

The UPDATE Report



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8130.21G Issues

A number of members and designees have already called ASA about issues that arise in the "G" revision of the 8130-3 tag instructions (FAA Order 8130.21G).

The "G" revision becomes effective April 14, 2010. This is also the date on which the new FAA export 8130-3 rules become effective. To the extent that there are problems with this guidance, it is imperative that these problems be addressed before that date.

ASA RESPONSE AND CALL TO ACTION

ASA issued a letter to the FAA explaining the situation, and has met with FAA management to ask for their help in addressing the industry's concerns. The FAA stated that it was not their intent to change the standards for applying for export 8130-3 tags (which are now uniform for all applicants) nor the standards for applying for domestic 8130-3 tags (which are found only in the Order, and not in the regulations). The FAA has pledged to take steps to ensure that airworthy parts in distributors' inventories continue to be eligible for 8130-3 tags just as they have been in the past.

We are recommending to our members and their designees that they closely review Order 8130.21 G and Order 8100.8C CHG 6. This article addresses some of the issues that ASA has already pointed out to FAA management. However, we need your help in identifying other areas in the Orders that need to be changed or clarified. The FAA has established a Question and Answer section for 14 CFR Parts 1, 21, 43, & 45 Amendments and Related Policy & Guidance, and has requested that questions be submitted through this website:

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MESSAGE FROM ASA'S PRESIDENT

THE UPDATE REPORT

is the newsletter of the Aviation Suppliers Association.

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Dear Colleagues,

The prime article in the newsletter is about the 8130-3 tag. The FAA has recently released a revision to Order 8130.21. There are some potential issues with the Order. We are in discussions with the FAA about the Order, so please share any additional concerns with Jason or myself. As FAA management said, it is not their intent to create any new obstacles for obtaining a domestic or export tag.

"No new obstacles" is a good policy, since promoting US exports has been stated as a major priority for the Obama administration. During the State of the Union address, President Obama pledged to double US exports over the next 5 years. Today he signed an Executive Order called the National Export Initiative. During a speech at the Ex-Im Bank's 2010 Annual Conference, President Obama and other high level representatives of his administration discussed the first steps they will be taking to support and promote exports. Several of the initiatives are focused on small businesses and they include Ex-Im Bank increasing access to capital for small businesses, expanding eligibility requirements, and credit insurance for receivables. ASA will keep you posted on the Ex-Im Bank's progress. At the 2009 annual conference Sharyn Koenig, Director of the Southeast Regional Office of the Ex-Im Bank, addressed the attendees. Her office handles companies located from Florida to South Carolina. Many members have already taken advantage of the Ex-Im Bank's support.

We have opened registration for the annual conference and will be mailing the brochure at the beginning of April. The conference will be held at June 26-29 at the Four Seasons Hotel Las Vegas. AFRA will also be holding its meeting June 28-30 at the same hotel. ASA registration includes free access to AFRA events, allowing distributors additional access to customers and suppliers.

Take care, Michele

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http://www.faa.gov/aircraft/air_cert/production_approvals/14cfr_amendments/QandA/qa_orders/. ASA has already submitted several of our issues through this mechanism, in order to make sure that FAA guidance is available on these key subjects before the April implementation date.

SUMMARY OF THE ISSUES

There are two major issues in 8130.21G that are likely to have the greatest effect on ASA members.

The first issue is a change that appears to make it impossible for distributors to obtain domestic 8130-3 tags. Under prior revisions to the Order, distributors that have demonstrably airworthy aircraft parts have been permitted to apply for domestic 8130-3 tags. The process for doing this is that they compile their documentation and other evidence of airworthiness and present it, with the part, to a FAA Designated Airworthiness Representative (DAR) with the appropriate function code. If the DAR agrees that the part meets all of the qualifications for domestic airworthiness (as described in the Order), then the DAR issues an 8130-3 tag for the part.

The "G" revision will remove language that permits accredited distributors to apply to DARs for domestic 8130-3 tags for demonstrably airworthy parts. Without that language, a DARs may feel that they will no longer have permission to issue domestic 8130-3 tags for parts in a distributor's inventory, even when the parts clearly meet the elements to demonstrate airworthiness.

