

Clearance Record
DOCUMENT COMMENT LOG (PUBLIC)

Originating Office: AIR-110	Document Description: PS-AIR-21.50-01; Inappropriate DAH Restrictions on the Use and Availability of ICA	Project Lead/Reviewer: John Cerra	Reviewing Office: AIR-110	Date of Review: January 30, 2012
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Commenter	Page & Paragraph or Topic	Comment	Reason for Comment	Suggested Change	Comment Resolution
AIA/GAMA	1	"As currently written "inappropriate actions" is understood, however, the sentence would imply that any restrictions placed on the availability, distribution and use of Instructions for Continued Airworthiness (ICA) would be inappropriate when there are indeed certain suitable restrictions available to the Design Approval Holder (DAH) that also meet the provisions of §21.50(b)."		"AIA/GAMA suggest rewording the 1st sentence of the policy statement by removing "inappropriate" from before "actions" and placing "inappropriately restricting the availability" in lieu of "restrict availability"."	Concur, revised as follows: "This policy statement addresses actions taken by some Type Certificate (TC) and Supplemental Type Certificate (STC) Design Approval Holders (DAHs), hereafter referred to as DAHs, to inappropriately restrict the availability, distribution, and use of Instructions for Continued Airworthiness (ICA) through restrictive language in the ICA or through restrictive access or use agreements."
Dassault Aviation	1	The sentence implies that, ". . .that any restrictions placed on the availability, distribution and use of Instructions for Continued Airworthiness (ICA) would be inappropriate when there are indeed certain suitable restrictions available to the Design Approval Holder (DAH)."		It is suggested that the first sentence be reworded by removing "inappropriate" from before "actions" and placing "inappropriately restricting the availability" in lieu of "restrict availability".	Concur, revised as follows: "This policy statement addresses actions taken by some Type Certificate (TC) and Supplemental Type Certificate (STC) Design Approval Holders (DAHs), hereafter referred to as DAHs, to inappropriately restrict the availability, distribution, and use of Instructions for Continued Airworthiness (ICA) through restrictive language in the ICA or through restrictive access or use agreements."

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Rolls-Royce	1	The sentence implies that, ". . .that any restrictions placed on the availability, distribution and use of Instructions for Continued Airworthiness (ICA) would be inappropriate when there are indeed certain suitable restrictions available to the Design Approval Holder (DAH)."		It is suggested that the first sentence be reworded by removing "inappropriate" from before "actions" and placing "inappropriately restricting the availability" in lieu of "restrict availability".	Concur, revised as follows: "This policy statement addresses actions taken by some Type Certificate (TC) and Supplemental Type Certificate (STC) Design Approval Holders (DAHs), hereafter referred to as DAHs, to inappropriately restrict the availability, distribution, and use of Instructions for Continued Airworthiness (ICA) through restrictive language in the ICA or through restrictive access or use agreements."
ARSA	1	"This policy is actually requiring a review of contracts, and inappropriate action for agency employees; rather, the policy should make clear what the FAA can and will enforce. Therefore, ARSA suggests the paragraphs be replaces with:"		"This policy memorandum addresses how some Design Approval Holders (DAHs) restrict availability, distribution and use of Instructions for Continued Airworthiness (ICA). The guidance is intended to help: 1) FAA employees determine the nature and extent of those restrictions, and 2) DAHs understand that contracts restricting ICA usage will not be enforced by the FAA."	Non-concur. It is not the intent of this policy statement to have the FAA review contracts to determine the nature and extent of restrictive language, nor to address the subject of enforcement. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).

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Goodrich	1	"Goodrich suggests revising the Draft Policy Statement to specifically reference supplemental or type certificate holders of aircraft, aircraft engines, or propellers, instead of the broader term Design Approval Holders (DAHs) when discussing requirements to furnish instructions for Continued Airworthiness (ICA)."	"Clarifying this language would make the Draft Policy Statement consistent with the application of 14 CFR §21.50(b). Not all Design Approval Holders (DAHs) are required to produce Instructions for Continued Airworthiness (ICA) and not all maintenance instructions produced by Design Approval Holders (DAHs) constitute Instructions for Continued Airworthiness (ICA)."		Partially concur. Sentence was revised to include type certificate and supplemental type certificate holders as follows: "This policy statement addresses actions taken by some Type Certificate (TC) and Supplemental Type Certificate (STC) Design Approval Holders (DAHs), hereafter referred to as DAHs, to inappropriately restrict the availability, distribution, and use of Instructions for Continued Airworthiness (ICA) through restrictive language in the ICA or through restrictive access or use agreements."
Alternate Component Technology	2	"The DAH is required "to furnish...to the owner of each type aircraft, aircraft engine, or propeller" but is only required to "make available" to any other person who requires them to ensure safety. "Made available" is too broad of an instruction, and is ambiguous. This language is used throughout. Many DAH's make the burden to actually obtain the "available" ICA's heavy enough to question whether they are in fact "available". Being facetious, ICA's located in the Gobi desert may be available, but that does not put them in the hands of the maintenance providers who require them."	"Make available" is too broad and ambiguous.		Non-concur. This policy statement is consistent with the language in 14 CFR 21.50.
Alternate Component Technology	2	"To require a DAH to "furnish" to every person that requires the ICA's may shift too much of the distribution burden back to the DAH. Consider language that ensures reasonable access to all ICA's, with minimal burden to all, as a means to ensure the continued airworthiness of the product."	"Furnish" shifts burden to DAH.		Non-concur. This language here is consistent with the language in 14 CFR 21.50.

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Garmin	2	Second sentence: "It may be helpful to indicate in this section that DAH "or their authorized agent" must furnish..."	"Add clarity consistent with stated intent of policy at page 1, item 2). "	"Adjust sentence as follows "14 CFR §21.50(b) requires the DAH or its authorized agent to "furnish at least one set of complete Instructions for Continued Airworthiness to the owner of each type aircraft, aircraft engine, or propeller""	Non-concur. This policy statement is consistent with the language in 14 CFR 21.50. "Authorized agent" is not part of the language.
ARSA	2	"The first sentence does not mirror the regulatory requirement and therefore it should be changed to read:"		"ICA constitute only those maintenance instructions recommended by a DAH in compliance with the airworthiness standards (e.g., § 25.1529, § 33.4) that are acceptable to or approved by the FAA as essential to the continued airworthiness of a type-certificate product."	Non-concur. This policy statement is consistent with the language in 14 CFR 21.50. "Essential" refers to what a DAH must provide for an installed appliance or product <i>only</i> if the manufacturer does not supply it.

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ARSA	3	"The intent of the section was to provide persons required to comply with maintenance instructions a means of obtaining that basic safety information."	"The FAA has taken a position that the "only" person required to comply is the owner/operator. The regulations belie that position. Persons authorized to perform maintenance is limited; every person performing maintenance must comply with the manufacturer's instructions or "other methods, techniques and practices" acceptable to the agency. Finally, all maintenance providers must comply with airworthiness limitations."	"The intent of § 21.50(b) is to provide for the development and distribution of information essential to the continued airworthiness of a civil aviation article."	Partially concur. "Essential" refers to what a DAH must provide for an installed appliance or product if the manufacturer does not supply it. The paragraph has been revised as follows: "The intent of §21.50(b) is to provide for the development and distribution of the information necessary to maintain products in an airworthy condition. The scope of who ICA is distributed to is limited to owner/operators and those authorized by the FAA to perform maintenance on those products (or components thereof). It is not intended to require that ICA be made available to any person seeking ICA for purposes other than preventive maintenance, maintenance, or alteration, unless that person has a regulatory requirement to comply with the ICA."

