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# Federal Register

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Part II

## Department of Transportation

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Federal Aviation Administration

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14 CFR Part 121, et al.

Special Federal Aviation Regulations No.  
36, Development of Major Repair Data;  
Final Rule

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Parts 121, 127, 135, and 145

[Docket No. 17551; SFAR Amendment No. 36-6]

## Special Federal Aviation Regulation No. 36, Development of Major Repair Data

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

**SUMMARY:** This final rule amends and extends Special Federal Aviation Regulation (SFAR) No. 36, which provides that authorized repair station and aircraft operating certificate holders may approve aircraft products or articles for return to service after accomplishing major repairs using self-developed repair data that have not been approved by the Federal Aviation Administration (FAA). Amendments include clarification of the scope of the SFAR authorization. Extension of the regulation continues to provide, for those that qualify, an alternative from the requirement to obtain FAA approval of major repair data on a case-by-case basis, and allows additional time for the FAA to incorporate the SFAR provisions into the regulations.

**DATES:** Effective January 23, 1994 and terminates January 23, 1999.

**FOR FURTHER INFORMATION CONTACT:** Todd Thompson, Continued Airworthiness Staff, Aircraft Engineering Division, AIR-107, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, telephone: (202) 267-7218.

**SUPPLEMENTARY INFORMATION:****Background**

Notice No. 93-15, Special Federal Aviation Regulation No. 36, Development of Major Repair Data, was published in the Federal Register on Thursday, October 21, 1993; the comment period closed on November 22, 1993. Ten comments were received and are addressed below in the section entitled Discussion of Comments.

In the NPRM, the FAA proposed amending and extending the termination date of Special Federal Aviation Regulation (SFAR) No. 36, which allows authorized certificate holders (domestic repair stations, air carriers, air taxi operators of large aircraft, and commercial operators of large aircraft) to approve aircraft products and articles for return to service after accomplishing major

repairs using data developed by the holder that have not been approved by the FAA. Currently, more than 40 air carrier and domestic repair station certificate holders currently have SFAR 36 authorizations that will terminate on January 23, 1994.

Since the SFAR was initially adopted in 1978, some of the regulatory language has received differing field interpretation. As a result, some repaired products have been returned to service by SFAR 36 authorization holders that did not have return to service authority. These interpretations are the result of changes in the repair industry since the initial adoption of the rule. The original SFAR 36 did not foresee that some repair stations would be authorized only to perform maintenance on parts or components of articles without authorization to return them to service. These interpretations of eligibility have allowed several SFAR 36 authorizations to be issued and used inconsistently with the original intent of the SFAR.

An aircraft "product" is an aircraft, airframe, aircraft engine, propeller, or appliance. An aircraft "article" is an airframe, powerplant, propeller, instrument, radio, or accessory. Although some repair stations are authorized only to perform maintenance on parts of articles or products, some SFAR 36 authorizations were used by these repair station certificate holders to approve the articles and products for return to service.

The FAA has found that while repair stations that specialize in the repair of parts or components of aircraft articles or products may have the technical capability and scope sufficient for the individual repair, they do not necessarily possess the overall knowledge necessary for returning an article or product to service. Only repair stations and air carriers that understand the form, fit, and function of an aircraft article or product should be authorized to approve that article or product for return to service after a major repair. Furthermore, one must understand the form, fit, and function of the article or product in order to fully evaluate the ramifications of a major repair being developed for that article or product. When the FAA finds that a repair station or air carrier has that necessary understanding, the FAA issues it a certificate and operations specifications commensurate with that finding, and the repair station or air carrier is granted return to service authority. This higher level of certitude by the FAA in the work and knowledge of the repair station or carrier that is authorized to approve the rated article or product for

return to service is the basis for the SFAR 36 authorization to develop and use data for major repairs without FAA approval of the data. The preamble to the original SFAR 36 reflected this intent to limit the authorization to these repair stations and carriers when it discussed the need to have damaged aircraft repaired and returned to service as quickly as possible. The SFAR 36 system was never intended to support repairs accomplished further up in the repair stream.