The second issue is that the FAA has added confusing language that undermines the ability for distributors to follow FAA guidelines when they split bulk lots of parts. The "G" revision takes two different concepts related to lot splitting:

- lot splitting by using a designee to issue a new 8130-3, which was re-characterized as a supplemental 8130-3 in the 2004 "D" revision; and,
- lot splitting by providing a quality-assurance-controlled duplicate of the original 8130-3 tag according to FAA instructions (which replaced the designee-issuance in 2004);

and appears to merge them into a single set of instructions (the language in the general section makes it seem like the entire set of lot splitting guidance applies to supplemental 8130-3 tags). As a consequence, the section that previously provided distributors with guidance concerning how to split a bulk or lot shipment now does not read correctly, because it merges instructions for both forms of "lot-splitting" activities.

ISSUE ONE: DOMESTIC 8130-3 TAGS

The list of changes to the "G" revision makes it clear that the language permitting accredited distributors to apply for domestic 8130-3 tags has

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been removed. There is no reason given for this removal. More importantly, there appears to be no good policy reason for shutting off this mechanism for documenting airworthiness.

Under the new Part 21 revisions that become effective April 14, 2010, all exporters (including distributors) will have an opportunity to apply for 8130-3 tags for their demonstrably airworthy exports. But the rule was silent as to domestic 8130-3 tags, because domestic tags have always been creations of FAA policy (and not regulation). So the new rules do nothing to affect a distributor's opportunity to apply for an 8130-3 tags for a demonstrably airworthy article.

In prior versions of the FAA Order, FAA designees have been permitted to issue domestic 8130-3 tags for parts in the inventories of accredited distributors (according to standards established by the FAA). This is necessary because manufacturers frequently do not issue 8130-3 tags as 'birth records,' but air carriers, repair stations and other installers frequently require the 8130-3 tag as an assurance of airworthiness. Thus, it has become common for distributors to apply to DARs for 8130-3 tags to verify airworthiness on parts with PAH documentation (but with no 8130-3).

The instructions for this process were found in section 2-5 of the Order 8130.21F. In the "G" revision, the instructions permitting accredited distributors to apply for domestic airworthiness authorization tags have been removed. According to DARs with whom ASA has discussed the matter, the DARs are being told that they will no longer be allowed to issue 8130-3 tags for otherwise-airworthy parts held in the inventories of accredited distributors, once the AC goes into effect, because of the removal of "accredited distributors" from this section (section 2-5 in the "G" revision).

HISTORY

The idea of using DARs to issue 8130-3 tags at the facilities of accredited distributors was originally published in Notice 8130.70 (June 15, 2001). This Notice recognized that permitting distributors to apply to the FAA for 8130-3 tags for demonstrably airworthy articles would improve traceability and safety in the aircraft parts system. The Notice was issued, in part, based on the findings of the SUPS Paper Trail Team. The permission for accredited distributors to apply for 8130-3 tags was extended in Notice 8130.71 (June 14, 2002), and then it was later placed in Order 8130.21 in the "C" revision that was published on June 10, 2003.

The permission to apply to DARs was continued through the subsequent revisions to Order 8130.21. In the "F" revision, issued May 30, 2008, the scope of permission to apply was increased to add repair stations (Part 145) and air carriers (Parts 121 and 135) to this list of parties permitted to apply to a DAR for issue of a domestic 8130-3 tag.

In the "G" revision, the clause permitting domestic 8130-3 tags to be issued dropped the language permitting accredited distributors to apply to DARs, but incongruously retained the new language from the "F" revision permitting repair stations and air carriers to make such an application.

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Repair stations and air carriers have used the power to issue 8130-3 tags under 14 C.F.R. 43.9 to document an inspection to new condition, so they rarely if ever use the authority that is found in section 2-4 of the "G" revision (this was documented in 12(c) of Order 8130.21D, but it was removed from the "E" revision on the grounds that it was a redundant duplication of what is already in Part 43 of the FAA's regulations).

METHOD FOR ISSUING 8130-3 TAGS

Under prior revisions to the Order, distributors have presented to FAA Designated Airworthiness Representatives (DARs) evidence to show that an article meets the eligibility elements that the FAA has prescribed in past revisions:

- applicant has a quality system acceptable to the FAA
- article was received through the quality system
- article is traceable to a FAA-approved PAH
- article is currently airworthy (e.g. has not suffered damage or degradation since being released from the PAH's quality system)

Once the DAR has confirmed that the distributor was accredited, and that the article meets each of these above elements, the DAR would issue an 8130-3 tag for domestic airworthiness authorization for the article in question.

