



Changes to Production Certificates and Approvals

Comments on the Notice of Proposed Rulemaking published at
79 Fed. Reg. 11004 (February 27, 2014).

Submitted to the Federal Aviation Administration online at <http://www.regulations.gov>.
[Docket No. FAA-2013-0933; Notice No. 14-01]
[RIN 2120-AK20]

**Submitted by the
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May 28, 2014

Docket Operations, M-30
U.S. Department of Transportation (DOT)
1200 New Jersey Avenue SE
Room W12-140, West Building Ground Floor
Washington, DC 20590-0001

To Whom it May Concern:

Please accept these comments in response to Changes to Production Certificates and Approvals, Notice of Proposed Rulemaking, which was published for public comment at 79 Fed. Reg. 11004 (February 27, 2014). The comment period for the NPRM ends May 28, 2014.

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Who is MARPA?

The Modification and Replacement Parts Association was founded to support PMA manufacturers and their customers. Aircraft parts are a vital sector of the aviation industry, and MARPA acts to represent the interests of the manufacturers of this vital resource before the FAA and other government agencies.

MARPA is a Washington, D.C.-based, non-profit association that supports its members' business efforts by promoting excellence in production standards for PMA parts. The Association represents its members before aviation policy makers, giving them a voice in Washington D.C. to prevent unnecessary or unfair regulatory burden while at the same time working with aviation authorities to help improve the aviation industry's already-impressive safety record.

MARPA represents a diverse group of manufacturing interests – from the smallest companies to the largest - all dedicated to excellence in producing aircraft parts.

MARPA members are committed to supporting the aviation industry with safe aircraft components. MARPA members manufacture and sell aircraft components that provide equal or

better levels of reliability when compared to their original equipment manufacturer competitors.

MARPA supports efforts to produce regulations that improve the aviation industry's already excellent safety record.

Comments

The FAA should ensure that a transition of Accountable Managers does not unnecessarily delay project approval or inhibit FAA oversight ability.

Issue

The proposed regulation would require each production approval holder to identify an accountable manager to the FAA. Because the accountable manager would serve as the primary contact with the FAA, the FAA should consider and address the possible burden faced by an applicant if replacing an accountable manager.

Discussion

The NPRM states that an accountable manager is necessary to create a primary point of contact because “the lack of having a primary contact identified often results in schedule delays and uncertainty for the FAA when conducting oversight activities.”¹ The designation of the accountable manager as the primary point of contact is given effect by stating in the proposed regulation that “The accountable manager serves as the primary contact with the FAA.”²

Designating a primary point of contact with the FAA is a valuable tool. It serves to clarify communications, develop strong relationships, and expedite approvals and oversight matters. However, the nature of business assures that at certain times, the accountable manager of a PAH will leave the company. In these circumstances, there arises the possibility for considerable confusion. This is particularly true of smaller companies who may have very limited contact with the FAA, and where the loss the accountable manager was unexpected.

Although the PAH would remain responsible for amending its documentation with the FAA upon the transition of accountable managers, the FAA should clarify whether a PAH may designate a secondary point of contact. Such an individual would serve as an authorized contact to avoid possible confusion in amending documents or in the event that a new accountable manager had not been designated when the FAA made contact with the PAH.

Allowance for a secondary contact would serve to further the purpose of the proposed rule, by providing a secondary point of contact with authority to represent the PAH to the FAA. This

¹ Notice of Proposed Rulemaking, 79 Fed. Reg. 11004, 11005 (February 27, 2014).

² See, e.g., Notice of Proposed Rulemaking, 79 Fed. Reg. at 11013, § 21.305(b).

would avoid unnecessary delay and confusion between the FAA and the PAH over whether a person had the authority to provide responses or act on behalf of the PAH.³

Recommendation

The FAA should clarify whether an organization is permitted to provide an alternate point of contact to the FAA in the event that an accountable manager must be replaced.

