

September 24, 2020

By Email: [jesper.rasmussen@easa.europa.eu](mailto:jesper.rasmussen@easa.europa.eu)  
[rachel.daeschler@easa.europa.eu](mailto:rachel.daeschler@easa.europa.eu)  
[rick.domingo@faa.gov](mailto:rick.domingo@faa.gov)  
[earl.lawrence@faa.gov](mailto:earl.lawrence@faa.gov)

Mr. Jesper Rasmussen  
Director, Flight Standards Directorate

Mr. Rick Domingo  
Executive Director, Flight Standards Service

Ms. Rachel Daeschler  
Director, Certification Directorate

Mr. Earl Lawrence  
Executive Director, Aircraft Certification Service

European Union Aviation Safety Agency  
Postfach 10 12 53  
D-50452 Cologne, Germany

Federal Aviation Administration  
800 Independence Avenue, SW  
Washington, DC 20591, U.S.

Subject Request for Changes to the FAA-EASA Technical Implementation Procedures and the Maintenance Annex Guidance

Dear Ms. Daeschler and Messrs. Rasmussen, Lawrence and Domingo:

This letter supplements discussions during the Maintenance Management Team's (MMT) industry day on Oct. 25, 2019 in Cologne, Germany and communications since that time.

The undersigned associations appreciate the European Union Aviation Safety Agency (EASA) and the Federal Aviation Administration's (FAA) continuous efforts to assure consistent understanding and implementation of the *Agreement between the United States of America and the European Union on Cooperation in the Regulation of Civil Aviation Safety and its Annexes, as amended* (the [Agreement](#)) and the associated Technical Implementation Procedures (TIP) and Maintenance Annex Guidance (MAG).

In the spirit of the Agreement's vision for easier flow of maintenance services between Europe and the United States, we request that EASA and FAA: (1) amend TIP *Revision 6*, ([TIP 6](#)) regarding minor alterations to non-critical components, with a corresponding change to MAG *Revision 7* ([MAG 7](#)), and (2) clarify language in MAG 7 on the use of FAA Form 8130-3 and EASA Form 1 for single-agency maintenance releases.

In our view, the requested changes will maintain the high level of safety achieved by our aviation safety regulatory systems while reducing wasteful and costly inefficiencies.

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(1) Amend TIP ¶ 3.3.6 regarding minor alterations to non-critical components

TIP 6, paragraphs 3.2 and 3.2.6 provide—

3.2 Acceptance

The FAA and EASA conclude that certain approvals can benefit from mutual acceptance. There are specific CA<sup>1</sup> approvals (further described in paragraph 3.3) that will be accepted by the VA<sup>2</sup> without issuance of its own approval, and therefore no application for validation is required for:

\* \* \*

3.2.6 Design data for an alteration except for critical components (see paragraph 3.3.6).

TIP 6, paragraph 3.3.6 provides—

3.3.6 Design Data for Alterations

FAA-approved or accepted alterations per 14 CFR part 43 installed on a used aircraft exported from the U.S., regardless of the SoD of the aircraft, are considered approved by EASA at the time of import to the EU except for alterations on critical components. EASA shall accept such FAA alteration data when substantiated via an appropriately executed FAA Form 8110-3, FAA Form 8100-9, FAA Form 337 or logbook entry. (emphasis added)

**Note:** An FAA STC whose installation is documented on a Form 337 must be approved in accordance with paragraph 3.5.<sup>3</sup>

A minor alteration is defined as any alteration that is not major.<sup>4</sup> Therefore, by definition a minor alteration would have no appreciable effect on airworthiness and can only be done according to accepted practices and elementary operations. Nevertheless, FAA minor alterations to non-critical components are approved by EASA without further showing only when installed on an airplane being imported into the EU.