It is normal in the industry for DARs to be paid for their review function whether or not they issue a tag. This norm helps to ensure that the DAR is able to render an airworthiness decision free from undue influence (the 8130-3 tag documents the airworthiness decision), and helps to encourage companies to prepare their airworthiness documentation support package carefully before submitting it to a DAR.

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INDUSTRY NEED

As discussed in FAA Notice 8130.70, the 1999 Paper Trail Team recommendations included a recommendation that accredited distributors be permitted to apply to DARs for 8130-3 tags for demonstrably airworthy aircraft parts.

Traditionally, it has been the distributors in the industry that have obtained 8130-3 tags for parts that did not receive them when released from the manufacturer's facility. Many air carriers and repair stations have quality systems that rely on the 8130-3 tag, and that refuse to accept parts without such tags.

Air carriers and repair stations rely on distributors as important sources of airworthy aircraft articles. If distributors were not able to provide such articles with documentation that the air carriers and repair stations can rely upon (like 8130-3 tags) then this would lead to a cascade effect in which air carriers and repair stations might first attempt to obtain such documentation from production approval holders (this is traditionally more expensive and often the manufacturers may not sell in the small quantities that may be desired by an air carrier or repair station seeking to resupply). Experience has shown that aerospace manufacturers today do not have the stocking capabilities to support the air carrier and repair station community without relying also on stocking distributors. Therefore, the natural long-term effect of eliminating the ability for distributors to apply for the 8130-3 will be to leave air carriers and repair stations with no choice but to relax their documentation standards, and begin to once again accept aircraft articles with lower documentation standards than the industry currently enforces as commercial norms. This will have a correlative effect on the safety systems that have come to rely on robust aircraft article traceability.

ISSUE TWO: SPLITTING BULK SHIPMENTS WITH CERTIFIED TRUE COPIES OF 8130-3 TAGS

It frequently happens in the industry that a shipment of multiple units is shipped against a single 8130-3 tag. For example, a lot of 1000 fasteners might have a single 8130-3 tag. It would not make commercial sense for each fastener in the lot to have its own 8130-3 tag.

When a lot of parts is received by a distributor, though, distributors frequently sell the parts from such a lot in much smaller quantities. For example, the manufacturer might sell the fasteners in lots of 1000, but an air carrier may only wish to purchase 10 units. The air carrier cannot purchase them from the manufacturer (because the manufacturer sells the fasteners in lots of 1000) but the distributor can sell the parts in smaller lots.

In 8130.21F, section 2-7 described a mechanism for splitting such bulk (or lot) shipments. It required the party to follow procedures designed to protect the integrity of the lot and to permit auditors to

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be able to verify that the integrity of the lot remains intact (e.g., only the parts from the original lot are associated with the 8130-3 tag, and no other parts are sold in association with that 8130-3 tag). It did not require a new 8130-3 tag to be issued and in fact the distributor is not authorized to issue a new 8130-3 tag. Instead, the distributor would make a true copy of the original 8130-3 tag, and issue a written certifying statement concerning the copy and the number of parts associated with the copy (retaining file copies for auditor review).

This mechanism represents a norm within the industry (and the FAA has successfully increased the industry's standards by insisting on certifying statements and lot-traceability paperwork).

This mechanism for splitting bulk shipments is distinguished from the situation where a FAA designee splits a lot by issuing one or more new 8130-3 tags. This sort of procedure was described under section 10 of the "C" revision of 8130.21. Part of the confusion might be caused by the fact that this process (issuing new 8130-3 tags) was described as "splitting bulk shipments" in that revision level.

Beginning with the "D" revision, Order 8130.21 used the term "splitting of bulk shipments" to mean the splitting by a non-designee, and used the term "supplemental Form 8130-3" to describe new 8130-3 tags issued for any purpose (including designee-splitting of bulk shipments, replacement of lost forms, etc.).

Thus, the "G" revision appears to take us back to the "C" revision level, and loses much valuable guidance that has been developed since that revision level. It also retains elements that are valuable for splitting by a non-designee, but that are not necessarily valuable when a supplemental 8130-3 tag is issued.

In doing this, the "G" revision also removes guidance for a function that is going to be performed anyway by distributors, because there is no regulatory limit on the ability of a distributor to split a lot. Lot splitting and providing copies of the original documentation represents a common industry practice in the aviation industry and also in other industries. This would mean that the FAA is losing an opportunity to help guide this function in a positive way that promotes good safety and airworthiness practices.