**History**

Prior to the adoption of SFAR 36, certificate holders that were qualified to make repairs were required to obtain FAA approval on a case-by-case basis for data they had developed to perform major repairs. The only alternative to the time-consuming, case-by-case approval method was to petition for and obtain an exemption granting relief from the regulation. The number of exemptions being granted indicated that revisions to the Federal Aviation Regulations (FAR) were necessary, and SFAR 36 was adopted on January 23, 1978, as an interim rulemaking action. Adoption of the SFAR eliminated the requirement for authorized certificate holders to petition for exemption from the regulation, and allowed the FAA additional time to obtain the information necessary to develop a permanent rule change. Most of the affected certificate holders, however, did not use the provisions of SFAR 36 until it was well into its second year and nearing its expiration date of January 23, 1980. Since the FAA did not yet have sufficient data upon which to base a permanent rule change, the termination date for SFAR 36 was extended to January 23, 1982.

Although the FAA has considered consolidating certain authorizations along with those issued under SFAR 36 to make them permanent parts of the regulations, no rulemaking action has been undertaken, and SFAR 36 has been extended three times. Currently, permanent regulatory action is under consideration by the Aviation Rulemaking Advisory Committee (ARAC).

**Synopsis of the Rule****Section 1**

The FAA defines aircraft "product," "article," and "component" for the purpose of the SFAR. The definitions explain more clearly an authorization holder's return to service authority.

### Section 2

The FAA restates the general provisions of the current SFAR in terms applicable to the individual types of eligible certificate holders. Paragraph (c) of section 2 clarifies that an SFAR 36 authorization does not expand the scope of authority of a repair station certificate holder; i.e., it does not give a repair station return to service authority for any article for which it is not rated or change the articles it is rated to repair.

### Section 3

Section 3 states that an authorized certificate holder may approve an aircraft product or article for return to service after accomplishing a major repair, using data not approved by the Administrator, only in accordance with the amended SFAR. Section 3 requires that the data used to perform the major repair be developed and "approved" in accordance with the holder's authorization and procedures manual. Section 3 also enables an authorization holder to use its developed repair data on a subsequent repair of the same type of product or article. For each subsequent repair, the holder must determine that accomplishment of the repair, using previously developed data, will return the product or article to its original or properly altered condition and will conform to all applicable airworthiness requirements. In addition, each subsequent use of the data would have to be recorded in the authorization holder's SFAR records.

### Section 4

Section 4 describes the procedures for applying for an SFAR 36 authorization.

### Section 5

Section 5 identifies the requirements a certificate holder must meet to be eligible for an SFAR 36 authorization. Paragraphs (a)(2), (a)(3), and (b) define the personnel required and incorporate clarifying changes from the current SFAR. Paragraph (c) contains the reporting requirement of the current SFAR that pertains to changes that could affect the holder's continuing ability to meet the SFAR requirements.

### Section 6

Section 6 describes the procedures manual requirements. Paragraph (c) of section 6 requires that an authorization holder that experiences a change in procedures or staff obtain and record FAA approval of the change in order to continue to approve products or articles for return to service.

### Section 7

Section 7 states that SFAR 36 terminates on January 23, 1999. All authorizations issued under this SFAR will terminate on that date unless earlier surrendered, suspended, revoked, or otherwise terminated. Section 7 also allows previous authorization holders to either surrender their SFAR 36-developed data to the FAA or to maintain the data indefinitely and make it available to the FAA for inspection.

### Section 8

Section 8 prohibits the transfer of an SFAR 36 authorization.

### Section 9

Section 9 contains the inspection provisions of the current SFAR. It also emphasizes that the FAA must be able to determine whether an applicant has, or a holder maintains, personnel adequate to comply with the provisions of the SFAR and any additional limitations contained in the authorization.