The Supplier Control and Reporting Provisions Should not punish A Supplier for Providing Products or Articles that meet the Approved Design.

Issue

The proposed rule would delete the current requirement that a supplier-provided product or article conform to its approved design and replace it with a requirement that the supplier-provided product or article conform to the production approval holder's requirements. This could result in a supplier being reported under the supplier-reporting process for providing a product or article that conformed to its approved design.

Analysis

Section 21.137(c) currently requires procedures that ensure supplier-furnished products and articles conform to their approved design, and that suppliers report to PAHs if an escape occurs of a product or article that does not conform to its approved design.⁴

The proposed section 21.137 amendments would delete the requirement that a product or article conform to its design when provided to a PAH, and replace it with a requirement that the product or article "conform to the production approval holder's requirements."⁵ This change is intended to reflect the recognition that PAHs that incorporate products and articles in the manufacturing process do not necessarily need the product or article to be of a finished quality (and thus conforming to its approved design). However, this requirement as drafted creates two related dangers.

First, it creates two separate rules with respect to conformity of products and articles; one standard for when a company is acting as a supplier, and another standard when it is acting as a distributor in the aftermarket.

Under the proposed language, a manufacturer functioning as a supplier to a PAH would be required to ensure that the product or article conformed to the PAH's requirements.⁶ However, if that same manufacturer were to sell their products in the aftermarket as

³ See, e.g., NPRM, Fed. Reg. at 11006.

⁴ See 14 C.F.R. § 21.137(c)(1)-(2).

⁵ NPRM, Fed. Reg. at 11012.

⁶ Id.

replacement parts, for instance to a repair station or an air carrier, they would still be required to ensure that the product or article conforms to its approved design.⁷

Two separate conformity requirements could result in increased likelihood of escapes, particularly if PAH's and end-use consumers (e.g., repair stations and air carriers) have different standards or expectations of what they will be receiving. The end-user would expect an article to conform to its approved design, while the PAH would expect the article to conform to the PAH's own requirements. A supplier to both end-users (for replacement parts) and to PAH's could inadvertently allow an escape by sending the wrong product or article to the PAH, even though the product or article conforms to its approved design.

The second risk is that a supplier providing products or articles that conform to their approved design could be reported under the supplier reporting process because that product or article did not satisfy the PAH's requirements. Such reporting could needlessly harm a supplier in the market (by injuring their reputation within the supply chain) when the supplier actually provided a conforming product or article. There is also a narrow chance that such an ability to impose reporting requirements on suppliers could be used maliciously to punish a downstream supplier who may be acting as a competitor with respect to different products or articles.

PAHs are obviously entitled to make specific requests of their suppliers. This is a commercial issue that is frequently addressed within the supply chain. However, a supplier should not be punished for providing an article that conforms to its approved design and complies with FAA regulations. The language ensuring products and articles conform to their approved design should be reincorporated.

This change would be consistent with the intent of the proposed rule, which is to “*allow* a PAH to accept products, articles, or services from its suppliers that do not meet the approved design, yet conform to the PAH's requirements.”⁸ The purpose is clearly to ease the supplier control requirements to reflect the current industry practice, however the rule as proposed could inadvertently create risks.

Recommendation

MARPA recommends re-inserting the requirement that products or articles conform to their approved design as follows (recommendation underlined):

(c)(1) Ensure that each supplier-provided product, article, or service conforms to the production approval holder's requirements or its approved design; and

⁷ See 14 C.F.R. § 21.137(d).

⁸ NPRM, 79 Fed. Reg. at 11008 (emphasis added).

(2) Establish a supplier-reporting process for products, articles, or services that have been released from or provided by the supplier and subsequently found not to conform to the production approval holder's requirements or its approved design.

Conclusion

MARPA looks forward to working with the FAA to better improve aviation safety. We are happy to sit down with you to work on ways to improve the guidance if you would like further input. Your consideration of these comments is greatly appreciated.

Respectfully Submitted,



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