

Federal Aviation Administration  
Aviation Rulemaking Advisory Committee

Air Carrier/General Aviation Maintenance Issue Area  
SFAR 36 Working Group

**Task 1 – AC for Perform Major Repairs under SFAR 36**

# **Task Assignment**

**Aviation Rulemaking Advisory Committee; Air Carrier/General Aviation Maintenance Subcommittee; SFAR 36 Working Group**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of establishment of SFAR 36 Working Group.

**SUMMARY:** Notice is given of the establishment of a SFAR 36 Working Group by the Air Carrier/General Aviation Maintenance Subcommittee of the Aviation Rulemaking Advisory Committee. This notice informs the public of the activities of the Air Carrier/General Aviation Maintenance Subcommittee of the Aviation Rulemaking Advisory Committee.

**FOR FURTHER INFORMATION CONTACT:** Mr. William J. White, Executive Director, Air Carrier/General Aviation Maintenance Subcommittee, Flight Standards Service (AFS-2), 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-8237; FAX: (202) 267-5230.

**SUPPLEMENTARY INFORMATION:** The Federal Aviation Administration (FAA) established an Aviation Rulemaking Advisory Committee (56 FR 2180, January 22, 1991) which held its first meeting on May 23, 1991 (56 FR 20492, May 3, 1991). The Air Carrier/General Aviation Maintenance Subcommittee was established at that meeting to provide advice and recommendations to the Director, Flight Standards Service, regarding mechanic certification and approved training schools outlined in parts 65 and 147 and the maintenance standards for parts 23, 25, 27, 29, 31, 33, and 35 aircraft, engines, propellers, and their component parts and parallel provisions in parts 21, 43, 91, 121, 125, 127, 129, 133, 135, and 137 of the Federal Aviation Regulations (FAR).

Specifically, the working group's task is the following:

To develop an advisory circular to address the privileges and limitations of air carriers and repair stations to perform major repairs under SFAR 36.

The SFAR 36 Working Group will be comprised of experts from those organizations having an interest in the task assigned to it. A working group member need not necessarily be a representative of one of the organizations of the parent Air Carrier/General Aviation Maintenance Subcommittee or of the full Aviation Rulemaking Advisory Committee. An individual who has expertise in the subject matter and wishes to become a member of the working group should write the person listed under the caption "FOR FURTHER INFORMATION CONTACT" expressing that desire and describing his or her interest in the task and the expertise he or she would bring to the working group. The request will be reviewed with the subcommittee chair and working group leader, and the individual advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of the Aviation Rulemaking Advisory Committee and its subcommittees are necessary in the public interest in connection with the performance of duties imposed on the FAA by law. Meetings of the full committee and any subcommittees will be open to the public except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the SFAR 36 Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on August 20, 1991.

William J. White,

Executive Director, Air Carrier/General Aviation Maintenance Subcommittee, Aviation Rulemaking Advisory Committee.  
[FR Doc. 91-20494 Filed 8-26-91; 8:45 am]

BILLING CODE 4910-12-M



Air Transport Association

February 28, 1994

Mr. Anthony J. Broderick  
Associate Administrator for Regulation & Certification (AVR-1)  
Federal Aviation Administration  
800 Independence Ave, SW  
Washington, D.C. 20591

Dear Tony:

On February 18, 1994, the Aviation Rulemaking Advisory Committee met to consider Air Carrier/General Aviation Maintenance Issues. One of the decisions of the meeting was to disestablish the SFAR 36 Working Group, because its task is complete.

ARAC took into account the draft advisory circular that the working group had completed some time ago, and ARAC had submitted to the Agency for consideration. Key points from that draft were subsequently incorporated into the re-issuance of SFAR 36. As a result, neither the Agency nor the working group considers that further advisory materials related to SFAR 36 are warranted at this time. This is the basis for ARAC concluding that the original task for the working group is complete.

The SFAR 36 Working Group effort was not wasted; the re-issued SFAR 36 is of substantially higher quality because of its efforts. The working group also identified several procedural improvements for ARAC that are now being incorporated into ARAC's operating handbook. Members of the old working group are now busy with a new task and title, veterans of the rulemaking process.

I trust this letter meets the requirements for disestablishment of a working group.

Sincerely,

Steven R. Erickson  
Assistant ARAC Chair  
Air Carrier/General Aviation Maintenance  
Issues



U.S. Department  
of Transportation

**Federal Aviation  
Administration**

800 Independence Ave., S.W.  
Washington, D.C. 20591

MAR 16 1994

Mr. Steven R. Erickson  
Director, Maintenance and Materiel  
Air Transport Association of America  
1301 Pennsylvania Avenue, NW.  
Washington, DC 20004-1707

Dear Mr. Erickson:

Thank you for your February 28 letter regarding the Aviation Rulemaking Advisory Committee's (ARAC) decision to disestablish the Special Federal Aviation Regulation (SFAR) 36 Working Group. This letter serves to officially close the SFAR 36 task assigned to ARAC (56 FR 42374).

I wish to express my appreciation to the SFAR 36 Working Group for its efforts on this issue, as well as the input provided for ARAC's operating handbook.

Sincerely,

A handwritten signature in dark ink, appearing to read 'A. Broderick', written over a horizontal line.

Anthony J. Broderick  
Associate Administrator for  
Regulation and Certification



## **Recommendation**

Subject: PRIVILEGES AND      Date:      AC No:  
          LIMITATIONS OF      Initiated by:      Change:  
          SFAR-36 AUTHORITY HOLDERS.

1.    PURPOSE. This Advisory Circular (AC) provides information and guidance to clarify the privileges and limitations of the FAR 121, 127, 135.2 and 145 certificate holders with SFAR-36 authority. The associated responsibilities and use of technical data developed by the authority holder to accomplish major repairs will also be addressed.

2.    RELATED FEDERAL AVIATION DOCUMENTS.      Federal Aviation Regulation (FAR) Parts 1, 21, 23, 25, 27, 29, 33, 35, 43, 91, 121, 127, 135, 145 and SFAR-36.

Advisory Material. This AC references Advisory Circulars and FAA Orders to add benefit to the use of this AC. The list is not all inclusive nor limited to only those listed:

- 8000.42A      Authority to Develop and Use Major Repair Data Not Specially Approved by the Administrator.
- 8300.9/10      Airworthiness Inspectors Handbook.
- AC 25-571-1A      Damage Tolerance and Fatigue Evaluation of Structures.
- AC 27-1      Certification of Normal Category Rotorcraft.
- AC 29-2A      Certification of Transport Category Rotorcraft.
- AC 33-2A/B      Aircraft Engine Type Certification Handbook.
- AC 43-9B      Maintenance Records.
- AC 43-9-1E      Instructions for Completion of FAA Form 337.
- AC 43.13-1A      Acceptable Methods, Techniques and Practices - Aircraft Alterations.