### Section 10

Section 10 re-emphasizes that an SFAR 36 authorization does not expand the scope of products or articles that an aircraft operator or repair station is authorized to approve for return to service. This section also emphasizes that the authorization allows a holder to approve for return to service a product or article after major repair performed by the holder using data developed by the holder without FAA approval of that data.

### Section 11

Section 11 contains the provision that each SFAR 36 authorization holder must comply with any additional limitations prescribed by the Administrator and made a part of the authorization.

### Sections 12 and 13

Sections 12 and 13 address data review and service experience requirements and record keeping requirements. Section 12 states the circumstances in which a holder will be required to submit the information necessary for corrective action on a repair. Paragraph (b) of section 13 lists the identification information required rather than use the term "FAA identification," which has been the source of confusion in previous versions of the regulation.

As noted above, the termination date for SFAR 36 is January 23, 1999. The 5-year extension was chosen to allow enough time for the ARAC to deliberate and forward a recommendation, and

enough time for the FAA to deliberate and act upon it. On or about the effective date of this final rule, each FAA office having jurisdiction over a current SFAR 36 authorization will reevaluate each holder in terms of the amended rule. All current holders will be notified in writing as to whether they continue to qualify under the amended rule.

The FAA will work with those holders that no longer qualify to establish, where possible, means to perform approved major repairs. The means may include submitting repair data to an aircraft certification office (ACO) for approval, utilizing a consultant designated engineering representative (DER) to approve the data, or employing a company DER.

The extension of SFAR 36 will allow uninterrupted major repair activity by the current authorization holders that qualify under the amended SFAR; those authorizations will be extended without the holders reapplying for authorization. The extension will also allow a new, qualified applicant to obtain an authorization instead of petitioning for exemption from the regulations.

### Discussion of Comments

Interested persons were afforded the opportunity to participate in development of this rulemaking by submitting written comments to the public regulatory docket on or before November 22, 1993. All comments received have been reviewed and duly considered in promulgating this final rule; comments received after November 22, 1993, have been considered to the extent possible without delaying this rulemaking action. Ten comments were received; two from foreign aviation industry companies, three from domestic aviation industry companies, and five from domestic aviation industry associations. One of the foreign commenters only requests a copy of the NPRM and does not offer substantive comments. Of the remaining nine comments, one opposes the NPRM and four support it. The other four commenters do not declare agreement or opposition to the NPRM, but submit comments and suggestions.

Four commenters state that a repair station that has the authority to return to service a product or article should be able to develop and use major repair data for components or parts of those products and articles and return them to service as well. One of these commenters suggested that the FAA meant to imply that air carriers and repair stations that accomplish major repairs on products or articles are not qualified to accomplish major repairs on

parts or components of those products or articles. The FAA agrees that repair stations with the authority to return to service a product or article are qualified and must be able to develop and use major repair data to perform repairs on components or parts of those products or articles. The FAA disagrees, however, that the repair station should automatically be permitted to return to service those components or parts, unless the components or parts are reinserted into the original product or article before leaving the repair station. This SFAR addresses the development of major repair data; the issues concerning accomplishing the repair and return to service authority for repair stations for components or parts is beyond the scope of this rulemaking, and no changes are made to the NPRM pursuant to these comments.

Two commenters suggest that the final rule should allow current holders of the SFAR 36 authorization to continue to use the authorization for the term of the extension, or until a permanent rule is in place. One of these commenters read the NPRM to mean that repair stations currently conducting work under SFAR 36 must discontinue such work. The FAA disagrees; the rule does not require that work be discontinued, but rather that the repair station performing the work be truly qualified before returning an article to service. As was stated in the NPRM, some SFAR 36 authorizations were issued in error, due to misinterpretations of the rule. The FAA has determined that the error must not continue and those authorizations issued in error can not be extended without the authorization holders meeting all qualifications. The rule language proposed in the NPRM is retained to clarify the qualifications.

