



The Update Report

The Airline Suppliers Association

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October 1999

REGULATORY UPDATE

No, the 8130-3 is NOT Required

The next time an FAA inspector tells your customer that he needs an 8130-3 tag, tell the FAA inspector to start reading the regulations a little more closely.

Air carriers and other parts installers use the 8130-3 tag and other documents like it to help support their general safety obligations as well as their airworthiness obligations under the regulations. An 8130-3 tag provides evidence that someone made a prior airworthiness finding with respect to the component or article to which the tag is attached.

Traceability is important to the industry, but it is not a legal requirement.¹ Traceability supports safety by providing the installer with an airworthiness baseline based upon a prior determination of airworthiness, but nowhere in the aviation regulations is traceability required.

Why do we engage in the traceability exercise? Because customers demand it. Why do customers demand it? Because it supports safety.

Customers Demand It

In many circumstances, customers demand particular documentation to accompany the parts they order. The 8130-3 tag has become quite popular among customers, and this makes it a *de facto* requirement whenever the

customer requires it. Sometimes, the customer has a written policy in the general maintenance manual that requires the 8130-3 tag. Under these circumstances, it becomes a legal requirement for the customer, because failure to follow the general maintenance manual requirements is a violation for an air carrier. When the customer absolutely insists on an 8130-3 tag, the only way to make the sale is to provide the customer with what he wants.

Sometimes, though, it is not the customer who really wants the 8130-3. Sometimes the installer is confident in his ability to make an airworthiness determination at the time of installation. Sometimes it is the FAA that really wants the documentation.

And here is where we run into a problem. No FAA regulation requires traceability documentation, but conventional wisdom insists that traceability helps support safety. FAA inspectors in the field are generally experts in keeping aircraft safe. As
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Read on for solutions for situations where an FAA official tells the customer that an 8130-3 is required in the transaction, but you cannot get the form.

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for their accreditation to the Airline Suppliers Association's Accreditation Program.

Keep monitoring,
<http://www.airlinesuppliers.com>
for a growing list of FAA accredited distributors; and see [page 106](#) for a list of distributors who were reaccredited to ASA-100 this month.



A Message from ASA's President

Over the years many people have asked me how I got started in the aviation industry and unlike many of you who grew up around planes and the love of aviation, I just happened to be there at the right time when ASA had a job opening for an attorney. However, it did not take long to develop the love, fascination and respect for airplanes and flight.

When discussing the aviation industry with people not involved in aviation, it is hard to explain why companies that fiercely compete for business work so hard together to make sure that everyone is doing the right things to keep the industry safe. In November close to 50 companies will be meeting in Chicago to discuss quality control issues that affect distributors. The attendees are forfeiting a weekend and their companies are paying for their expenses. Why do they do this? Out of respect for their responsibility as companies involved in aviation.

NTSB records show there have been 2218 U.S. air carrier fatalities since 1982. Compare that to over 40,000 U.S. highway fatalities a year and you can see that the industry's safety record is still one of the best.

When an unfortunate accident occurs like the recent Egyptair 767 accident, all companies involved in aviation feel the sadness, weight and pressure of the crash because it is our industry. Of course, our sadness and pressure from the crash pale in comparison to the incomprehensible anguish of the families of the victims, and the sadness of the employees of the manufacturer and air carrier who try their best to produce a safe product.

In the bigger picture distributors are only one of many element in the aviation industry that work so well together to make aviation travel safe.

While it could take months or longer to find out what happened to cause the Egyptair accident, we can only speculate and continue to work to make sure that our side of the business does not increase the chance of another accident.

Every time I attend an ASA event and see how many people really care about quality and safety, I am proud to be a member of the aviation industry.

Happy Thanksgiving!

Michele Schweitzer

In respect of certain holidays and maintaining happy staff, ASA's office will be closed on the following days:

Thanksgiving: November 25-26, 1999

Christmas: December 24, 1999

New Year's: December 31, 1999

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The Update Report provides timely information to help Association members and readers keep abreast of the changes within the aviation supply industry.

The Update Report is just one of the many benefits that the Airline Suppliers Association offers members. For information on ASA-100, the ASA Accreditation Program, Conferences, Workshops, FAA guidance like Advisory Circulars, Industry Memos, or services and benefits, contact the Association.

