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

AUG 2 8 2015

Richard A. Peri
Aircraft Electronics Association
601 Pennsylvania Ave., NW
Suite 900, South Building
Washington, DC 20004

Re: Repair Station Maintenance on Aircraft Not Subject to Part 43

Dear Mr. Peri:

This letter responds to your April 27, 2015 request for legal interpretation. In your letter, you ask whether a properly rated repair station may perform tests and inspections on altitude-keeping and transponder equipment for experimental aircraft (*i.e.*, aircraft with experimental airworthiness certificates), in light of the fact that parts 43 (maintenance, preventive maintenance, rebuilding, and alteration) and 145 (repair stations) of Title 14 of the Code of Federal Regulations (14 CFR) specifically do not apply to experimental aircraft. For the reasons described below, the answer to your question is yes, FAA regulations allow a repair station to test and inspect equipment on board an experimental aircraft.

Part 43 "prescribes rules governing the maintenance, preventive maintenance, rebuilding and alteration" of aircraft. However, as you note in your letter, § 43.1(a) limits the applicability of part 43 to "[a]ircraft having a U.S. airworthiness certificate . . . ; [f]oreign-registered civil aircraft used in common carriage or carriage of mail under [parts 121 or 135]; and . . . component parts of such aircraft." Section 43.1(b) further limits the applicability of part 43, stating that "[t]his part does not apply to . . . [a]ny aircraft for which the FAA has issued an experimental certificate," unless certain exceptions apply.[1]

The exclusion of experimental aircraft from part 43 has consequences throughout our regulations. The applicability provision of part 145, for example, is based on the applicability of part 43. It states, among other things, that "[t]his part . . . contains the rules a certificated repair station must follow related to its performance of maintenance, preventive maintenance, or alterations of an aircraft . . . or component part *to which part 43 applies*." 14 CFR § 145.1 (emphasis added.) Therefore, as we have described in previous legal interpretations,[2] just as part 43 does not apply to certain aircraft, neither does part 145.

---

[1] The exceptions include aircraft for which FAA has previously issued a different kind of airworthiness certificate, or any aircraft for which the FAA has issued an experimental certificate under certain special rules for light sport aircraft.

[2] Memorandum to Carol E. Giles from Rebecca MacPherson, *Request for Policy Interpretation of 14 CFR Parts 43 and 145 for FAA Certificated Repair Stations Working on Foreign-Registered Aircraft* (Aug. 24, 2010). This 2010 interpretation discussed the applicability of part 145 in the context of foreign-registered aircraft, many of which are also excluded from part 43. In the interpretation, we stated that "the [applicability of part 145] repair station rules [is] circumscribed by the maintenance rules in part 43, which, by its own terms,

Furthermore, because part 145 specifically does not apply to certain experimental aircraft, neither does the prohibition in § 145.201(b), that no repair station may "maintain or alter any article for which it is not rated. . . ." In other words, if an experimental aircraft, or a component of an experimental aircraft, is outside the scope of part 145, then § 145.201(b) does not prohibit a repair station from performing maintenance on that aircraft or component.[3]

Part 91 applies to a much broader set of owners, operators, and aircraft than parts 43 and 145. More specifically, part 91 applies to, among other things, experimental aircraft operations. As you note in your letter, §§ 91.411(b) & 91.413(c), respectively, set out the requirements for testing and inspecting altitude-keeping and transponder equipment. In general, these sections prohibit the operation of any aircraft under IFR unless the aircraft's altitude-keeping and transponder equipment are tested and inspected at least every 24 months, and found to comply with the requirements of part 43. Therefore, even though part 43 by its own terms does not apply to experimental aircraft, § 91.411(a) and (b), and § 91.413(a) and (c), incorporate certain part 43 requirements, including those that apply to the altitude-keeping and transponder equipment that are the subject of your inquiry.

With all of this in mind, we return to your question: whether a certificated repair station may perform maintenance, described in part 43 and required by §§ 91.411 & 91.413, on experimental aircraft. We have identified no FAA regulations, including § 145.201(b), that would prohibit a certificated repair station from performing maintenance for an owner or operator who seeks to bring an experimental aircraft into compliance with §§ 91.411 & 91.413. Furthermore, although many experimental aircraft are categorically excluded from parts 43 and 145, those aircraft are not excluded from §§ 91.411 & 91.413, which impose certain part 43 requirements. Finally, §§ 91.411 & 91.413 require the equipment discussed in this interpretation to be tested by certain specified individuals or organizations and, as you state in your letter, in many cases a part 145 repair station is the only viable option for a the owner or operator of a general aviation aircraft.

[are] limited to aircraft having U.S. airworthiness certificates and foreign-registered aircraft used in common carriage (or the carriage of mail) . . . by United States air carriers."

[3] This interpretation assumes that there is no dispute regarding whether the equipment in question will be used on an experimental aircraft. We do not address a situation in which an operator represents that an article is part of an experimental aircraft, but the repair station has reason to believe the article will be used on an aircraft subject to part 43.

This response was prepared by Benjamin Jacobs, an attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the Aircraft Maintenance Division (AFS-300) of the Flight Standards Service. If you need further assistance, please contact our office at (202) 267-3073.

Sincerely,

Lorelei Peter
Acting Assistant Chief Counsel for Regulations