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

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

NOV 14 2008

Mr. Greg Ross
Mexmil Global Services, Inc.
Manager of QC/QA
3100 Technology Drive
Suite 100
Plano, Texas 75074

Re: Request for Interpretation on Fabrication vs. Manufacture Issue

Dear Mr. Ross:

This is in response to a letter dated July 8, 2008, from Mr. Barry K. Muhler, the former Manager of QC/QA for Mexmil Global Services, Inc. (MGS), in which he asked for a Federal Aviation Administration (FAA) legal interpretation on whether certain work on aircraft food tray tables is considered by the FAA to be fabrication incorporated into a repair during maintenance or whether it is manufacturing.

Specifically, Mr. Muhler stated that MGS (an FAA-certificated repair station) has approved data for repair of the tray tables at issue, and that this data was obtained through the services of a Designated Engineering Representative (DER) and documented on an FAA Form 8110-3 (Statement of Compliance with the Federal Aviation Regulations). He also stated that the repairs entail "the disassembly of the tray tables, fabrication of replacement parts under 21.305(d) and AC 43.18 [sic], and reassembly of the tray table." You expressed your belief that those activities by MGS meet the definition of maintenance in the regulations.

Mr. Muhler stated that the Principal Maintenance Inspector (PMI) for MGS has expressed concerns whether MGS was in fact performing maintenance since "the only portions of the original table that was [sic] re-used were two fittings that are inside the structure and 4 parts that attach to those fittings." Mr. Muhler also stated that, because of those circumstances, the PMI contacted the FAA's local Manufacturing Inspection District Office (MIDO) and sent a copy of your repair information to that office. According to Mr. Muhler, the PMI advised him that the MIDO believes MGS's work on the tray tables is manufacturing. However, when our office contacted your PMI on this matter, he told us that the MIDO has not yet responded to his inquiry.

As noted above, Mr. Muhler's letter referenced Advisory Circular 43-18 (Fabrication of Aircraft Parts by Maintenance Personnel), which provides guidance to maintenance providers who need to fabricate parts to be consumed into maintenance or alteration of a civil aviation product. If a person follows the guidance in the AC (or another method that is acceptable to the Administrator), the person could legally fabricate a part that is to be used in a repair or alteration and not run afoul of the regulations that require FAA approval to make a part for sale for installation on a type-certificated product (*i.e.*, 14 C.F.R. § 21.303(a)). Paragraph 4 of the AC provides that, an appropriately rated certificate holder that fabricates a part in the course of performing maintenance or alterations must possess: (1) Approved design data or data acceptable to the Administrator that is determined by the category classification for the part being fabricated; and (2) A fabrication quality control system (FQCS) to ensure each fabricated part conforms to its design data and is in condition for safe operation. Accordingly, if MGS met those criteria, it could fabricate a part that would be incorporated into a repair it was performing.

Paragraph 5 of the AC provides the cautionary note: "A certificate holder that desires to sell his/her fabricated parts separately (i.e., outside the course of performing maintenance or an alteration) must obtain a PMA [Parts Manufacturing Approval] (ref. 14 CFR section 21.303(a))."

Whether MGS's work on aircraft tray tables is maintenance or manufacturing requires fact-specific determinations to be made and cannot presently be answered definitively by this office. Therefore, we are providing your information and additional information we obtained to the FAA's Flight Standards Service for its disposition of the matter.

This response was prepared by Edmund Averman, an Attorney in the Regulations Division of the Office of the Chief Counsel and coordinated with the Aircraft Maintenance Division of the Office of Flight Standards. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for Regulations, AGC-200