The Update Report For information on special package rates for advertising, contact the Association at (202) 730-0270. Subscription cost is \$120.00 US per year.

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New Auditing Program for ASA-100

ASA has developed a new audit program structure to support the ASA-100 Accreditation Program. ASA-100 audits will be performed by ASA's own auditors, and the entire program will be run out of ASA.

ASA has hired Jason Lewis to manage the Accreditation Program. Lewis holds an A&P license as well as a degree in aerospace engineering. He is also experienced in developing and maintaining aviation quality systems.

Qualified Auditors

ASA will be using its own staff of auditors to perform the ASA-100 audits. ASA's first full-time auditor is Debbie Kammers, who has worked for air carriers and for repair stations. Kammers is well known in the CASE circles. ASA is speaking with several other auditors with outstanding credentials, like CASE training and air carrier auditing experience, to supplement Kammers' efforts, and hopes to develop a pool of qualified auditors.

The change from QMSLP-performed audits to audits performed by ASA's own employee-auditors will not be an abrupt one. ASA and QMSLP have established a transition program to ensure the continued integrity of the ASA-100 program. ASA will rely on QMSLP to perform initial training of ASA-100 oversight staff, and ASA will continue to rely on the program foundation that QMSLP helped build. ASA President Michele Schweitzer explained, "We were fortunate to enjoy QMSLP's professionalism during the formative years of the program, and we look forward to having a continuing relationship with the men and women who make up QMSLP."

Why Did ASA Do This?

ASA chose to develop the new audit program structure because it represents the next logical step in the growth of the ASA-100 program. It permits ASA to concentrate on expanding the program to better meet the needs of the accredited companies while continuing to ensure that the audits reflect the highest level of quality.

When ASA announced the change on October 15, Schweitzer praised QMSLP's performance, stating that ASA "will continue to enjoy QMSLP's insight, counsel, and expertise in aviation matters." QMSLP President Thomas Willis also had good things to say about ASA, "We are proud to have been closely associated with ASA since its organization and through the formation of its important role in accrediting distributors worldwide. We continue to be enthusiastic supporters of ASA's vision and the important role the organization plays in achieving safety through quality. We will continue to be outspoken supporters of the Association and the Accreditation Program."

How Does This Affect Accredited Companies?

There should be relatively little affect on accredited companies. After the transfer period, which ends on December 29, 1999, all communications of all sorts, including manual revisions and changes in the quality system will be communicated to ASA. ASA's corporate offices will continue to handle accreditation contracts while the nuts and bolts of ASA-100 system oversight will be handled by Lewis and his staff of auditors. There will be no more guessing as to which office to call to resolve an ASA-100 issue - one call does it all.

2000 Workshop

ASA will once again offer a full day workshop for employees of ASA member companies in the year 2000.

As in past years, the workshop will include a basic review of the FAA regulations and guidance that affect our customers, as well as an analysis of the recent changes in these documents. The workshop will also include a number of new topics to make sure that it is worthwhile for those who attend the workshop every year.

ASA is in the process of writing next year's workshop *now*. We want the workshop to reflect your concerns, so *now* is your opportunity to let ASA know what you want to hear.

During the month of November, ASA will accept recommendations from ASA members concerning the topics about which you would most like to hear, and the questions for which you most want answers. Suggestions that cannot be fit into the Workshop may be used as a the basis of Annual Conference presentations or Update Report articles.

This is your chance to make sure that your Association responds to *your* needs.

ASA plans to publish a list of 2000 locations and dates in the November issue of The Update Report, and a full workshop agenda by the December issue.

Mark Your Calendar!

The ASA 2000 Annual Conference will be held June 25-27 in Las Vegas, Nevada at the Four Seasons Hotel

Conference information will be mailed in February

Changes in FAA Faces and Structure

There is a new face at the front office for aviation maintenance, but is there an office for aviation maintenance?

The new manager of the Continuous Airworthiness Maintenance Division (CAMD) (AFS-300) is Angela Elgee. It is clear that Elgee is headed for Washington, DC, but it is no longer clear what she will be managing. This is because there appear to be plans in the works to merge CAMD with the Air Transportation Division (AFS-200).

