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The UPDATE Report

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FOR THEIR REACCREDITATION

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8130.21F Has Been Released!

The FAA has released the "F" revision to Order 8130.21 – the instructions for completing the 8130-3 tag.

Many of the changes found in this version were negotiated with the Canadian and European governments in order to provide a higher level of correspondence between the way that Americans complete the 8130-3 tag and the way that Canadian and European facilities complete the 24-0078 and EASA Form 1 (respectively). The purpose of this instruction-set harmonization was to provide a better foundation for reciprocal acceptance, based on the proposition that each form meant roughly the same thing because the instructions for completing each form were so similar.

Perhaps the most dramatic change in the Order is the introduction of guidance on the electronic exchange of 8130-3 tags. A new Chapter 5 draws reference to ATA SPEC 2000 Chapter 16 as the source of information on how to exchange electronic airworthiness authorization information.

This electronic exchange option is available wherever both the sender and the receiver have adopted systems for electronic transfer of 8130-3 tag information.

The electronic data exchange may be used for all purposes of Form 8130-3 currently used in the paper format. The block-by-block instructions for a specific purpose must be followed when issuing the electronic transfer form as described in Chapter 5.

While the software requirements for such an endeavor may seem daunting, they should pose very little long-term impediment to implementation.

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ASA
AVIATION SUPPLIERS ASSOCIATION

INSIDE:

MESSAGE FROM ASA'S PRESIDENT

THE UPDATE Report

is the monthly newsletter of the Aviation Suppliers Association.

OUR COMMITMENT

ASA is committed to providing timely information to help members and other aviation professionals stay abreast of the changes within the aviation supplier industry.

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Dear Colleagues,

With the release of FAA 8130-21F, the FAA has created guidance for the electronic transfer of 8130-3 tags. On Tuesday at the annual conference, ASA will be holding the workshop Going Paperless – The Electronic 8130-3. Brent Webb, member of the ASA Board of Directors and President of Aircraft Inventory Management Services, will be moderating the workshop. Brent was an active participant in the industry working group that developed the mechanism for a paperless 8130-3. Brent has enlisted Dave Broughton, the FAA architect who wrote 8130.21F, Ken Jones who is handling the ATA Spec 2000 interface and John Pawlicki who is a Director at SITA. The workshop will show how a small business can set up the infrastructure to provide customers with an Electronic 8130-3.

Going Paperless – The Electronic 8130-3 is just one of 14 workshops/forums being offered at 2008 ASA Annual Conference. A complete listing of the workshops and general session information is available at www.ASA2008.org. Don't forget that the early reduced registration ends June 30, 2008.

After two and a half years of hard work with ASA, Caroline Bruenderman will be looking towards new opportunities and relocating to Chicago. Caroline joined ASA and quickly became woven into the fabric of the Association. She brought a keen eye to effective marketing strategies, communications, membership development and event planning. During her tenure, Caroline strengthened membership by 12% and increased the ASA membership retention rate. Caroline's last day at ASA will be July 3rd. We wish her the best.

ASA has expanded its Washington, DC staff with the addition of Erika Schnure. She joins ASA as the Programs & Membership Assistant. Erika is a graduate of George Washington University and has worked in the non-profit arena. Erika brings her knowledge of event planning and membership development to ASA. Erika can be reached at (202) 347-6893 and her email is erika@aviationsuppliers.org.

Take care,
Michele

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Several companies in the industry have already written in-house software for completing electronic 8130-3 tags in compliance with SPEC 2000 Chapter 16, and at least one software company (Global Uni-Docs) has suggested that it is investigating a "mass-market" version of such software that could provide distributors and their DARs with a secure means of creating and tracking 8130-3 tags.

Accredited Distributors

Accredited Distributors continue to enjoy special access to the 8130-3 tag. The policy reason for this is because they have adopted voluntary programs specifically designed to protect the airworthiness and traceability of the parts.

Under the guidance, an eligible distributor may apply to a Manufacturing Designated Airworthiness Representative (DAR) with function code 08 privileges or to a Maintenance DAR with function code 23 privileges for issue of a domestic 8130-3 tag for an aircraft part that meets the criteria listed in the Order.

To be eligible, the applicant must be accredited under the terms of AC 00-56A, or hold an acceptable FAA certificate (Part 121, 135, or 145).