2. RELATED FEDERAL AVIATION DOCUMENTS (CONT.)

AC 140-6C Development and Use of Major Repair Data under Provisions of SFAR-36.

AC 145.3 Guide for Developing and Evaluating Repair Station Inspection Procedures Manuals.

3. BACKGROUND. In 1978, SFAR-36 was issued to relieve qualified repair stations, air carriers, and operators of the burden of FAA approval of technical data for major repairs on a case-by-case basis.

In general, the adoption of SFAR-36 was based on the DAS provisions of FAR Part 21 and the conditions and limitations contained in the related exemptions which had been granted. The SFAR requires those desiring relief to have available qualified engineering personnel. The preparation of an FAA-approved procedure manual for the development of major repair data is also required. In addition, records relating to major repair data developed and the products incorporating the major repairs are required to be kept indefinitely as prescribed by SFAR-36, section 11.

The responsibilities of SFAR-36 authorization are shared by the Aircraft Certification Offices (ACO) and Flight Standards District Offices (FSDO). The ACO has responsibility for assessing the capabilities of an applicant's engineering staff and approving the applicant's engineering procedures manual that is used to develop technical data necessary to effect major repairs.

4. DISCUSSION. This AC may be used to define the privileges and limitations of an approved SFAR-36 authorization holder. It provides the clarification, limits and privileges that may be needed to gain the maximum benefit from the authorization granted by SFAR-36 while maintaining the highest level of safety and integrity.

The FSDO has responsibility for assuring that the authorization holder is adhering to the approved procedures manual and for assuring that the certificate holder is performing work according to accepted or approved technical data within the parameters of its operations specifications.

5. DEFINITIONS. For the purpose of this AC the following words or phrases will have the following meanings:

a. Major Repair means a repair:

(1) that, if improperly done, might appreciably affect weight, balance, structural strength, performance, powerplant operation, flight characteristics, or other qualities affecting airworthiness; or

(2) that is not done according to accepted practices or cannot be done by elementary operations.

b. Repair Data: Instructions necessary to accomplish the repair in accordance with technical data.

c. Technical Data: Information necessary to define and substantiate a repair procedure in compliance with applicable airworthiness standards.

5. DEFINITIONS (CONT.)

d. Approved Data: Approved data is data specifically approved by the FAA, DER or SFAR-36 Authority.

6. GENERAL. The requirement of SFAR-36 allows the 121, 127, 145 certificate holders, or an air taxi operator subject to the requirements of 135.2, the ability to develop major repair data and approve the aircraft, airframe, aircraft engine, propeller, or appliance, for return to service.

7. PRIVILEGES. The SFAR-36 authority privileges are based upon the products and process identified on their repair and/or operational certificate(s) and the expertise of the engineering and technical personnel in the organization. Holders of SFAR-36 authority may:

- a. Develop and approve technical data for major repairs and provide repair data for accomplishment.
- b. Use repair data provided that the repair instructions are accomplished in accordance with the certificate holders' accepted procedures. Use of subcontracting for SFAR-36 repair instructions may be accomplished if it is in the certificate holders accepted/approved procedures.
- c. Use the repair data within the limitations of the technical data for repairs on like articles.
- d. Use an engineering staff (remote engineering) not located at the facility to which the SFAR 36 authorization has been issued provided the data approvals made do not exceed the authority granted in the SFAR 36 holders' procedures manual.

7. PRIVILEGES (CONT.)

- e. The use of repair data is not limited to a geographic area.
- f. Develop and use major repair data which is not specifically approved by the Administrator, in accordance with SFAR-36 and its Federal Aviation Administration Approved Procedure Manual, as applicable to the ratings of the approved air carrier and air agency operations specifications.
- g. Use SFAR-36 developed data for repair data and repair instructions not covered in the A.D. as it is applicable to aging aircraft and SSID airworthiness directives.
- h. Use Technical data developed using SFAR-36 authorization as approved data by the certificate holder.
- i. Allow the organization to have more than one engineer that meets the requirement of SFAR-36 paragraph 3(b) 1-4.

8. LIMITATIONS. SFAR-36 authority:

- a. Limits the authorized air carrier or air agency to development and use of the repair data for:
  - (1) air carriers by being authorized by the certificate holder in their manual.
  - (2) non-certificated customers as long as the major repair documentation is properly provided.
- b. Does not apply to alterations.
- c. Does not allow changes to the Approved Flight Manual, Airworthiness Limitation Section or MMEL.
- d. Has an expiration date.

8.    LIMITATIONS (CONT.)

- e.    Repairs are limited to parts that can be marked or identified in such a manner that the item has an individual identity.
- f.    Has limits of authority with respect to the specific fields of engineering in which the SFAR-36 holder is authorized to develop and use data for a major repair, as further limited by the specific products and types of repair covered by the rating of the air carrier or air agency operations specifications for returning aircraft, airframes, aircraft engines and/or propellers or appliances to service, or covered by the operating certificate and maintenance manual of the operator.
- g.    Technical data must comply with criteria specified in applicable airworthiness sections of the Federal Aviation Regulations.
- h.    Limits individual engineering personnel to meeting the minimum requirements of SFAR-36 in the area of their expertise. They do not have to meet all the requirements of paragraph 3, b (1) through (4). At least one member of the staff required by SFAR-36 must meet all of the required qualifications.
- i.    Limits the SFAR-36 holder to obtain FAA engineering approval before use of:
  - (1) all equivalent safety provisions applied under FAR part 21.21.
  - (2) data procured from specialized services not part of (company name) facility.

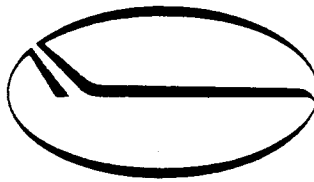
8.    LIMITATIONS (CONT.)

- i.    (3)    repair data that effects the type design of an aircraft which may increase the noise levels of the aircraft (Ref: FAR 21.93 (b)).
- (4)    a repair that impacts any Airworthiness Directive (A.D.) requirements (FAR Part 39), or data that affects areas addressed by Airworthiness Directives.
- (5)    data concerning repairs to life limited items.
- (6)    repair data that effects the type design of the airplane or engine which may increase the fuel venting or exhaust emissions (Ref: FAR 21.93 (c)).

9.    CLARIFICATION.    The following clarifications are provided for the purpose of standardization of certain areas of SFAR-36:

- a.    Authorized repair stations with SFAR-36 authority can develop and use the repair data for air carriers if authorized by the certificate holder (a certificate holder being any air carrier, air agency certificated by the FAA and issued an operating specification) and for non-certificate customers as long as major repair documentation is properly provided.
- b.    The term "appliance" is inclusive of components.





