

How Parts Are Made And Certified

Note: The following is an introductory guideline to the sale of parts for installation in an aircraft. It is a summary only and does not cover all applicable laws, regulations, situations, exceptions, or sales. It is not meant to, nor does it, substitute for specific legal advice with respect to the installation of any particular part in any particular aircraft or with respect to any specific transaction involving the sale of any particular parts. Please consult your own advisors with respect to the installation of any particular parts in your aircraft.

Commander Premier Aircraft Corporation wants all Commander owners to fly safely, responsibly, and in conformity with all FAA regulations. Among other things, this requires that an owner have a basic understanding of how and why the FAA regulates the aircraft parts business. While this is not meant to be a complete summary, or to cover all situations, it should help familiarize Commander owners with this area and provoke questions they can ask their A & P mechanics when installing parts in their own Commander aircraft.

We want to help Commander owners avoid potential problems and liability that may result from the installation of uncertified parts in their aircraft. These are parts that are produced for sale, or purchased for resale, to Commander owners that are not produced under an FAA certification process. Those parts may appear to (and, it's possible that they could, in fact) be identical to parts that would be sold by the factory under an FAA approved Quality System. However, because such parts are manufactured and sold without being inspected under an FAA approved and monitored Quality System, there is no way that a buyer can be independently assured that such a part is in conformity with the aircraft's design data or made from the materials specified in the design data.

As a basic principal, no part may be sold for installation in an aircraft to be flown in the United States unless that part is made and sold under one or more authorizations issued by the FAA. If the part is sold by a factory with a type certificate for a particular aircraft, its sale may be covered by either a production certificate or parts manufacturing authority. Or, the factory may request that an FAA inspector come to the factory to inspect parts and compare them to specifications and drawings before they are shipped to assure their conformity with aircraft design data. A manufacturer that sells parts only to the factory (not directly to aircraft owners) may not be directly regulated by the FAA. However, if such a manufacturer wants to sell parts directly to aircraft owners (even parts originally produced for the design owner), then it must subject itself to the FAA regulatory process, obtain the required authorizations and maintain the required Quality System.

The regulatory system is designed to assure an aircraft owner that a part sold for installation in a type certified aircraft was made to the original design data in all respects or to specifications specifically approved by the FAA. Often times people who sell illegal parts "redesign" the part (perhaps without changing their part number) because of either

cost considerations or because they think the change is unimportant or an improvement. They may also sell the part for less money than a factory certified part because they skip the high cost of the FAA approval process. This is especially true if the original manufacturer is no longer selling the part to the factory and is operating free of any factory surveillance program. Of course, without any FAA oversight, the part may not be as represented to the aircraft owner. The owner would have only the assurance of the private seller that the part is what it is represented to be. And, even if it is as represented, its sale for installation in an aircraft is still illegal because the part is undocumented and its conformity is not assured by an FAA approved Quality System.

This would be true even if the owner buys the part from the same vendor as the one from whom the factory would buy the part for resale to owners. In such a case, it is the factory, not the manufacturer, that is directly regulated by the FAA. It is the responsibility of the factory to monitor the manufacturer (the FAA calls it “surveillance”) under specific FAA guidelines and the FAA oversees the quality of those parts through the factory and the surveillance program of the factory. (In effect, the FAA treats the factory as if the factory, not the manufacturer, produced those parts.) As a result, the factory cannot sell a part it purchases from a manufacturer without first inspecting that part to assure the aircraft owner (and the FAA) that the part meets the design data specifications. This process must be fully documented by the factory for every part shipped.

When the manufacturer sells such a modified part directly to an aircraft owner, such part (while perhaps bearing the same part number as the one shown on the factory list of parts) will NOT conform to the aircraft design data. And, even if the part specifications have not been changed, and the part fully conforms to the original specifications, without proper documentation under an FAA certification process, it is illegal to install such part in an aircraft. Such a part will be deemed to be non-conforming because of the lack of documented compliance with an FAA approved Quality System.