The component must have been manufactured under an FAA production approval. The Order confirms that source of manufacturing may be established by means of acceptable documentation (for example, shipping documents, manufacturer certificates of conformance, or material certification … part markings are also listed as an acceptable form of documentation to confirm source of manufacture). The component also must conform to FAA-approved design data at the time the 8130-3 tag is issued (e.g. the component has not suffered damage or degradation, nor been illegally altered, and therefore continues to meet the design parameters to which it was fabricated).

The component needs to have been received in accordance with the requirements of the accredited-or-approved quality system. A part that was not received under the terms of the accredited-or-approved quality system will not be eligible for an 8130-3 tag under these provisions.

The DAR will be responsible for establishing the current airworthiness of the component. One method for doing this is to establish positive traceability to a FAA production approval holder and then to make a finding that the airworthiness of the product, part or appliance has not been compromised or the part placed in service (for example, suffered damage or degradation affecting airworthiness) since release by the production approval holder. Notice that the other requirements of this section support the ultimate findings that must be made by the DAR.

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Accredited Distributors and Export Tags

There is also guidance for those accredited distributors considering applying for an export 8130-3 tag. Obviously, relevant guidance exists in several other resources, including the descriptions of acceptable function codes in Order 8100.8C; however, the basic instructions for completing the tags appropriately remain in 8130.21F.

The new guidance makes it clear that an application for an export tag may be made orally, as long as the component in question was manufactured by a U.S. production approval holder. Under the current regulations, standard parts may be eligible for export 8130-3 tags so long as the FAA finds that they conform to an FAA-approved design (such as a type design into which they have been incorporated); however, such parts are not produced by production approval holders and therefore applications for airworthiness authorization for such parts must made in writing. It is not normal in the industry to seek 8130-3 tags for standard parts due to the legal difficulty that can be realized in making the finding of conformity outside of the context of a specific installation.

When an export tag is requested, the export article must be inspected to the extent necessary to ensure:

- it conforms to the FAA-approved design data,
- it is in a condition for safe operation,
- it is properly identified,
- it meets any design or special requirements of the importing country or jurisdiction; proving this element is the responsibility of the applicant – the first step to accomplishing this is to review the bilateral agreement with the importing country as well as any special conditions announced by the importing country and published in FAA Advisory Circular 21-2, Export Airworthiness Approval Procedures, Special Requirements of Importing Countries.

Packaged Parts

It is not unusual to see a situation where the DAR is asked to issue an 8130-3 tag for a new part, but the applicant does not want to break the seal on the part for fear that the customer will not believe that the part is “new.”

Where the packaging of a part makes it impossible to physically inspect the part, the DAR may instead rely on objective evidence that the part was inspected to assure conformity to the design standards (such as an appropriate manufacturer’s certificate of conformity).

Form Tracking Number

In all cases, the 8130-3 tag must bear a form tracking number that will allow it to be tracked by the issuer. Where the issuer is a DAR, the DAR should work cooperatively with the applicant/distributor to assure the assignment of form tracking numbers that will be unique within the issuing environment (i.e. each form issued for parts held by the party named in block four should bear a unique form tracking number).

Prohibitions

In a curious move, the FAA has eliminated the section that described the uses of the form and replaced it with a section listing the “Purposes For Which Form 8130-3 Cannot Be Used.” The purposes listed in that section are certainly not acceptable uses of the 8130-3 tag, but one has to wonder whether listing a set of truly egregious uses really helps to prevent unacceptable uses that are closer to the ‘borderline.’

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REGULATORY UPDATE

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No Revision to the Look-and-Feel

Contrary to both industry expectations and FAA agreements, the layout of the 8130-3 tag was not revised to eliminate the eligibility block (block nine). Dropping this information block has been a goal of the distribution community because of the fact that the block added very little to the form, but it often tends to create confusion and delay. For example, it was not unusual to see the block completed with only one eligible installation (e.g. 737-200) when there might be multiple intended installations for the article. Many in the industry mistakenly felt that the block represented a limitation on the eligibility of a component for installation (even when the component was clearly called-out in both the illustrated parts catalog and the type design of the non-listed product).