Air Transport Association

Joseph D. Vreeman  
Vice President  
Engineering, Maintenance & Materiel

November 18, 1992

**TO:** Air Carriers/General Aviation Maintenance Subcommittee Members

**FROM:** Joe Vreeman, Chairman  
Air Carriers/General Aviation Maintenance Subcommittee

**SUBJECT:** Draft Advisory Circular - Privileges and Limitations of SFAR 36 Authority Holders

Frank Jauregui, the SFAR 36 Working Group Chairman, was unable to attend our last Subcommittee meeting in Pittsburgh. However, his Working Group has finished drafting the attached advisory circular and this letter is transmitting it to each of you for your review prior to our next meeting on February 18, 1993. At that time we expect to vote on a motion to accept the attached draft advisory circular and transmit it to the FAA for subsequent processing.

As many of you are aware, the FAA has indicated they will not continually renew SFAR 36. However, since many air carriers make extensive use of this regulation, the attached advisory circular will be useful for the period of time until SFAR 36 is no longer renewed.

As a separate matter, we have expressed the Subcommittee's concern that SFAR 36 authority not be allowed to lapse until some appropriate other process has been instituted.

Attachment

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1301 Pennsylvania Ave., NW - Suite 1100 Washington, DC 20004-1707  
(202) 626-4147 ♦ FAX (202) 626-4149  
ARINC/SITA:WASXYXD/WASMMXD



Northwest Airlines, Inc. 612 726-7781  
Department C8001 612 726-8280 Fax  
5101 Northwest Drive  
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NORTHWEST AIRLINES

June 19, 1992

Joe Vreeman  
Chairman, Maintenance  
Sub Committee  
Air Transport Association  
1301 Pennsylvania Ave. N.W.  
Suite 1100  
Washington, D.C. 20004

Subject: SFAR 36 Working Group Meeting Minutes  
Date: June 17, 1992  
Place: Washington, D.C.  
Chairman: Frank Jauregui, Northwest Airlines

I. OPENING COMMENTS

- Meeting convened with a brief discussion of the planned agenda by Frank Jauregui, Chairman.
- Distributed copies of comments sent in by group members and noted that Mark Moran, USAir, could not attend meeting but sent apologies.
- The group agreed to change the dates of the next scheduled meeting from August 19-20 to August 12-13 at Fort Lauderdale.

II. TASK

Our task was "Development of an AC to address the privileges and limitations of air carriers and repair stations to perform major repairs under SFAR-36." The qualification/assumption used by the working group was that privileges and limitations were for organizations that "already" had SFAR-36 authority. Task completed and attached is our proposed Advisory Circular. We now request FAA Advisory Circular writing and FAA legal assistance to produce a final, releasable Advisory Circular.

III. DISCUSSION

- The chairman thanked S. MacLeod for her assistance in addressing the Air Carrier/General Aviation Maintenance Subcommittee of the Aviation Rulemaking Advisory Committee, at the May 26, 1992 meeting, on behalf of the working group.

III. DISCUSSION (cont)

- It should be noted that other Advisory Circulars and FAA Order references are included in this proposed Advisory Circular, as the working group felt it important in providing guidance in this area.
- Under paragraph 5. DEFINITIONS, a. (1) the statement is from the FAR, however, the words "if improperly done" imply that if properly done it would not have the same "affect" and it could. This wording in the rule should be addressed.
- Again, the LACK OF A CLEAR DEFINITION OF "MAJOR REPAIRS" was aired as an open issue.
- The list of attendees for the June 17 meeting is enclosed. The group did an outstanding job of staying on track with focus on the task. In addition, the greater benefit was derived from the knowledge and experience of the working group on the industry SFAR-36 issues, including stated action items.

IV. ACTION ITEMS

- The working group believes that the task as assigned and interpreted, i.e., address the privileges and limitations of current certificate holders with SFAR-36 authority, did not adequately cover the industry's problems and concerns. However, despite this belief, the working group has completed the task as assigned and interpreted and now requests FAA Advisory Circular writing and FAA legal assistance to finalize the document.
- The working group requests the Maintenance Subcommittee to assign the task of developing a rule to encompass and replace SFAR-36. This rule would address the complete SFAR-36 application procedures, privileges and limitations, development of an engineering procedures manual, define major repair and may be referred to as an Approved Engineering Organization rule.
- The industry is desirous and needs a permanent rule, vice SFAR-36 which is scheduled to expire January 23, 1994. This working group is qualified, has the expertise, knowledge and perseverance to address the major repair definition and develop a rule for development of repair data and technical instructions to approve aircraft, airframes, aircraft engines and/or propellers, appliances and components for return to service.

IV. ACTION ITEMS (cont)

- In addition to the request for FAA Advisory Circular writing and FAA legal assistance to be available to the working group for the August 12-13 meeting, Chairman Frank Jauregui will present the status outlined in these minutes to the Air Carrier/General Aviation Maintenance Subcommittee of the Aviation Rulemaking Advisory Committee at the September 29, 1992 meeting. He will also request the assignment of the new rule writing task.

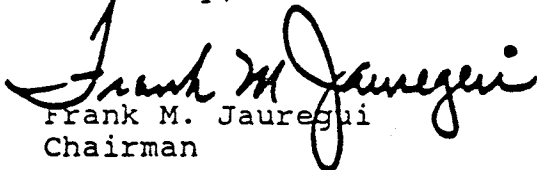
V. NEXT MEETING

DATE: August 12-13, 1992

TIME: 0830-1730 8/12  
0800-1600 8/13

PLACE: FAA offices or selected hotel  
Fort Lauderdale, Florida  
Hotel availability/selection to be  
provided at a later date.

Sincerely,

  
Frank M. Jauregui  
Chairman

FMJ:bsj

attachment

Distribution: SFAR-36 Working Group Members

SFAR 36 WORKING GROUP  
SCHEDULE OF UPCOMING MEETINGS  
(tentative)

August 12-13	Fort Lauderdale, Florida
September 16-17	Minneapolis, Minnesota
October 22	ATA Headquarters

FMJ:bsj  
6/19/92

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration**14 CFR Parts 121, 135, and 145 **3**

[Docket No. FAA-1998-4854, Amendment No. SFAR 36-7; Notice No. 98-15]

RIN 2120-AG64

**Special Federal Aviation Regulation No. 36, Development of Major Repair Data****AGENCY:** Federal Aviation Administration (FAA), DOT.  
**ACTION:** Final rule.