One commenter is concerned that its current authorization may lapse on the termination date of January 23, 1994. To ensure a smooth transition, current SFAR 36 authorization holders will be permitted to use their authorizations until the FAA notifies them that they do not continue to qualify to hold the authorization.

One commenter proposes that the rule include a system of positive identification on the restored product with traceability directly back to the facility performing the major repair and to the specific data package authorizing the major repair. The FAA agrees that this issue has merit; however, such a requirement would add a substantial burden not proposed in the NPRM. The suggestion is beyond the scope of this rulemaking. Future documents such as Advisory Circulars, FAA Orders, or

other rulemaking projects, including those developed in the ARAC, may consider this suggestion, if applicable.

One commenter suggests allowing foreign repair stations to use SFAR 36 authorizations to develop and use major repair data. The FAA disagrees; SFAR 36 has never been available to foreign repair stations. The resources and database systems currently available to oversee foreign operations are not sufficient to adequately monitor such SFAR 36 authorizations. The rule will not be expanded to include foreign repair stations.

One commenter suggests that the current SFAR 36 does not need clarification, but rather §§ 145.51(b) and 145.53 of the Federal Aviation Regulations, which address return to service authority and maintenance of rated items, need to be enforced. The FAA disagrees; the erroneous issuance of SFAR 36 authorizations demonstrates that ambiguity exists in the current rule. The rule sections cited by the commenter are not at issue in improper SFAR 36 authorizations. Increased enforcement of other regulations would not change the ambiguity that exists in SFAR 36.

One commenter suggests that the three subsections of section 2 of the rule be considered into one paragraph, along with other minor revisions. The FAA realizes that some of the material in these subsections is repeated, but the subsections do refer to different sections of the regulations. Part of the confusion with the current SFAR stems from the very combinations of information suggested by the commenter. Section 2 was divided into three sections in order to clarify what is available to different applicants.

One commenter suggests that section 6 of the NPRM be amended to add that the Administrator must approve within 15 days a change in repair station staff necessary to meet other requirements of the regulation or a change in procedures approved under a separate paragraph of the regulation. The FAA disagrees; often, more than 15 days is needed to conduct research necessary to verify a new staff member's background and ability or to evaluate procedures. The FAA can not grant approval to necessary staff personnel or procedures without thoroughly investigating all issues involved to ensure that the level of safety intended by the rule continues to be met. No time limit for FAA approval will be added to Section 6.

One commenter states that the qualifications of the SFAR 36 staff engineering personnel should be consistent with qualifications assigned to Designated Engineering

Representatives with regard to damage tolerance requirements. The FAA agrees; this issue is addressed in Section 5(a)(3), which identifies engineering personnel that can determine compliance with the applicable airworthiness requirements of the regulations. Therefore, no change is made to the final rule.

Two commenters propose that section 5 of the SFAR be amended to state that the applicant must have authority to repair products or articles to be eligible to apply for an SFAR 36 authorization. The FAA agrees that this is a helpful clarification; the final rule incorporates this change.

One commenter proposes that the words "article" and "product" should both appear wherever one is currently used to encompass all items intended. The FAA agrees in part, and has further determined that the final rule should reflect one term where one most clearly states the applicability of the corresponding provision. For example, FAR Section 121.379(b) states that a certificate holder may approve for return to service a *product* after maintenance, etc., performed under paragraph (a) of Section 121.379. FAR Section 145.51b states that a repair station certificate holder may approve for return to service any *article* for which it is rated. Accordingly, the final rule has been revised to use "product" when referring to repairs performed by air carrier and air taxi certificate holders, and to use "article" when referring to repairs performed by repair station certificate holders; the final rule uses both terms where it does not distinguish between the certificate holders.

One commenter suggests that clarification is needed as to whether a repair station may continue to utilize major repair data developed previously under its SFAR 36 authorization if that authorization ceases, terminates, or expires. The FAA agrees that a clarification is needed. A holder whose authorization has expired or has been terminated may not use data previously developed under its authorization to perform a major repair and return the product or article to service; the relevant provisions of FAR parts 121, 127, and 145 cited in Section 2 of the proposed and final rule prohibit that return to service.