The FAA and EASA have different systems for classifying and approving alteration (FAA system) and design change data (EASA system). In the EASA system, all changes require approved technical data. In the FAA system, while all work must return the article to its original or properly altered (i.e., airworthy) condition, only major alterations must be

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<sup>1</sup> Certifying Authority (*TIP 6 para. 1.13.11*)

<sup>2</sup> Validating Authority (*TIP 6 para. 1.13.67*)

<sup>3</sup> TIP 6 ¶ 3.5 provides "Procedures for Streamlined Validation and Technical Validation;" these procedures are not at issue in this discussion.

<sup>4</sup> Major alteration is defined in 14 CFR sec. 1.1 as: An alteration not listed in the aircraft, aircraft engine, or propeller specifications—(1) That might appreciably affect weight, balance, structural strength, performance, powerplant operation, flight characteristics, or other qualities affecting airworthiness; or (2) That is not done according to accepted practices or cannot be done by elementary operations. A minor alteration is defined in that same section as an alteration that is not major.

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performed in accordance with approved technical data. As with minor repairs, minor alterations must be performed using methods, techniques and practices acceptable to the FAA.

The two systems produce equivalent safety outcomes and the TIP and MAG recognize that fact for FAA minor repairs. A system evaluation does not support a distinction between accepting minor alterations to non-critical components when installed on an imported aircraft vs. those made to uninstalled components. Therefore, we propose the following change to paragraph 3.3.6 of the TIP to allow minor alterations to non-critical components to be handled similarly to how the agencies accommodate minor repairs—

### 3.3.6 EASA Acceptance of FAA Design Data for Alterations

#### 3.3.6.1 Major Alterations to Components Installed on Used Aircraft

(a) Except for critical components, FAA major alterations installed per 14 CFR part 43 on a used aircraft exported from the U.S., regardless of the SoD of the aircraft, are considered approved by EASA at the time of import to the EU.

(b) EASA shall accept FAA major alteration data for components installed under paragraph (a) when substantiated by an appropriately executed FAA Form 8110-3, FAA Form 8100-9 or FAA Form 337.

**Note:** An FAA STC whose installation is documented on a Form 337 must be approved in accordance with paragraph 3.5.

#### 3.3.6.2 Minor Alterations to Non-Critical Components

(a) Minor alterations to non-critical components based on data provided by the U.S. TC, STC, PMA or TSOA holder are considered approved by EASA provided—

(1) EASA has certificated/validated the product or article, and

(2) The FAA is the Authority of the SoD for the alteration design data.

(b) Minor alterations to non-critical components based on data provided by other than the U.S. TC, STC, PMA, or TSOA holder are considered approved by EASA provided—

(1) EASA has certificated/validated the product or article;

(2) The FAA is the Authority of the SoD for the alteration design data; and

(3) The determination that the methods, techniques and practices are acceptable (under 14 CFR part 43) has been made by a U.S. maintenance organization under the FAA's authorized system.

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**Note:** An EASA-approved maintenance organization must use EASA part 21 for the approval of alteration design data for use on an EU-registered aircraft, unless that data has been previously used to alter an N-registered aircraft or component.

Conforming changes would also be needed to Section B, paragraph 8 of the MAG, Approved Design and Repair Data. We recommend amendments to the Note in paragraph 8(a) (as indicated by the underlined portion) and a new paragraph (d)—

**NOTE: EASA defines “design change” as a change to the type design. Except as otherwise provided in section 3.3.6 of the Technical Implementation Procedures, EASA does not automatically accept alterations that affect type design.**

(d) FAA alterations to components are accepted by EASA in accordance with paragraph 3.3.6 of the Technical Implementation Procedures.

These suggestions merely align the systems more succinctly and we appreciate consideration of the recommendations in that light.

(2) Clarify MAG 7 concerning use of FAA Form 8130-3 and EASA Form 1 for single-agency releases.

Industry submits that single release provisions, while well-intentioned, are unnecessary and burdensome for numerous reasons.

