



MODIFICATION AND REPLACEMENT PARTS ASSOCIATION

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David Hempe
5th Floor
FAA National Headquarters
950 L'Enfant Plaza North, S.W.
Washington, DC 20024

Dear Mr. Hempe:

I have been contacted by several companies, who have informed us that at least two type certificate holders, GE and CFMI, have begun placing restrictions on Instructions for Continued Airworthiness (ICAs) and revisions. The restrictions are being imposed in various ways, including under new licensing agreements that appear to inhibit safety.

I have been told that these restrictions specify that the licensee may not use the ICAs to perform maintenance (including inspection and/or testing) on Type Certificated products that contain PMA parts or FAA-DER approved (independent) repairs.

As you know, PMA and repair approval applicants are required to evaluate existing ICAs and are encouraged to use the TC holder's ICAs whenever possible to avoid confusion and inconsistency within the maintenance industry. The FAA requires such applicants to provide a showing that the TC holder's ICAs remain effective with the PMA parts installed. See, e.g., Parts Manufacturer Approval Procedures, FAA Order 8110.42C, Chap. 2, Para 5(m) (June 23, 2008) (requiring that the PMA applicant "shows and states that the product's ICA are still valid with the PMA part installed" unless there is a difference).

Typically, if the FAA agrees that the type certificate holder's ICAs remain applicable, then the FAA's concurrence will be noted on the PMA notification letter. Parts Manufacturer Approval Procedures, FAA Order 8110.42C, Chap. 3, Para 9(d) (June 23, 2008).

Thus, these new restrictions of which we've become aware conflict with existing FAA regulation, orders and guidance. This is contrary to existing FAA policy, which makes it clear that the FAA reviews the applicability of existing ICAs to PMA and FAA-DER approved repairs, and that installers may rely on this FAA decision concerning applicability. E.g. id.; see also Powerplant - Original Type and Production Certificate

Holder Parts and Aftermarket Modification and Replacement Parts, SAIB NE-08-40 (August 8, 2008).

By prohibiting the use of the TC holder ICA for the maintenance of FAA approved parts, the TC holder is forcing the Owner/Operator or maintenance provider to develop or have developed an alternate set of ICA for the non-TC holder approved parts.

This practice also compromises safety, because it puts an operator and maintenance provider with non-TC holder articles (PMA parts and/or DER repairs and /or owner operator parts) in the position of being forced to enter into a contract that requires it to ignore the ICAs that the FAA has said are acceptable and appropriate for use with respect to the non TC holder parts or repairs. Such a contract appears to be contrary to public policy, it could have a detrimental safety impact on the owner/operators continued airworthiness maintenance program, and increase confusion and inconsistency in the maintenance industry.

The FAA further clarifies this in the recent FAA Order 8110.54A (October 23, 2010) Para 4 (c) which states:

“The methods above comply with both the development and distribution requirements of 14 CFR 21.50 (b). The documentation burden on maintainers, and owner and operators, in maintaining their products is minimized when existing ICA is utilized to the maximum extent possible. A DAH may not prohibit the application of its ICA to subsequent design approvals if the FAA has determined that existing ICA is acceptable.”

The FAA retains oversight authority to ensure the proper method of distribution and application of ICAs. E.g. 14 C.F.R. § Part 33 App'x a33.1(c) (requiring the applicant to submit to the FAA a program to show how changes to the ICAs will be distributed.). Any restrictive use of ICA that conflicts with the regulations could negatively impact our successful industry safety performance.

We would appreciate your immediate assistance in examining this issue, including an examination of the methods and licensing agreements used to distribute ICAs and their revisions. We would also appreciate it if you would provide the industry with appropriate guidance to support continued operational safety programs and safe maintenance practices.

Very Truly Yours,

Jason Dickstein
MARPA President

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