In addition, Section 7 of the final rule requires the holder to surrender its SFAR 36-developed data to the FAA. However, the FAA acknowledges that a holder whose authorization has expired or been terminated may have a legitimate future use for the data; e.g., the holder may apply to the FAA to

have the data approved. Accordingly, to accommodate the FAA's continued airworthiness concerns and a holder's interest in data it has developed, Section 7 of the final rule has been revised to allow a former authorization holder to surrender its SFAR 36-developed data, or maintain its data indefinitely and make the data available to the FAA for inspection.

#### **Paperwork Reduction Act**

Information collection requirements in SFAR 36-6 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned the OMB Control Number 2120-0507. For further information contact: The Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-4735.

#### **Regulatory Evaluation**

This section summarizes the regulatory evaluation prepared by the FAA on the amendments to 14 CFR parts 121, 127, 135, and 145—Special Federal Aviation Regulation No. 36, Development of Major Repair Data. This summary and the full regulatory evaluation quantify, to the extent practicable, estimated costs and anticipated benefits to the private sector consumers, and Federal, State, and local governments.

The FAA has determined that this rulemaking is not a "significant regulatory action" as defined by Executive Order 12866 (Regulatory Planning and Review). The anticipated costs and benefits associated with this final rule are summarized below. (A detailed discussion of costs and benefits is contained in the full regulatory evaluation in the docket for this final rule).

#### **Cost Analysis**

The FAA estimates that the one-time total cost of compliance will be approximately \$55 for the industry and about \$840 for the FAA. This cost estimate was derived based upon two components: (1) Current SFAR 36 certificate holders (that will not qualify under the amended rule) applying for a DER, and (2) FAA costs to review SFAR 36 and DER authorizations.

#### **Benefit Analysis**

The final rule, with the amended extension date, will allow certain firms to continue to operate under SFAR 36, and will avoid economic hardship to those relying on it as it presently exists.

The final rule will also eliminate ambiguities that exist in the present rule. These ambiguities have allowed component repair stations that do not have return to service authorization to receive SFAR 36 authorizations. Repair stations that specialize in component or piece parts of products (instead of aircraft engines or air frames, for example) and are not returning those products to service, do not necessarily possess the overall knowledge necessary for returning an article or product to service. Only repair stations and air carriers that understand the form, fit, and function of an aircraft article or product should be authorized to approve that article or product for return to service after a major repair.

There have been no known documented instances where aviation safety has been compromised as a result of these repaired products being returned. Nevertheless, the level of certitude should not be compromised, and only those that understand the form, fit, and function of the product should be permitted to return the product to service.

The benefits of this action are the potential improvements in aviation safety.

#### **Comparison of Costs and Benefits**

The costs associated with this final rule (\$55 to industry and \$840 to the FAA) are minimal. In view of the negligible costs of the rule, coupled with benefits in the form of enhanced safety to all aircraft operators, the FAA has determined that the rule will be cost-beneficial.

#### **Final Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 (RFA) ensures that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules that may have a significant economic impact on a substantial number of small entities. The costs associated with this final rule are below any threshold established by FAA Order 2100.143A. Therefore, the final rule will not have a significant economic impact on any small entity.

#### **International Trade Impact Assessment**

This final rule will have neither an effect on the sale of foreign aviation products or services in the United States, nor an effect on the sale of U.S. products or services in foreign countries since it does not impose costs on aircraft operators or U.S. or foreign aircraft manufacturers.

#### **Federalism Implications**

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, nor the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### **Justification for Immediate Adoption**

The FAA has determined that delay in the adoption of this rule would cause undue burden to qualified domestic repair stations, air carriers, air taxi operators with large aircraft, and commercial operators of large aircraft. These companies use their SFAR 36 authorizations to develop and use data not formerly approved by the FAA for major repairs on products and articles. Current SFAR 36 authorizations will terminate on January 23, 1994, and this rule must be effective for the companies affected to continue to use data developed under the authorization to perform major repairs. Accordingly, the FAA has determined that good cause exists to make this rule effective in less than 30 days.

