

Tempest Response to Airborne Service Letter 72

Since 2001 Tempest (Aero Accessories) has been the OEM manufacturer of all dry air pumps and pneumatic components for the aviation market. Tempest dry air pumps and pneumatic components are a FAA/PMA approved product and are **not affected** by wording, implied or otherwise contained within or related to Airborne Service Letter 72 or any previously written Service Letters or Bulletins written by Airborne. This includes new Tempest dry air pumps as well as all new Tempest pneumatic filters, regulators, and manifold/check valves.

Tempest does overhaul various types of Airborne dry air pumps, vacuum and pressure regulators, manifold/checks valves, as well as de-ice valves. The process specifications that are used to overhaul these pneumatic components have been written by Aero Accessories and approved by FAA engineering in Atlanta and the local Flight Standards District Office (FSDO). As such, Airborne Service Letters or Bulletins **do not** apply.

Please remember that any Service Letters or Bulletins issued by Airborne do not apply to any unit that has been overhauled or repaired by Tempest nor do they apply to any new manufactured Tempest product. For more information regarding FAA enforcement of mandatory Service Letters or Bulletins refer to **FAA Order 8620.2** "Applicability and Enforcement of Manufacturer's Data."

There have been a significant number of questions regarding how a customer can identify an Airborne pump (never been overhauled) vs. an Aero Accessories overhauled Airborne pump. Please see the page attached to this bulletin for detailed information on how to identify the different pumps. One other way to verify an Aero Accessories overhaul, is to look for the wear indicator port. We started putting WIP's on **all** overhauled 215CC/216CW pumps in January of 2002.

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Summary

Tempest is the OEM manufacturer of all new dry air pumps and pneumatic components

All new and overhauled Tempest dry air pumps and pneumatic components are FAA/PMA approved

Airborne Service Letters or Bulletins **do not** apply to any unit that has been manufactured new or overhauled by Tempest

For Applicability and Enforcement of Manufacturer's Data refer to FAA Order 8620.2 (attached)

Tempest has also issued press release 2008-02 that addresses this same issue for publication in industry media.

For more information regarding Tempest products, please go to www.tempestplus.com, email at information@tempestplus.com or call 1-843-991-1199.



Overhauled Airborne & Aero Accessories Dry Air Pumps

Parker Hannifin Airborne Dry Air Pumps display the following typical identification sticker:



Airborne Pumps: **utilize alphanumeric serial numbers.**

Example: S/N: 12AR-550
(Reference Airborne Service Letter 39A)
THIS PUMP HAS NOT BEEN OVERHAULED

Aero Accessories, Inc. Overhauled Dry Air Pumps display the following identification stickers:



Overhauled Airborne Dry Air Pumps have a **PURPLE** Model number sticker with 'FAA Approved Overhaul' printed on it. Aero Accessories utilizes separately attached numeric serial numbers not alphanumeric.



Overhauled Tempest Dry Air Pumps have a **BLUE** Model number sticker with 'FAA Approved Overhaul' printed on it. Aero Accessories utilizes separately attached numeric serial numbers not alphanumeric, bottom.



**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

National Policy

**ORDER
8620.2A**

Effective Date
11/5/07

SUBJ: Applicability and Enforcement of Manufacturer's Data

- 1. Purpose of This Order.** This order provides information and guidance to aviation safety inspectors (ASI) regarding the applicability and enforcement of Original Equipment Manufacturer's (OEM) data listed on the Federal Aviation Administration's (FAA) type certificate data sheet (TCDS). Information and guidance is also provided regarding OEM maintenance manual material, Service Letters (SL) and Service Bulletins (SB), and other maintenance or flight operations information including any material that has been identified or labeled by an OEM as "Mandatory."
- 2. Audience.** The primary audience is Flight Standards District Office (FSDO) ASIs. The secondary audience includes Flight Standards regional and headquarters branch and division personnel.
- 3. Where You Can Find This Order.** ASIs can access this order through the Flight Standards Information Management System (FSIMS) at <http://fsims.avr.faa.gov>. Operators and the public can find this order at <http://fsims.faa.gov>.
- 4. Background.** Title 14 of the Code of Federal Regulations (14 CFR) part 43, §§ 43.13(a) and 43.13(b) outline the performance standards for accomplishing non-air carrier maintenance, preventive maintenance, and alterations on U.S.-registered aircraft. This order provides clarification and guidance about the applicability of those regulatory performance standards when maintenance documents and maintenance requirements have been identified and labeled as mandatory by the OEM.
- 5. Related Guidance (current editions).**
 - a. 14 CFR part 43;
 - b. 14 CFR part 91; and
 - c. FAA Order IR-M-8040 1A, Airworthiness Directives Manual