First, there is a firm and abiding requirement that maintenance providers always determine installation eligibility for each step in the process. This responsibility was the basis for removing block 9 (i.e., installation eligibility) from the 8130-3 and EASA Form 1 years ago. Both forms contain a clear statement that the existence of the form alone does not automatically confer installation eligibility. That determination is made by the installer based on the part number and, where applicable, the serial number and supplemented by the description of work performed in block 12.

Second, 14 CFR part 43 does not apply in this situation and an FAA release has no force and effect any more than it does when issued for a part overhauled for a military customer. FAA legal interpretations have made clear that the forms may be issued even when the agency has no jurisdiction over the work performed. This same rationale would apply to any “single EASA release” situation.

Third, numerous repair stations do not work on “final assemblies;” any article that does not have the proper information to ensure it is eligible for installation in a higher assembly comes with the same installation responsibility—it is not eligible for installation on or in any other products or articles except those associated with the particular design data.

Fourth, what is ineligible for installation at the time the work is performed may change before the article is needed. Designs that created the MAG 7 change may be type certificated or otherwise approved in the United States at some point in the future. In this situation, such articles would not be eligible for installation without some new action.

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Fifth, the instructions for FAA-certificated repair stations in the MAG set forth below tell the repair station not to check the block stating compliance with section 43.9 yet includes that section in the highlighted sentence. We believe the highlighted sentence was meant to convey that the product/article was processed under part 43, not section 43.9 which only pertains to recordkeeping.

To ensure clarity and consistency with the regulations, industry recommends changes to MAG 7 Section B, Appendix 1, paragraph 10m providing recommended "[r]elease statements for cases where compliance with both regulatory systems cannot be met...." The recommended EASA single release verbiage for use by FAA-certificated repair stations holding EASA approval includes the following instructions:

**United States**

**One or more products/articles were installed with an EASA Form 1 single release, so the final assembly cannot be released with an FAA Form 8130-3 dual release.**

**The final release should be issued with the following statements in the specified blocks. "The final assembly is eligible to be installed only on an EU-registered aircraft."**

In block 14a, check only the box mentioning "Other regulation specified in block 12." Do not check box that states compliance to 43.9.

In block 12, the following text should be inserted:

"Certifies that the work specified in Block 11/12 was carried out in accordance with EASA Part 145 and in respect to that work the component is considered ready for release to service under EASA Part 145 approval no. \_\_\_\_\_.

**This product/article meets part 43.9 requirements, except for the following items, and therefore is "not" eligible to be installed on U.S.-registered aircraft:"**

(List the items)

(Emphasis added.)

If the agencies wish to use the underlined statement, the yellow-highlighted sentence is redundant and should be removed. Rather, the two items of information should be combined, such as:

This product/article has been processed under part 43 requirements for use only on EU-registered products/articles and is not eligible for installation on U.S.-registered products/articles on the date the approval for return to service was issued. (Note: Although a similar change could be made to Section C relating to EU AMOs, that verbiage is not as confusing.)

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Finally, some of the undersigned organizations have apprised their members that substitute language that reflects the regulatory and technical facts is acceptable when used in block 12 of the respective form because it clearly indicates that only a single EASA release is being issued. We respectfully request the authorities confirm industry's view and clarify the language at the next opportunity.

Thank you for considering these proposals; we look forward to further discussions during the MMT Industry Day meetings in October.

Sincerely,

Marshall S. Filler  
Managing Director & General Counsel  
Aeronautical Repair Station Association  
121 North Henry Street  
Alexandria, VA 22314-2905  
703.739.9543 Ext. 201  
[marshall.filler@arsa.org](mailto:marshall.filler@arsa.org)

David Silver  
Vice President, Civil Aviation  
Aerospace Industries Association  
1000 Wilson Boulevard  
Suite 1700  
Arlington, VA 22209-3928  
703.358.1038  
[david.silver@aia-aerospace.org](mailto:david.silver@aia-aerospace.org)

Ric Peri  
Vice President, Government & Industry  
Affairs  
Aircraft Electronics Association  
601 Pennsylvania Ave, NW  
Suite 900, South Building  
Washington, DC 20004-3647  
202.589.1144  
[ricp@aea.net](mailto:ricp@aea.net)