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LM Aeronautics Company	4	"The owner/operator is initially required to notify the DAH when a repair station should receive ICA information. The policy memorandum does not reference a similar requirement for subsequent requests for information from the repair station. "	"There is concern that the rule allows a repair station to obtain subsequent ICA updates without owner/operator approval or concurrence. For example, it is possible that a repair station which obtained initial concurrence from the owner/operator for receipt of ICA information, but which later no longer repairs the owner/operator's aircraft, to request ICA information from the DAH without having an actual need for it. The DAH will have no knowledge that the repair station no longer performs work for the owner/operator. A requirement to obtain concurrence from the owner/operator for subsequent ICA updates would resolve this concern."		Non-concur. The owner/operator is not required to notify the DAH that they have provided ICA to a maintenance provider. If a maintenance provider subsequently requests ICA from the DAH and not the owner/operator, the DAH should confirm that the maintenance provider has a regulatory requirement for the ICA.
ARSA	4	"The policy should not restate or explain another document; doing so merely creates confusion and additional questions. Further, § 21.50(b) does not confer any "right" in the "owner/operator;" it requires DAHs to perform actions, not other certificate holders."		Stop the paragraph ". . . after the second sentence."	Partially concur. The reference to Order 8110.54 does not restate the criteria referenced. The example clarifies the "make available" question. The sentence concerning rights has been revised as follows: "Once the DAH furnishes ICA to the owner/operator, the owner/operator can provide it to the maintenance provider(s) of their choice."
MarathonNorco Aerospace	5	"The FAA assumes that the limitations do not allow the repair station to obtain the ICA. This is an incorrect assumption."	DAH has the right to control access to ICA.	None	Non-concur. Some DAH statements do restrict maintenance provider access to ICA.

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ARSA	5	<p>"While seemingly inappropriate, until the FAA declares such contractual provisions void as a matter of public policy, a DAH may limit the use of its ICA. The agency's attempt to link contractual limitations to the "make available" language in § 21.50(b) is not within its authority. Additionally, unless the FAA intends to read every contract between and owner/operator and a DAH supplier, the policy is unenforceable."</p>	<p>"Rather, the FAA should make it absolutely clear that such limitations will not be enforced by the agency. Additionally, it may state that if any non-technically justified language is included in the ICA, the FAA will not support the implementation of those provisions."</p>	<p>"Some DAHs place limitations on the use of their ICA. The FAA does not support these measures and cautions that such restrictions could become potential violations because of an owner or operator's failure to make appropriate data available to its maintenance providers. Further, the FAA will not enforce clauses that attempt to limit the owner or operator from sharing ICA with its maintenance provider. This means a repair station could seek the appropriate FAA rating to perform the maintenance on the owner/operator's products with the owner/operator support. In such cases, once the repair station obtains the FAA rating, FAA Order 8110.54A, paragraph 6-4(a), states that the DAH would be required to make the ICA and any subsequent revisions available directly to the repair station upon its request."</p>	<p>Non-concur. It is not the intent of this policy statement to have the FAA review contracts to determine the nature and extent of restrictive language, nor to address the subject of enforcement. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).</p> <p>The language of the paragraph has been revised as follows based on another public comment:</p> <p>"It is not appropriate for a DAH to place limitations on the use of its ICA between the owner/operator and the maintenance provider, whether the maintenance provider is rated or not to perform that maintenance. A maintenance provider that is not rated, or is seeking the appropriate FAA rating to perform maintenance on the owner/operator's products, may obtain ICA from the owner/operators. For those maintenance providers that have the necessary FAA rating,</p> <p>FAA Order 8110.54A, chapter 6 paragraph 4.a, states that the DAH would be required to make the ICA and any subsequent revisions available directly to the maintenance provider upon its request."</p>

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ARSA	6	"While the preamble does make it clear that the owners and operators were going to share ICA with maintenance providers, the intent does not stop there. The FAA clearly planned for the dissemination of information "essential to the continued airworthiness" of products to persons required to follow those instructions. Therefore, the first paragraph should read:"		"From the discussion in the final rule, Federal Register Volume 45, No. 178, Page 60168, dated September 11, 1980, it is clear that the regulations intended for ICA to be appropriately developed and disseminated."	Non-concur. The example from the preamble discussion is clearly focused on the owner/operator being responsible for maintenance and their ability to provide ICA to an appropriate maintenance provider.
ARSA	7	"The paragraph does not add substantially to the discussion and can be stricken without distracting from the policy."		Remove the paragraph.	Non-concur. The paragraph provides further clarification on intent of the federal register excerpt.
ARSA	8	"The "above discussion" does not prevent two parties from entering into a contract that restricts the distribution and use of ICA. Unless and until the FAA is ready to deem such contractual clauses void as a matter of public policy, it has no jurisdiction to comment."		Remove the paragraph.	Non-concur. While it may be true that the FAA has no jurisdiction to be involved in contractual agreements because we do not have a congressional mandate to regulate commerce, it is the FAA's duty and mission to promote safety. As such, we do have jurisdiction in areas where the application of the FAA regulations is being compromised due the distribution and use of ICA being restricted.

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AIA/GAMA	8	Clarifications as suggested by these comments would allow the policy statement to narrowly tailor and address its underlying concern, the inappropriate restrictions on owner/operators ability to provide ICA to repair stations, without limiting the ability of DAHs to otherwise place appropriate and legitimate restrictions rooted in Federal copyright law and State Trade Secret provisions.	<p>"It is therefore necessary to prevent such overbroad interpretation to remove or modify language in the draft policy statement like:</p> <p>"Therefore, it is not acceptable for a DAH to limit the distribution of ICA by imposing contractual requirements or adding restrictive language that would control the use of ICA by an owner/operator with respect to the maintenance of its product."</p>	". . . it is recommended that the policy statement include discussion regarding appropriate use of restrictions and/or disclaimers."	Non-concur. It is not the intent of this policy statement to infringe upon appropriate copyright or trade secret laws. However, any use of restrictions and/or disclaimers that violates the intent of 21.50(b) to make ICA available would be considered inappropriate from the FAA's standpoint of promoting safety.
Embraer	9	". . .we believe that some language in the draft, specifically in the examples of disallowed practices, could be understood to require the DAH to consider/approve the use of third party parts or repairs in the ICAs."	<p>"For example, it is common for an ICA corrective action to be written in a manner similar to "Replace DAH Part Number xxx-001 with DAH Part number xxx-003." Example 1 on page 2 of the proposed policy would not permit this without presumably providing for some means of use of non-DAH parts, about which the DAH has no way of knowing or evaluating.</p> <p>In a similar manner, it is common in structural repairs to specify that the operator should contact the DAH for a repair design (especially in cases where the damage is extensive and an airplane-specific repair has to be designed)."</p>	". . . remove Examples 1 and 2 from the proposed policy."	<p>Non-concur.</p> <p>The first example is intended to clarify that a DAH can not restrict access to or use of ICA based on an agreement to only use DAH parts. It does not preclude the DAH recommending DAH replacement parts.</p> <p>The second example is intended to clarify that a DAH can not restrict access to or use of ICA for a repair or alteration unless authorized by the DAH. It does not preclude the DAH from recommending that a maintenance provider consult the DAH on a repair or alteration, especially if it is beyond the information in the ICA.</p>

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GE Aviation	9	The current FAA Policy Statement draft acknowledges that “a DAH must identify the applicability of its ICA” but stops short of highlighting the importance of a DAH fulfilling this role.”	“Such information is required to help FAA employees, other DAHs, MRO providers and owner/operators determine if TCH ICA truly apply for configurations other than those addressed by TCH ICA.”	“GE recommends that the draft policy statement be revised to include a section highlighting the importance of DAHs clearly defining the applicability of their ICA with regard to Airworthiness Limitations.”	Non-concur. Importance of airworthiness limitations is clear in rules. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).
Rockwell Collins	9	"Paragraph beginning “In addition, while the DAH...” lists four examples of practices that the FAA does not find acceptable. There is some concern reflected by these examples that an interpretation could be made which is far broader than intended."	"For example, Rockwell Collins has a qualified dealership network that is aimed at providing assurance that its products and systems, once delivered to the public, will continue to provide the safety and integrity expected by the public. Moreover, Rockwell has limited or denied authorizations within its own dealership network for any specific dealer for specific products or systems for which that dealer is not adequately trained or equipped."	"Consider clarification to the text in this section to preclude ambiguity or misinterpretations that would unintentionally mandate authorizations or provision of ICA to entities that are not technically capable of applying the ICA in a way that upholds the DAH’s standards for safety and integrity."	Non-concur. This policy statement does not preclude the DAH from recommending DAH qualified facilities. However, 21.50(b) requires the DAHs to release ICAs to owners, and it's the FAA's position that the owners be allowed to release ICAs to the maintenance entity of their choice. It is the owner/operator, not the DAH, who is ultimately responsible to ensure their product is maintained in an airworthy condition.
MarathonNorco Aerospace	9	"FAA further extends their interpretations of the 14CFR 21.50(b) to state that the DAH cannot 1) Require the use of only DAH-authorized replacement parts; 2) Require that repairs must be authorized by DAH; 3) Require the use of only DAH-authorized repair stations. These are interpretations of 14CFR 21.50(b) that are not found in the regulations, either explicitly or implicitly."	DAH should have control of their product and the repair of their product.	None	Non-concur. Owners and operators are responsible for the airworthiness of their aircraft, and DAHs do not have control over who does maintenance/repair of their products.
Phoenix Composite Solutions, LLC	9	"Using warranty or other contractual measures to restrict repairs and use of PMA articles."	Unacceptable practice	Add additional unacceptable DAH practice.	Non-concur. Warranties are not an unacceptable practice, and the use of a PMA part may in fact affect such warranties.