If the plan goes according to rumor, Elgee would manage the merged division and have responsibility for all air carrier maintenance and air transportation issues. General aviation issues, including general aviation maintenance, would be handled out of the General Aviation and Commercial Division (AFS-800). Because most ASA members focus their attentions on air carrier customers, there should be little change for them, as the same group of people will still be making decisions about the industry. Those with maintenance interests may find that the merged division has less time to address itself to these issues, as operational issues have traditionally got-

ten more attention at the FAA. Private sector companies with maintenance interests have already expressed significant doubts about the wisdom of the merger plan, so Elgee will have her work cut out for her.

According to the rumors, Elgee would have two deputies - one to handle operations issues and one to handle maintenance issues. The maintenance deputy would probably be Carol Giles, who was the maintenance deputy manager under Ava Mims, and has served as Acting Manager since Mims' promotion.

This would not be the first encounter between Elgee and Giles. They served together as Airworthiness Safety Inspectors at the Anchorage Flight Standards District Office (FSDO) in the early 90s, and are reputed to be on good terms, which could make for a good working relationship between them.

Elgee managed the Baton Rouge FSDO until the middle of 1998, when she moved to Seattle. She served as Assistant Manager and also acted as Manager for Flight Standards in the Northwest Mountain Region.

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FAA Enthusiastically Supports Accreditation

The FAA threw a touchdown for accredited distributors by insisting that air carriers and repair stations get educated about the AC 00-56 program.

Many ASA members have asked why the FAA appears to spend so little time supporting and endorsing the Voluntary Industry Distributor Accreditation program found in AC 00-56. The program appeared to represent a winning combination of FAA guidance supported by private sector implementation that lead to increased safety.

The fact is that the FAA has always supported the AC 00-56 program, but has not always done so in a way that is visible to the public. Several other FAA Advisory Circulars (ACs) refer to the AC 00-56 program, including the Suspected Unapproved Parts AC, which encourages the adoption of AC 00-56 compliant quality systems. Furthermore, the FAA has sent aviation safety inspectors (ASIs) to oversee ASA audits, and ASA has provided the FAA with periodic reports on the program. The FAA has been an active partner in this AC 00-56 endeavor.

The FAA's most recent effort is probably the most important step taken to date in the promotion of the AC 00-56 program. The FAA has published a Handbook Bulletin that requires ASIs working with certificated entities, like air carriers or repair stations, to determine whether the company is aware of the AC 00-56 program, and to provide the air carrier with a copy of AC 00-56 if it is not familiar with the program. This is now mandatory for ASIs!

Furthermore, the ASI is responsible for determining whether the air carrier or repair station has established a pro-

cedure for selecting, approving and surveying the adequacy of the distributors it uses, in the event it purchases from non-AC 00-56 distributors.

The new FAA guidance reads as follows:

A. During the certification and/or certificate management surveillance, ASI's should establish whether the applicant/certificate holder is procuring parts from distributors that have been accredited under the provisions of AC 00-56.

B. In the event the applicant/certificate holder is not using accredited distributors, the ASI should establish that the procedures for selecting, approving, and surveilling [sic] these distributors are adequate. This will ensure that the parts received are acceptable for use on civil aircraft and the documentation provides traceability to an FAA-approved source.

C. It is mandatory that the assigned ASI provide a copy of AC 00-56 to any applicant/certificate holder that is not aware of this program.

The new guidance appears in Flight Standards Handbook Bulletin for Airworthiness Number 99-13, which was signed by Carol E. Giles, the Acting Manager for the FAA's Continuous Airworthiness Maintenance Division. It was issued on October 12, so your business partners should start hearing about this from their ASIs soon!

Why has the FAA chosen to pursue such an ambitious program of AC 00-56 promotion? Because the AC 00-56 program works, and the companies

that use aircraft parts deserve to know that the program is available.

When AC 00-56 was first issued, the FAA offered to provide a 'mitigation' to any company accused of a civil penalty based on a part purchased from an accredited distributor. The FAA felt this would encourage the use of accredited distributors by air carriers and repair stations. Unfortunately, no one knows what the 'mitigation' would encompass - whether it would cut the fine or perhaps eliminate the fine entirely - because no one has had to use the 'mitigation' yet. Accredited distributors have shut-out going, with zero civil penalties attributed to their parts.

While we are still wondering what the 'mitigation' could entail in practice, the fact that it has not been used shows that the program is working. AC 00-56 programs are assuring that parts are adequately documented to assist the installer in determining the airworthiness condition of the part. Even "as-is" parts must bear documentation that clearly identifies the part's "as-is" condition.

