Therefore, the FAA is publishing this notice to ensure industry-wide awareness of the agency's intent to enforce the regulations governing all persons who produce modification or replacement parts for sale for installation on type certificated products.

Section 21.303(a) of the Federal Aviation Regulations provides that no person may produce a modification or replacement part for sale for installation on a type certificated product unless it is produced pursuant to a parts manufacturer approval (PMA). Section 21.303(b) provides exceptions to this requirement, including parts produced under a type or production certificate (TC or PC), parts produced by an owner or operator for maintaining his own product, parts produced under an FAA technical standard order (TSO), and standard parts (such as bolts and nuts) conforming to established industry or U.S. specifications. A person who holds a PMA, TSO authorization, or PC, or who holds a TC and produces under that TC, often is referred to as a production approval holder (PAH).

Under the regulations, a PAH may engage another company (commonly called a supplier) to manufacture all or a portion of the part. In the case of fabrication of complete parts, the PAH must implement procedures to ensure that the parts are fabricated and inspected using the PAH's FAAapproved quality control system. The completed parts fabricated for the PAH by the supplier are produced "under" the PAH's approval. The PAH may authorize the supplier to ship parts directly from the supplier to the customer. This commonly is referred to as "direct ship" or "drop ship" authority.

In some cases, such suppliers have been producing additional parts without the direction of the PAH, and selling them directly to others in the aviation industry. In such cases, because the PAH has not exercised the required control over the fabrication of the parts, the parts are not produced "under" the production approval.

There appears to be a widespread misconception that *any* production of a party by a supplier (of that part) to a PAH is not a violation of § 21.303(a). Historically, the FAA did not vigorously enforce compliance with § 21.303(a) in these circumstances. Thus, the FAA has been attempting to promote full industry compliance with the rules, but has so far met with only limited success.

By Notice 8110.44, dated September 25, 1992, the FAA chartered the Parts Approval Action Team (PAAT) to develop policies and procedures to

facilitate approval of PMA applications by suppliers to PAHs. Under PAAT Phase I, the FAA issued Notice 8110.45, dated September 25, 1992. That notice provided simplified procedures for the issuance of PMAs to suppliers who showed evidence of a licensing agreement with a PAH. Under Phase II, the FAA issued Notice 8110.51, dated May 13, 1994. That notice provided procedures for the issuance of PMAs to suppliers who could show that their product design was identical to that of a part produced under a TC.

The intent of Phases I and II was to ensure compliance with § 21.303 by suppliers who were shipping directly to customers outside of the PAH's approval, but who could demonstrate that they were producing a part whose design and quality control already had been approved by the FAA. Unfortunately, there has been insufficient response from the suppliers, and there continues to be suppliers producing placement and modification parts for sale for installation on type certificated products without a PMA and without direct or drop ship authority from a PAH.

Inaction by the FAA as well as statements made by agency officials may have contributed to this fact. Shortly after Phase I was issued in October 1992, the then—Director of the Aircraft Certification Service, anticipating a significant transition period in approving many parts produced by suppliers, advised FAA field offices to refrain from directing such suppliers to cease shipment of such parts, and to encourage them to apply for PMAs. This direction was widely circulated within the industry.

Further, there are other persons (not suppliers to a PAH) who may be producing parts for sale for installation on type certificated products and who also do not hold a PMA.

The overall purpose of this new policy is to make clear that the FAA will undertake enhanced enforcement of § 21.303(a). This policy makes provisions for a 90-day period during which persons may begin application for a PMA without the information in the application being used to initiate enforcement. During this period and immediately thereafter, the agency will, of necessity, devote the bulk of available FAA resources to securing compliance through processing the anticipated new applications. Accordingly, enforcement for this brief period may be constrained by the availability of resources, and will be focused on immediate safety concerns. Thereafter, agency resources will be freed to effect a balanced enforcement posture across the board.

Note that the policy in this notice applies only to persons who produce parts. It does not affect the responsibility of persons who maintain aircraft. Under § 43.13(b), each person maintaining or altering, or performing preventive maintenance shall do that work in such a manner and use materials of such a quality that the condition of the aircraft, airframe, aircraft engine, propeller, or appliance worked on will be at least equal to its original or properly altered condition with regard to qualities affecting airworthiness. Persons installing parts on aircraft continue to be responsible for ensuring that the product will meet the appropriate airworthiness standards.

## **Compliance Policy**

1. Each person who produces modification or replacement parts for sale for installation on type certificated products, must comply with § 21.303(a), and is subject to enforcement action by the FAA for failure to do so.

2. If a person who produces parts not in compliance with § 21.303(a) applies for a PMA as described below, neither the fact that the application for a PMA is filed under paragraph 3 nor the information contained in such application will be used by the FAA to initiate, or be used as evidence in, any FAA enforcement investigation for a violation of § 21.303(a), except as

provided in this policy.

3. The person must submit at least a preliminary application for PMA no later than May 30, 1995. All such applications should be submitted as soon as possible to enable the FAA to evaluate them, and where they qualify, issue the PMAs as soon as possible. If the applicant fails to pursue the PMA in a timely manner, the FAA may determine that the application should be denied. If the FAA determines that no approval can be issued for the production of the part, the applicant may not produce the part for sale for installation in type certificated products, and the applicant would be subject to enforcement action if the part is thereafter produced.

4. The preliminary application under paragraph 2 must include at least the part number and nomenclature, the name and address of the manufacturing facilities at which the parts are manufactured, and the holder of the production approval to whom the applicant currently supplies the parts or has supplied the parts in the past (if applicable). The preliminary applications should be submitted to the appropriate geographic certification directorate. Complete applications in accordance with § 21.303(c) must be