Federal Aviation Administration

Memorandum

Date: APR - 1 2011

To: Michael T. Thompson, Standardization Branch, ANM-113

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

Prepared by: John King, Staff Attorney, AGC-210

Subject: Request for Interpretation – 14 CFR §§ 21.101 and SFAR 13

This memorandum responds to your September 8, 2010, e-mail request for a legal interpretation of whether Special Federal Aviation Regulation (SFAR) No. 13 places a limit on the type certification basis for changes made to a Douglas DC-3, or whether the FAA can later require a later type certification basis imposed under 14 CFR § 21.101. The answer is found in the language of § 21.101 (a), which was revised by the 2000 rulemaking *Type Certification Procedures for Changed Products* [65 FR 36244, June 7, 2000].

> ***§ 21.101 Designation of applicable regulations.***
>
> (a) An applicant for a change to a type certificate must show that the changed product complies with the airworthiness requirements applicable to the category of the product in effect on the date of the application for the change and with parts 34 and 36 of this chapter. Exceptions are detailed in paragraphs (b) and (c) of this section.

The date of application for the change to the type certificate determines which airworthiness requirements are applicable. Special Civil Air Regulation No. SR-398 (18 FR 6448), which was superseded by Special Civil Air Regulation No. SR-407 (19 FR 5039), and is now codified as SFAR 13, raised the standards for the certification basis for the Douglas DC-3 in

1954. The purpose of SFAR 13 was to raise the certification standards from pre-World War II requirements and to ensure that future changes to the DC-3 did not reduce the level of safety back to pre-World War II standards. SFAR 13 is not a permanent limitation to 1954 requirements on certification standards affecting the DC-3. To conclude that every change to a DC-3 is forever limited to 1954 standards would negate the 2000 rulemaking provisions of § 21.101. Paragraph (a) of § 21.101 clearly articulates the method of selecting the appropriate airworthiness standards and paragraph (b) clearly specifies when an applicant can choose an earlier standard.

We trust that these answers will be of assistance. If you have any questions, please contact my staff at 202-267-3073. This response was coordinated with the Aircraft Certification Service, Certification Procedures Branch.