**SUMMARY:** This final rule amends and extends Special Federal Aviation Regulation (SFAR) No. 36, which provides that holders of authorized repair station or aircraft operating certificates may approve aircraft products or articles for return to service after accomplishing major repairs using self-developed repair data that have not been directly approved by the FAA. Extension of the regulation continues to provide, for those that qualify, an alternative from the requirement to obtain direct FAA approval of major repair data on a case-by-case basis.

**EFFECTIVE DATE:** January 23, 1999.

**FOR FURTHER INFORMATION CONTACT:** Carol Martineau, Policy and Procedures Branch, Aircraft Engineering Division, AIR-110, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, telephone: (202) 267-9568.

**SUPPLEMENTARY INFORMATION:****Availability of Final Rules**

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703-321-3339), the Government Printing Office's electronic bulletin board service (telephone: 202-512-1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: 800-322-2722 or 202-267-5948).

Internet users may reach the FAA's web page at <http://www.faa.gov/avr/arm/nprm/nprm.htm> or the Government Printing Office's webpage at <http://www.access.gpo.gov/nara> for access to recently published rulemaking documents.

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling

(202) 267-9680. Communications must identify the amendment number or docket number of this final rule.

Persons interested in being placed on the mailing list for future Notices of Proposed Rulemaking and Final Rules should request from the above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

**Small Entity Inquiries**

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to report inquiries from small entities concerning information on, and advice about, compliance with statutes and regulations within the FAA's jurisdiction, including interpretation and application of the law to specific sets of facts supplied by a small entity.

If you are a small entity and have a question, contact your local FAA official. If you do not know how to contact your local FAA official, you may contact Charlene Brown, Program Analyst Staff, Office of Rulemaking, ARM-27, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 1-888-551-1594. Internet users can find additional information on SBREFA in the "Quick Jump" section of the FAA's web page at <http://www.faa.gov> and may send electronic inquiries to the following Internet address: 9-AWA-SBREFA@faa.gov.

**Background**

Notice No. 98-15, Special Federal Aviation Regulation No. 36, Development of Major Repair Data, was published in the **Federal Register** on November 2, 1998. The comment period closed December 2, 1998. No comments were received. The FAA proposed to extend the termination date of and amend Special Federal Aviation Regulation (SFAR) No. 36, which allows authorized certificate holders (domestic repair stations, and carriers, air taxi operators of large aircraft, and commercial operators of large aircraft) to approve aircraft products and articles for return to service after accomplishing major repairs using data developed by the holder that have not been directly approved by the FAA. Currently, more than 25 air carrier and domestic repair station certificate holders have SFAR 36 authorizations that will expire on January 23, 1999.

**History**

Prior to the adoption of SFAR 36, certificate holders that were qualified to make repairs were required to obtain

FAA approval on a case-by-case basis for data they had developed to perform major repairs. The only alternative to the time-consuming, case-by-case approval method was to petition for and obtain an exemption granting relief from the regulation. The number of exemptions being granted indicated that revisions to the regulations were necessary: SFAR 36 was adopted on January 23, 1978, as an interim rulemaking action. Adoption of the SFAR eliminate the requirement for authorized certificate holders to petition for exemption from the regulation, and allowed the FAA additional time to obtain the information necessary to develop a permanent rule change. Most of the affected certificate holders, however, did not use the provisions of SFAR 36 until it was well into its second year an nearing its expiration date of January 23, 1980. Since the FAA did not yet have sufficient data upon which to base a permanent rule change, the termination date for SFAR 36 was extended to January 23, 1982. To date, SFAR 36 has been extended four times.

On October 22, 1998, the Aviation Rulemaking Advisory Committee (ARAC) submitted a proposal for permanent regulatory action to the FAA. The proposal detailed a means of establishing an Organization Designation Authorization program which would expand and further standardize the approval functions of the FAA designee system and proposed that certain functions and procedures, including those covered by SFAR 36, be terminated and that current authorization holders be allowed to apply for an Organization Designation Authorization. SFAR 36 is being extended an additional 5 years to allow time for the ARAC proposal to be fully developed and implemented.

**Synopsis of the Rule****Section 1**

Aircraft "product," "article," and "component" are defined for the purpose of the SFAR. The definitions clarify the scope of an authorization holder's return to service authority.

**Section 2**

Paragraph (a) of section 2 describes the general provisions of the current SFAR applicable to the individual types of eligible certificate holders. This final rule amends paragraph (a) to reflect changes in the regulations as a result of the Commuter Rule, which became effective on December 20, 1995.

Paragraph (b) of section 2 is deleted and reserved to remove references to part 127. Part 127 was removed from the

**regulations** when the Commuter Rule became effective. Paragraph (c) of section 2 states that an SFAR 36 authorization does not expand the scope of authority of a repair station certificate holder. For example, the authorization does not give a repair station return to service authority for any article for which it is not rated, nor can the authorization change the articles a repair station is rated to repair.

#### Section 3

Section 3 states that an authorized certificate holder may approve an aircraft product or article for return to service after accomplishing a major repair, using data not approved by the Administrator, only in accordance with the amended SFAR. Section 3 requires that the data used to perform the major repair be developed and "approved" in accordance with the holder's authorization and procedures manual. Section 3 also permits an authorization holder to use its developed repair data on a subsequent repair of the same type of product or article. For each subsequent repair, the holder must determine that accomplishment of the repair, using previously developed data, will return the product or article to its original or properly altered condition and will confirm to all applicable airworthiness requirements. In addition, each subsequent use of the data must be recorded in the authorization holder's SFAR records.

#### Section 4

Section 4 describes the procedures for applying for an SFAR 36 authorization.

#### Section 5

Section 5 identifies the requirements a certificate holder must meet to be eligible for an SFAR 36 authorization. This final rule amends Paragraph (a)(1) to delete the reference to part 127 and section 135.2, which were removed from the regulations when the Commuter Rule became effective on December 20, 1995. Paragraphs (a)(2), (a)(3), and (b) define the personnel required. Paragraph (c) contains the reporting requirement of the current SFAR that pertains to changes that could affect the holder's continuing ability to meet the SFAR requirements.

#### Section 6

Section 6 describes the requirement for an approved procedures manual and what information the procedures manual must contain. Paragraph (c) of section 6 requires that an authorization holder that experiences a change in procedures or staff obtain and record FAA approval of the change in order to

continue to approve products or articles for return to service under the SFAR.

#### Section 7

Section 7 sets forth the duration of the authorization. All authorizations issued under this SFAR will terminate upon expiration of the SFAR unless earlier surrendered, suspended, revoked, or otherwise terminated. The final rule extends the duration until January 23, 2004.

#### Section 8

Section 8 prohibits the transfer of an SFAR 36 authorization.