AC 00-56 has been a beneficial program for the industry, and the recent FAA directive requiring ASIs to promote the program can only lead to better safety and quality conditions throughout the industry. This is a program about which the FAA, and the entire industry, can feel proud.

It is now mandatory that FAA inspectors tell air carriers about accreditation. Do what you can to coordinate with your customers and make sure they are hearing from the FAA.

Avoiding Y2K Liability on Date-Sensitive Parts

The Year 2000 is approaching. Ten years ago, I heard a street corner preacher predict the end of the world. He spoke of a final Judgment Day that would scour all life from the Earth. As the fateful day approaches, it seems that all I care about is whether the computers will work.

The FAA has been warning the industry about Y2K for years. The United States General Accounting Office has published guidebooks on how to assess the Y2K readiness of a computer system. Even Congress has gotten into the act, publishing a list of air carriers that failed to respond to a voluntary Y2K questionnaire and passing an amendment that restricts commercial operators from flying until they've certified their Y2K readiness.

With all of the emphasis on Y2K readiness, one would think that the entire industry would be prepared with their date-sensitive electronic components neatly catalogued as Y2K ready. But that would contradict human nature, wouldn't it. We all have business partners that are running risks with their Y2K readiness. And because our customers know that someone, somewhere in the industry will not be ready, they will continue to ask us for Y2K certifications on the parts that could include date-sensitive features.

This is a difficult, but not impossible task for a distributor. It generally means contacting the manufacturer of the article to assess whether the article contains embedded systems that rely on date functions, and whether the embedded systems were designed to function properly after December 31, 1999. Many manufacturers have developed websites to provide this information (See 7 The Update Report 33 (March 1999) for a list of manufacturers' websites). Where articles have been shown to be unfit for the year 2000, several manufacturers have offered alternative part numbers for Y2K-compliant replacement parts.

When a distributor relies on a manufacturer's statement to provide a Y2K certification to a customer, it is important for the distributor to protect itself against potential liability associated with such a statement. In an effort to protect against a mountain of Y2K-related litigation, Congress passed several laws limiting the power to sue for Y2K-related problems. Experience has shown that these sort of laws do not always limit litigation; instead they redirect it away from the protected class and toward the parties who are not protected by the laws. It is therefore especially important for distributors to protect themselves by falling within the protection of the Y2K republication rules.

When a person republishes a Y2K-readiness statement issued by someone else, the republisher can be liable if the republisher has actual knowledge that the statement was false, or if the republisher intended to deceive. In the event that the Y2K-readiness statement is false or inaccurate, an innocent republisher can also be held liable if the republisher fails to provide notice that the statement is a republication.

It is therefore in the best interest of every republisher of a Y2K-readiness statement to provide notice to the customer and the public that the Y2K-readiness statement is a republication. There are two ways to do this under the law. The first is to make an affirmative statement that the Y2K-readiness statement is unverified. This is not language appreciated by many customers. A more favorable alternative will usually be to make a statement that the republisher relied on another party as the source of the Y2K-readiness information (the source must be named).

This permits the customer to go back to the originator of the Y2K statement in the event that it is false, without necessarily tying up the republisher in needless litigation.



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Congress Emphasizes Y2K Compliance with a Bludgeon

The entire industry complains of FAA personnel who try to regulate by imposing their own policies on the industry despite a lack of supporting laws or regulations. This is frustrating enough when a lone FAA inspector does it. It is downright maddening when the United States Congress does it!

The speech and debate clause of the United States Constitution permits a member of Congress to say almost anything on the floor of Congress without fear or reprisal. Recently, the speech and debate clause protected a member of Congress who lambasted the aviation industry for failing to respond to FAA questionnaires seeking information about Y2K compliance.

The FAA questionnaires were voluntary. In fact, the rules of the Office of Management and Budget (OMB) would have forbidden the questionnaire from being mandatory.

The questionnaire was not the only FAA initiative to assure Y2K compliance. In fact, it was a minor addition to a multi-year program that has successfully promoted Y2K compliance in the industry.

The voluntary nature of the questionnaire did not prevent Congress from publishing a list in the Federal Register of air carriers and operators who had failed to respond to the questionnaire. In fact, on October 5, Senator Chris Dodd (D-CT) published that list

and proposed an amendment to the FAA Reauthorization bill that would require non-respondents to surrender their operating certificates! How's that for an incentive to participate in a voluntary survey!