So, what must an aircraft manufacturer do under an FAA approved Quality System before it can ship a part to a customer for installation in an aircraft? First, the individual part must be inspected by the factory for conformity with the aircraft’s design data. To do that, the factory employee designated under the factory's Quality System must actually physically inspect the part and compare it to design specifications and drawings (or the factory must request that an FAA Inspector come to the factory to inspect the part). And, records of each such inspection must be maintained. That's how everyone who flies in an airplane in the United States can be assured that all aircraft with replacement parts (nearly all aircraft more than a year old) will continue to perform in accordance with the standards of their FAA approved type designs. This process costs the factory a substantial amount of money with respect to each part shipped (without regard to the cost of the part, itself). Obviously, the inspection and certification cost must be built into the price of factory parts. However, that's the only way the FAA can assure all of us who share the sky that the aircraft we fly, and those flying around us, are not going to fail because of substandard parts.

The FAA takes the sale of unauthorized parts very seriously. The FAA will fine sellers of unauthorized parts up to \$1,100 for each individual item sold. And, a plane with such parts installed may be considered by the FAA to no longer conform to the design data basis for the issuance of its airworthiness certificate. (Installing such a part in an aircraft is similar to modifying an aircraft without a Supplemental Type Certificate or specific FAA approval). This means that once such a part is installed in an aircraft, it may not be legal to fly the aircraft without a specific sign off from the FAA.

The presence of an illegally sold part in your aircraft could also void your aircraft insurance under the terms of your policy, even if the accident is wholly unrelated to the illegal part. Once you modify an aircraft from its type design, you can't fly it under the airworthiness certificate issued for it as a type certified (vs. experimental) aircraft. Therefore, if you install an uncertified part you may be flying your plane without a valid airworthiness certificate (unless you get specific FAA approval for the modification). This may be an "out" under your aircraft insurance policy. Even if you get such approval from the FAA for the installation of such part, and it is legal to fly your aircraft, your aircraft may no longer be eligible for insurance as a type certified (vs. experimental) aircraft.

Finally, because the installation of an illegally sold part can constitute a "modification" to the aircraft, the aircraft owner that installs such a part may thereafter be deemed to be the "manufacturer" of the aircraft for legal purposes. If the plane is ever in an accident, and a jury determines that there is manufacturer's liability for any reason (however unrelated to the part), the owner may be deemed to be "the manufacturer" of the aircraft and held responsible for that aircraft for all purposes. That could become even more important if the owner sells the aircraft with the illegal part in it and the buyer suffers an accident.

We recognize that the absence of factory parts since Commander Aircraft Company stopped shipping parts in 2004 has created a tremendous hardship. We understand the frustration and desperation that this has caused among Commander owners who want to keep their aircraft flying. That is why the establishment of parts and maintenance operations are at the top of our priority list. With the move to our new location at Cape Girardeau now well under way, we hope to have our parts and service operations open for business around the first of the year.

Unfortunately, when parts for any aircraft are in short supply and unavailable from a factory source, owner frustration creates an "opportunity" for others to fill the void with the illegal sale of parts. Because aircraft owners often do not understand the FAA requirements for manufacturing and selling replacement parts for aircraft, they may be tempted to buy parts that cannot legally be installed in their aircraft without specific FAA approval and without taking on substantial risk. We hope that this brief summary will prompt all Commander owners to learn more about this area so that they can avoid the pitfalls of installing illegally sold parts in their Commander aircraft.

Notice: The foregoing is meant to promote the safe, responsible, and legal use of Commander aircraft. It is meant to promote awareness of the FAA regulatory system that

*applies to this area and to prompt further inquiry by responsible aircraft owners seeking parts for their aircraft. It is not meant to be a complete summary of this area of the law or to constitute legal advice. Neither is it meant to refer to any particular situation or to any particular party who may be selling parts for Commander aircraft (the Company having no direct knowledge that any particular party has engaged in the illegal sale of any particular part). Please be aware that **NO PARTY HAS BEEN PROVIDED WITH PARTS** by either Commander Premier Aircraft Corporation or CPAC, Inc. **TO HOLD FOR SALE AS REPLACEMENT PARTS** directly to owners of Commander aircraft. Any representation by any party to the contrary is untrue and should be brought to the attention of the FAA.*