within the U.S., it seems that such aircraft are not produced under an FAA production approval. If so, foreign manufacturers could not show compliance with the requirements of section 3.5(e), (1) and (3). Although the foreign manufacturers could attend the requirements of section 3.5(e)(2), compliance with this rule could (and probably would) signify an adverse propaganda of their products, parts and materials, despite those items being accepted as airworthy by the U.S. Government and FAA.

Therefore, it seems that the entire 3.5(e) should be reinstated in order to make clear the status of products, parts and materials made for foreign manufacturers.