Distribution: A-W(VR)-1; A-W(SI)-2; A-W(FS/IR/VN);
A-X(FS/SI/CD)-3; A-FFS/FIA/FAC-0(LTD);
AMA-200 (12 cys)

Initiated By: AFS-300

6. Applicability.

a. Section 43.13(a) states, in part, "Each person performing maintenance, alteration, or preventive maintenance on an aircraft, engine, propeller, or appliance shall use the methods, techniques, and practices prescribed in:

- 1) The current manufacturer's maintenance manual or;
- 2) Instructions for Continued Airworthiness prepared by its manufacturer, or;
- 3) Other methods, techniques, and practices acceptable to the Administrator."

b. The language of § 43.13(a) clearly provides a person with three permissible options when performing maintenance, alterations, or preventive maintenance on a product. Section 43.13(a) does not provide an order of precedence for these three options. Further, although § 43.13(a) does not specifically address SB's or SL's, an OEM may legitimately incorporate an SB or SL into one of its maintenance manuals by reference. If it does so, the data specified, and the method, technique, or practice contained therein, may be acceptable to the Administrator. However, unless any method, technique, or practice prescribed by an OEM in any of its documents is specifically mandated by a regulatory document, such as Airworthiness Directive (AD), or specific regulatory language such as that in § 43.15(b), those methods, techniques, or practices are not mandatory.

7. **TCDS.** Consistent with 14 CFR, a TCDS is part of a product's type certificate (TC). A TCDS is a summary of the product's type design. It is used primarily by authorized persons during initial or recurrent issuance of a Standard Airworthiness Certificate. It is neither a regulation, a maintenance requirements document, or a flight manual document. As such, for aircraft holding a valid and current airworthiness certificate, a TCDS should not be used as a sole source to determine what maintenance is required or what the flight operations requirements are. Any language on a TCDS, by itself, is not regulatory and is simply not enforceable. There must be a corresponding rule to make any language on the TCDS mandatory. For example, there is a mention of "operating limitations" on most TCDS. The corresponding rule for "operating limitations" is 14 CFR § 91.9(a) which states, "Except as provided in paragraph (d) of this section, no person may operate a civil aircraft without complying with the operating limitations specified in the approved Airplane or Rotorcraft Flight Manual, markings, and placards, or as otherwise prescribed by the certifying authority of the country of registry." Without § 91.9, the TCDS requirement to comply with operating limitations would not be enforceable.

8. **TCDS Notes.** TCDS notes are intended primarily to provide information on the various requirements for issuing an airworthiness certificate as well as the type and location of various technical documents used to operate and maintain the product. Some OEM's have placed mandatory language such as "shall," "must," and "will" on their TCDS that imply that compliance with TCDS notes is mandatory. However, in the absence of regulatory language, or an AD that makes such TCDS notes mandatory, compliance with such notes is not mandatory. It would mean that FAA regulations effectively authorize OEMs to issue "substantive rules," i.e., it would enable an OEM to impose legal requirements on the public that differ from the 14 CFR requirements. This would be objectionable for two reasons. First, the FAA does not have the

authority to delegate its rulemaking authority to an OEM. Second, "substantive rules" can be adopted only in accordance with the notice and comment procedures of the Administrative Procedures Act (APA), which does not apply to an OEM.

9. Life Limits and Placarding. Adherence to component life limit retirement times listed on a TCDS is required by §§ 43.16 or 91.409(e), and a requirement to follow placard instructions is required by § 91.9(a).

10. Summary. Consistent with 14 CFR, a TCDS is part of a product's TC. As such, for aircraft holding a valid and current airworthiness certificate, a TCDS should not be used as a sole source to determine what maintenance is required or what the flight operations requirements are. Any language on a TCDS, by itself, is not regulatory and is simply not enforceable.

11. Distribution. This order is distributed to the division levels at the Washington Headquarters of Flight Standards Service (AFS); to the branch levels at the Aircraft Certification Service; to the branch levels at the regional Flight Standards Divisions and Aircraft Certification Directorates; to all FSDOs; to all Aircraft Certification Offices (ACO), Aircraft Certification Field Offices, and all Satellite Offices and Manufacturing Inspection District Offices (MIDO); to the Aircraft Certification and Flight Standards Branches at the FAA Academy; to the Brussels Aircraft Certification and Flight Standards Staff; to applicable Representatives of the Administrator, and to all International Field Offices (IFO)

ORIGINAL SIGNED BY

James J. Ballough
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