U.S. Department
of Transportation
**Federal Aviation
Administration**

Andrew V. Cebula
Executive Vice President
Government Affairs
Aircraft Owners and Pilots Association
421 Aviation Way
Frederick, MD 21701-4798

Dear Mr. Cebula:

I am responding to your recent request to Nick Sabatini, Associate Administrator for Aviation Safety at the Federal Aviation Administration (FAA), requesting clarification of the FAA's position on the mandatory nature of service bulletins and service instructions for general aviation. Your concern arises out of a decision issued by the National Transportation Safety Board (NTSB) in Administrator v. Law, NTSB Order No. EA-5221 (May 4, 2006). I am happy to provide a response.

In your letter, you alleged that the NTSB appears to have misapplied the FAA's longstanding interpretation of its regulations, 14 C.F.R § 43.13(a) and 14 C.F.R § 43.2(a)(1) and (2). Specifically, you argued that the Board concluded that service bulletins and instructions that have been incorporated by the manufacturer are mandatory, even when the bulletins and instructions have not been approved by the FAA via an Airworthiness Directive or the Airworthiness Limitations Section of the Instructions for Continued Airworthiness. Such a conclusion would be contrary to the FAA's longstanding interpretation on the matter. However, after reviewing the decision, the FAA has determined that the NTSB did not draw such a conclusion and correctly interpreted the regulatory provisions in ruling in the FAA's favor.

As is true with all legal decisions, the NTSB's decision is based on the facts before it. Those facts demonstrated that Mr. Law failed to comply with any FAA-accepted methods, techniques or practices when balancing an overhauled engine's crankshaft, connecting rods, and pistons. The facts also showed that the magnetic particle inspection was not performed in accordance with approved standards or technical data or current standards and technical data acceptable to the Administrator.

Your quarrel seems to be with the NTSB's decision regarding the magnetic particle inspection. Mr. Law argued that he was not required to comply with the instructions provided in the manufacturer's overhaul manual; he did not offer any evidence that he complied with 14 C.F.R. § 43.2(a)(2) in some other manner.

In discussing the violation, the NTSB stated that "[w]hile compliance with service instructions or service bulletins may not be mandatory in the absence of an Airworthiness Directive, a manufacturer may legitimately incorporate such service publications into a manual by reference." The NTSB *did not* conclude that such an incorporation made adherence to the service publications mandatory. Rather, it merely concluded that the instructions in the service publication were not followed. Notably, the NTSB then noted in footnote 7 of the decision that even if those instructions had been followed, the FAA had presented testimony that those instructions were inadequate to meet the testing requirements of 14 C.F.R. § 43.2(a)(2) and would not have been approved by the Administrator as an acceptable means of testing by the Administrator. The NTSB's conclusion that Mr. Law had violated 14 C.F.R. § 43.2(a)(2) was clearly based on its determination that he had failed to conduct the inspection in *any* manner acceptable to the Administrator, and not on an assessment that the manufacturer's service instructions were mandatory.

I hope this clarification meets your needs. I have also enclosed a copy of a recent letter of legal interpretation regarding the FAA's position on the mandatory nature of service bulletins and instructions. Please feel free to contact Ed Averman of may staff should you have any additional questions.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for Regulations

Enclosures