



**Correcting an Important Omission in FAA Order 8100.8D**

Submitted to the FAA via email at [james.seipel@faa.gov](mailto:james.seipel@faa.gov) and FedEx Overnight Service

**Submitted by the  
Aviation Suppliers Association  
2233 Wisconsin Ave, NW, Suite 503  
Washington, DC 20007**

**For more information, please contact:  
Jason Dickstein  
General Counsel  
(202) 347-6899**



**Aviation Suppliers Association**  
2233 Wisconsin Ave, NW, Suite 620  
Washington, DC 20007  
Voice: (202) 347-6899  
Fax: (202) 347-6894

**Info@aviationsuppliers.com**

**Respond to: Jason Dickstein**  
**Direct Dial: (202) 628-6776**  
**Jason@washingtonaviation.com**

### **Correcting an Important Omission in FAA Order 8100.8D**

Submitted to the FAA via email at james.seipel@faa.gov and FedEx Overnight Service  
March 5, 2012

James Seipel, Acting Manager  
Production and Airworthiness Division, AIR-200  
Federal Aviation Administration  
950 L'Enfant Plaza SW (Fifth Floor)  
Washington, DC 20024

Dear Mr. Seipel:

We are writing to make you aware of an issue concerning the recent changes to FAA Order 8100.8 (the "D" revision). It appears that there was an unanticipated omission of language that is having an effect on safety in air commerce, by restricting the ability of DARs to issue 8130-3 tags where they are needed. We would appreciate it if you examine this issue and work with us to correct it expeditiously.

### **Contents**

Summary of the Issue.....	2
Background.....	2
The Details of the Issue.....	3
Consequences of the Current Language .....	4
Recommended Resolution .....	5
Conclusion .....	6
Recommended Draft Corrective Action .....	7

## Summary of the Issue

Recent changes to FAA Order 8100.8D are being interpreted to preclude Manufacturing DARs (DAR-Fs) from issuing 8130-3 tags for demonstrably airworthy parts that are located at the facilities of distributors.

This is based on language in the recent republication of FAA Order 8100.8D. The language omitted certain provisions that permitted DAR-Fs to issue 8130-3 tags at distributor facilities.

This change undermines FAA policies for promoting the use of the 8130-3 tag. It undermines safety by eliminating a review and documentation that helps to ensure safety. It also interferes with existing norms and business relationships between aircraft parts distributors and FAA DARs.

We are asking for the FAA to issue a "change one" to FAA Order 8100.8D that would replace the appropriate language in the Order in order to permit the existing review and documentation patterns to continue.

## Background

Our Association and its members have been working for many years with the FAA to promote the use of 8130-3 tags to identify airworthy aircraft parts.

It is very common for distributors to obtain aircraft parts that bear indicia of airworthiness, but that do not bear an 8130-3 tag.

One of the ways that distributors support the FAA's desire to promote the common use of the 8130-3 tag is by actively obtaining 8130-3 tags for parts that do not bear such tags. These tags are issued to parts by FAA DARs following inspection and document review. The inspection and document review confirms that the part meets the appropriate FAA airworthiness standards and is eligible for an 8130-3 tag.

The availability of the 8130-3 tag has become very important to the industry for a number of reasons. One reason is because many Part 119 air carriers have provisions written-into their FAA-approved and/or FAA-accepted manuals that require the 8130-3 tag as a condition of their receiving inspection. Such air carriers often cannot accept a part without an 8130-3 tag (even if it bears other indicia of airworthiness) without violating the requirements of their own manuals.

Over the past decade, the FAA has established policies that permit Manufacturing DARs (DAR-Fs) and Maintenance DARs (DAR-Ts) to examine a part and its documentation, and where a finding of airworthiness can be made based on this examination, to issue an 8130-3 tag to document that finding.

Originally, these DAR functions were performed under function code 8 for DAR-Fs and function code 23 for DAR-Ts.<sup>1</sup> Although DAR-F functions are normally limited to PAH facilities, the FAA made a special exception that permitted DAR-Fs to issue 8130-3 tags for aircraft parts at independent distributor facilities (NOT at the PAH facility). When this privilege was first issued, the FAA highlighted the fact that this was an exception to the normal rule (under which DAR-Fs usually work exclusively at PAH facilities).<sup>2</sup>

Later, the FAA recognized that the function of issuing domestic 8130-3 tags and the function of issuing export 8130-3 tags required the same skills and the FAA merged the authority for DARs to issue both domestic and export 8130-3 tags under one function code for each type of DAR. This led to both forms of 8130-3 tags being issued under function code 20 for DAR-Fs and function code 32 for DAR-Ts (these function codes had previously been limited only to export tag privileges).