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ARSA	9	<p>"The agency can certainly declare that such "restrictions" be removed from ICA. However, equally clear is that a DAH can make and declare certain business determinations, such as refusal to honor warranties, if PMA parts are installed and/or declare that the DAH's ICA are only to be used on their products since the information was not determined valid for any other usage. Therefore, the paragraphs should read:"</p>		<p>"While a DAH must identify the applicability of its ICA, the FAA will not find acceptable or enforce restrictive statements of terms in ICA documents that purport to limit the appropriate availability (distribution) of use of the ICA. This is particularly true where the FAA has determined the ICA continue to be acceptable for maintaining a DAH's product or article with FAA-approved replacement parts, articles, or materials installed (e.g., Parts Manufacturer Approval (PMA) items). While not exhaustive, the FAA does not find the following DAH practices acceptable or enforceable under the provisions of 14 CFR:"</p> <p>add to 1): "The FAA has specifically determined that certain articles are eligible for installation as direct replacement parts. Therefore, any such restriction in an ICA or contract is not a matter of regulatory enforcement."</p>	<p>Non-concur. This policy statement does not intend to address or change the process for enforcement. If the FAA identifies an ICA that is in non-compliant with the regulations, we will take the appropriate corrective actions. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b). Warranties are an acceptable practice, and the use of a PMA part may in fact affect such warranties.</p>

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				<p>add to 2): "Unless this particular step is required by an AD, the regulations allow independently developed repairs and alterations."</p> <p>add to 3): "Even when a DAH "requires" certain repairs or articles be returned to "authorized" sources, t</p> <p>add to 4): "These restrictions are solely commercial in nature. Under the regulations, the owner or operator may be required to ensure the instructions are available to a maintenance provider. If the restriction in a contract forbids the proper dissemination of information it will not be enforced by the FAA."</p>	
Alternate Component Technology	9	"Add: 5) Revising existing ICA's for no purpose other than the removal of data."	Add additional unacceptable DAH practice.	"Add: 5) Revising existing ICA's for no purpose other than the removal of data."	Non-concur. The 4 unacceptable practices listed in this paragraph, while not meant to be inclusive, are what we currently consider as legally enforceable per the advice of our legal counsel. We will consider your recommended addition to this list in future policy such as Order and AC after coordination with our legal counsel.

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Phoenix Composite Solutions, LLC	9	"Requiring that a repair only be provided by a repair station licensed/and/or authorized by the DAH."	Unacceptable practice	Add additional unacceptable DAH practice.	Non-concur. The 4 unacceptable practices listed in this paragraph, while not meant to be inclusive, are what we currently consider as legally enforceable per the advice of our legal counsel. We will consider your recommended addition to this list in future policy such as Order and AC after coordination with our legal counsel.
Phoenix Composite Solutions, LLC	9	"Requiring a repair station to pay a commission back to the DAH for repairs accomplished using ICA technical data."	Unacceptable practice	Add additional unacceptable DAH practice.	Non-concur. The 4 unacceptable practices listed in this paragraph, while not meant to be inclusive, are what we currently consider as legally enforceable per the advice of our legal counsel. We will consider your recommended addition to this list in future policy such as Order and AC after coordination with our legal counsel.

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United Technologies Corporation	9	". . . UTC notes that the phrase "related licensing agreements" . . . is ambiguous and unnecessarily broad."	"The inclusion of this phrase, however, could be misconstrued to infer that the FAA is, in fact, attempting to regulate contractual agreements between a DAH and other private parties."	". . . UTC requests that this phrase be removed, and that the FAA expressly state that the Draft Policy does not regulate commercial agreements between private parties unless those commercial agreements refer to requirements or restrictions in ICA."	Partially concur. It is not the intent of this policy statement to have the FAA review contracts to determine the nature and extent of restrictive language. The phrase has been removed and the language of the paragraph has been revised as follows: "In addition, while a DAH must identify the applicability of its ICA, the FAA will not accept restrictive statements or terms in ICA documents or restrictive access or use agreements that limit the appropriate availability or use of the ICA where the FAA has determined the ICA are acceptable for maintaining a DAH's product with FAA-approved replacement parts, articles, or materials installed (e.g., Parts Manufacturer Approval (PMA) items)."
Garmin	9.1	"This statement is contrary to the use of approved parts according to the bill of material of the approved appliance. "	"To illustrate the issue, if a repair station is replacing the main processor board in one of Garmin's appliances, there is no legal way for them to use a board other than the one manufactured by Garmin. This new board would have to be built in accordance with the Garmin (DAH) approved design with "qualified" parts. It is not possible for an entity outside of Garmin to manufacture an approved replacement main processor board for our products. "	"Remove item 1)"	Non-concur. It is not the intent of this policy statement to address ICA at the component level, only at the product level (TC/STC). There are ways under existing regulations and policy to obtain approvals of replacement parts.

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Meggitt Aircraft Braking Systems	9.1	"A DAH not only has the responsibility for the continued airworthiness of its products, but an obligation to the owner/operator to inform them of the DAH's inability to provide such assurances when modifications have been made to the product which in the DAH's view, may affect the continued airworthiness of their product(s)."	"For this reason it is not only prudent, but is an obligation of DAH's to provide notification to the owner/operators with this statement of fact. Note that such DAH notification does not preclude the owner/operator from ignoring this information and providing acknowledgement and appropriate documentation to their designated maintenance facility. The further extension of the distribution language in the FAA 's proposed draft leads to the possibility of exclusion of the owner/operator in future maintenance decisions related to their products."		Non-concur. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b). It does not preclude the DAH providing notification to the owners/ operators that modifications to their product may affect the airworthiness of that product.
United Technologies Corporation	9.1	"UTC is concerned, however, that the use of the word "authorized" could be interpreted too broadly, so as to prohibit restrictions that are needed to prevent the use of counterfeit parts, also referred to as Suspected Unapproved Parts (SUPS)."	"UTC must be vigilant to protect the integrity of its systems, assemblies, components and parts against the known illegal threat of SUPS, and therefore UTC may include statements aimed at that goal in ICA. Such statements should not be restricted, particularly where safety is the primary focus. . . . UTC cannot be responsible for, liable for, or attest to the reliability or integrity of any UTC system incorporating non-OEM parts. Therefore, UTC may place restrictions on its warranty coverage when non-OEM parts are used. UTC's position is that warranty issues are not implicated by this Draft Policy."		Non-concur. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b). SUPS are not "authorized" and are addressed in other FAA policy and guidance. Warranties are an acceptable practice, and the use of a PMA part may in fact affect such warranties.

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United Technologies Corporation	9.2	"UTC's ICA do not require that alterations or repairs must be provided or otherwise authorized by the DAH." "It is UTC's position that DER repairs are not part of ICA, so no DAH approval is necessary."	"FAA repair stations work with FAA DERs to develop repairs and, absent any contractual restrictions between a DAH and the FAA repair station, these repairs require no input or authorization from the DAH."		Concur. No change required.
Garmin	9.2	"In some cases there are no procedures or equipment defined that allow repair of appliances in the field."	"For avionics, the cost of the automated test equipment necessary to test after part replacement makes it uneconomical and impractical to repair outside the factory. As such, there is little actual repair defined for the field. The appliance must be removed and returned to the factory for repair."	"Remove item 2), or adjust it to provide for appliance return to factory for repair."	Non-concur. It is not the intent of this policy statement to require repair of appliances in the field. The policy statement is focused on the product level (TC/STC) and not the component level and is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).
Meggitt Aircraft Braking Systems	9.2	"Similarly to the response to item 1 (above), . . .")	". . . it is unreasonable to request a DAH to provide assurances of the continued airworthiness of a product that has been modified through the use of PMA parts, or repaired 3rd parties, for which such parties may have no knowledge or experience."		Non-concur. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b). It does not preclude the DAH providing notification to the owners/ operators that use of PMA parts or modifications to their product may affect the airworthiness of that product.

