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

Office of the Chief Counsel

800 Independence Ave., SW.
Washington, DC 20591

JUL 31 2009

Air Tran Airways
Jeff Hodowanic
Director of Quality Services
1340 North Outer Loop Road
Atlanta, GA 30337

Re: Reconsideration of Interpretation of 14 C.F.R. § 21.607(d) Issued on October 22, 2008, Pertaining to Technical Standard Order Authorization (TSOA) Marking on Seat Belts

Dear Mr. Hodowanic:

On December 31, 2008, Marshall Filler, of the law firm of Obadal, Filler, MacLeod & Klein, P.L.C., asked the FAA to reconsider its legal interpretation of October 22, 2008, concerning the identification markings on seat belts required by 14 C.F.R. § 21.607(d). That interpretation answered the question whether the FAA could require Air Tran Airways (Air Tran) to inspect its seat belt Technical Standard Order (TSO) tags and to replace any on which the tag information is missing or illegible. We answered in the affirmative, reasoning that, not only is a legible TSO marking part of the aircraft's type design and therefore required, but also that FAA inspectors must be able to confirm that each belt they inspect is an approved belt.[1]

We are amending the conclusion reached in our October letter to reflect current parts-marking guidance the FAA issued to its aviation safety inspectors (ASI) for advising operators and maintenance providers on proper procedures for controlling in-service articles with missing or illegible part marking information. The guidance, *Parts Marking*, Notice N 8900.74 (Effective Date 6/5/09), includes identifying circumstances in which an article with missing or illegible part marking information may be continued in service when proper controls are in place to ensure the accurate identification and airworthiness of the article. The Notice is available to the industry and the general public, and can be found on the FAA's website at http://fsims.faa.gov/. The FAA also will be publishing an Advisory Circular (AC) that will provide guidance to the industry on parts marking issues.

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[1] In our October 22, 2008, interpretation letter we observed that, under 14 C.F.R. § 21.601(b)(4), an article manufactured under a TSO authorization is an approved article for purposes of meeting the regulations that require the article to be approved.

In our October 22 letter we made the general observation that an aircraft's type design contemplates that all TSO requirements are met, and if they are not, the aircraft would not comply with its type design and therefore could be considered unairworthy. We were aware of National Transportation Safety Board (NTSB) case law (referenced in both your letter and the FAA's Part Marking Notice) holding that every minor deviation from new on an aircraft does not automatically render it unairworthy to a degree that it no longer conforms to its type certificate. While missing TSO information on an otherwise sound and airworthy Air Tran seat belt would be a technical non-conformance to type design, that fact alone would not likely prompt an FAA enforcement action alleging operation of an unairworthy aircraft. The major issue for us was whether an FAA inspector could determine with sufficient confidence that a belt without the identifying information was an approved belt. Accordingly, we concluded that "[t]he FAA may legitimately require that seat belts on airplanes operated in air carrier service be maintained to the original design standards, and this includes meeting all TSO requirements."

Our October 22 letter recited the reasons set forth by Air Tran on why the carrier believed its parts receiving and maintenance programs are sufficient to insure the airworthiness of its seat belts. For example, in its initial January 8, 2008, request for interpretation, Air Tran noted that it has long employed a comprehensive receiving inspection program that ensures that all materials and parts (including seat belts) accepted for aircraft use have gone through a "thorough inspection to verify their standards, quality, and authenticity." In addition, Air Tran stated that its seat belts are thereafter maintained within Air Trans' FAA-approved "Continuous Airworthiness Maintenance Program (CAMP) which also ensures that rogue parts are excluded from aircraft use." In addition, in a follow-up letter dated August 14, 2008, Air Tran stated that, as part of the carrier's routine maintenance program, "seat belts are inspected periodically to verify their serviceability and are maintained in strict accordance with 14 CFR 121.311, Seats, Safety Belts, and Shoulder Harnesses."

Our opinion expressed in this reconsideration letter applies only to the facts and circumstances applicable to the maintenance of Air Tran's seat belts, though its reasoning may apply to other part marking situations with other air carriers. Our opinion is supported by further review of the information previously provided by Air Tran, in conjunction with the guidance contained in FAA *Parts Marking* Notice N 8900.74. For example, Paragraph 5(d) of Notice N 8900.74, *Other Methods of Determining Airworthiness*, states, in pertinent part: "The operator or maintenance provider must employ other suitable methods for determining airworthiness if the identification information is missing or illegible. Indeed, this is true regardless of whether the parts were required to be 'permanently' marked at the time of manufacture." Paragraph 6(b) of the Notice, *Other Methods of Determining Airworthiness/Continuity of Original Markings*, provides additional guidance on how an operator can determine an article's identity and airworthiness when identification data is no longer visible. A key means recommended is: "Knowledge that the article received an appropriate incoming inspection and remains within the control of the same operator or maintenance provider."

As noted above, Air Tran has adopted just such a procedure to assure the airworthiness of its seat belts. The guidance continues that, when an air carrier employs such a procedure, "the operator could continue the aircraft in service with the article installed until it can re-apply the identification data, such as during a scheduled check."

This response was coordinated with the Aircraft Maintenance Division in the Office of Flight Standards. That office has obtained assurances from Air Tran's Certificate Management Office (CMO) that the carrier's system to track and assure the airworthiness of its seat belts with missing or illegible TSO information is in accord with the guidance found in Notice N 8900.74, and is being implemented satisfactorily. Accordingly, so long as Air Tran continues to maintain its seat belts so that their airworthiness is assured, the carrier should be able to defer replacing either the belt or the TSO tag in those instances in which the tag is missing until at least the next scheduled check.

This response was prepared by Edmund Averman, an Attorney in the Regulations Division of the Office of the Chief Counsel. 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

Cc: Marshall S. Filler, Esquire