#### **Conclusion**

I certify that this final rule: (1) is not a significant regulatory action under Executive Order 12866; (2) is not a significant rule under DOT Regulatory Policies and Procedures for Simplification, Analysis, and Review of Regulations (44 CFR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In addition, this final rule has little or no impact on trade opportunities for U.S. firms doing business overseas, or on foreign firms doing business in the United States.

#### **List of Subjects**

##### **14 CFR Part 121**

Air carriers, Airworthiness directives and standards, Aviation safety, Safety.

##### **14 CFR Part 127**

Air carriers, Aircraft, Airmen, Airworthiness, Aviation safety, Helicopters.

##### **14 CFR Part 135**

Air carriers, Air taxis, Air transportation, Aircraft, Airmen, Airplanes, Airworthiness, Aviation safety, Helicopters, Safety.

**14 CFR Part 145**

Air carriers, Air transportation, Aircraft, Aviation safety, Safety.

**The Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR parts 121, 127, 135, and 145 as follows:

**PART 121—[AMENDED]**

1. The authority citation for part 121 continues to read as follows:

**Authority:** 49 U.S.C. app. 1354(a), 1355, 1356, 1357, 1401, 1421-1430, 1472, 1485, and 1502; 49 U.S.C. 106(g).

**PART 127—[AMENDED]**

2. The authority citation for part 127 continues to read as follows:

**Authority:** 49 U.S.C. app. 1354(a), 1421, 1422, 1423, 1424, 1425, 1430, 49 U.S.C. 106(g).

**PART 135—[AMENDED]**

3. The authority citation for part 135 continues to read as follows:

**Authority:** 49 U.S.C. app. 1354(a), 1355(a), 1421-1431, and 1502; 49 U.S.C. 106(g).

**PART 145—[AMENDED]**

4. The authority citation for part 145 continues to read as follows:

**Authority:** Secs. 313, 314, 601, and 607, 72 Stat. 752; 49 U.S.C. app. 1354(a), 1355, 1421, and 1427; unless otherwise noted.

5. In parts 121, 127, 135, and 145, Special Federal Aviation Regulation No. 36, the text of which is found at the beginning of part 121, is revised to read as follows:

**SPAR No. 36**

1. **Definitions.** For purposes of this Special Federal Aviation Regulation—

(a) A product is an aircraft, airframe, aircraft engine, propeller, or appliance;

(b) An article is an airframe, powerplant, propeller, instrument, radio, or accessory; and

(c) A component is a part of a product or article.

2. **General.** (a) Contrary provisions of § 121.379(b) of the Federal Aviation Regulations notwithstanding, the holder of an air carrier operating or commercial operating certificate, or the holder of an air taxi operating certificate that operates large aircraft, that has been issued operations specifications for operations required to be conducted in accordance with 14 CFR part 121, may perform a major repair on a product, as described in § 121.379(a), using technical data that have not been approved by the Administrator, and approve that product for return to service, if authorized in accordance with this Special Federal Aviation Regulation.

(b) Contrary provisions of § 127.40(b) of the Federal Aviation Regulations

notwithstanding, the holder of an air carrier operating certificate that has been issued operations specifications for operations required to be conducted in accordance with 14 CFR part 127 may perform a major repair on a product as described in § 127.140(a), using technical data that have not been approved by the Administrator, and approve that product for return to service, if authorized in accordance with this Special Federal Aviation Regulation.

(c) Contrary provisions of § 145.51 of the Federal Aviation Regulations notwithstanding, the holder of a domestic repair station certificate under 14 CFR part 145 may perform a major repair on an article for which it is rated, using technical data not approved by the Administrator, and approve that article for return to service, if authorized in accordance with this Special Federal Aviation Regulation. If the certificate holder holds a rating limited to a component of a product or article, the holder may not, by virtue of this Special Federal Aviation Regulation, approve that product or article for return to service.