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Meggitt Aircraft Braking Systems	9.3	"Due to the complexity of many aircraft components and the specialized skills and test equipment necessary to perform some ICAs, . . . a DAH will on a case-by-case basis need to mandate either for practical or safety reasons, that a component be returned to either the manufacturer or a qualified repair facility for the ICA."	"While the proposed FAA draft response may be intended more toward supplemental contractual restrictions, as it is currently written this policy implies that DAH cannot identify or utilize specialized repair vendors to accomplish complex, specialized repairs."		<p>Non-concur. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).</p> <p>The third example is intended to clarify that a DAH can not restrict access to or use of ICA based on using only a DAH "authorized" maintenance provider. It does not preclude a DAH from recommending a DAH authorized maintenance provider or returning a component back to the manufacturer or qualified repair facility.</p>
United Technologies Corporation	9.3	"ICA typically are not required to include repair data."	"Some UTC divisions have in the past chosen to include some repairs in the maintenance manual that also contains ICA. Some of these repairs are considered to be critical to flight safety and, due to the critical nature of the repair and in the interest of safety, UTC has limited the sources that can perform these repairs so UTC can oversee the respective facilities as necessary."	". . . the Draft Policy should be written so that UTC is not precluded from limiting the sources that can engage in these critical repairs."	<p>Non-concur. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).</p> <p>The third example is intended to clarify that a DAH can not restrict access to or use of ICA based on using only a DAH "authorized" maintenance provider. It does not preclude a DAH from recommending a DAH authorized repair facility.</p>

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United Technologies Corporation	9.4	". . . UTC is subject to United States export rules and regulations and may include language in ICA to protect unauthorized re-export or other potential violations of those laws."		". . . the FAA should expressly state that restrictions in ICA aimed at ensuring compliance with export rules and regulations are permissible."	Non-concur. It is not the intent of this policy statement to infringe upon appropriate export control laws. It is the exporter's responsibility to comply with all applicable laws.
ARSA	10	"The policy fails to accomplish either goal; further they are not in line with the purpose of the policy contained in the Summary."		Remove the paragraph.	Concur. Paragraph removed.
Garmin	10	Second sentence: "This statement confuses "maintenance instructions" with ICA by inference. The ICA and maintenance instructions are not synonymous."	"The ICA may refer to specific maintenance instructions or processes that are outside the ICA but the maintenance instructions are not the ICA. There may be maintenance instructions that are not referred to or included in the ICA."	Change sentence to: ""The first is to reduce the burden on maintenance providers in determining and maintaining appropriate ICA to apply to a given product or article.""	Concur. Paragraph removed.
ARSA	11	"ARSA is unsure of what the agency is trying to address with this last paragraph. Further, it seems to be out of place in a policy aimed at DAH contractual restrictions."		Remove the paragraph.	Concur. Paragraph removed.

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Garmin	11	"The intent/application of this paragraph is not clear. "	<p>"Certainly, the installation of PMA parts would not necessarily be covered in the ICA. Certainly, how to accomplish an alteration would not be covered by the ICA unless the alteration or installation of the PMA item is necessary for CA under the ICA.</p> <p>Is the idea that the owner/operator needs to ensure s/he gets and keeps records that define the installation of PMA parts and defines certain repairs? If so, it would be helpful to communicate further on how to determine which items require these records and which items do not."</p>	"Clarify the intent of requirement communicated by this paragraph."	Concur. Paragraph removed.
FedEx	Airworthiness directives	"Coverage should be added to the draft with regards to ICAs and airworthiness directives handling."	Add airworthiness directive information	None	Non-concur. This policy statement is not intended to address airworthiness directives. This policy statement is only intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).
FedEx	Airworthiness directives	"So my thought is should the draft cover a scenario where additional ICA coverage is need from the DAH to prevent the unintentional alteration of an AD mandate where other (non-AD) maintenance is being performed in the same zonal area (e.g., electrical harness, clamping, spacing, routing, and sleeving in an aircraft wheel-well)."	Add airworthiness directive information	None	Non-concur. This policy statement is not intended to address airworthiness directives. This policy statement is only intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).

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Ameriflight, LLC	Availability	"It is Ameriflight's position that this Policy Memorandum is long overdue and is very much needed in today's economic environment."	"Ameriflight has struggled over the years to gain access to needed documentation related to Instructions for Continued Airworthiness (ICA). In many cases Production Approval Holders (PAH) have forced the use of their chosen repair and overhaul facilities who, in turn, charge excessive costs both in labor and in parts. Even after repeated requests they have – on a "proprietary document" basis – refused access to their manuals – refused to assist in reliability and other product improvement studies. These tactics have cost the airline industry millions of dollars while in fact decreasing safety. Bringing these practices to a halt, and providing operators this flexibility, certainly is in the public interest. We strongly recommend and support this policy."		Thank you for your comment.
ASA	Availability	"ASA supports the Policy Statement and welcomes the FAA's efforts to improve safety by establishing clear guidelines for its acceptance of ICA distribution mechanisms."	"Anti-competitive use of safety data to secure competitive advantage does more than harm the marketplace. It also jeopardizes safety by limiting the access to safety data among those need that safety data. The safety data found in ICAs is used to inspect and maintain aircraft parts - the sort of aircraft parts that ASA members are buying and selling to support the civil aviation fleet."		Thank you for your comment.

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MARPA	Availability	"The FAA's Policy against misuse of ICA for competitive gain in contravention of safety policy is consistent with the decisions suggesting copyright misuse in similar situations."			Thank you for your comment.
MARPA	Availability	"MARPA believes that the Policy Statement issued by the FAA for comment reflects past industry practices, and that it further reflects the FAA's clear expectations at the time that the ICA regulations were updated, thirty years ago."	"The intent of the regulations has always been that manufacturers will publish ICAs that are then used by the industry, and such manuals cannot be used unless they are reasonably distributed. This was intended to support safety. This was never intended to provide manufacturers with a monopoly right that could be leveraged in order to gain anti-competitive advantage in other fields."		Thank you for your comment.
AIA/GAMA	Business agreements	"AIA/GAMA are concerned that the proposed policy statement, as written, . . . could be misunderstood to also apply to commercial business agreements such as warranty and maintenance programs."	". . . these business practices would be completely appropriate and acceptable contractual restrictions on maintenance practices as part of certain business agreements such as commercial warranty and maintenance programs (i.e. flat rate maintenance or power-by-the-hour contracts). These restrictions are not related to the DAH provision of ICA in accordance with §21.50(b) and are completely separate and independent business agreements that are voluntarily entered into between owner/operators and DAHs."	"AIA/GAMA recommend that FAA acknowledge the existence of these types of DAH and owner/operator business agreements and clarify that §21.50(b) does not apply to these commercial arrangements and that the parties may agree to any terms and restrictions that they deem appropriate."	Non-concur. It is not the intent of this policy statement to have the FAA review contracts to determine the nature and extent of restrictive language. While the FAA does not get involved in business agreements, it is the FAA's duty and mission to promote safety. As such, the FAA would only take exceptions to those agreements if they compromise the application of the regulations.