#### Section 9

Section 9 retains the current inspection provisions. It also emphasizes that the FAA must be able to determine whether an applicant has, or a holder maintains, personnel adequate to comply with the provisions of the SFAR and any additional limitations contained in the authorization.

#### Section 10

Section 10 states that an SFAR 36 authorization does not expand the scope of products or articles that an aircraft operator or repair station is authorized to approve for return to service.

#### Section 11

Section 11 contains the provision that each SFAR 36 authorization holder must comply with an additional limitation prescribed by the Administrator and made a part of the authorization.

#### Sections 12 and 13

Sections 12 and 13 address data review and service experience requirements and record keeping requirements. Section 12 states the circumstances under which an authorization holder will be required to submit the information necessary for corrective action on a repair. Section 13 describes what information an authorization holder's records must contain.

As noted above, the expiration date for SFAR 36 is January 23, 2004. The 5-year extension would allow time for the FAA to act upon the proposal submitted by the ARAC for establishment of an Organization Designation Authorization.

The extension of SFAR 36 would allow uninterrupted major repair activity by the current authorization holders that qualify under the amended SFAR; those authorizations would be extended without the holders reapplying for authorization. The extension would also allow a new,

qualified applicant to obtain an authorization.

#### Paperwork Reduction Act

Information collection requirements in SFAR 36-7 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 and have been assigned the OMB Control Number 2120-0507. The primary purpose of this final rule is to extend SFAR 36. No additional paperwork burden would be created as a result.

#### International Compatibility

The FAA has determined that a review of the Convention on International Civil Aviation Standards and Recommended Practices is not warranted because there is no comparable rule under ICAO standards.

#### Regulatory Evaluation

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. And fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA has determined that the extension of Special Federal Aviation Regulation No. 36 (SFAR 36): (1) would generate benefits that justify its costs; (2) is not a significant regulatory action under section 3(f) of the Executive Order and is not subject to review by the Office of Management and Budget; (3) is not significant as defined in DOT's regulatory policies and procedures (44 FR 11034; February 26, 1979); (4) would not have a significant impact on a substantial number of small entities; (5) would not affect international trade; and (6) does not contain a significant intergovernmental or private sector mandate. These analyses, available in the docket, are summarized below.

### Regulatory Evaluation Summary

This final rule extends the provisions of the existing SFAR 36 for a five-year period. Therefore, there are no costs associated with this final rule to either the industry or to the FAA.

The benefit of the final rule is that it allows the firms currently operating under the provisions of SFAR 36 to continue to do so, thereby avoiding the costs that would be incurred if SFAR 36 were to expire before an extension of the existing SDFAR 36 was implemented.

Because the final rule has positive, although not quantifiable, benefits and no costs the FAA has determined that the benefits exceed the costs of the final rule.

### Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the **scale of** the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an Agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the Act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

There are no costs associated with the final rule. Consequently, the FAA certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

### International Trade Impact Assessment

Consistent with the Administration's belief in the general superiority, desirability, and **efficacy** of free trade, it is the policy of the Administrator to

remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods **and services** to foreign countries and those affecting the import of foreign goods and services into the United States.

In accordance with that policy, the FAA is committed to develop as much as possible its aviation standards and practices in harmony with its trading partners.

This final rule affects only domestic firms. Therefore, there will be no impact on international trade.

### Federalism Implications

The regulations herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104-4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure **by** State, local, and tribal governments, in the aggregate, or by the private sector, of **\$** 100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments **on a** proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of \$100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to

provide input in the development of regulatory proposals.

The FAA determines that this rule does not contain a significant intergovernmental or private sector mandate as defined by the Act.

### List of Subjects

#### 14 *CFR* Part 121

Air carriers, Airworthiness directives and standards, Aviation safety, Safety.

#### 14 *CFR* Part 135

Air carriers, Air taxis, Air transportation, Aircraft, Airmen, Airplanes, Airworthiness, Aviation safety, Helicopters, Safety.

#### 14 *CFR* Part 145

Air carriers, Air transportation, Aircraft, Aviation safety, Safety.

### The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends Title 14 of the Code of Federal Regulations parts 121.135, and 145 as follows:

#### PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

1. The authority citation for part 121 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113.40119, 44101, 44701–44702, 44705, 44709–44711, 44713.44716–44717, 44722.44901.44903–44904.44912.46105.

#### PART 1 W-OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS

2. The authority citation for part 135 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 44113.44701–44702.44705.44709,44711–44713.44715–44717.44722.

#### PART 145—REPAIR STATIONS

3. The authority citation for part 145 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113.44701–44702,44707,44717.

4. Special Federal Aviation Regulation No. 36 in part 121 and referenced in parts 135 and 145 is amended by revising paragraphs 2(a), 3(a)(1), 5(a)(1), and 7 introductory text; by reserving paragraph 2(b) and by revising the termination date to read as follows:

#### SFAR No. 36

2. General. (a) Contrary provisions of **§** 121.379(b) and **§** 135.437(b) of this chapter notwithstanding, the holder of

an air carrier certificate or operating certificate, that operates large aircraft, and that has been issued operations specifications for operations required to be conducted in accordance with 14 CFR part 121 or 135, may perform a major repair on a product as described in § 121.379(b) or § 135.437(a), using technical data that have not been approved by the Administrator, and approve that product for return to service, if authorized in accordance with this Special Federal Aviation Regulation.

(b) Reserved.

3. Major Repair Data and Return to Service. (a) \* \* \*

(1) Has been issued an authorization under, and a procedures manual that complies with, Special Federal Aviation Regulation No. 36-7, effective on January 23, 1999;

5. Eligibility. (a) \* \* \*

(1) Hold an air carrier certificate or operating certificate, operate large aircraft, and have been issued operations specifications for operations required to be conducted in accordance with 14 CFR part 121 or 135, or hold a domestic repair station certificate under 14 CFR part 145;

7. Duration of Authorization. Each authorization issued under this Special Federal Aviation Regulation is effective from the date of issuance until January 23, 2004, unless it is earlier surrendered, suspended, revoked, or otherwise terminated. Upon termination of such authorization, the terminated authorization holder must:

This Special Federal Aviation Regulation terminates January 23, 2004.

Jane F. Garvey, Administrator. [FR Doc. 99-128 Filed 1-5-99; 8:45 am] BILLING CODE 4910-13-M



**[4910-13]**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 121,135, and 145**

**[Docket No. FAA-199814654; Amendment No. SFAR 36-7; Notice No. 98-15]**

**RIN 2120-AG64**

**Special Federal Aviation Regulation No. 36, Development of Major Repair Data**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This **final** rule amends and extends Special Federal Aviation Regulation (SFAR) No. 36, which provides that holders of authorized repair station or aircraft operating certificates may approve aircraft products or articles for return to service after accomplishing major repairs using self-developed repair data that have not been directly approved by the FAA. Extension of the regulation continues to provide, for those that qualify, an alternative **from** the requirement to obtain direct FAA approval of major repair data on a case-by-case basis.