The amendment is now a part of the FAA Reauthorization Bill, and it requires air carriers and operators to respond to the Y2K questionnaire by November 1 or face certificate revocation (without regard to the fact that this is a contrary policy to that of the Paperwork Reduction Act). It is likely that the FAA Reauthorization Bill will not even be passed by that date, and forget about it being signed into law before the November 1 deadline.

Y2K: THE MILLENIUM APPROACHES

Russian Customers May Battle Y2K

Russia's small business sector is relatively young (12-15 years), and consequently, the level of information technology in the sector as a whole is low. The places where computers are commonly being used in Russia are in inventory and distribution management systems, as well as in accounting. So Y2K problems could have an effect on exactly the companies with whom ASA members may be doing business.

Y2K problems may affect companies' inventory storage facilities due to embedded microprocessors in HVAC systems, not to mention their reliance on gas, electricity, communications and other utilities that may be adversely affected by software susceptible to Y2K failures.

The United States Department of Commerce says that "the approach of

the small business community in Russia to the Y2K problem can't be characterized as aggressive." Lack of access to financial resources and professional expertise in the field; and a misconception that the whole issue is a problem associated with larger companies, contribute to the worries in the United States that Russian small businesses may encounter Y2K-related failures.

The United States Foreign Commercial Service (FCS) says that Y2K awareness among Russian small businesses is growing. The FCS says that this could provide commercial opportunities for firms able to offer cost-effective contingency-planning assistance and Y2K technical solutions; however this does not provide a high level of confidence to companies that have to rely on their Russian business partners to be able to perform accord-

ing to their contracts after December 31.

Companies with foreign business partners, particularly those with partners that are small businesses in Russia, should affirmatively ask about Y2K plans, and offer assistance where provision of assistance is feasible. Any business partner that has a serious Y2K worry should be prepared to support continued operation with appropriate remedies, like paper records, or diesel generators to replace Y2K-susceptible power generation sources. American companies with partners who cannot assure their Y2K readiness should already have contingency plans in place in the event that needed parts or materiel is unavailable from a business partner with a Y2K-related failure.

Identifying Export Restrictions

An ASA member recently contacted the Association to ask about exports. The member wanted to develop a procedure for assessing the relevant export restrictions for any proposed export. In some cases, customers may demand such a procedure so the customer is assured that the distributor will obtain appropriate export licenses as necessary.

Where an exporter may or may not ship a parts varies with each transaction and depends on the nature of the parts, the identity of the proposed recipient of the parts, and the activity or activities in which the recipient is involved. The exporter must determine that information before it can decide whether it needs an export license.

In some situations, based on the type of equipment exported, the Export Administration Regulations (EAR) require an export license for shipments to any country in the world (even Canada, in rare circumstances). For most parts used only on civilian aircraft, though, the exporter's principle concern should be the identity of the recipient.

Part 746 of the EAR lists countries that are subject to embargoes or other special controls. Presently, there are seven countries for which shipment of almost all commodities requires a license from the federal government for export. Those countries are currently Iran, Iraq, Libya, Serbia, Sudan, North Korea, and Cuba.

There are databases of publicly available information concerning export restrictions that should be made a part of any export restriction inquiry. The Bureau of Export Administration (BXA) maintains lists of persons and entities to which exports are generally forbidden without special license.

These lists may be found at:

BXA Denied Persons List:
<http://www.bxa.doc.gov/DPL/denialist.html>

BXA Denied Entity List:
<http://www.bxa.doc.gov/Entities>

Exporters need to be concerned about more than just BXA restrictions. The Treasury Department maintains its own list of restricted countries. Remember, the assets that an exporter sends or receives, and the payment for them, falls within the Treasury Department's jurisdiction! The Treasury Department list of restrictions can be found at:

Office of Foreign Asset Control:
<http://www.treas.gov/ofac>

Some exporters may be asked to send parts to U.S. Government or Military installations overseas. This generally represents an exception to the license requirements, but it is up to the exporter to assure that the destination is a valid U.S. Government or Military installation. Exporters selling to overseas U.S. Government or Military installations can find guidance on such shipments under the GOV license exception described in EAR section 740.11.

These internet databases can be important tools in protecting your business from inadvertent export violations.