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ASA	Commercial Parts	<p>"The FAA's recent changes to the Part 21 manufacturing regulations implemented a new definition for the term "commercial parts." This new definition is different from the common industry usage of that term in the past. Under the new definition, the only "commercial parts" are those parts listed in the commercial parts list of the ICAs."</p>	<p>"In light of the fact that distributors now need to comply with the Commercial Parts Lists (CPLs) of the ICAs, this guidance should make it clear that distributors are now among the parties who need access to the ICAs/CPLs."</p>	<p>"We specifically recommend that the following paragraphs be added to the policy:</p> <p>Making ICA Available to Aircraft Parts Distributors</p> <p>One of the elements of an ICA is a detailed description of the product and its components. E.g. 14 C.F.R. Part 33 App'x A33.3(a)(2). This is generally accomplished by publishing an illustrated parts catalog.</p> <p>Distributors of aircraft parts rely on the illustrated parts catalog (IPC) in the ICAs to help identify parts and to ensure, at the time of receiving inspection, that parts appear to be genuine and correctly labeled. The recent rule change permitting manufacturers to create commercial parts lists (CPLs) makes it clear that the CPLs are part of the ICAs. Aircraft parts distributors need access to the CPL in order to ensure their continued compliance with approved parts obligations.</p>	<p>Not concur. Distributors do not need to comply with CPL and do not need to have ICA made available to them. It is not intended for this policy statement to expand beyond current rules. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).</p>

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				<p>The FAA maintains a list of accredited aircraft parts distributors pursuant to the requirements of Advisory Circular 00-56 (Voluntary Industry Distributor Accreditation Program). Aircraft Parts Distributors identified on this list are among the class of parties who must have access to the CPLs and IPCs. Unless the distributor is entitled to other parts of the ICAs for other reasons (such as qualification under Order 8110.54), a distributor's entitlement to the ICAs is limited only to the IPC and CPL.</p> <p>An owner/operator or repair station also has the right under §21.50(b) to obtain the ICA from the DAH and then provide the IPC and CPL to the parts supplier(s) of its choice."</p>	
Airlines for America	Enforcement			<p>"Airlines for America recommend that language be added to the proposed policy memorandum to address the actions that FAA should take in the event that the proposed policy is violated by a DAH. The document should instruct Inspectors on the proper action that should be taken when a DAH is found to be non-conforming to the policy."</p>	<p>Non-concur. It is not the intent of this policy statement to address the subject of enforcement. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).</p>

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Alternate Component Technology	Enforcement	"The use of the word "appropriate" allows for choice to be made. "		"Consider enforceable language, such as "not acceptable" or, better, "not allowable"."	Non-concur. This policy statement does not intend to address or change the process for enforcement. If the FAA identifies an ICA that is in non-compliant with the regulations, we will take the appropriate corrective actions. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).
Chromalloy	Enforcement	"It would appear that the publication of this policy has two purposes. The first is to clearly spell out the responsibility of the DAH. The second would appear to be to put the DAH on notice that commercial practices which can interfere with flight safety will not be tolerated and the FAA will pursue appropriate enforcement action if the DAH does not fulfill its responsibilities under the regulations. In this regard we believe that a statement to that effect should be incorporated in the final version of the policy so that there can be no misunderstanding of the FAA's intent to enforce the regulatory requirement."	Additional information on enforcement of the regulatory requirement.		Non-concur. This policy statement does not intend to address or change the process for enforcement. If the FAA identifies an ICA that is in non-compliant with the regulations, we will take the appropriate corrective actions. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).

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Phoenix Composite Solutions, LLC	Enforcement	"Please consider making a comment on civil penalties. The DAH's have obviously violated the spirit and intent of existing policies and may do the same with this policy if civil penalties are not considered a risk by the DAH's."	Penalties for violations.	Add additional unacceptable DAH practice.	Non-concur. This policy statement does not intend to address or change the process for enforcement. If the FAA identifies an ICA that is in non-compliant with the regulations, we will take the appropriate corrective actions. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).
Phoenix Composite Solutions, LLC	Enforcement	"4. Provide a mediation vehicle when a repair station has legitimate problems obtaining technical data from a DAH and possible fines or enforcement action to the DAH when they do not comply with the regulation; repair stations may get fined if they do not comply with the regulations. As an example if I repaired a part without current ICA or with no ICA; even if I made every attempt to obtain the ICA and failed; I could be fined and my certificate suspended or revoked. There is no enforcement of 14 CFR Part 21.50 and we have nowhere to go for resolution if a DAH refuses to provide ICA or charges an unreasonable amount for the data."	No way to resolve disputes if there is an issue with obtaining ICA.	Provide a way to mediate disputes.	Non-concur. This policy statement does not intend to address or change the process for enforcement. The enforcement process for the violation of 21.50(b) is no different from the violation of any other regulations. If the FAA identifies an ICA or a DAH that is in non-compliant with the regulations, we will take the appropriate corrective actions in accordance with our enforcement process. You may find FAA contact information at www.faa.gov/contact to report specific violation of the regulations.
United Technologies Corporation	General	"... the Draft Policy states on a number of occasions that it is intended to address DAH's attempts to restrict the "availability, distribution, and use" of ICA."	"The inclusion of the word "use" is unnecessary and serves only to introduce ambiguity. UTC interprets the word "use" in this context as a synonym for "availability, ..."	"... UTC requests that it be removed."	Non-concur. We believe there is a difference. For example a DAH may make ICA available but attempt to restrict the use of that ICA through means outlined in the policy statement.

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GE Aviation	General	GE recommends that the FAA revise this Policy Statement to include a section highlighting the importance of each DAH clearly defining assumptions related to configuration control and part numbers in their ICA, especially with regard to Airworthiness Limitations. Such information is required to help FAA employees, other DAHs, MRO providers and owner/operators determine if TCH ICA truly apply when maintenance activities change the design and/or performance attributes of a part such that the link between the marked part number and conformance to the original DAH's approved design has been lost.	DAHs do not clearly define assumptions related to configuration control and part numbers in their ICA.		Non-concur. It is not intended that this policy statement address configuration control within ICA. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).
Phoenix Composite Solutions, LLC	General	3. Remove the "latest related certification basis and application design approval" conditions described in FAA Order 8110.54A. All ICA data that is required to maintain airworthiness including deep level maintenance should be made available to all parties that are rated to repair those items and that must comply with the instructions found in the ICA.	Related content in Order 8110.54A	Make change to 8110.54A	Non-concur. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b), not change Order 8110.54. However your comment will be provided to the team that is revising Order 8110.54.
Alternate Component Technology	General	"Too often, we are seeing DAH ICA's revised with critical inspection data deleted. This data is required to determine continued airworthiness. This is not to be confused with revisions to IRM that remove repair instructions to return a product to an airworthy condition."		"However, serviceable limits for critical features MUST be included in the ICA's for a maintenance provider to determine, without ambiguity, that a part does indeed meet airworthiness requirements and is fit for return to service. The practice has become prevalent enough to warrant direct address by the FAA."	Non-concur. The 4 unacceptable practices listed in this paragraph, while not meant to be inclusive, are what we currently consider as legally enforceable per the advice of our legal counsel. We will consider your recommended addition to this list in future policy such as Order and AC after coordination with our legal counsel.

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Lycoming	General	"We would request that this Policy Statement include this practice as unacceptable of any PMA or DAH to make restrictive use of "data necessary to allow, by comparison, the determination of airworthiness" per 21.31, inclusive of model numbers."	"Lycoming believes that there is a common thread between this policy statement, the attempt by certain design approval holders (DAHs) to limit availability to ICAs, and the actions taken by some parts manufacture approval (PMA) holders to claim proprietary rights to engine component model numbers."	Add additional unacceptable DAH practice.	Non-concur. The 4 unacceptable practices listed in this paragraph, while not meant to be inclusive, are what we currently consider as legally enforceable per the advice of our legal counsel. We will consider your recommended addition to this list in future policy such as Order and AC after coordination with our legal counsel.
NAVAIR	General	"I applaud the FAA for taking this action. I would like you to consider some changes to the proposed policy. As written, you address only repair stations."	<p>"In the General Aviation world, there are many more repair facilities that are not repair stations, but are small shops with A&Ps and IAs."</p> <p>"As written, the policy doesn't address these shops."</p> <p>"As mechanics, under 14CFR43 we are required to have the appropriate technical data also. By limiting the policy to only repair stations, you have placed all shops that are not repair stations at a disadvantage in their ability to obtain this required technical data. Please keep in mind that for each repair station there are probably 50 maintenance facilities that are not repair stations and have work performed and returned to service by A&P mechanics or A&Ps with Inspection Authorizations."</p>	"I would suggest that you perform a search and replace, and everywhere "Repair Station" appears, you replace it with "Repair Station or Certified Mechanic"."	Partially concur. "Repair station" has been replaced with the broader term "maintenance provider."