**EFFECTIVE DATE:** January 23, 1999.

**FOR FURTHER INFORMATION CONTACT:** Carol Martineau, Policy and Procedures Branch, **Aircraft** Engineering Division, AIR-1 10, Federal Aviation Administration, 800 Independence Ave., SW., Washington DC. 20591, telephone: (202) 267-9568.

## **SUPPLEMENTARY INFORMATION:**

### **Availability of Final Rules**

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the **Fedworld** electronic bulletin board service (telephone: **703-321-3339**), the Government Printing Office's electronic bulletin board service (telephone: 202-5 **12-1661**), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: **800-322-2722** or 202-267-5948).

Internet users may reach the FAA's web page at <http://www.faa.gov/avr/arm/nprm/nprm.htm> or the Government Printing Office's webpage at <http://www.access.gpo.gov/nara> for access to recently published rulemaking documents.

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) **267-9680**. Communications must identify the amendment number or docket number of this final rule.

Persons interested in being placed on the mailing list for future Notices of Proposed Rulemaking and Final Rules should request from the above **office** a copy of Advisory Circular No. 1 **1-2A**, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

### **Small Entity Inquiries**

The Small Business Regulatory Enforcement Fairness Act of 1996 (**SBREFA**) requires the FAA to report inquiries from small entities concerning information on, and

advice about, **compliance with** statutes and regulations within the FAA's jurisdiction, including interpretation and application of the law to specific sets of facts supplied by a small entity.

If you are a small entity and have a question, contact your local FAA official. If you do not know how to contact your local FAA official, you may contact Charlene Brown, Program Analyst Staff, Office of Rulemaking, ARM-27, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC **20591, 1-888-551-1594**. Internet users can find additional information on SBREFA in the "Quick Jump" section of the FAA's web page at **<http://www.faa.gov>** and may send electronic inquiries to the following Internet address: **9-AWA-SBREFA@faa.gov**.

### **Background**

Notice No. 98-15, Special Federal Aviation Regulation No. 36, Development of Major Repair Data, was published in the Federal Register on November **2, 1998**. The comment period closed December **2, 1998**. No comments were received. The FAA proposed to extend the termination date of and amend Special Federal Aviation Regulation (SFAR) No. 36, which allows authorized certificate holders (domestic repair stations, air carriers, air taxi operators of large aircraft, and commercial operators of large aircraft) to approve **aircraft** products and articles for return to service after accomplishing major repairs using data developed by the holder that have not been directly approved by the FAA. Currently, more than 25 air carrier and domestic repair station certificate holders have SFAR 36 authorizations that will expire on January **23, 1999**.

### **History**

Prior to the adoption of SFAR 36, certificate holders that were qualified to make

repairs were required to-obtain FAA approval on a case-by-case basis for data they had developed to perform major repairs. The only alternative to the time-consuming, **case-**by-case approval method was to petition for and obtain an exemption granting relief from the regulation. The number of exemptions being granted indicated that revisions to the regulations were necessary; SFAR 36 was adopted on January **23, 1978**, as an interim rulemaking action. Adoption of the SFAR eliminated the requirement for authorized certificate holders to petition for exemption from the regulation, and allowed the FAA additional time to obtain the information necessary to develop a permanent rule change. Most of the affected certificate holders, however, did not use the provisions of SFAR 36 until it was well into its second year and nearing its expiration date of January **23, 1980**. Since the FAA did not yet **have sufficient** data upon which to base a permanent rule change, the termination date for SFAR 36 was extended to January 23, **1982**. To date, **SFAR** 36 has been extended four times.

On October **22, 1998**, the Aviation Rulemaking Advisory Committee (**ARAC**) submitted a proposal for permanent regulatory action to the FAA. The proposal detailed a means of establishing an Organization Designation Authorization program which would expand and further standardize the approval functions of the FAA designee system and proposed that certain functions and procedures, including those covered by SFAR 36, be terminated and that current authorization holders be allowed to apply for an Organization Designation Authorization. SFAR 36 is being extended an additional 5 years to allow time for the **ARAC** proposal to be fully developed and implemented.

## **Synopsis of the Rule**

### Section 1

Aircraft “product,” “article,” and “component” are defined for the purpose of the SFAR. The definitions clarify the scope of an authorization holder’s return to service authority.

### Section 2

Paragraph (a) of section 2 describes the general provisions of the current SFAR applicable to the individual types of eligible certificate holders. This final rule amends paragraph (a) to reflect changes in the regulations as a result of the Commuter Rule, which became effective on December **20, 1995**. **Paragraph (b)** of section 2 is deleted and reserved to remove references to part 127. Part 127 was removed **from** the regulations when the Commuter Rule became effective. Paragraph (c) of section 2 states that an SFAR 36 authorization does not expand the scope of authority of a repair station certificate holder; for example, the authorization does not give a repair station return to service authority for any article for which it is not rated, nor can the authorization change the articles a repair station is rated to repair.

### Section 3

Section 3 states that an authorized certificate holder may approve an aircraft product or article for return to service after accomplishing a major repair, using data not approved by the Administrator, only in accordance with the amended SFAR. Section 3 requires that the data used to perform the major repair be developed and “approved” in accordance with the holder’s authorization and procedures manual. Section 3 also permits an authorization holder to use its developed repair data on a subsequent repair of the same type of product or article. For each subsequent repair, the holder must determine that

accomplishment of the repair, using previously developed data, will return the product or article to its original or properly altered condition and will conform to all applicable airworthiness requirements. In addition, each subsequent use of the data must be recorded in the authorization holder's SFAR records.

#### Section 4

Section 4 describes the procedures for applying for an SFAR 36 authorization.

#### Section 5

Section 5 identifies the requirements a certificate holder must meet to be eligible for an **SFAR 36** authorization. This **final** rule amends Paragraph (a)(1) to delete the reference to part 127 and section 135.2, which were removed **from** the regulations when the Commuter Rule became effective on December 20, 1995. Paragraphs (a)(2), (a)(3), and (b) define the personnel required. Paragraph (c) contains the reporting requirement of the current SFAR that pertains to changes that could affect the holder's continuing ability to meet the SFAR requirements.

#### Section 6

Section 6 describes the requirement for an approved procedures manual and what information the procedures manual must contain. Paragraph (c) of section 6 requires that an authorization holder that experiences a change in procedures or staff obtain and record FAA approval of the change in order to continue to approve products or articles for return to service under the SFAR.