Get Your Export 8130-3s

ASA members know that the FAA has halted the issuance of domestic 8130-3 forms for parts held by distributors, but export 8130-3 forms are still available for class II products (for the differences between class II and class III products, see the bottom of p. 111 - top of p. 112 of this issue).

FAA guidelines permit a Maintenance Designated Airworthiness Representative [DAR-T] to sign an export airworthiness approval [8130-3] for a Class II product.

It is the responsibility of the owner of the class II product to provide the DAR-T with sufficient evidence to prove the airworthiness of the part in question; a DAR-T will not issue an 8130-3 tag for a part that is not airworthy.

A DAR-T operates on behalf of the FAA, so a DAR-T's signature is considered an FAA signature. The United States has signed agreements with many countries wherein the foreign country and the United States agree to treat export airworthiness assurance granted by one country as if it had been issued by the other.

A DAR must be authorized by the FAA to issue the export 8130-3. If a DAR's client wants specific confirmation of the authority for the privilege, then specific authority to exercise the privilege can be found in the DAR's Certificate of Authority Letter: look for function code 32.

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DARs No Longer Issue 8130-3s for Parts Held by Distributors

(Continued from page 103)

safety experts, FAA aviation safety inspectors in the field have been known to insist on documentation like the 8130-3 tag. They feel this helps assure the integrity of the part.

In the past, distributors were able to apply to FAA Designated Airworthiness Representatives (DARs) who could issue a domestic 8130-3 tag for a demonstrably airworthy part.² This document supported the field insistence on traceability to assure the integrity of the part. But DARs and FAA employees were recently prohibited from issuing the form for any part in a distributor's inventory.³ The FAA has not provided a clear reason for this policy change, except to say that the earlier policy was not required and therefore does not need to be supported.

FAA inspectors at FAA Headquarters in Washington, DC are experts in what the regulations say, and how to best support those regulations. They know the regulations do not require the domestic 8130-3 tag. Because the regulations do not require it, FAA Headquarters has no qualms whatsoever about restricting aircraft parts distributors from acquiring the form through FAA employees or designees. FAA Headquarters insists that this is the right decision because the form is not required, and therefore is not needed.

FAA Headquarters is right. No regulation requires the 8130-3 tag to be used in any transaction.

The FAA is a governmental agency. As such, the FAA employees must operate by the rules. FAA inspectors may encourage the use of tools like traceability; but even if traceability is a good idea, they may not require it until a regulation requires it.

The worst thing the government can do is provide the industry with conflicting advice. FAA Headquarters is responsible for setting nationwide policy, and where Headquarters policy and local policy conflict, FAA Headquarters policy must prevail.

FAA Manager Frank Paskiewicz is one man whose job is to understand what the regulations say and what they do not say. Paskiewicz is responsible for setting policy and issuing guidance on the 8130-3 tag. In a recent meeting with ASA, Paskiewicz insisted that any FAA employee who described the 8130-3 as a required document was wrong.

Anyone who encounters an FAA field inspector who holds up a transaction because there is no 8130-3 tag should call the FAA at (202) 267-8361.

FAA Supports a Uniform Policy

Paciewicz insists, quite rightly, that there is no regulation requiring that any private sector person acquire an 8130-3 tag.

He said that he is considering the wisdom of issuing the form through DARs for parts held by distributors, because he understands the safety benefits associated such documentation; but the FAA must first deliberate over the issue before it can once again support that policy.

Paskiewicz also says he understands the commercial impact that the DAR-restriction will have on some distributors, and he is willing to help alleviate the problems caused by lack of 8130-

3 tags. While he feels the need to engage in fact-finding before he once again permits DARs to issue domestic 8130-3 tags for distributor-held parts, in the interim he is willing to back up the "no traceability required" policy when confronted by FAA Field Inspectors who say differently. All we have to do is get the FAA Headquarters on the phone.

This is not an ideal solution, because the industry seems to agree that use of the 8130-3 tag helped support safety through increased traceability. But at least the policy permits distributors to continue doing business in most cases until a final policy can be worked out.

You Can Help

Anyone in the industry who encounters an FAA field inspector, in the United States or elsewhere, who holds up a transaction because there is no 8130-3 tag should immediately call the FAA's Production and Airworthiness Certification Division (AIR-200) at (202) 267-8361. If their answer is not satisfactory, then call ASA at (202) 730-0270 to discuss the issue.