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AIA/GAMA	General	<p>"The proposed policy statement states that this guidance is intended to help FAA employees and DAHs determine whether DAH business practices for making ICA available meet the requirements of 14CFR §21.50(b). AIA/GAMA supports the need for guidance in this area and generally agrees with the content of this proposed policy statement, but strongly believes the following must also be addressed:</p> <ol style="list-style-type: none"> 1) Applicability of §21.50(b) to ICA versus additional maintenance information; and 2) Recognize appropriate DAH practices regarding restrictions on the use and availability of ICA; and 3) Recognize appropriate DAH business agreements regarding restrictions on maintenance practices" 			<p>Non concur.</p> <ol style="list-style-type: none"> 1) It is not the intent of this policy statement to address what constitutes ICA. This issue is being worked by the team revising Order 8110.54 and developing an accompanying ICA advisory circular. 2) This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b). 3) It is not the intent of this policy statement to have the FAA review business agreements to determine the nature and extent of restrictive language.
Airlines for America	General	<p>"Airlines for America (A4A) on behalf of its member airlines , strongly support the proposed policy memorandum . . ."</p>			<p>Thank you for your comment.</p>

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ARSA	General	<p>The FAA ". . . Must address the <i>fundamental</i> issues associated with ICA before tackling their "availability." Specifically, the FAA must:</p> <p>(1) Set the standard for the nature and extent of information that is "essential" to the continued airworthiness of an aviation product. . .</p> <p>(2) Set the standard for the content of ICA documents. . .</p> <p>(3) Determine exactly who is "required to comply" with the ICA. . .</p> <p>(4) Determine exactly how ICA should be "made available."</p>			<p>Non-concur.</p> <p>(1) "Essential" refers to what a DAH must provide for an installed appliance or product if the manufacturer does not supply it.</p> <p>(2) It is not the intent of this policy statement to address what constitutes ICA. This issue is being worked by the team revising Order 8110.54 and developing an accompanying ICA advisory circular.</p> <p>(3) & (4) Both these issues go beyond the intent of this policy statement and are being worked by the team revising Order 8110.54 and developing an accompanying ICA advisory circular.</p>

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Aviall Wheel & Brake	General	<p>I am glad to see the FAA is considering the ICA issue. May repair stations find it next to impossible to obtain ICA's. One DAH / PAH has a clause in their manuals that requires the owner / operator to return the unit for overhaul if it fails an on the wing check. There are no overhaul procedures in their ICA's. However, The PAH's repair station has developed, and had approved, overhaul procedures that require the unit to go back through some manufacturing processes. Because the "overhaul" procedures are owned by the repair station, the manufacturer does not have to release them as ICA's. If the unit requires overhaul, why are the instructions supplied as an ICA? PMA holders can refer to an OEM / PAH manual for maintenance on the PMA holder's articles. Should the OEM / PAH modify their article, it could affect the PMA holders article. PMA holders should be required to supply ICA's for their articles.</p>			<p>Non concur. It is not the intent of this policy statement to address what parts approval holder maintenance information and its relationship to a products ICA. Rules, policy and guidance have already been established for PMA maintenance information.</p>
Boeing	General	<p>"In sum, as a holder of type certificates, amended type certificates, and supplemental type certificates, Boeing concurs with the restatement of FAA policy concerning distribution of ICA as proposed within PS-AIR-21.50-01. We also confirm that our ICA processes and business practices comply with the proposed policy."</p>	General	None	Thank you for your comment.
David Prentice	General	<p>"If I was an OEM of aircraft LRUs I would now, given this requirement for technical support from cradle to grave with virtually no prospect for re-imburement, be restructuring my price list!!."</p>	General	None	Thank you for your comment.

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Fortner Engineering	General	"It is very important to the safety of the industry that ICA's are available. I believe that this is a step in the right direction to ensure that ICA's are available to "any person required...to comply with any of those instructions."	General	None	Thank you for your comment.
Gulfstream	General	"Gulfstream is not aware of any restrictions on ICA material that we provide to the owners of our aircraft, and agrees with the Policy Statement that there should not be any restrictions in the ICA that would prevent the owner/operator from supplying the ICA to a repair station for maintenance work."	"Gulfstream however has no way of guaranteeing that the owner's ICA is up-to-date, and it is the owner's responsibility to maintain up-to-date ICA material. When maintenance providers contact Gulfstream requesting the ICA to do a repair, it has been our practice to inform the third party maintenance provider to contact the owner/operator and have them provide the ICA for their aircraft."		Thank you for your comment. We agree that it is not the DAH's responsibility to guarantee that the owner's ICA is up-to-date. We also support Gulfstream's practice in allowing the owner/operator to provide the ICA to third party maintenance providers of their choice.
HEICO	General	"We are in Strong Support of this Policy Memo. The Policy Memo re-enforces the "make available" and "distribution" requirements of §21.50(b) and the appendices: §23 Appendix G §25 Appendix H §27 Appendix A §29 Appendix A §33 Appendix A §35 Appendix A"	"We have seen examples of restrictive language placed within ICA and/or within ICA distribution agreements that conflict with the requirements of §21.50(b). This Policy Memo will help ALL DAH's ensure that their ICA are made available and distributed in accordance with existing rules and guidance."	None. "This policy memo will help the FAA assess and the DAH's develop ICA distribution processes that meet §21.50(b)."	Thank you for your comment.
HEICO	General	"Airlines and MROs have expressed appreciation and support for this Policy Memo."	"The wide range and form of DAH ICA restrictions has increased significantly over the past years. This has had a detrimental impact on the owner / operator's and MRO's ability to safely maintain their aircraft."	None. "This Policy Memo clearly assists the owner/operators and MROs in identifying restrictions that conflict with the existing FAA rules and guidance regarding ICA."	Thank you for your comment.
Lufthansa Technik AG, Germany	General	Lufthansa Technik strongly supports this document	Need for clear policy	None	Thank you for your comment.

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MARPA	General	"The Modification and Replacement Parts Association would like to commend the FAA for its work in developing and drafting this Policy. This Policy appears to begin addressing some of the issues that have threatened to undermine safety by promulgating a reasonable interpretation of existing regulations that is consistent with the Administration's stated goals at the time those regulations we promulgated."	"While the Draft Policy does not solve all of the issues, the Association believes that this Policy takes an important first step to restoring some reasonableness to the ICA system."		Thank you for your comment.
Meggitt Aircraft Braking Systems	General	". . . some of the language in the proposed draft Policy Statement is not appropriate or necessary for the intended purpose, and modifications to the document should be made. . ."			Thank you for your comment. We have made modifications to the document for clarification.
Monarch Airlines Limited	General	"If Monarch Airlines chooses an MRO as their preferred repair facility, then the OEM is obliged to provide our MRO with relevant CMM's and SB's on our behalf. As a background we have so many problems with OEM's with holding this information."	General	None	Thank you for your comment.
Phoenix Composite Solutions, LLC	General	"First; I believe the policy statement is a good start in helping to make ICA available to FAA repair stations, but I don't believe it addresses , and may not be intended to address, all of the problems that repair stations encounter when trying to obtain ICA from the DAH. Based on my experience with obtaining and not obtaining ICA, I would like to suggest that you take into consideration the following items and possibly include reference to them in the final version of this document."	General	None	Thank you for your comment. Please see the disposition of your specific comments in other sections of this comment log.

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Precision Aviation Group	General	"OEM restrictions on technical data and parts are, beyond any doubt, the most serious challenge my company faces today!"	OEMs contractually tying ICAs to the exclusion using PMA parts is anticompetitive.	None	Thank you for your comment.
Summit Aviation	General	"This is a very good document that needs to be implemented to reduce the possibility of any confusion of instructions."	General	None	Thank you for your comment.
ARSA	General	"The Association strongly encourages the agency to task the ARAC with reviewing the regulations and current industry practices with respect to the creations, updating and dissemination of ICA and recommending appropriate agency action."			Thank you for your comment. We will take your recommendation under advisement.
AIA/GAMA	ICA definition	"The applicability of §21.50(b) and this policy statement is limited only to that information which constitutes the ICA accepted and/or approved by FAA in accordance with Part 21 to maintain the type design. Manufacturers (i.e. DAHs) also produce and make available a lot of additional maintenance information (AMI) which are not necessary for safety but provide product improvements such as reliability and economic cost savings. "	"It is important that FAA employees, DAHs, owner/operators and repair stations clearly understand that the scope and applicability of §21.50(b) and this policy statement is limited only to ICA and changes thereto and that this does not include all maintenance information developed by DAHs."	"AIA/GAMA recommend that FAA discuss the difference between ICA and additional maintenance information that may be developed by DAHs as this has been a fundamental misunderstanding in previous discussions regarding potential regulatory noncompliance and the need for additional FAA enforcement and/or guidance."	Non-concur. It is not the intent of this policy statement to address what constitutes ICA. This issue is being worked by the team revising Order 8110.54 and developing an accompanying ICA advisory circular.
Goodrich	ICA definition	"The proposed Draft Policy Statement implies a significant expansion in the scope of Instructions for Continued Airworthiness (ICA) that is not supported by the Federal Regulations. . ."	"Manufacturers also develop additional maintenance and repair data beyond the required ICA . . . These additional maintenance documents are not ICA."		Non-concur. It is not the intent of this policy statement to address what constitutes ICA. This issue is being worked by the team revising Order 8110.54 and developing an accompanying ICA advisory circular. If the additional maintenance documents have been determined not to be part of ICA, then 21.50(b) doesn't apply. However, the interpretation written in this policy statement is within the original intent of the definition of ICA.

