Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT

[Docket No. 1221; Amdts. 43-4, 145-4]

PART 43—MAINTENANCE PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

SUBCHAPTER H—SCHOOLS AND OTHER CERTIFICATED AGENCIES

PART 145—REPAIR STATIONS

Certificated Repair Stations; Limited Rating for Manufacturers

This amendment lets certain manufacturers obtain, without further showing, a repair station certificate with a limited rating under Part 145 in order to perform maintenance and preventive maintenance on articles manufactured by them. This amendment also broadens the manufacturer's rebuilding and alteration authority under § 43.3 to include appliances and parts manufactured under an FAA Parts Manufacturer Approval (PMA).

This amendment is based on, and is issued for the reasons contained in, Notice No. 65-24, published in the FEDERAL REGISTER (30 F.R. 11773) on September 15, 1965.

No substantive change from the notice is made by this amendment. The only change is one of form. The notice proposed the issue of a Manufacturer's Maintenance Facility Certificate. This certificate would have been issued under sections of Parts 21 and 37. However, since the creation of an air agency under section 607 of the Federal Aviation Act of 1958 is involved, it is more appropriate to consolidate the several proposed changes into a single amendment to Subchapter H—Schools and Other Certificated Agencies. As the notice mentioned, the Agency considers that the standards met by a manufacturer to obtain a production certificate, an approved production inspection system, or other approved quality control system, provide a level of safety equivalent to that achieved under the standards applicable to a certificated repair station with a limited rating. The certification and rating process already established under Part 145 is the most efficient basis for giving manufacturers privileges similar to those of repair stations (which is the purpose of this amendment). Certain manufacturers have expressed concern that public awareness of the relationship between a manufacturer and his product could be impaired if the name of the certificate issued under this amendment could in any way cloud the identity of the manufacturer as a manufacturer. Weighing the public interest in obtaining the maximum use of existing certification procedures versus this genuine concern of the manufacturer, the Agency finds it appropriate to create a separate subpart in Part 145 that is unmistakably identified with the manufacturer. For this reason, new Subpart D is created, providing for the issue of limited ratings for manufacturers, and providing that any facility where the holder of the rating performs maintenance or preventive maintenance may be referred to as a "manufacturer's maintenance facility."

For each basis shown by the manufacturer for qualifying under § 145.101 (a), he is entitled to one certificate. For example, a manufacturer holding two Production Certificates is entitled to two certificates. A manufacturer holding one Production Certificate, one Type Certificate with an approved Production Inspection System, and one TSO authorization is entitled to three certificates. Each certificate may be issued for any business address chosen by the manufacturer. This chosen address need not be in the United States, nor need it be one at which he manufactures the articles covered by his Production Certificate or other authorization used to qualify under § 145.101(a). Further, the manufacturer need never perform, nor intend to perform, maintenance at the chosen address.

Consistent with the manufacturer's present authority to rebuild and alter his products at any place he chooses, the listing of the chosen business address on the certificate issued under § 145.101(a) in no way limits the places at which the manufacturer may perform maintenance. However, if the experience or conduct of a particular manufacturer makes it necessary for safety, restriction to a particular facility will be specified in words of limitation placed on the Repair Station Certificate issued for that facility. This is reflected in § 145.103(b).

One comment mentioned that manufacturers may be organized more for production than for maintenance, and recommended that the final rule specifically require the manufacturer to issue a maintenance release describing all work performed. The necessary recording of work performed is adequately covered in §§ 43.9 and 43.11. No additional rule for manufacturers is necessary. Consistent with the notice, and with the rules for other persons who perform maintenance, this amendment specifically makes the performance standards of Part 43 applicable to manufacturers covered by Subpart D.

One comment requested that the proposed maintenance privileges be extended to foreign manufacturers who have service facilities in the United States, or who send engineering representatives to the United States to handle service problems of United States registered aircraft based in the United States. Foreign manufacturers, as such, are not excluded from this amendment. Any foreign or domestic manufacturer who qualifies under § 145.101(a) is entitled to a certificate and limited rating without further showing, and may perform maintenance, as a manufacturer, at any service facility or other location within or outside the United States. Similarly, neither the foreign nor domestic manufacturer is entitled to a certificate under § 145.101(a) unless the applicable bases of approval listed therein are met. The findings made in granting these approvals provide the basis for the Agency's assurance that the manufacturer, foreign or domestic, can safely perform maintenance.

Comments suggested that the manufacturer be allowed to use any qualified person in the exercise of the granted maintenance privilege, not necessarily certificated airmen. Ultimately, regardless of whether or not facilities as such are certificated, the actual maintenance will be performed with individuals directly in charge. Section 101(7) of the Federal Aviation Act of 1958 defines each individual directly in charge of maintenance as an "airman". Section 610(a) of the Act makes it unlawful for any person to serve in any capacity as an "airman" without an "airman" certificate. Thus, regardless of certification of the manufacturer's facilities as an air agency, the individuals that it employs directly in charge of maintenance must be certificated airmen.

Comments questioned whether the proposed maintenance privileges in fact give relief to the manufacturer since, under § 43.3(d), he may already perform maintenance under the supervision of certificated mechanics. For manufacturers for whom this alternative is attractive, this proposal is not intended to provide relief. The same is true for repair stations who choose to operate through certificated airmen under § 43.3(d) rather than obtain air agency certification under Part 145. These comments miss the following point: For manufacturers who desire to perform maintenance and return products to service without the need for mechanics as prescribed in Part 43, and to hold themselves out to the public for this purpose as an air agency, this amendment provides an outlet equivalent to that already enjoyed by certificated repair stations. This is the sole purpose of this amendment.