The "G" revision also returns the industry to the apparent need to issue new 8130-3 tags when a bulk shipment is split within a production approval holder's associate facilities. Manufacturers had previously supported the change in the "D" revision, because often their bulk shipments are split at a warehouse level or at a distribution level at which no designees function (and at which designees may not be authorized to function), which can make it difficult to accomplish such splitting in a manner that is effective and efficient.

In order to continue to provide good guidance, and to eliminate confusion, ASA has requested that the FAA remove the supplemental 8130-3 language from section 2-7. 

New FTC Rule Requires ASA Members to Have Identity Theft Programs

Are you ready for the Red Flags Rule? If you extend credit to your customers, then you are likely to need to comply by June 1, 2010.

The Rule was promulgated under the Fair and Accurate Credit Transactions Act, in which Congress directed the Federal Trade Commission to develop regulations requiring "creditors" and "financial institutions" to address the risk of identity theft.

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The resulting Red Flags Rule requires all covered entities that have “covered accounts” to develop and implement written identity theft prevention programs to help identify, detect, and respond to patterns, practices, or specific activities – known as “red flags” – that could indicate identity theft.

ASA members that extend credit to their customers for the purchase of aircraft parts or for the performance of maintenance/alteration services are creating “accounts,” as that term is defined by the FTC. 16 C.F.R. § 681.2(b)(1)(i). If there is a reasonably foreseeable risk of identity theft then this is considered to be a “covered account.” 16 C.F.R. § 681.2(b)(3)(ii). ASA members with one or more covered accounts must develop a written identity theft program. 16 C.F.R. § 681.2(d).

The FTC has published a booklet, *Fighting Fraud with the Red Flags Rule: A How-To Guide for Business*, with advice on complying with the Rule. In addition, the FTC has created a form with step-by-step instructions on designing a Program for businesses and organizations at low risk for identity theft. There are also answers to frequently asked questions on the FTC website. ASA members can find these resources – and more – at <http://www.ftc.gov/redflagsrule>.

A company's Identity Theft Red Flags Program must include reasonable policies and procedures that accomplish the following goals:

- Identify relevant Red Flags for the covered accounts that the company offers or maintains, and incorporate those Red Flags into its Program;
- Detect Red Flags that have been incorporated into the company's Program;
- Respond appropriately to any Red Flags that are detected, to prevent and mitigate identity theft; and
- Ensure the Program (including the Red Flags determined to be relevant) is updated periodically, to reflect changes in risks to customers and to the safety and soundness of the company from identity theft.

The rules were originally scheduled to become effective in 2008, but extensions have pushed back the compliance date to June 1, 2010. 

TSA Security Rule Proposal

The Transportation Security Administration (TSA) has issued a long-awaited Notice of Proposed Rule Making (NPRM) entitled “Aircraft Repair Station Security; Proposed Rule.” This NPRM proposes regulations for part 145 repair stations to adopt and implement a standard security program and to comply with security directives issued by the TSA. While ASA members with Part 145 certificates will be directly affected, those members without repair station certificates should still pay attention to the rule because there is a strong likelihood that the rule could have secondary, or commercial, effects on distributors.

These rules have been a long time in coming. When Congress passed Vision 100 (Century of Aviation Reauthorization Act), that new law required TSA to issue “final regulations to ensure the security of foreign and domestic aircraft repair stations” by August 8, 2004. The stated purpose of these regulations was to ensure that all repair stations would have security programs to prevent terrorists from using them as a means to sabotage aircraft. TSA did not meet that Congressional deadline for issuing the new repair station security rules.

Congress tried to motivate TSA to act on repair station security by setting a new deadline in the 9/11 Commission Act. That Act required that the final rule on repair station security be issued by August 3, 2008. TSA did not meet that deadline, either.

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The recent NPRM takes TSA one step closer to meeting the Congressional mandate for repair station security rules.

The proposed regulations seek to address a number of important subjects that will be part of the security program. Under the rule as proposed, repair stations will be required to adopt and carry out a standard security program according to directives issued by TSA. The proposed rule would make it clear that TSA has security inspection authority in repair stations, and they will require repair stations to allow TSA and Department of Homeland Security (DHS) officials to enter, inspect, and audit the repair stations' property and facilities. The proposed regulations would require repair stations to permit the TSA to inspect and audit their facilities to assess threats to aviation security, and give repair stations 90 days to correct any security

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deficiencies that the TSA may note. Repair stations would also be required to follow TSA security directives as they are issued.