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Goodrich	ICA definition	"Goodrich also suggests clarifying the language for what Instructions for Continued Airworthiness (ICA) are, and what they are not.		Use excerpts from FAA Order 8110.54A (Chapter 4, paragraph 9 and Chapter 6, paragraph 4(b))	Non-concur. It is not the intent of this policy statement to address what constitutes ICA. This issue is being worked by the team revising Order 8110.54 and developing an accompanying ICA advisory circular.
Phoenix Composite Solutions, LLC	ICA definition	1. A definition of what constitutes ICA; some DAH's do not believe that CMM data is considered ICA; we do because the CMM data is for deeper level maintenance. Additionally is IPC, NDT manuals, etc included in the definition of ICA. SRM's and CMM's reference various data; does that make that referenced data ICA? As an example we purchase technical data from an aircraft manufacturer, I am able to purchase SRM data but, must get approval from an operator to purchase CMM and IPC data. We perform repairs on many parts that are owned by third party companies such as distributors/brokers; this limits my ability to repair these parts.	Clarification	Define ICA	Non-concur. It is not the intent of this policy statement to address what constitutes ICA. This issue is being worked by the team revising Order 8110.54 and developing an accompanying ICA advisory circular.

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Goodrich	ICA definition	"Goodrich supports parts of the subject Draft Policy Statement, but suggests some modifications for maximum clarity."	<p>"There are two primary areas of concern:</p> <p>1) The use of the term Design Approval Holders (DAHs) is inappropriately broad in the context of who must furnish Instructions for Continued Airworthiness (ICA).</p> <p>2) Instructions for Continued Airworthiness (ICA) and maintenance documents are implied to be the same, but are specified requirements for ICA in Federal Regulations and FAA Orders that differentiate ICA from maintenance documents."</p>	None	<p>Partially concur.</p> <p>1) The basis for the term design approval holder in general originates from 14 CFR 21.1. The narrow use of the term in this policy statement has been revised in the first paragraph as follows:</p> <p>"Type Certificate (TC) and Supplemental Type Certificate (STC) Design Approval Holders (DAHs), hereafter referred to as DAHs, . . ."</p> <p>2) It is not the intent of this policy statement to address what constitutes ICA. This issue is being worked by the team revising Order 8110.54 and developing an accompanying ICA advisory circular.</p>
GE Aviation	Intellectual property	"GE requests that the FAA include language in the final Policy Statement reinforcing the need for the FAA, operators and other recipients of ICA to respect the intellectual property rights of the DAH, and acknowledging the legal protections belonging to the author of the ICA."	FAA, operators and others who receive ICA do not respect the intellectual property rights of the ICA author.	"GE requests that the FAA include language in the final Policy Statement reinforcing the need for the FAA, operators and other recipients of ICA to respect the intellectual property rights of the DAH, and acknowledging the legal protections belonging to the author of the ICA."	Non-concur. It is not the intent of this policy statement to disallow a DAH to protect intellectual property as long as it does not conflict with the furnish and make available requirements of 14 CFR 21.50(b). The FAA enforces such rules with the intention to promote aviation safety as its mission. Intellectual property rights are beyond the role of the FAA.
MarathonNorco Aerospace	Intellectual property	". . . the owner/operator does not have the right to copy and distribute intellectual property that does not belong to them."	"MarathonNorco Aerospace has the right to control and distribute its intellectual property in accordance to the regulations."	None	Non-concur. It is not the intent of this policy statement to disallow a DAH to protect intellectual property as long as it does not conflict with the furnish and make available requirements of 14 CFR 21.50(b).

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United Technologies Corporation	Intellectual property	"UTC is concerned that "any" restriction could be misinterpreted as preventing the DAH from establishing reasonable restrictions on disclosure of ICA necessary to protect the proprietary nature of the Intellectual Property (IP) content of ICA when disclosed or provided to such FAA authorized persons."	"UTC has invested tremendous amounts of time, energy and resources to develop world-class systems and products . . . Given this investment, UTC protects its IP in its systems and products, including the IP in its technical publications. Further, UTC must remain able to protect its valuable IP in content over and above what is required to be in ICA. . . :	". . . the Draft Policy should reflect UTC's right to enable such protection."	Non-concur. It is not the intent of this policy statement to disallow a DAH to protect intellectual property as long as it does not conflict with the furnish and make available requirements of 14 CFR 21.50(b).
AIA/GAMA	Intellectual property	". . . we are concerned that the proposed policy statement, as written, infers a rigid and absolute limitation toward any restrictive or protective statements within an ICA or other additional maintenance information provided by DAHs."	<p>"Such a rigid limitation would go beyond FAA regulatory requirements and would contradict certain legal protections that are afforded Design Approval Holders (DAH) under proprietary data, copyright, trademark and intellectual property law which have not been found to adversely affect aviation safety."</p> <p>". . . the DAH has the legal right to apply copyright (©) restrictions to prevent unauthorized and inappropriate copying, distribution and/or sale of the material or embedding of the informaiton in other documents or on-line access databases."</p> <p>". . . a DAH may license the material instead of selling it outright. Licensing may include certain restrictions not addressed in the policy statement but which are appropriate and allowed under law."</p>	"AIA/GAMA strongly recommend that the proposed policy statement provide a more balanced view to recognize appropriate and acceptable DAH practices regarding certain restrictions on the use and availability of ICA and additional maintenance information such as copyright for protection of intellectual property and warranty and other commercial business agreements."	Non-concur. It is not the intent of this policy statement to infringe upon appropriate copyright or trade secret laws. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).

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			<p>" . . . a DAH has a duty and right to apply any disclaimer within its publications necessary to clearly identify the assumptions placed on the development and use of its maintenance and repair instructions, and its limited liability."</p>		
Dassault Aviation	Intellectual property	<p>"Clarifications as suggested by these comments would allow the policy statement to narrowly tailor and address its underlying concern, the inappropriate restrictions on owner/operators ability to provide ICA to repair stations, without limiting the ability of DAHs to otherwise place appropriate and legitimate restrictions rooted in Federal copyright law and State Trade Secret provisions."</p>	<p>"It is therefore necessary to prevent such overbroad interpretation to remove or modify language in the draft policy statement like: "Therefore, it is not acceptable for a DAH to limit the distribution of ICA by imposing contractual requirements or adding restrictive language that would control the use of ICA by an owner/operator with respect to the maintenance of its product."</p>	<p>". . . it is recommended that the policy statement include discussion regarding appropriate use of restrictions and/or disclaimers."</p>	<p>Non-concur. It is not the intent of this policy statement to infringe upon appropriate copyright or trade secret laws. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).</p>

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Dassault Aviation	Intellectual property	<p>"We agree with the intent of the regulation as quoted in the excerpt from the final rule dated September 11, 1980. However, we are concerned that the proposed policy statement as written infers a rigid and absolute limitation toward any restrictive or protective statements within the ICA."</p>	<p>"Such a rigid limitation would contradict certain legal protections that are afforded the DAH under copyright, trademark and intellectual property law."</p> <p>". . . the DAH has the right to apply copyright (©) restrictions to prevent unauthorized copying of the material or embedding of the material in other documents or on-line access databases."</p> <p>". . . the DAH may license the material instead of selling it outright. Licensing may include restrictions not addressed in the policy statement but which are appropriate and allowed under law, . . . "</p> <p>" Even if the materials are ICA, they may still be proprietary to the DAH and therefore subject to protection."</p> <p>" Also, the DAH has a duty and right to apply any disclaimer within its publications necessary to clearly identify the assumptions placed on the development and use of its maintenance and repair instructions, and its limited liability."</p>		<p>Non-concur. It is not the intent of this policy statement to infringe upon appropriate copyright or trade secret laws. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).</p>

