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

Office of the Chief Counsel
800 Independence Avenue, S.W.
Washington, D.C. 20591

September 27, 2017

Mr. Peter M. Friedman
[redacted]

Re: Legal Interpretation of 14 C.F.R. §21.9(a)(6) Concerning an Appropriately Rated Certificate Holder Fabricating Parts to be Consumed into a Repair Or Alteration

Dear Mr. Friedman:

This responds to your May 25, 2017 request for a legal interpretation of 14 C.F.R. § 21.9(a)(6) concerning whether Pacific States Aviation (an appropriately-rated certificated repair station) may fabricate a replacement or modification aircraft part that is to be consumed in the repair or alteration of a product or article. You stated that any part at issue would be fabricated in accordance with an acceptable quality system. You referenced FAA Advisory Circular AC 43-18, which, among other things, describes how to structure an appropriate quality system, referred to as a Fabrication Quality Control System (FQCS). You also noted your understanding that no fabricated part may be sold for installation on a type-certificated product unless it is produced pursuant to a PMA (parts manufacturer approval). The answer to your question is yes—under the conditions noted, your repair station may fabricate the parts.

You stated that Pacific States Aviation submitted for acceptance a FQCS to your local Flight Standards District Office (FSDO) for purposes of fabricating Category (CAT) 3 parts[1] to be consumed into higher level maintenance. You stated that the FSDO rejected the idea that a repair station may fabricate any parts for currently produced type-certificated aircraft so long as replacement parts were available from the type certificate holder.

[1] CAT 3 parts are the least critical of the three parts categories. AC 43-18 defines a CAT 3 part as: "A fabricated part, the failure of which would have no effect on the continued safe flight and landing of the aircraft."

You asked two specific questions:

1. May a repair station be authorized to fabricate repair or modification parts if they have a FQCS that conforms to AC 43-18 CHG2?

FAA Response: Yes, so long as the fabricated parts are consumed into the higher level maintenance for which they are being fabricated, and they are fabricated under an acceptable quality system.

2. Must a repair station purchase replacement or modification parts from the type certificate holder if they are available?

FAA response: No. Section 21.9(a) lists six ways a person may produce replacement or modification articles, including production under a type certificate or an FAA production approval. However, no one method is given precedence over another, so parts properly fabricated during maintenance to be subsumed into the higher level article or product upon which maintenance is being performed, meet the FAA's maintenance regulations. The fact that a type certificate holder may have parts available has no bearing on the permissible use of parts fabricated in accordance with §21.9(a)(6).

You also stated your view that the FAA has indicated that multiple parts of the same part number may be produced and stocked for future repairs or modifications of the same underlying component. That scenario is addressed in AC 43.18 in Section 6(d)(10), which states:

> **(10) Fabrication of Multiple Parts**. A quantity of identical parts bearing the same part number may be fabricated at the same time, providing they will be consumed in later repairs by the certificate holder that fabricated those parts. Controls should be in place to prevent separate sales of these specific parts (i.e., sales to other persons independent of the repair). If a certificate holder Desires to sell its fabricated part(s) separately, it must obtain a PMA.

I hope our answer is useful to you. This response was coordinated with the Aircraft Maintenance Division, AFS-300, of the Flight Standards Service. It was prepared by Edmund Averman, an

attorney in the Regulations Division of the FAA's Office of the Chief Counsel. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Lorelei Peter
Assistant Chief Counsel for Regulations, AGC-200

[redacted]

May 25, 2017

Office of the Chief Counsel
Federal Aviation Administration
800 Independence Ave. SW
Washington, DC 20591

Subject: FAR 21.9(6) Interpretation

Dear Sir,

Reading FAR 21.9(6) it seems clear that a certificated repair station has the authority to fabricate replacement or modification aircraft parts provided they have a Fabrication Quality Control System (FQCS) in place accepted by a Flight Standards District Office. AC 43-18 CHG2 describes how such a FQCS could be structured. It is also clear that, for Category 3 parts, appropriate acceptable data must be used to fabricate such parts, which must be consumed during either repair or modification of an underlying component. Further, it is also authorized by numerous FAA publications and interpretations that multiple parts of the same part number may be produced and stocked for future repairs or modifications of the same underlying component. In no instance can any fabricated part be sold by itself unless it is pursuant to a PMA.

In the instant situation, our repair station has submitted a FQCS to our local FSDO for acceptance. It meets the requirements of AC 43-18 as required for CAT 3 parts. However, the FSDO has rejected the idea that a repair station may fabricate any parts for currently produced type certificated aircraft because replacement parts are available from the type certificate holder.

In conclusion please respond to the following questions:

1. May a repair station be authorized to fabricate repair or modification parts if they have a FQCS that conforms to AC 43-18 CHG2?
2. Must a repair station purchase replacement or modification parts from the type certificate holder if they are available?

Your usual timely attention and response are greatly appreciated.

Peter M. Friedman

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