The European corollary, EASA Form One, is currently going through the Notice of Proposed Amendment (NPA) process. In accordance with informal agreements between EASA and the FAA, EASA has proposed that the eligibility block of EASA Form One be dropped and that the form's blocks be renumbered.

But Block Nine Should Read "N/A"

Although the eligibility block was not eliminated in the American version of the tag, all of the instructions for completing the block now require the entry of the phrase "N/A" for this block, effectively eliminating it as a viable information (or disinformation) source. This, although the block was not eliminated, it was 'decommissioned.' This change will likely eliminate significant needless confusion in the future.

The most likely reason that the form was not changed, but that the instructions now direct block nine to read "N/A" is probably to avoid FAA

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having to apply to the White House Office of Management and Budget (OMB) for approval of the revised form.

It is important to note that the instructions on the bottom of the form still reference block nine (by use of an asterisk) and state "Installer must cross check eligibility with applicable technical data." This may lead some installers to question the wisdom of leaving block nine "N/A." The admonition still has some technical merit, as an installer has a 14 CFR 43.13(b) obligation to ensure that the installed part will return the product to a condition at least equal to original or properly altered condition, and checking eligibility in an illustrated parts catalog or other reference document helps to support this obligation. But the installer will no longer need to (nor be able to) check the eligibility from block nine due to the fact that this block will read "N/A."

Serial Number

The revised Order clarifies when a serial number is required in the serial number block (which is now block 11 under the new numbering system).

If the product, part, or appliance is required by 14 CFR part 45, Identification and Registration Marking, to be identified with a serial number, enter it here. Additionally, any other serial number not required by regulation also may be entered. If no serial number is entered in this block, enter "N/A."

Work Order

ASA members will note that there is considerably more text in the instructions for completing block five. Block five is the space for "Work Order/Contract/Invoice Number."

In addition to providing the reference document number, the tag should also state the number of pages attached to the form, including dates, if applicable. Thus, there is a more definite reference to the supporting documents that make up the documentation package (which will make it less likely that an unscrupulous vendor might 'accidentally' drop a page from the history – which protects all of us).

If no work order, contract, or invoice number is available, then the form should read "N/A" in block five.

Shipment List

Sometime the 8130-3 tag cross-references another document – a shipment list – that provides the list of parts that are addressed in the tag. This often happens when an air carrier sells a surplus lot, for example. Under the new standards, Blocks 6 through 12 of the form may be left blank if their information is contained in the shipment list. In such a case, the shipment list should also cross-reference the form tracking number located in Block 3. Block 13 (the remarks block) should include the text:

"This is the certification statement for the products, parts, and appliances listed on the attached document dated _____, containing pages _____ through _____."

Lost Forms

The guidance also makes it clear that if a party has lost the Form 8130-3 that was issued for the part, then the original issuer may provide a file copy of the original form as a replacement. In order to facilitate this (as always), the issuer must retain a file copy.

Doing Business With Carriers: Be a Secured Creditor

With Air Carriers discontinuing operations and filing for bankruptcy protection in response to rising oil prices, it is important for ASA members to be prepared for customer bankruptcies. This month, we look at some payment-protection strategies that can be implemented before a customer files for bankruptcy in order to better assure your right to get paid after such a filing.

Last month, we focused on your rights to get paid after a bankruptcy filing. That article explained that once an estate has filed for bankruptcy protection, outstanding debts are divided into post-petition and pre-petition debts. Post petition debts (those that accrue after the bankruptcy filing) enjoy an administrative priority but pre-petition debts do not enjoy such a payment priority. Because pre-petition debts do not enjoy any payment priority, they are the last to get paid and will only be paid on a pro-rata basis out of the funds that remain after the secured creditors have been paid. Often, this can mean no payment, or only pennies on the dollar, at best.

If you think that your customer may be facing financial problems, then it is important to take steps designed to maximize your chances to obtain payment in the event of a future bankruptcy filing. One strategy for protecting your right to get paid is to establish a security interest in the asset.

A security interest in an asset gives you a priority with respect to the asset in question. In some cases you can recover the asset itself, but more often you can force a sale of the asset in order to satisfy the security interest. In such a sale, the first proceeds go to extinguish the security interest and the remainder goes to the estate. Any remaining debt is considered unsecured if there is no additional security.