This change happened as the FAA was issuing new regulations that eliminated an earlier restriction on non-manufacturers obtaining "class III" export 8130-3 tags. While the restriction existed, distributors obtained "class III" export 8130-3 tags under an exemption from the regulations, which is why earlier versions of Order 8100.8 made reference to an exemption.<sup>3</sup>

While the exemption still technically exists, it was made moot by the 2009 recodification of Part 21, which eliminated the bar against non-manufacturers obtaining "class III" export 8130-3 tags (and also eliminated the class distinctions, as well). This change permitted distributors to apply directly to the FAA (through DARs) for export 8130-3 tags. Now, distributors are permitted to apply for both domestic and export 8130-3 tags and they no longer need an exemption.

What they do need, however, is a function code that authorizes DARs to be able to review parts held by distributors, make a finding of airworthiness where appropriate, and document this finding by issuing an 8130-3 tag.

## The Details of the Issue

Recent changes to FAA Order 8100.8D are being interpreted to preclude Manufacturing DARs (DAR-Fs) from issuing 8130-3 tags for demonstrably airworthy parts that are located at the facilities of distributors.

We have been informed that this interpretation is being taught to DARs at DAR training at the FAA Academy. As a consequence, manufacturing DARs are being taught that they can no longer continue to use their function codes in the way that they have become used to using them.

---

<sup>1</sup> See, e.g., Procedures for Completion and Use of the Authorized Release Certificate, FAA Form 8130-3, Airworthiness Approval Tag, FAA Notice 8130.70 (June 15, 2001) (permitting the issuance of 8130-3 tags for airworthy parts located at independent distributor facilities).

<sup>2</sup> Id. at ¶ 5(b) NOTE (stating that "in order to ensure adequate DAR resources to support the activities authorized under this notice, these domestic airworthiness approvals may be issued by either manufacturing or maintenance DARs").

<sup>3</sup> E.g. Designee Management Handbook, 8100.8C Chg 1 ¶ 1407(a)(10) (Feb. 15, 2008).

The reason for the change appears to be based on the reorganization of the functions codes. We are not aware of any policy change that motivates this change in the language ... it appears that the change is a clerical error.

The recently-replaced FAA Order 8100.8 C read:

*20 Issue original/recurrent export airworthiness approval under the provisions of 14 CFR Part 21, subpart L, for articles manufactured in accordance with 14 CFR part 21. Individual DARs must be employed by an applicant who is the PAH of the articles being exported, and/or when the applicant meets the provisions of Note 2 below.*

***NOTE 1: DARs may be full-time, part-time, or contract employees of a PAH.***

***NOTE 2: This authorization includes export airworthiness approvals for articles located at a non-PAH distributor operating under an exemption to § 21.323(b)(2).***

Now however, the description of function code 20 in 8100.8D, Table 15-2 states:

20	<i>Issue original/recurrent export airworthiness approvals for articles manufactured in accordance with 14 CFR part 21. Individual DARs must be employed by an applicant who is the PAH of the articles being exported.</i>	<i>DARs may be full-time, part-time, or contract employees of a PAH.</i>
----	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------

As you can see, the language about function code 20 being the appropriate function code to use (when a manufacturing DAR examines an aircraft part at a distributor facility and issues the 8130- tag for that part) has been removed. In fact, the new language (with the note removed) seems to imply that a manufacturing DAR cannot issue an 8130-3 tag at a distributor facility.

This appears to be an error of omission. We are not aware of any policy decision by the FAA that would support this change, so it appears clear that this was a simple clerical error. In order to correct this clerical error, we recommend that additional language be added to the description of function code 20. In light of the fact that recent FAA policy has been to permit all distributors to apply for 8130-3 tags, not just AC 00-56 accredited distributors (making the exemption moot), it would be appropriate to broaden the language of the prior note (to remove the reference to the exemption). Such broader language would also be consistent with current industry practice (in which certain DAR-Fs support the distribution community and also with the current regulations (14 C.F.R. § 21.327 now permits any person to apply for an export approval).

## Consequences of the Current Language

This new language in 8100.8D reflects a change in FAA practices. We have been informed that DARs are just learning about the "change" in DAR training classes.