#### Section 7

Section 7 sets forth the duration of the authorization. All authorizations issued under this SFAR will terminate upon expiration of the SFAR unless earlier surrendered, suspended,

revoked, or otherwise terminated. The final rule extends the duration until January 23, 2004.

#### Section 8

Section 8 prohibits the transfer of an SFAR 36 authorization.

#### Section 9

Section 9 retains the current inspection provisions. It also emphasizes that the FAA must be able to determine whether an applicant has, or a holder maintains, personnel adequate to comply with the provisions of the SFAR and any additional limitations contained in the authorization.

#### Section 10

Section 10 **states** that an SFAR 36 authorization does not expand the scope of products or articles that an aircraft operator or repair station is authorized to approve for return to service.

#### Section 11

Section 11 contains the provision that each SFAR 36 authorization holder must comply with any additional limitations prescribed by the Administrator and made a part of the authorization.

#### Sections 12 and 13

Sections 12 and 13 address data review and service experience requirements and record keeping requirements. Section 12 states the circumstances under which an authorization holder will be required to submit the information necessary for corrective action on a repair. Section 13 describes what information an authorization holder's records must

contain.

As noted above, the expiration date for SFAR 36 is January **23, 2004**. The **5-year** extension would allow time for the FAA to act upon the proposal submitted by the **ARAC** for establishment of an Organization Designation Authorization.

The extension of SFAR 36 would allow uninterrupted major repair activity by the current authorization holders that qualify under the amended SFAR; those authorizations would be extended without the holders reapplying for authorization. The extension would also allow a new, qualified applicant to obtain an authorization.

### **Paperwork Reduction Act**

Information collection requirements in SFAR 36-7 have been approved by the Office of Management and Budget (OMB) **under** the provisions of the Paperwork Reduction act of 1995 and have been assigned the OMB Control Number 2 120-0507. The primary purpose of this final rule is to extend SFAR 36. No additional paperwork burden would be created as a result.

### **International Compatibility**

The FAA has determined that a review of the Convention on International Civil Aviation Standards and Recommended Practices is not warranted because there is no comparable rule under ICAO standards.

### **Regulatory Evaluation**

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation **justify** its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to



analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. And fourth, the **Unfunded** Mandates Reform Act of 1995 (Pub. L. **104-4**) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or **final** rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA has determined that the extension of Special Federal Aviation Regulation No. 36 (SFAR 36): 1) would generate benefits **that** justify its costs; 2) is not a significant regulatory action under section 3 (**f**) of the Executive Order and is not subject to review by the Office of Management and Budget; 3) is not significant as defined in DOT's regulatory policies and procedures (44 FR 11034; February **26, 1979**); 4) would not have a significant impact on a substantial number of small entities; 5) would not **affect** international trade; and 6) does not contain a significant intergovernmental or private sector mandate. These analyses, available in the docket, are summarized below.

### **Regulatory Evaluation Summary**

This final rule extends the provisions of the existing SFAR 36 for a five-year period. Therefore, there are no costs associated with this final rule to either the industry or to the FAA.

The benefit of the final rule is that it allows the **firms** currently operating under the provisions of SFAR 36 to continue to do so, thereby avoiding the costs that would be incurred if SFAR 36 were to expire before an extension of the existing SFAR 36 was

implemented.

Because the final rule has positive, although not quantifiable, benefits and **no costs** the FAA has determined that the benefits exceed the costs of the final rule.

### **Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 (**RFA**) **establishes "as** a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, **organizations**, and governmental jurisdictions subject to regulation." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the Act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

There are no costs associated with the final rule. Consequently, the FAA certifies that the final rule will not have a significant economic impact on a substantial number of

small entities.

### **International Trade Impact Assessment**

Consistent with the Administration's belief in the general superiority, desirability, and efficacy of free trade, it is the policy of the Administrator to remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and those affecting the import of foreign goods and services into the United States.

In accordance with that policy, the FAA is committed to develop as much as possible its aviation standards and practices in harmony with its trading partners.

This final rule affects only domestic **firms**. Therefore, there will be no impact on international trade.

### **Federalism Implications**

The regulations herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### **Unfunded Mandates Assessment**

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. ~~104-4~~ on March **22, 1995**, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted

annually for inflation) in any one year. Section 204(a) of the Act, **2 U.S.C.** 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed “significant intergovernmental mandate.” A “significant intergovernmental mandate” under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of \$100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, **2 U.S.C.** 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

The FAA determines that this rule does not contain a significant intergovernmental or private sector mandate as defined by the Act.

### **List of Subjects**

#### 14 CFR Part 121

Air carriers, Airworthiness directives and standards, Aviation safety, Safety.

#### 14 CFR Part 135

Air carriers, Air taxis, Air transportation, Aircraft, Airmen, Airplanes, Airworthiness, Aviation safety, Helicopters, Safety.

## 14 CFR Part 145

Air carriers, Air transportation, **Aircraft**, Aviation safety, Safety.

### **The Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends Title 14 of the Code of Federal Regulations parts 121,135, and 145 as follows:

#### **PART 121- OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS**

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. **106(g), 40113, 40119, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44901, 44903-44904, 44912, 46105.**

#### **PART 135- OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS**

2. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), **44113, 44701-44702, 44705, 44709, 44711-44713, 44715-44717, 44722.**

#### **PART 145-REPAIR STATIONS**

3. The authority citation for part 145 continues to read as follows:

Authority: 49 U.S.C. 106(g), **40113, 44701-44702, 44707, 44717.**

*f (In part 121 and rule 145)  
in parts 135 and 145)  
nm  
12-31-98*

4. Special Federal Aviation Regulation No. 36 ~~is~~ amended by revising **paragraphs 2(a), 3(a)(1), 5(a)(1), and 7**; by reserving paragraph 2(b) and by revising the termination date to read as follows:

**SFAR No. 36**

\*\*\*\*\*

2. General. (a) Contrary provisions of **§121.379(b)** and **§135.437(b)** of this chapter notwithstanding, the holder of an air carrier certificate or operating certificate, that operates large aircraft, and that has been issued operations specifications for operations required to be conducted in accordance with 14 CFR part 121 or 135, may perform a major repair on a product as described in **§121.379(b)** or **§135.437(a)**, using technical data that have not been approved by the Administrator, and approve that product for return to service, if authorized in accordance with this Special Federal Aviation Regulation.

(b) Reserved.