As an example, let us assume that a distributor retains a security interest in an engine to secure a debt of $700,000, and no other lien applies to that engine. At auction, the engine fetches $850,000 (after the auctioneer's share). The first $700,000 would go to the security holder, who is made whole with this payment, and the remaining $150,000 returns to the bankruptcy estate.

But what if the auction proceeds fall short of the secured debt? Let us assume that the same distributor retained a security interest in an engine to secure a debt of $700,000, and no other lien applies to that engine. At auction, the engine only fetches $500,000 (after the auctioneer's share). The $500,000 would go to the security holder, who then has a $200,000 remainder that will be treated as unsecured debt. While no one wants to be facing unsecured debt in a bankruptcy, the distributor is in a better financial position here than if the entire $700,000 debt had been unsecured.

There are a number of ways to establish a security interest but the method that is likely to be the most useful to most ASA members is the traditional lien-by-agreement approach. Under this approach, the parties to a credit transaction agree that the buyer will enter into a security-agreement-and-financing statement arrangement with the seller. As security for the successful payment of the credit that has been extended, the buyer agrees that the seller retains a security interest in the asset.

The security agreement must create or provide for a security interest in the collateral (the aircraft parts in question). The security agreement should provide a description of the collateral at the core of the agreement – one that is sufficient to identify the collateral. In the case of serialized aircraft parts, this may be easily done by describing the parts and the serial numbers. In the case of unserialized parts, you may need to develop an alternative strategy in order to adequately describe the collateral. One option would be to segregate the parts in question and to provide some tracking mechanism in the event of installation of the components. It is not always advisable to mark the parts in order to uniquely identify them, because marking can be construed as a maintenance activity that alters the parts and it can also damage certain parts, thus affecting the airworthiness.

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A lien is often considered to be 'perfected' by the filing of a financing statement. The primary purpose of filing is to put subsequent creditors on notice that the property of a certain debtor is already encumbered by a lien. Thus, the requirements for the contents of a financing statement may seem meager but the purpose is merely to put a reasonably diligent searcher on notice that there is a potential lien. A financing statement generally needs to include the following three elements:

- the name of the debtor;
- the name of the secured party (creditor)
- a description of the collateral covered by the financing statement

Financing statements used to require a signature. This requirement has been removed from the law in order to support electronic filing; however, a debtor's signature is still advisable in order to demonstrate that the creditor had the debtor's authorization to file the financing statement.

In order to be effective against third parties, the financing statement should be filed. Identifying the correct office in which to file the agreement can be complicated. Usually, the agreement must be filed in the state office of the state in which the debtor is located. In the United States, this requirement is established through section 9-301(1) of the Uniform Commercial Code [UCC] (which is adopted as state law in every state except Louisiana). The same set of laws also establishes that each state will have one central filing location in the state for most filing situations (there are exceptions for interests in land, for example). You can generally look at section 9-501 of your state's version of the UCC in order to identify your state's filing office. Note that all references to the UCC are to the 2000 revisions – the UCC was significantly revised in 2000 and the 2000 revisions became effective on July 1, 2001 in many jurisdictions.

There is a significant difference in the filing routine for certain aviation products. For the following items, the creditor should file the security agreement (not the financing statement) with the FAA (not with a state office):

- Aircraft
- Engines capable of more than 550 rated take-off horse power
- Propellers capable of absorbing more than 750 rated take-off horsepower

Most states have laws that verify that filing aircraft security agreements with the state office is inappropriate due to pre-emption by the FAA. The FAA Form 8050-98 is a sample security agreement form that may be used if it meets the needs of the parties but it is not required. Liens filed with the FAA should be sent with a filing fee of $5.00 to:

- For U.S. Postal Service, Regular and Priority Mail:
  FAA Aircraft Registration Branch, AFS-750
  P.O. Box 25504
  Oklahoma City, OK 73125-0504

- Commercial Delivery Services:
  FAA Aircraft Registration Branch, AFS-750
  Registry Building Room 118
  6425 South Denning
  Oklahoma City, OK 73169-6937

It is a good idea to get legal advice on how to create effective security agreements and financing statement and how and where to file them. In order to make sure your documents are effective, you must file the right documents, filled out correctly, in the proper place. Over the years, there has been a significant amount of litigation concerning whether a specific filing met all of the technical requirements of the law. If it did not meet all of the technical requirements, then the filing will be ineffective in protecting the creditor's interests in bankruptcy court.

