

**FAA Draft Order 8110.54A, Instructions for
Continued Airworthiness Responsibilities,
Requirements, and Contents**

Comments

Submitted by email to Samuel.r.colasanti@faa.gov

**Submitted by the
Modification and Replacement Parts Association**

**2233 Wisconsin Ave, NW, Suite 503
Washington, DC 20007**

**For more information, please contact:
Jason Dickstein
President
(202) 628-6776**



MODIFICATION AND REPLACEMENT PARTS ASSOCIATION

2233 Wisconsin Avenue, NW, Suite 503

Washington, DC 20007

Tel: (202) 628-6777

Fax: (202) 628-8948

<http://www.pmamarpa.com>

Comments on Draft Order 8110.54A
Submitted by email to Samuel.r.colasanti@faa.gov

March 26, 2009

Samuel R. Colasanti
Federal Aviation Administration
AIR-140
6500 S. MacArthur Blvd
Oklahoma City, OK 73169

RE: FAA Draft Order 8110.54A

Dear Mr. Colasanti:

Please accept these comments on the proposed FAA order, Order 8110.54A, Instructions for Continued Airworthiness Responsibilities, Requirements, and Contents, which was offered to the public for comment.

Table of Contents

Who is MARPA?	3
The Draft Order	3
Conventions Used in These Comments	3
The Comments	4
Chapter 2, Paragraph 2	4
Chapter 2, Paragraph 5	4
Chapter 4, Paragraphs 11 and 12	4
Chapter 6, Paragraph 4(a)(2) Issue 1	5
Chapter 6, Paragraph 4(a)(2) Issue 2	5
Chapter 6, Paragraph 4(a)(3) Issue 1	5
Chapter 6, Paragraph 4(a)(3) Issue 2	6
Chapter 6, Paragraph 4(a)(3) Issue 3	6
Conclusion	7

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 the FAA to help improve the aviation industry's already-impressive safety record.

The only major trade group exclusively representing the PMA industry, MARPA represents a diverse group of interests all dedicated to excellence in producing aircraft parts. Board members and other individuals involved in the association have years of expertise in the PMA world, and all MARPA member companies benefit from the collective experience within the group.

The Draft Order

The FAA has released the draft Order 8110.54A, Instructions for Continued Airworthiness Responsibilities, Requirements, and Contents, to the public for comment. This draft Order represents a revision of Order 8110.54, and clarifies responsibilities for affected parties and PMA ICA applicability, as well as updating the ICA process to include Electrical Wiring Interconnection Systems, and addressing the requirements for ICA for foreign validation certification projects.

As with any effort to revise an Order, there are some areas in the draft that could be improved. MARPA welcomes the opportunity to submit comments on Draft Order 8110.54A in the hopes of helping to make the guidance contained within better serve both the industry and the FAA.

Conventions Used in These Comments

The comments are organized by the Chapter and Paragraphs of the Draft Order.

The Comments

Chapter 2, Paragraph 2

Issue: The last sentence of this section is ambiguous, as it may be interpreted to require that ICAs address information related to a product (as that term is described in Part 21) even when the part or alteration to which the ICA is related is limited to one small aspect of the complete product. Association members have provided anecdotal stories about FAA inspectors demanding that ICA for a PMA, or a targeted repair or alteration, address issues that are outside the scope of the PMA, or a targeted repair or alteration.

Proposed Remedy: The last sentence of this paragraph should read “The ICA for a product must contain ...”

Chapter 2, Paragraph 5

Issue: The FAA has proposed new language that specifies that a design approval holder cannot prohibit the application of their ICAs to a PMA part. ICA language in violation of this clause has been a persistent problem in the industry. This problem has been recently recognized in several FAA documents. We are pleased to see the FAA taking a proactive stand, consistent with the recent SAIB and the recommendations of the FAA’s RAFT Report.

Proposed Remedy: No action necessary. We appreciate the addition.

Chapter 4, Paragraphs 11 and 12

Issue: The parenthetical in each of these sections states “(If CMM information was developed to demonstrate compliance to 14 C.F.R. §§ 21.50 and 26.1(a), then the CMM is part of the ICA)” The reference to § 21.50 is incorrect. That section requires ICAs to be made available. The sections that require ICAs to be created are sections 23.1529, 25.1529, 27.1529, 29.1529, 31.82, 33.4, and 35.4. Furthermore, it is the appendices that permit reliance on CMMs. Therefore the reference should be to those sections with which compliance is to be found.

Proposed Remedy: We recommend that this parenthetical be amended to read as follows: “(If CMM information was developed to meet a regulatory requirement for ICAs, such as the requirement found in certain appendices that permits an applicant for a type certificate to rely on CMMs, then the CMM is part of the ICA).”

Chapter 6, Paragraph 4(a)(2) Issue 1

Issue: This section limits the obligation to provide ICAs only to design approvals for which the application included both 21.50 and 26.1 as part of the certification basis. The inclusion of 26.1 is inappropriate. Part 26 is a recent addition to the regulations. If the ICA requirement were limited to those applications for which both 21.50 and 26.1 were part of the certification basis, then the design approval applications submitted between 1980 and the effective date of Part 26 would no longer need to comply with 21.50(b). This is plainly contrary to the 14 CFR § 21.50(b), which required sharing ICAs before the promulgation of Part 26.