3. **Major Repair Data and Return to Service.** (a) As referenced in section 2 of this Special Federal Aviation Regulation, a certificate holder may perform a major repair on a product or article using technical data that have not been approved by the Administrator, and approve that product or article for return to service, if the certificate holder—

(1) Has been issued an authorization under, and a procedures manual that complies with, Special Federal Aviation Regulation No. 36, effective on January 23, 1994;

(2) Has developed the technical data in accordance with the procedures manual;

(3) Has developed the technical data specifically for the product or article being repaired; and

(4) Has accomplished the repair in accordance with the procedures manual and the procedures approved by the Administrator for the certificate.

(b) For purposes of this section, an authorization holder may develop technical data to perform a major repair on a product or article and use that data to repair a subsequent product or article of the same type as long as the holder—

(1) Evaluates each subsequent repair and the technical data to determine that performing the subsequent repair with the same data will return the product or article to its original or properly altered condition, and that the repaired product or article conforms with applicable airworthiness requirements; and

(2) Records each evaluation in the records referenced in paragraph (a) of section 13 of this Special Federal Aviation Regulation.

4. **Application.** The applicant for an authorization under this Special Federal Aviation Regulation must submit an application, in writing and signed by an officer of the applicant, to the FAA Flight Standards District Office charged with the overall inspection of the applicant's operations under its certificate. The application must contain—

(a) If the applicant is  
(1) The holder of an air carrier operating or commercial operating certificate, or the

holder of an air taxi operating certificate that operates large aircraft, the—

(i) The applicant's certificate number; and  
(ii) The specific product(s) the applicant is authorized to maintain under its certificate, operations specifications, and maintenance manual; or

(2) The holder of a domestic repair station certificate—

(i) The applicant's certificate number;  
(ii) A copy of the applicant's operations specifications; and

(iii) The specific article(s) for which the applicant is rated;

(b) The name, signature, and title of each person for whom authorization to approve, on behalf of the authorization holder, the use of technical data for major repairs is requested; and

(c) The qualifications of the applicant's staff that show compliance with section 5 of this Special Federal Aviation Regulation.

5. **Eligibility.** (a) To be eligible for an authorization under this Special Federal Aviation Regulation, the applicant, in addition to having the authority to repair products or articles must—

(1) Hold an air carrier, commercial, or air taxi operating certificate, and have been issued operations specifications for operations required to be conducted in accordance with 14 CFR part 121 or 127, or § 135.2, or hold a domestic repair station certificate under 14 CFR part 145;

(2) Have an adequate number of sufficiently trained personnel in the United States to develop data and repair the products that the applicant is authorized to maintain under its operating certificate or the articles for which it is rated under its domestic repair station certificate;

(3) Employ, or have available, a staff of engineering personnel that can determine compliance with the applicable airworthiness requirements of the Federal Aviation Regulations.

(b) At least one member of the staff required by paragraph (a)(3) of this section must—

(1) Have a thorough working knowledge of the applicable requirements of the Federal Aviation Regulations;

(2) Occupy a position on the applicant's staff that has the authority to establish a repair program that ensures that each repaired product or article meets the applicable requirements of the Federal Aviation Regulations;

(3) Have at least one year of satisfactory experience in processing engineering work, in direct contact with the FAA, for type certification or major repair projects; and

(4) Have at least eight years of aeronautical engineering experience (which may include the one year of experience in processing engineering work for type certification or major repair projects).

(c) The holder of an authorization issued under this Special Federal Aviation Regulation shall notify the Administrator within 48 hours of any change (including a change of personnel) that could affect the ability of the holder to meet the requirements of this Special Federal Aviation Regulation.

6. **Procedures Manual.** (a) A certificate holder may not approve a product or article

for return to service under section 2 of this Special Federal Aviation Regulation unless the holder—

(1) Has a procedures manual that has been approved by the Administrator as complying with paragraph (b) of this section; and

(2) Complies with the procedures contained in this procedures manual.