One comment objected to proposed § 43.3(i)(3) because it lets manufacturers of aircraft inspect engines and propellers of those aircraft even though not "manufactured" by him. Proposed § 43.3(i)(3) is substantively identical to the present rule. No change is intended. Section 43.3(i)(3) merely reflects an editorial change resulting from the in-

clusion of FAA-PMA manufacturers in § 43.3.

One comment objected to the proposals on the basis that the responsibilities imposed on the manufacturer under Part 43 could lead some air carriers, whose aircraft were maintained by the manufacturer, to conclude that the manufacturer has assumed some of the air carrier's responsibility for safe maintenance. Sections 121.363(b) and 127.131(b) specifically prevent this conclusion.

One comment requested that the manufacturer be required to perform maintenance in accordance with a manufacturer's approved manual. To require that each manufacturer prepare and obtain approval of a maintenance manual for all products manufactured by him in the past, and products currently being manufactured by him, including parts and appliances, would far exceed the present requirements applicable to manufacturers. Further, to do so would impose a burden that is not necessary for the proper administration of this amendment in the interest of safety, since this amendment makes all manufacturers subject to Part 43, including § 43.13 which requires that acceptable methods, techniques and practices be used to maintain each article in its original or properly altered condition.

In consideration of the foregoing, Parts 43 and 145 of Chapter I of Title 14 of the Code of Federal Regulations are amended, effective October 1, 1966, as hereinafter set forth:

1. Section 43.3(i) is amended to read as follows:

§ 43.3 Persons authorized to perform maintenance, preventive maintenance, rebuilding, and alterations.

* * * * *

(i) A manufacturer may—

(1) Rebuild or alter any aircraft, aircraft engine, propeller, or appliance manufactured by him under a type or production certificate;

(2) Rebuild or alter any appliance or part of aircraft, aircraft engines, propellers, or appliances manufactured by him under a Technical Standard Order Authorization, an FAA-Parts Manufacturer Approval, or Product and Process Specification issued by the Administrator; and

(3) Perform 100-hour, annual, and progressive inspections on aircraft manufactured by him, while operating under a production certificate or under an approved production inspection system for such aircraft.

2. Section 145.1 is amended by adding the following paragraph at the end thereof:

§ 145.1 Applicability.

* * * * *

(c) A manufacturer of aircraft, aircraft engines, propellers, appliances, or parts thereof, may be issued a Repair Station Certificate with a limited rating under Subpart D of this part. Sections 145.11 through 145.79 do not apply to applicants for, or holders of, certificates issued under Subpart D of this part. Any facility where the holder of a certificate issued under Subpart D of this part exercises his privileges under that certificate may be referred to as a "manufacturer's maintenance facility."

3. Part 145 is amended by adding the following new subpart at the end thereof:

Subpart D—Limited Ratings for Manufacturers

Sec.
145.101 Application and issue.
145.103 Privileges of certificates.
145.105 Performance standards.

AUTHORITY: The provisions of this Subpart D issued under secs. 313(a), 601, 602, 605, and 607, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422, 1425, and 1427).

Subpart D—Limited Ratings for Manufacturers

§ 145.101 Application and issue.

(a) Upon application in a form and manner prescribed by the Administrator, a repair station certificate with a limited rating for a manufacturer may be issued without further showing to—

(1) The holder or licensee of a Type Certificate who has an approved production inspection system;

(2) The holder of a Production Certificate;

(3) Any person who meets the requirements of § 21.303 of this chapter, and has the prescribed Fabrication Inspection System; and

(4) The holder of a Technical Standard Order (TSO) authorization.

(b) Limited ratings are issued under paragraph (a) of this section for—

(1) Aircraft manufactured by the holder of the rating under a Type Certificate or a Production Certificate;

(2) Aircraft engines manufactured by the holder of the rating under a Type Certificate or a Production Certificate;

(3) Propellers manufactured by the holder of the rating under a Type Certificate or a Production Certificate;

(4) Appliances manufactured by the holder of the rating (i) under a Type Certificate, (ii) under a Production Certificate, (iii) under a TSO authorization, or (iv) in accordance with § 21.303 of this chapter; and

(5) Parts manufactured by the holder of the rating under a TSO authorization or in accordance with § 21.303 of this chapter.

§ 145.103 Privileges of certificates.

(a) The holder of a repair station certificate issued under this subpart may maintain and approve for return to service any article for which it is rated, and perform preventive maintenance on that article, if certificated mechanics or repairmen are employed directly in charge of the maintenance and preventive maintenance.

(b) The privileges granted under this section apply to any location or facility unless the certificate limits the holder to specific locations or facilities.

§ 145.105 Performance standards.

Each holder of a certificate issued under this subpart shall perform its maintenance and preventive maintenance operations in accordance with Part 43 of this chapter.

(Sec. 313(a), 601, 602, 605, 607, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422, 1425, 1427))

The reporting and/or recordkeeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued in Washington, D.C., on March 25, 1966.

WILLIAM F. MCKEE,
Administrator.

(As published in the Federal Register /31 F.R. 5248/ on April 1, 1966)