Boeing vs. Airbus in the World Trade Organization

The World Trade Organization (WTO) is expected to rule on a lawsuit concerning measures affecting trade in large civil aircraft before the end of this year. The action was brought by the United States against the European Community (EC).

At issue are government subsidies and other financial measures, such as launch aid to Airbus for design and development of large civil aircraft, which the U.S. contends are contrary to the Agreement on Subsidies and Countervailing Measures (SCM Agreement) and the General Agreement on Tariffs and Trade (GATT 1994).

Conversely, the European Communities have filed a counter-suit against the U.S. They allege that the United States is guilty of similar infractions of the SCM Agreement and GATT 1994 because of subsidies and other assistance to U.S. producers of large civil aircraft (mainly Boeing).

With many other countries seeking to develop their own aircraft industries, the implications of the long-anticipated rulings may have affects beyond the U.S. and Europe. However, some aviation experts maintain that governments will find ways to reconfigure aid packages to channel funds into aircraft programs in WTO-compliant ways. This may lead to longer debates over what type of support is improper.

Fuel Costs Claim More Casualties

Air Midwest, Inc., a wholly owned subsidiary of Mesa Air Group, Inc., announced this month that it will discontinue all operations including its current scheduled services provided under the Essential Air Service (EAS) program. This announcement follows the company's January 15, 2008 announcement of the decision to discontinue Air Midwest's operations. The company cited record-high fuel prices, insufficient demand and a difficult operating environment as the main factors in its decision.

Air Midwest began filing notices with the Department of Transportation (DOT) of its intent to terminate EAS beginning over a year ago. "Although we are unable to continue to provide service, Air Midwest plans to cooperate with the DOT and any replacement carriers in the interest of

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Vendor Forum 1
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lessening the impact on the communities affected," said Greg Stephens, Air Midwest's President. Under current plans, Air Midwest will discontinue operations by June 30.

"We are extremely saddened this decision has become necessary; Air Midwest has a long and proud history and has served millions of passengers in its 43 years of operation," said Jonathan Ornstein, CEO of Mesa Air Group. "Unfortunately under the current economic conditions there was no foreseeable way to achieve sustained profitability. Even with subsidies from the DOT, Air Midwest has been unable to sustain profitability for the last several years. While this was an extremely difficult decision, and one that the company worked tirelessly to avoid, we are working diligently to minimize the impact this decision will have on Air Midwest's passengers and employees."

Air Midwest operates 20 Beech 1900D 19-seat aircraft. More information about the company's plans is available from the Vice President of Corporate Communications, Paul Skellon: paul.skellon@mesa-air.com.

The parent company, Mesa, will continue to operate and in fact recently settled litigation with Hawaiian Airlines. When Aloha Airlines shut its doors, it blamed Mesa for unfair competition –unfair competition litigation between those two carriers is still ongoing.

Italy's Ocean Airlines suspended operations and was placed in receivership. It was flying four 747-200Fs in cargo operations. They had flown from their base in Brescia, Italy to Abu Dhabi, Almaty, Hong Kong, Istanbul, Lahore, Luanda, Nagoya, and Shanghai.

A major contributing factor was Ocean's inability to obtain funds for refinancing.

Upon filing for receivership, Ocean Airlines' chief executive officer, Rossano de Luca, said: "Ocean's demise is a direct result of the major deterioration of the world's stock markets, coupled with the current banking crisis including, of course, the London IPO market which was particularly hard hit." "Ocean's problems have arisen due to events totally beyond the control of the company's management; our industry has been hard hit both by the financial crisis and the dramatic rise in fuel costs."

EASA Takes on the Environment

The European Aviation Safety Agency (EASA) has published a Notice of Proposed Amendment (NPA-2008-15) entitled "Essential Requirements for Civil Aviation Environmental Protection."

Why is this important to distributors? Because most advancements in aviation environmental regulations tend to preclude the operation of aircraft that do not meet the standards of the new rule. In the context of this proposal, this can mean that older aircraft that do not meet the new emission / noise standards are no longer eligible to fly in European airspace. And this can mean that distributors carrying inventory to support those aircraft may see their sales market diminish. So it is important to be able to predict which aircraft will no longer be flying in the future.