The proposed rule would also establish a set of processes to notify the FAA if a repair station has not corrected security deficiencies identified in a TSA audit. The FAA would be required to take action in order to punish repair stations for non-compliance.

The TSA, while requiring that all part 145 repair stations adopt and implement a security program, recognizes that a "one size fits all" approach is not appropriate. In particular, the TSA determined that repair stations that are located on or adjacent to an airport pose a higher security risk. Thus, those repair stations located on or adjacent to an airport would be required to adopt a more specific and stringent security program. Additionally, the TSA has recognized that aircraft with a maximum certificated take-off weight (MTOW) of 12,500 pounds or more ("Large Aircraft") pose a greater risk to security because they are of sufficient size and weight to do significant damage. Thus, the TSA may consider exempting repair stations that only perform maintenance on aircraft that are 12,500 MTOW or less ("Small Aircraft") from the security program requirements. Further, the TSA would not apply its requirements to any FAA certificated repair station at which the Federal Government has assumed responsibility for security measures (such as a U.S. military base).

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To comply with the proposed rule, each repair station would need a security program that includes:

1. a description of measures used to identify individuals who are authorized to enter the repair station;
2. a description of the measures used to control access to the repair station and to detect and prevent the entry of unauthorized individuals into the repair station;
3. a description of the measures used to control access to the aircraft and/or aircraft components;
4. a description of the measures used to challenge individuals entering the repair station to ascertain their authority to enter the repair station and escort measures for authorized visitors while within the repair station;
5. a description of the measures used to train all authorized individuals on the security program;
6. a description of the measures used to verify employee background information;
7. the name, contact information, duties, and training of a designated security coordinator to serve as the primary contact with the TSA;
8. a contingency plan;
9. a diagram with dimensions detailing the boundaries and pertinent physical features of the repair station;
10. a list and description of all entry points; and
11. an emergency response contact list.

A repair station's security program would also have the following additional requirements. First, the security program must be in writing, and must be written in English and the official language of the repair station's country. Second, the operator, owner, or other authorized person must sign the security program. Finally, repair stations would not be required to submit the security program to the TSA, but must make the security program available to the TSA upon request or during a TSA inspection (which would mean that the program would have no imprimatur of TSA acceptance or approval if at the time of inspection the program failed to meet a TSA inspector's personal interpretation of what the program should look like).

The proposed rule would also require each repair station to complete a TSA profile and submit it to the TSA. The TSA would utilize this profile to assess the risks of a repair station and establish the priority by which repair stations would be inspected. Such a repair station profile would have to include repair station identification (FAA certificate number, repair station name and address), whether the repair station is located on or adjacent to an airport (and if on an airport, the airport's name and three letter designator), the identity of the safety coordinator who serves as the TSA point of contact, the total number of employees, and the number of employees authorized unescorted access to Large Aircraft. The new rules would also require, repair stations to update their profile information within 30 calendar days of a change, requiring frequent updates for personnel changes. 

FAA Has Released New Documents

The FAA has released new UPNs. Below is a list of companies associated with the UPN. Click on each company name below to read more. [CLICK HERE](#) for a link to the FAA homepage regarding all UPNs.

Electrocube

http://www.faa.gov/aircraft/safety/programs/sups/upn/media/2010/upn_2010-20090623001.pdf

Isolair, Inc.

http://www.faa.gov/aircraft/safety/programs/sups/upn/media/2010/upn_2010-20080616008.pdf

CALENDAR OF EVENTS

Industry Events

- April 20-22, 2010 **MRO Americas**
Phoenix, AZ
- May 5-6, 2010 **Airline Purchasing & Maintenance EXPO**
London, UK
- June 27-29, 2010 **ASA 2010 Annual Conference**
Las Vegas, NV

Workshops

- March 17, 2010 **REGULATORY WORKSHOP**
Los Angeles, CA
- April 19, 2010 **REGULATORY WORKSHOP**
Phoenix, AZ
- May 13-14, 2010 **HAZMAT WORKSHOP**
Los Angeles, CA
- May 19-20, 2010 **HAZMAT WORKSHOP**
Miramar, CA
- July 14-15, 2010 **HAZMAT WORKSHOP**
Chicago, IL
- August 2-3, 2010 **HAZMAT WORKSHOP**
Washington, DC

CONTACT US!

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

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