Exports

Exports appear to be a somewhat more complicated situation, because the exporter must be cognizant of the laws of both the exporting and the importing country.

In the United States, the FAA will issue export 8130-3 certificates for class II products. FAA usually does this through designees. A Class II product is a major component of an aircraft, engine, or propeller (e.g., wings, fuselages, empennage assemblies, landing gears, power transmissions, control surfaces, etc), the failure of which would jeopardize the

(Continued on page 112)

Contact FAA HQ to Report Issues That Arise in the Field

(Continued from page 111)

safety of an aircraft. Class II products also include any part, material, or appliance that is approved and manufactured under the Technical Standard Order (TSO) system in the "C" series.⁴

Class III products are everything else that is not an aircraft, engine, propeller, or class II product. Through a twist of the rules that is 35 years old and dreadfully outdated, only a manufacturer may obtain an export 8130-3 for a class III product. Originally, the FAA did not intend to issue export 8130-3 certificates for class III products at all; however a manufacturer asked for the privilege during the comment period on the rule, so manufacturers were granted the ability to apply for an export 8130-3 on class III products (it is still issued by the FAA, though).⁵

35 years later, the regulations still only permit issuance of an export 8130-3 on a class III product if it is held by the manufacturer (although some local practices appear to permit deviations). One important reason that the 8130-3 remains an optional form even for export purposes is that it is not available to all exporters - for example it is not generally available to any distributor who wants to export a class III product.

The United States has entered into reciprocal agreements with foreign nations that govern the import and export of aeronautical products and parts. These agreements are commonly called "bilaterals." The agreements provide for the mutual validation of appropriate products and parts through export airworthiness certificates. They are meant to permit governments to cooperate in assuring airworthiness of the aircraft that fly out of the party-nations. Issuance of the

8130-3 tag as an export document is performed to support the bilateral agreements that the United States makes.

The regulations do not require any person to acquire an 8130-3 as a prerequisite to export.

Sometimes, though, a foreign nation may decide that it will not permit imported parts from the United States to be deemed airworthy unless the parts are sent in conformity with the bilateral agreement. This is a matter left to the discretion of the importing country, over which the United States has no legal control.

The FAA does not mandate the 8130-3 tag as a requirement for exporting a part from the United States. No one should permit individual FAA employees to misstate this policy.

The fact that such decisions fall within the regulatory authority of the foreign government is important for two reasons. First, if a foreign government decides to restrict aircraft part imports only to 8130-3-tagged parts, then the United States cannot stop the foreign government from doing so. The foreign customer must comply with its own government's requirements.

Second, though, the FAA has no authority to require the 8130-3 tag in a foreign country. There are many stories told of FAA officials who apply pressure on a foreign government's aeronautical authority to make the 8130-3 an import requirement in that

nation. There are other stories told of FAA officials who tell foreign carriers that they must obtain an 8130-3. These sort of actions go beyond the scope of the FAA's power.

ASA was present at a meeting in Europe where the FAA insists to European carriers that they must obtain 8130-3 tags with all parts or their operating certificates will be revoked. This sort of heavy-handed approach does no good for anyone. European air carrier representatives often know the American regulations better than some FAA inspectors, so misquoting the regulations makes the United States Government look bad.

Once again, this can represent a dichotomy between official FAA policy and implementation in the field. The FAA does not mandate the 8130-3 tag as a requirement for exporting a part from the United States. No one should permit individual FAA employees to misstate this policy.

Nonetheless, no one likes to cross the government, so foreign carriers will often comply with the directives of an individual FAA employee rather than risk a fight over such issues. With no general method for distributors to obtain 8130-3 export certificates for class III products, this eliminates a significant measure of commerce that benefits the United States as well as the individual companies.

We can look forward to a time in the future when all parts will bear appropriate traceability documentation, but for now the FAA has rescinded the support structure to make the documentation available. ASA has spoken with the FAA about using the existing designees to issue these forms for demonstrably airworthy parts. Designated Airworthiness Representatives

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had this privilege in the past, but the policy was revoked without explanation. It may be quite some time before the FAA reinstates this policy.

If you feel that the 8130-3 is a useful form that should be issued by FAA designees for demonstrably airworthy parts, then by all means let the FAA know. Write a letter and fax it to the Frank Pasciewicz at the FAA at (202) 267-5580. Please make sure you send a copy to ASA, too, for our records.