Proposed Remedy: We recommend striking the reference to section 26.1 in this provision – if the certification basis included section 21.50 then the fact that it included the later-promulgated 26.1 does not matter. In the alternative, sections 21.50 and 26.1 should be separated by the disjunctive “or” rather than the conjunctive “and.”

Chapter 6, Paragraph 4(a)(2) Issue 2

Issue: This section limits the obligation to provide ICAs only to design approvals for which the application included all of the parenthetical sections (section 23.1529 etc.) as part of the certification basis. The inclusion of all of these sections is inappropriate, as they are mutually exclusive (including both transport and non-transport categories, as well as rotorcraft and fixed-wing standards). If the ICA requirement were limited to those applications for which all of the sections listed in the parenthetical were part of the certification basis, then no design approvals would be subject to the requirement. This is plainly contrary to the 14 CFR § 21.50(b), which required sharing ICAs.

Proposed Remedy: MARPA recommends striking the parenthetical reference in its entirety – no certification basis will include all of the sections listed in the parenthetical. In the alternative, the list of sections in the parenthetical should be separated by the disjunctive “or” rather than the conjunctive “and.”

Chapter 6, Paragraph 4(a)(3) Issue 1

Issue: This sub-section limits repair station access to ICAs to those situations where the repair station is required by chapter one of 14 CFR to comply with ICA for the product part. This provision has already found itself open to interpretation, as parties have argued that no repair station is really required to comply with the manuals. This argument, which has been used as the basis for denying manuals and updates to repair stations, is ridiculous in light of the requirement in 14 CFR § 145.109(d) that requires a repair station to have the

manuals, and the case law that requires a repair station to follow the manuals Marion C. Blakey, Administrator, Federal Aviation Administration, v. Millennium Propeller Systems, Inc., NTSB Order No. EA-5218 (April 12, 2006). In light of this regulation and case law, this provision adds nothing, because all repair stations are required to comply with ICA under existing case law. Because this provision adds nothing, but has been interpreted in a manner that plainly contradicts the regulations' intent (to provide competent and uniform instructions where maintenance is performed), it should be removed.

Proposed Remedy: We recommend that this clause be amended by eliminating the portion that reads: "..., and is required by chapter 1 of 14 CFR to comply with ICA for the product/part".

Chapter 6, Paragraph 4(a)(3) Issue 2

Issue: This sub-section limits repair station access to ICAs to those situations where the repair station has the product/part "listed in their limitations." Only repair stations with limited ratings have limitations. See 14 C.F.R. § 145.61. Repair stations with class ratings do not have limitations. Therefore, it would be impossible for a class rated repair station to have a product/part "listed in their limitations." Furthermore, capabilities lists are optional and in some cases repair stations that have requested the privilege of having a capabilities list have been refused by the FAA to be permitted to use such a list, so it would be inappropriate to interpret the term "limitations" to mean capabilities lists.

Proposed Remedy: We recommend that reference to the need to have the product/part in the repair station's limitations be removed.

Chapter 6, Paragraph 4(a)(3) Issue 3

Issue: This interpretation creates a "catch-22" situation. A repair station must have the maintenance manuals (data) in order to add the product/part to its ratings or capabilities list. See 14 C.F.R. §§ 145.51(b), 145.215(c). But according to this provision, an applicant for a rating or capability cannot obtain the manuals until it has obtained the rating or capability. This situation makes the ICA publisher a gate-keeper, giving them the capability to permit or prevent new entrants to the MRO market, since it is impossible for an applicant to obtain a rating without the ICAs. Because so many ICA publishers are also MRO owners, this permits them to forestall and regulate competition in the market, contrary to the standards described in Kodak v. Imaging Technical Services.

The FAA has stated that it does not regulate competition, but by imposing a "catch-22" structure that prohibits new market entrants without the permission of an existing market entrant, it has implicitly regulated competition by providing a

policy mechanism that permits MRO competitors that are also design approval holders to prevent new MRO competition (a mechanism that is not visible on the face of the rule, but is instead a creature of policy-level interpretation of the rule).

A change to this subsection that permits ratings change applicants to obtain ICAs before approval of the application would be consistent with the FAA's policy of not regulating competition, because it would remove the current practice of using the FAA's regulations as a mechanism for inhibiting competition. Potential competitors, though, would still need to obtain the tooling and equipment necessary to perform the work (and there is no regulatory obligation for the design approval holder to provide such tooling and equipment), so the FAA would not be 'opening the door' to unqualified competitors.

Proposed Remedy: We recommend that this clause be amended to read: "The requester (repair station) of the ICA is (1) currently rated for the product/part, or (2) has filed a conditional application for a change in rating that would expand the repair station's ratings to include product/part, and the application has been conditioned upon obtaining the ICAs."

Conclusion

The foregoing represents the issues that we have identified as targets for improvement in the Draft Order 8110.54A.

The FAA's recent Repair, Alteration and Fabrication (RAF) Report raises a number of issues that arise in the industry. We have tried to provide recommendations that are consistent with those recommendations.

Thank you for affording industry this opportunity to help improve the draft guidance to make it better serve the needs of the flying public (and the industry that serves them). We appreciate the efforts of the FAA in this regard.

Your consideration of these comments is greatly appreciated.

Respectfully Submitted,

Jason Dickstein
President
Modification and Replacement Parts Association