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Rolls-Royce	Intellectual property	<p>"We agree with the intent of the regulation as quoted in the excerpt from the final rule dated September 11, 1980. However, we are concerned that the proposed policy statement as written infers a rigid and absolute limitation toward any restrictive or protective statements within the ICA."</p>	<p>"Such a rigid limitation would contradict certain legal protections that are afforded the DAH under copyright, trademark and intellectual property law."</p> <p>". . . the DAH has the right to apply copyright (©) restrictions to prevent unauthorized copying of the material or embedding of the material in other documents or on-line access databases."</p> <p>". . . the DAH may license the material instead of selling it outright. Licensing may include restrictions not addressed in the policy statement but which are appropriate and allowed under law. . ."</p> <p>"Even if the materials are ICA, they may still be proprietary to the DAH and therefore subject to protection."</p> <p>" Also, the DAH has a duty and right to apply any disclaimer within its publications necessary to clearly identify the assumptions placed on the development and use of its maintenance and repair instructions, and its limited liability."</p>		<p>Non-concur. It is not the intent of this policy statement to infringe upon appropriate copyright or trade secret laws. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).</p>

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Rolls-Royce	Intellectual property	Clarifications as suggested by these comments would allow the policy statement to narrowly tailor and address its underlying concern, the inappropriate restrictions on owner/operators ability to provide ICA to repair stations, without limiting the ability of DAHs to otherwise place appropriate and legitimate restrictions rooted in Federal copyright law and State Trade Secret provisions.	<p>"It is therefore necessary to prevent such overbroad interpretation to remove or modify language in the draft policy statement like:</p> <p>"Therefore, it is not acceptable for a DAH to limit the distribution of ICA by imposing contractual requirements or adding restrictive language that would control the use of ICA by an owner/operator with respect to the maintenance of its product.""</p>	". . . it is recommended that the policy statement include discussion regarding appropriate use of restrictions and/or disclaimers."	Non-concur. It is not the intent of this policy statement to infringe upon appropriate copyright or trade secret laws. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).
Moog	Intellectual property	"The new interpretation of 14 CFR §21.50 provided in the Policy will harm the aircraft industry by adversely affecting the intellectual property rights of design approval holders (DAHs) and original parts manufacturers in Instructions for Continued Airworthiness (ICA) and related Component Maintenance Manuals (CMM) and Component Overhaul Manuals (COM)."	<p>"It is respectfully submitted that ICA referenced in the draft Policy, which typically include CMMs and COMs, may contain information subject to trade secret and/or copyright protection."</p> <p>"To the extent that the draft Policy could be construed to require more than "read only" access to an ICA by owners and certified repair stations or prohibits placing conditions on such access, such as a license limiting disclosure and requiring a reasonable royalty, it is a taking of the design approval holder's intellectual property and introduces a Fifth Amendment taking requiring just compensation."</p>		Non-concur. This policy does not infringe upon the Fifth Amendment, nor is it intended to disallow a DAH to protect intellectual property. It is also not the intent of this policy statement to infringe upon appropriate copyright or trade secret laws. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).

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AIA/GAMA	International harmonization	". . . AIA/GAMA encourage the FAA to take current harmonization activity into full consideration before finalizing a related policy statement."	". . . current discussions between FAA, EASA and Transport Canada aimed to find a harmonized approach to the definition of ICA and additional maintenance information and its subsequent requirements for issue, availability, update and regulatory approval (in conjunction with the FAA's work on 'key safety information') should be considered."		Thank you for your comment. The FAA is involved with ICA harmonization discussions, on the topics you have brought up, with TCCA and EASA, through EASA MDM.056 ICA harmonization meetings.
Dassault Aviation	International harmonization	From an MDM.056 perspective, ". . . it appears that the creation of a stand-alone policy attempting to address one element of the definition and control of ICA is somewhat premature, . . ."		". . . it is strongly suggested that any creation of FAA rulemaking or policy take into account the detailed work currently being done by the FAA and its partner authorities on this matter. . ."	Thank you for your comment. The FAA is involved with ICA harmonization discussions with TCCA and EASA, through MDM.056.
Rolls-Royce	International harmonization	From an MDM.056 perspective, ". . . it appears that the creation of a stand-alone policy attempting to address one element of the definition and control of ICA is somewhat premature, . . ."		". . . it is strongly suggested that any creation of FAA rulemaking or policy take into account the detailed work currently being done by the FAA and its partner authorities on this subject."	Thank you for your comment. The FAA is involved with ICA harmonization discussions with TCCA and EASA, through MDM.056.
Aviation Technical Services, Inc.	Reasonable costs	An additional concern that the FAA should address in the Policy is that most DAH's are able to skirt the intent of the rule by making the ICA "available" but at a cost so prohibitive that many repair stations are unable to procure them. This in essence is a violation of the rule in that it constitutes a contractual requirement that limits the distribution of the ICA. Although the FAA typically does not address commercial terms within the industry, a policy addressing unreasonable pricing of ICA's needs to be established to ensure compliance with the rule is not hindered.	Issue with the cost of "making available" ICA		Non-concur. It is not the intent of this policy statement to address costs associated with providing or making available ICA. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).

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LM Aeronautics Company	Reasonable costs	"There is often substantial cost associated with the DAH making the ICA available to others authorized by the FAA to perform maintenance on the owner/operator's products. The terms "make available" and "contractual provisions" used elsewhere in the policy statement should not be construed to mean that the DAH may not charge a reasonable fee in making the ICA available."	Issue with the cost of "making available" ICA		Non-concur. It is not the intent of this policy statement to address costs associated with providing or making available ICA. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).
Phoenix Composite Solutions, LLC	Reasonable costs	2. A definition of "make available" – there has been previous U.S. Government precedent set about what the definition is, but it relates to technical data for automobile repair; sorry I cannot remember the name of the document where it speaks of this, but "make available" is interpreted to mean that individuals must be able to obtain that data at a reasonable cost. \$45,000 for a one year subscription for technical data is way too much when similar data is sold for \$4,000 or less. This I believe borders on, if not blatantly crosses the line of restriction of fair trade; we cannot compete with a DAH that also repairs their parts and would like all repairs to go to them; raising the cost of business for us, thereby creating an unnatural impediment to competition.	Issue with the cost of "making available" ICA	Define "make available"	Non-concur. It is not the intent of this policy statement to address costs associated with providing or making available ICA. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).

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Phoenix Composite Solutions, LLC	Reasonable costs	"On numerous occasions our company staff members have been told by customers that they could not furnish required technical data to us due to contract restrictions with DAH's. DAH's make conscience and blatant efforts to restrict technical data from repair stations. Restriction is achieved through extremely high costs for data, contractual agreements and outright obstructionism. We believe this is both an illegal restraint of trade and can lead to airworthiness concerns."	Issue with the cost of "making available" ICA	"Please consider adding to the DAH practices that are not acceptable:"	Non-concur. It is not the intent of this policy statement to address costs associated with providing or making available ICA. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).
Rockwell Collins	Reasonable costs	"Paragraph beginning "The intent of ..." indicates that the DAH will "provide". The text does not provide bounds in that it does not provision for reasonable remuneration."		In paragraph 3, "Replace "provide" with "make available at reasonable cost". This would set in policy that the ICA will be made available, that the producer may expect compensation, and that any expected compensation may not be over-priced so as to exclude those entities that require the ICA."	Non-concur. It is not the intent of this policy statement to address costs associated with providing or making available ICA. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).
United Technologies Corporation	Rulemaking	". . . UTC is concerned that the FAA is attempting to "regulate by policy" rather than by seeking revisions to the existing regulation to address practices that the FAA now deems to be inappropriate DAH restrictions regarding the availability and distribution of ICA."	"Neither the current regulation nor the Final Rule discussion published in 1980 . . . , mentions the specific DAH practices raised in the Draft Policy."	"Given that such practices were not previously considered, if the FAA wishes to add to or modify § 21.50 at this point, UTC respectfully submits that the FAA should do so only via the formal rulemaking process."	Non-concur. It is not the intent of this policy to revise the rule. The practices that have been encountered were not an issue when the rule was originally published. They have only recently become an issue with certain DAHs. This policy statement is intended to make FAA personnel and the DAH aware of restrictive language in ICA or restrictive access or use agreements for ICA which do not meet the intent of 14 CFR 21.50(b).
Parker Hannifin		retracted			None.