In the mean time, it is important for companies to protect their commercial rights. The FAA has no regulation that requires an 8130-3 form in any transaction; and until the FAA is ready to fully support the form, it is important for distributors to insist on their right to export parts without the form.

Don't hesitate to call the FAA or ASA to report misstatements of the regulations by the FAA personnel who oversee our customers. Good government starts with us.

ENDNOTES

1. See Back to Birth Traceability, 6 The Update Report 133 (December 1998) and Back-to-Birth Traceability and Life-Limited Parts, 7 The Update Report 1 (January 1999) for exceptions, such as use of traceability to meet the "current status" requirements for life-limited parts.
2. See Airworthiness Designee Function Code and Consolidated Directory for DMIR/DFAR/ODAR/DAS/DOA and SFAR 36, FAA AC 183-35H (September 21, 1998) (e.g. Function Code 23); Airworthiness Designee Management Program, FAA Order 8130.28 ¶ 321(b)(1) (February 24, 1999).
3. AIR-200 Policy Memorandum 99-10 (September 10, 1999).
4. 14 C.F.R. § 21.321(b)(2).
5. See Export Airworthiness Approval Procedures, 30 Fed. Reg. 8464 (July 2, 1965).

OPPORTUNITY KNOCKS

Boeing Insulation

On October 28, Boeing disclosed to the FAA that insulation in the cockpit constituting part of the drip shield does not comply with FAA flammability regulations.

This is in the roofs of the cockpits of the 747, 757, 767, and 777 airplanes. Boeing has halted delivery of these airplanes until they can be brought into compliance with FAA regulations.

The FAA and Boeing are working to identify the impact on in-service airplanes. Once that has been determined, the FAA may require additional action to replace materials on the in-service aircraft.

Distributors with drip shield parts in their inventory will want to keep a close eye on this issue.

Find Source Documents on the Internet

Interested in one of the subjects addressed in this issue? Want to find out more? The source documents underlying many of the articles in this issue are available on the internet. Just set your browser for <http://www.airlinesuppliers.com/7tur.html#10>. This address features an index to the articles which will bring you to the original documents on the world wide web just by clicking on the description.

UPCOMING EVENTS

* = *ASA will be speaking there*

Nov. 15-18 * **NDIA DoD Maintenance Symposium**, St. Louis, MO. Call LMI for information at (703) 522-1820.
Dec. 7-9 **Aircraft Heavy Maintenance Conference**, The Forum Hotel, UK. Call (44) 171 931 7072 for information.

Coming up in the year 2000:

Jan. 24-26 **Commercial Aviation Lessors Workshop**, San Francisco, CA. Call Carol at (44) 1892 515364.
Jan. 24-26 **HELI EXPO 2000**, Las Vegas Convention Center, NV. Send a fax to (703) 683-0341 for more details.
Mar. 1-3 **US Regional Conference & Valuation Workshop**, Washington, DC. Call Carol at (44) 1892 515364.
Mar. 7-8 **FAA Aviation Forecast Conference**, Washington, DC. Call FAA at (202) 267-9943 for details.
Mar. 21-22 **Speednews Aviation Industry Suppliers Conference**, Los Angeles, CA. Call (310) 203-9603.
April 14-17 **Symposium 2000: ARSA Annual Repair Symposium**, Arlington, VA. Call (703) 739-9543.
April 17-19 **MRO 2000**, Opryland Hotel Convention Center, Nashville, TN. Fax for details: (212) 904-3334.
May 1-3 **RAA 2000 Annual Convention**, San Antonio, TX. Send a fax to (202) 429-5112 for details.
May 7-9 **ATA Engineering, Maintenance & Material Forum**, Phoenix, AZ. Call (202) 626-4000 for details.
May 7-10 **Aircraft Electronics Ass'n Convention & Trade Show**, Reno, NV. Call (816) 373-6565 for details.
May 9-11 * **PAMA/NATA Aviation Services & Suppliers Supershow**, Tampa, FL. Call (202) 730-0260
June 25-27 ** **Airline Suppliers Association**, Las Vegas, NV. More details available soon. See our website at <http://www.airlinesuppliers.com>. Call us at (202) 730-0270 to make sure you are on the mailing list.

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