This new language creates a disconnect in the regulations - there is a privilege that persons enjoy under the regulations (obtaining 8130-3 tags when authorized) that would not be supported by the FAA in certain places if manufacturing DARs were precluded from issuing 8130-3 tags for demonstrably airworthy parts.

14 C.F.R. § 21.327 permits "any person" to apply for an airworthiness approval. Failure to correct the new language in 8100.8D would mean that manufacturing DARs are precluded from supporting the "any person" language of 21.327. FAA operational norms preclude FAA employees from being available to issue airworthiness approvals for parts in most cases. Thus, a failure to correct this language would mean that in locations that previously relied on DAR-Fs to issue 8130-3 tags, the FAA would be unable to meet its 21.327 obligations unless it allocated resources in FAA offices to being able to issue airworthiness approvals to applicants.

Therefore, it is in the FAA's and industry's best interests to extend the practice of permitting DAR-Fs to issue 8130-3 tags for demonstrably airworthy parts held in a distributor's inventory.

## **Recommended Resolution**

We recommend that the FAA first issue a deviation memo and then subsequently issue an 8100.8D Change One document that incorporates all of the deviation memoranda intended to be incorporated (including also the February 28, 2012 deviation memo on the use of Form 8110-14).

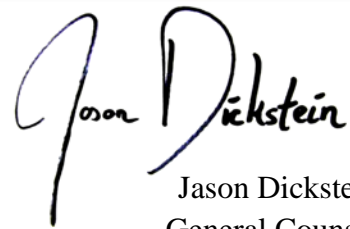
We have provided a recommended form for a deviation memo, which in turn would establish language for the later revision to Order 8100.8. The language is found on the last page of this letter, after the signature line.

## Conclusion

We request that you issue guidance correcting this issue, consistent with FAA past practice.

Your consideration of this issue is greatly appreciated.

Respectfully Submitted,

A handwritten signature in black ink that reads "Jason Dickstein". The signature is written in a cursive style with a large initial "J" and "D".

Jason Dickstein  
General Counsel  
Aviation Suppliers Association

# Memorandum

## Recommended Draft Corrective Action

Date: \*\*\*\*\*

To: All Manufacturing Inspection District Offices

From: James Seipel, Acting Manager, Production and Airworthiness Division, AIR-200

Prepared by: \*\*\*\*\*

---

Subject: INFORMATION: Deviation to FAA Order 8100.8D for continued use of DAR-F function code 20 authority for issue of Form 8130-3 at distributor facilities

This memorandum provides guidance concerning a deviation to FAA Order 8100.8D, Designee Management Handbook, paragraph \*\*\*\* to allow manufacturing Designated Airworthiness Representatives (DAR-F) with function code 20 authority to continue to use that authority

When the function codes were moved from the text of the Order (in revision "C" of the Order) to an appendix at the end of the Order (in revision "D" of the Order) a note permitting the use of Function Code 20 for the issue of export airworthiness approvals for articles located at a non-PAH distributor operating under an exemption to § 21.323(b)(2) was deleted.

The referenced exemption still exists. In addition, however, the exemption has been mooted by new regulatory language permitting all exporters to apply for issue of Form 8130-3 (issue of the form, however, still requires the application to meet FAA requirements).

The original policy reasons for permitting DAR-Fs to issue Form 8130-3 outside of a PAH facility have not changed, and the U.S. industry relies on this function in order to obtain evidence of airworthiness that meets U.S. obligations under certain bilateral agreements. For these reasons, the language of function code 20 should not have precluded its use outside of a PAH facility.

The description of function code 20 in 8100.8D, Table 15-2, should be read as if it stated:

20	<i>Issue original/recurrent export airworthiness approvals for articles manufactured in accordance with 14 CFR part 21.</i>	<i>DARs may be full-time, part-time, or contract employees of a PAH, or they may provide service to any person entitled to make application under 14 C.F.R. § 21.327.</i>
----	-----------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------

This memorandum does not grant additional authority to any DAR-Fs whose function code 20 authority was explicitly limited to preclude issuing Form 8130-3 outside of a PAH location.



This memorandum will be added to the guidance on FAA Order 8100.8D in the FAA Regulatory and Guidance Library and this amendment will be incorporated into the next change or revision to the order.

If you have any questions, please contact \*\*\*\*\*, at (202) 385-\*\*\*\*.