Another aspect of this proposal that could affect distributors would be the requirement for environmental training in the industry, which could potentially be flowed-down by air carriers and other customers.

A part of this European proposal would regulate environmental concerns related to ultralight aircraft at the European level (EASA), instead of at the level of the individual national authorities (e.g. UK CAA, French DGAC, German LBA, etc). Currently, ultralight aircraft are regulated at the national level because of a belief that they do not pose a significant issue that warrants EC involvement. EASA is specifically interested in knowing whether the public agrees that ultralight aircraft should be subject to the same environmental rules as all other aircraft.

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EASA is also seeking input into whether EASA should regulate environmental issues raised by airport design and airport operations – right now, EASA regulates only the safety impacts of these issues. In a related question, EASA is seeking input into what is the best way to regulate land use planning around airports, so that airports are not tempted to look at noise/pollution from only an aviation perspective, but instead will look at noise/pollution around an airport in a broad view that takes into account all sources of noise/pollution.

The proposal specifically calls out aircraft design features as a control mechanism for noise/pollution issues, so the industry should anticipate that this rulemaking could be used as a springboard to tighter controls in the European Community that may be used to preclude aircraft that fail to meet environmental standards as they may be promulgated in the future. This potentially could give EASA the power to affect certain environmental treaties.

The NPA calls for engine emissions reductions in NOx, CO, hydrocarbons and smoke. It specifically calls for engines that are designed to minimize fuel consumption (the modern trend) to be designed in such a way as to minimize trade-offs in the production of emissions (which could minimize the ability to conserve fuel if the rule is read to require emissions minimization beyond current standards where the emissions are thought to reflect a trade-off against fuel consumption minimization).

The NPA would also require environmental training for "Persons active in the aviation system whose actions can have a significant effect on the noise exposure on the ground, the quantity of the emissions emitted by aviation activities or the subsequent environmental impact." The discussion of the rule makes it clear that this includes maintenance personal, among others. Specific knowledge areas would include

- General understanding of aviation noise generation and propagation.
- General understanding of effects of aviation noise on human health and welfare.
- General understanding of aviation emissions sources and environmental impacts of aviation emissions.
- Knowledge of the individual's personal role and responsibility in minimizing noise and emissions from aviation.

The proposal suggests that personnel be tested during training and then thereafter they should be recurrently tested on a regular basis. This could open up a whole new topic-area of regular testing requirements for personnel in the industry.

This NPA is now open for review and comment on the EASA website, and can be found at http://hub.easa.europa.eu/crt/view-doc/id_40. Comments are due to EASA by August 30.

Repairs and Design Changes to TSOed products

EASA is seeking comments on proposed rules that affect repairs and alterations to TSOed products, including Auxiliary Power Units.

Under the current rule, only the holder of the ETSO authorization is eligible to make minor changes or minor repairs to its ETSO article. This means that if an avionics manufacturer held an ETSO to produce its avionics device, then only that manufacturer would be eligible to repair the device – no other repair station is permitted to repair the device unless that repair station was wiling to treat the repair as a design change, and apply for appropriate EASA approval of the design change.

EASA has noted that the requirements for repair stations to repair ETSO products (treat it as a design change) are not consistent with the requirements for the manufacturer to perform the same repair. They recognize the disparity and they are proposing to change the regulations to "level the playing field."

EASA is proposing to issue a rule that would amend the requirements in EASA Part21 in order to allow any natural or legal person (not just the manufacturer) to make an application for approval of a minor repair or minor design change to an ETSO article.

This proposed rule could represent a significant expansion on the ability to obtain service for products manufactured under ETSOs, which in turn would likely make ETSOs much more attractive in all markets.

This NPA is now open for review and comment on the EASA Web site and can be found at http://hub.easa.europa.eu/crt/get-file/f_NPA%202008-12.pdf. Comments should be received by the Agency before 19 August 2008.

Drug and Alcohol Compliance

ASA members performing maintenance for air carriers or having other obligations requiring drug-and-alcohol testing under DOT standards should be sure to pick up a copy of the latest revision to the FAA's "Drug and Alcohol Compliance and Enforcement Inspector Handbook."