\*\*\*\*\*

3. Major Repair Data and Return to Service. (a) \*\*\*

(1) Has been issued an authorization under, and a procedures manual that complies with, Special Federal Aviation Regulation No. 36-7, effective on **January 23, 1999;**

\*\*\*\*\*

5. Eligibility. (a) \*\*\*

(1) Hold an air carrier certificate or operating certificate, operate large

**aircraft, and** have been issued operations specifications for operations required to be conducted in accordance with 14 CFR part 12.1 or 135, or hold a domestic repair station certificate under 14 CFR part 145;

\*\*\*\*\*

7. Duration of Authorization. Each authorization issued under this Special Federal Aviation Regulation is effective **from** the date of issuance until January **23, 2004**, unless it is earlier surrendered, suspended, revoked, or otherwise terminated. Upon termination of such **authorization**, the terminated authorization holder must:

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\*\*\*\*\*

This Special Federal Aviation Regulation terminates January **23, 2004**.

Issued in Washington, DC, on

  
Jane F. Garvey  
Administrator



**U.S. Department  
of Transportation**

FEDERAL AVIATION  
ADMINISTRATION  
Office of Aviation Policy and Plans  
Washington, D.C. 20591

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**REGULATORY EVALUATION, REGULATORY  
FLEXIBILITY DETERMINATION, INTERNATIONAL TRADE IMPACT ASSESSMENT,  
AND UNFUNDED MANDATES ASSESSMENT**

**FINAL RULE  
SPECIAL FEDERAL AVIATION REGULATION NO. 36 DEVELOPMENT OF MAJOR  
REPAIR DATA**

**(14 CFR PARTS 121,135, AND 145)**

**OFFICE OF AVIATION POLICY AND PLANS  
REGULATORY ANALYSIS DIVISION  
AIRCRAFT REGULATORY ANALYSIS BRANCH, APO-320**

**GEORGE A. EURING, JR.  
December 11, 1998**



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## **EXECUTIVE SUMMARY**

This final rule extends the Special Federal Aviation Regulation No. 36 (SFAR 36). SFAR 36 was issued on January 23, 1978 to relieve qualifying certificated air carriers, air taxis, commercial operators, and domestic repair stations of the burden of obtaining FAA approval on a case-by-case basis of data developed by them for major repairs,

The final rule continues to allow domestic repair stations, air carriers, air taxis, and commercial operators of large airplanes, who have authority to return products to service, to accomplish major repairs using self-developed repair data that have not been directly approved by the Federal Aviation Administration (FAA). **Without** extending SFAR 36 authorized firms would likely have incurred economic hardship.

The extension of SFAR 36 does not impose costs on the industry or on the FAA and continues to relieve authorized firms of the economic burden of obtaining FAA approval for data developed by the firms for major repairs. Thus the final rule imposes no costs and has positive nonquantifiable benefits.

The FAA has determined that the final rule does not have a significant economic impact on a substantial number of small firms, has no affect on international trade and is not an unfunded mandate.

## I. INTRODUCTION

This regulatory evaluation examines the costs and benefits of a final rule to extend Special Federal Aviation Regulation No. 36 (SFAR 36) of the Federal Aviation Regulations.

The final rule continues to allow domestic repair stations, air carriers, air taxis, and commercial operators of large aircraft, **who** have the authority to return products to service, to accomplish major repairs using self-developed repair data that, have not been directly approved by the Federal Aviation Administration.

SFAR 36 was issued on January 23, 1978 to relieve qualifying certificated air carriers, air taxis, commercial operators, and domestic repair stations of the burden of obtaining FAA approval on a case-by-case basis of data developed by them for major repairs.<sup>1</sup> The certificate holders eligible for authorization under SFAR 36 are those employing adequately trained personnel<sup>2</sup> and complying with specified procedural arrangements.

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<sup>1</sup> This refers to data that cannot be found anywhere else. For example, some appliances (e.g. air cycle machine, constant speed drive) may not have a repair listed or identified in their maintenance manual. A company would have to develop the data to make the repair.

<sup>2</sup> Trained personnel refer to engineering personnel who can determine compliance with the applicable airworthiness requirements of the FARs. The training requirements are contained in the current SFAR 36.

## II. THE PROBLEM

The termination-date for SFAR 36 along with authorizations issued under SFAR 36 is January 23, 1999. SFAR 36 has been in effect since January 23, 1978. When SFAR 36 expires, those firms that rely on it will no longer be able to self-approve major repair data and economic hardships would likely develop.

## III. THE FINAL RULE

The current SFAR 36 allows for a certificate holder to approve an aircraft, airframe, aircraft engine, propeller, or appliance for return to service after accomplishing a major repair if the data used for the repair was developed by that certificate holder in accordance with an authorization issued under this Special Federal Aviation Regulation.

The final rule extends the termination date of SFAR 36 to January 23, 2004.

Extending the termination date of SFAR 36 continues to provide, for those who qualify, an alternative from the requirement to obtain direct FAA approval of repair data on a

case-by-case basis, and allows additional time for the Aviation Rulemaking Advisory Committee (ARAC) to make a recommendation, and enough time for the FAA to act upon it.

#### IV. COSTS AND BENEFITS

The costs and benefits associated with this final rule are based upon the following assumptions and limitations:

##### A. Assumptions and Limitations

- 0 Because SFAR 36 is not changed, except for its extension until January 23, 2004, there are no costs to the industry or to the FAA.
- 0 There are more than 25 certificate holders that currently have SFAR 36 authorizations.

##### B. costs

- Because SFAR 36 is not changed, except for its extension until January 23, 2004, there are no costs to the industry or to the FAA.

### C. Benefits

The final rule, with the extended termination date, allows properly authorized firms to continue to use their SFAR 36 authority. Without the final rule they might have incurred the time and expense involved in applying for: (1) individual approvals of repair data or (2) exemptions from the regulations regarding major repairs.

### D. Comparison of Costs and Benefits

Given the potential benefits associated with this final rule and the lack of any costs associated with this final rule, the final rule is considered to be cost-beneficial.

## V. REGULATORY FLEXIBILITY DETERMINATION

The Regulatory Flexibility Act of 1980 (RFA) establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation .” To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a

wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

There are no costs associated with the final rule. Consequently, the FAA certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

## **VI. INTERNATIONAL TRADE IMPACT ASSESSMENT**

Consistent with the Administration's belief in the general superiority, desirability, and efficacy of free trade, it is the policy of the Administrator to remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and **services** to foreign countries and those affecting the import of foreign goods and **services** into the United States. In accordance with that policy, the FAA is committed to develop as much as possible its aviation standards and practices in harmony with its trading partners.

This final rule affects only domestic firms. Therefore there will be no impact on international trade.

## **VII UNFUNDED MANDATES ASSESSMENT**

Title. II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104-4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more



(adjusted annually for inflation) in any one year.

Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed “significant intergovernmental mandate.” A “significant intergovernmental mandate” under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of \$100 million (adjusted annually for inflation) in any one year.

Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

The FAA determines that this final rule does not contain a significant intergovernmental or private sector mandate as defined by the Act.