(b) The approved procedures manual must contain—

(1) The procedures for developing and determining the adequacy of technical data for major repairs;

(2) The identification (names, signatures, and responsibilities) of officials and of each staff member described in section 5 of this Special Federal Aviation Regulation who—

(i) Has the authority to make changes in procedures that require a revision to the procedures manual; and

(ii) Prepares or determines the adequacy of technical data, plans or conducts tests, and approves, on behalf of the authorization holder, test results; and

(3) A "log of revisions" page that identifies each revised item, page, and date of revision, and contains the signature of the person approving the change for the Administrator.

(c) The holder of an authorization issued under this Special Federal Aviation Regulation may not approve a product or article for return to service after a change in staff necessary to meet the requirements of section 5 of this regulation or a change in procedures from those approved under paragraph (a) of this section, unless that change has been approved by the FAA and entered in the procedures manual.

7. *Duration of Authorization.* Each authorization issued under this Special Federal Aviation Regulation is effective from the date of issuance until January 23, 1999, unless it is earlier surrendered, suspended, revoked, or otherwise terminated. Upon termination of such authorization, the terminated authorization holder must:

(a) Surrender to the FAA all data developed pursuant to Special Federal Aviation Regulation No. 36; or

(b) Maintain indefinitely all data developed pursuant to Special Federal Aviation Regulation No. 36, and make that data available to the FAA for inspection upon request.

8. *Transferability.* An authorization issued under this Special Federal Aviation Regulation is not transferable.

9. *Inspections.* Each holder of an authorization issued under this Special Federal Aviation Regulation and each applicant for an authorization must allow the Administrator to inspect its personnel, facilities, products and articles, and records upon request.

10. *Limits of Applicability.* An authorization issued under this Special Federal Aviation Regulation applies only to—

(a) A product that the air carrier, commercial, or air taxi operating certificate holder is authorized to maintain pursuant to its continuous airworthiness maintenance program or maintenance manual; or

(b) An article for which the domestic repair station certificate holder is rated. If the certificate holder is rated for a component of an article, the holder may not, in accordance with this Special Federal Aviation Regulation, approve that article for return to service.

11. *Additional Authorization Limitations.* Each hold of a authorization issued under this Special Federal Aviation Regulation must comply with any additional limitations prescribed by the Administrator and made a part of the authorization.

12. *Data Review and Service Experience.* If the Administrator finds that a product or article has been approved for return to service after a major repair has been performed under this Special Federal Aviation Regulation, that the product or article may not conform to the applicable airworthiness requirements or that an unsafe feature or characteristic of the product or article may exist, and that the nonconformance or unsafe feature or characteristic may be attributed to the repair

performed, the holder of the authorization, upon notification by the Administrator, shall—

(a) Investigate the matter;

(b) Report to the Administrator the results of the investigation and any action proposed or taken; and

(c) If notified that an unsafe condition exists, provide within the time period stated by the Administrator, the information necessary for the FAA to issue an airworthiness directive under part 39 of the Federal Aviation Regulations.

13. *Current Records.* Each holder of an authorization issued under this Special Federal Aviation Regulation shall maintain, at its facility, current records containing—

(a) For each product or article for which it has developed and used major repair data, a technical data file that includes all data and amendments thereto (including drawings, photographs, specifications, instructions, and reports) necessary to accomplish the major repair;

(b) A list of products or articles by make, model, manufacturer's serial number (including specific part numbers and serial numbers of components) and, if applicable, FAA Technical Standard Order (TSO) or Parts Manufacturer Approval (PMA) identification, that have been repaired under the authorization; and

(c) A file of information from all available sources on difficulties experienced with products and articles repaired under the authorization.

This Special Federal Aviation Regulation terminates January 23, 1999.

Issued in Washington, DC, on January 21, 1994.

David R. Hinson,

Administrator.

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