Jim Coon  
Senior Vice President, Government  
Affairs and Advocacy  
Aircraft Owners and Pilots Association  
50 F Street, NW  
Suite 750  
Washington, DC 20001-1578  
202.851.7501  
[jim.coon@aopa.org](mailto:jim.coon@aopa.org)

Robert Ireland  
Managing Director, Engineering &  
Maintenance  
Airlines for America  
1275 Pennsylvania Avenue, NW  
Suite 1300  
Washington, DC 20004-2450  
202.626.4228  
[rireland@airlines.org](mailto:rireland@airlines.org)

Michele Dickstein  
President  
Aviation Suppliers Association  
2233 Wisconsin Avenue, NW  
Suite 503  
Washington, DC 20007-4104  
202.347.6896  
[michele@aviationsuppliers.org](mailto:michele@aviationsuppliers.org)

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Crystal Maguire  
Executive Director  
Aviation Technician Education Council  
Post Office Box 234  
Jenks, OK 74037-0234  
703.548.2030  
[crystal.maguire@atec-amt.org](mailto:crystal.maguire@atec-amt.org)

Yvette Rose  
Senior Vice President  
Cargo Airline Association  
1620 L Street, NW  
Suite 610  
Washington, DC 20036-5605  
202.293.1030  
[yrose@cargoair.org](mailto:yrose@cargoair.org)

Joe Sambiasi  
Director, Maintenance & Airworthiness  
General Aviation Manufacturers  
Association  
1400 K Street, NW  
Suite 801  
Washington, DC 20005-2402  
202.393.1500  
[jsambiasi@gama.aero](mailto:jsambiasi@gama.aero)

Harold Summers  
Director of Flight Operations &  
Technical Services  
Helicopter Association International  
1920 Ballenger Avenue  
Alexandria, VA 22314-2898  
703.683.4646  
[harold.summers@rotor.org](mailto:harold.summers@rotor.org)

Jason Dickstein  
President  
Modification and Replacement Parts  
Association  
2233 Wisconsin Avenue, NW  
Suite 503  
Washington, DC 20007-4104  
202.628.6777  
[jason@washingtonaviation.com](mailto:jason@washingtonaviation.com)

George Paul  
Vice President, Technical Services  
National Air Carrier Association  
1735 North Lynn Street  
Suite 105  
Arlington, VA 22209-2013  
703.358.8063  
[gpaul@naca.aero](mailto:gpaul@naca.aero)

John McGraw  
Vice President, Regulatory Affairs  
National Air Transportation Association  
818 Connecticut Avenue, NW  
Suite 900  
Washington, DC 20006-2733  
202.774.1535  
[jmccgraw@nata.aero](mailto:jmccgraw@nata.aero)

Stewart D'Leon  
Director, Technical Operations  
National Business Aviation Association  
1200 G Street, NW  
Suite 1100  
Washington, DC 20005-3814  
202.737.4479  
[sdleon@nbaa.org](mailto:sdleon@nbaa.org)

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Bill Whyte

Vice President, Aviation Operations and

Technical Services

Regional Airline Association

1201 15<sup>th</sup> Street, NW

Suite 430

Washington, DC 20005-2899

202.367.1212

[whyte@raa.org](mailto:whyte@raa.org)

cc: Jackie Black

Tim Shaver

Bruce Decleene

Karl Specht

Ralf Erckmann

[jackie.l.black@faa.gov](mailto:jackie.l.black@faa.gov)

[tim.shaver@faa.gov](mailto:tim.shaver@faa.gov)

[bruce.decleene@faa.gov](mailto:bruce.decleene@faa.gov)

[karl.specht@easa.europa.eu](mailto:karl.specht@easa.europa.eu)

[ralf.erckmann@easa.europa.eu](mailto:ralf.erckmann@easa.europa.eu)