The "A" revision was published May 23 and represents very useful guidance to show the industry what drug-and-alcohol inspection agents will be seeking when they perform drug-and-alcohol testing audits.

The guidance is available online:
http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgOrders.nsf/0/b1121bd2582641208625745600 48d02e/$FILE/Order%209120.1A.pdf.

Part 21 Changes Are Imminent

At the June FAA-EASA International Safety Meeting, the FAA renewed its commitment to publish the final rule revising the Part 21 manufacturing rules and pledged to get the rule out by late August.

This rule change is expected to modify certification procedures and identification requirements for aircraft products and parts. The changes proposed included a number of features that would affect the maintenance community, including requiring production approval holders to issue airworthiness approvals as "birth records" for aircraft engines, propellers, and other aviation parts, and requiring manufacturers to mark all parts and components.

Repair Station Rule – When Can We Expect It?

Under a proposed Part 145 rule issued about two years ago, the FAA would establish new requirements for quality assurance programs and would also reorganize the repair station rating system.

The industry has been expecting a Final Rule to be released later this year. But at the June FAA-EASA International Safety Meeting, the proposed rule was noticeably absent from a list of FAA major rulemaking tasks expected for the coming year. The U.S. Regulatory Agenda seems to have also pushed back the publication date of this rule. Does this mean that the Part 145 quality assurance rule is no longer scheduled for imminent release?

The industry voiced significant opposition in comments to this proposal. The true cost of the program proposed by the FAA was not well-reflected in the FAA's own economic calculations. Furthermore, the quality assurance paradigms of that rule may be inconsistent with the new SMS initiative being considered by the FAA. The industry needs to wonder whether the rule is being shelved in favor of SMS, or perhaps being re-proposed in a new form as a supplemental notice.

FAA to Eliminate Due Process for Some Rules?

The FAA has announced a new initiative concerning the Direct Final Rule Process.

Under current law, the Federal Government is generally required to permit the public to review proposed rules and comment on them. The agency must review the comments and either implement the suggestions or respond with an explanation why it is not implementing the suggestion.

An agency is permitted to circumvent the normal notice-and-comment process for emergency rules and rules that are deemed non-controversial. But even when the process is circumvented, agencies are still required to collect comments and to act upon them after the rule has been implemented.

The FAA has announced a rulemaking endeavor that would allow the FAA to dispose of the adverse comments it receives during a direct final rule comment period in subsequent rulemaking actions. The FAA would thus be able to postpone indefinitely formal response to adverse comments.

The Agency argues that this change would streamline its process; however, the change would also potentially disenfranchise the maintenance community. The issue is listed in the U.S. Unified Regulatory Agenda as a pending "Final Rule" despite the lack of a prior Notice of Proposed Rulemaking. This is a rulemaking proposal that bears careful scrutiny by the ASA community, in light of the importance of maintenance comments in helping to formulate good regulations in the past.

Aircraft Life Limits in Our Future

As previously reported, the FAA plans to issue a new rule on "widespread fatigue damage" that would require airframe manufacturers to establish a life-limit for each airframe, based on the "limit of validity" of the engineering data that supports the original maintenance program. A purpose of this exercise is to prevent widespread fatigue damage in aging aircraft, and airframe manufacturers will be required to identify maintenance actions necessary to prevent widespread fatigue damage before the airplane reaches its life-limit.

This rulemaking would require operators of any affected airplane to incorporate the life-limit into the airworthiness limitations section of the aircraft's instructions for continued airworthiness. In order to operate an affected airplane beyond the life-limit, the operator would need to develop an FAA-approved maintenance program designed to prevent widespread fatigue damage.

The official deadline for publication of this Final Rule is July. While the FAA rarely meets such a deadline, distributors should be considering the effect that this rule might have on their inventories.

CONTACT US!

ASA Staff is always interested in your feedback. Please contact us with any comments or suggestions.

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CALENDAR OF EVENTS!

ASA Events

Hazmat Training

September 23-24.....Kansas City, MO - *TBA*

2008 Annual Conference

www.ASA2008.org

Other Industry Events

December 3-4.....Aircraft Maintenance Outsourcing Expo 2008
Cobb Galleria Centre, Atlanta, GA