

Government Affairs Update

Aviation Regulations and Policy

Agenda

- **Part 145: How Does It Affect Distributors?**
- **ICAs**
- **DARs signing 8130-3 tags**
- **EASA “Supplier Control” and Accreditation**

Part 145

New Proposed Rule

How Does it Affect Distributors?

Proposed Change

- A Proposed Change to Part 145 would alter the ratings system
- The comment period remains open through August 20, 2012
- This presentation only illustrates some sample issues, and is not a complete review of the changes

Current	Proposed
<p>Airframe Class:</p> <ol style="list-style-type: none"> 1. Composite Small 2. Composite Large 3. All-Metal Small 4. All-Metal Large 	<p>Airframe Category:</p> <ol style="list-style-type: none"> 1. Aircraft certificated under part 23 or 27. 2. Aircraft certificated under part 25 or 29. 3. All other aircraft.
<p>Powerplant Class:</p> <ol style="list-style-type: none"> 1. Reciprocating Engines of 400 HP or less. 2. Reciprocating Engines of more than 400 HP 3. Turbine Engines. 	<p>Powerplant Category:</p> <ol style="list-style-type: none"> 1. Reciprocating engines. 2. Turbine engines. 3. Auxiliary Power Units. 4. All other powerplants.
<p>Propeller Class:</p> <ol style="list-style-type: none"> 1. All Fixed and Ground-Adjustable 2. All other propellers. 	<p>Propeller Category:</p> <ol style="list-style-type: none"> 1. Fixed-pitch and ground-adjustable propellers. 2. Variable-pitch propellers. 3. All other propellers.

Current	Proposed
Radio Class: 1. Communication. 2. Navigation. 3. Radar.	Component.
Instrument Class: 1. Mechanical. 2. Electrical. 3. Gyroscopic. 4. Electronic.	
Accessory Class: 1. Mechanical. 2. Electrical. 3. Electronic.	
Limited Rating Specialized Service.	Specialized Service.
Limited Ratings (§ 145.61(b) lists 12 possible limited ratings).	Eliminated.

ASA Members Use Repair Stations

- They rely on repair stations to overhaul rotatable components
- They rely on a reasonably transparent system that permits them to know when a repair station is eligible to do the work
- They rely on a system that does not impose unnecessary hurdles to market entry
 - Such hurdles inhibit the marketplace and increase overhaul prices

Component Proposal

- **Component rated repair stations would have a list of eligible components on the operations specifications**
- **An amendment or addition would require an application and change to the operations specifications**
 - Not just a change to the capability list
- **The new process for changing op specs imposes time limits on the repair station but not on the FAA!**

Capabilities Lists

- Capabilities lists will have to be approved by FAA, and all changes will have to be FAA approved
- FAA may delegate self-approval of capabilities lists as an op spec
 - There are no standards for issuing this op spec so the FAA may deny such a request arbitrarily

Current Standard of Performance

- Under 14 C.F.R. 43.9, a repair station approves a product or article for return to service *with respect to the work performed*.
- The repair station does not sign for the airworthiness of work it does not control.

New Standard of Performance

- “A certificated repair station must establish and maintain a quality control system acceptable to the FAA that ensures the airworthiness of the articles on which the repair station or any of its contractors performs maintenance, preventive maintenance, or alterations.”
- This will increase the liability (and the cost of insurance) for repair stations

Questions?

Instructions for Continued Airworthiness

Changes and Trends

ICAs

- **Instructions for Continued Airworthiness (ICAs) are the maintenance instructions that design approval holders are required to produce and make available**
- **These are becoming more relevant to distributors because Commercial Parts Lists (CPLs) will be found in ICAs**
- **CPLs will be the only way to distinguish certain approved/unapproved parts**

ICA Law in a Nutshell

- **Design approval holders (DAHs) must produce ICAs**
 - Appendices provide the minimum standards
- **DAHs must have a method for distributing ICAs and amendments**
 - Method is subject to FAA review
- **DAHs must make ICAs & amendments available to those required to comply**
 - Antitrust law provides some guidance on availability

Major Industry Issues

- **ICA Intellectual Property Rights**
 - Copyright and trade secret law
 - Many manufacturers found that IP rights didn't get them where they wanted to be
- **ICA Licenses**
 - Can provide more 'rights' than IP
 - Overreaching risks antitrust infringement

Major Industry Issues

- ICA contents
 - Some manufacturers have removed repairs from the ICAs, and have recharacterized them as ‘proprietary’
 - Is the remaining ICA still sufficient to meet the regulatory requirements?
 - As manufacturers increasingly move into maintenance and alteration, there is a conflict between their commercial desires and their ICA obligations

ICA Licenses Cannot Be Illegal

- **FAA issued Policy Statement PS-AIR-21.50-01**
- **Guidance forbidding ICA licensing agreements that:**
 - **Violate U.S. competition laws**
 - **Conflict with other FAA approvals**



Federal Aviation Administration

Memorandum

Date: MAR 23 2012
 To: See Distribution List
 From: David W. Hempe, Manager, Aircraft Engineering Division, AIR-110
 Prepared by: John Cerra, Engineering Procedures Office, AIR-110
 Subject: Policy Statement, PS-AIR-21.50-01: Type Design Approval Holder Inappropriate Restrictions on the Use and Availability of Instructions for Continued Airworthiness
 Memo No: AIR-100-11-100-002
 Regulatory Reference: Title 14 of the Code of Federal Regulations (14 CFR) 21.50
 Policy Reference: Order 8110.54A, *Instructions for Continued Airworthiness*

Summary

This policy statement addresses actions taken by some Type Certificate (TC) and Supplemental Type Certificate (STC) Design Approval Holders (DAHs), hereafter referred to as DAHs, to inappropriately restrict the availability, distribution, and use of Instructions for Continued Airworthiness (ICA) through restrictive language in the ICA or through restrictive access or use agreements. This guidance is intended to help:

- 1) FAA employees determine whether DAH actions for distributing ICA meet the intent of Title 14 Code of Federal Regulations (14 CFR) 21.50(b), and
- 2) DAHs determine whether their practices meet the intent of the CFR.

Background

ICA constitute only those maintenance instructions recommended by a DAH in compliance with the airworthiness standards (e.g., 14 CFR 23.1529, 25.1529, 27.1529, 29.1529, 31.82, 33.4 and 35.4) that are acceptable to or approved by the FAA to maintain a type certificated product in an airworthy condition. Section 21.50(b) requires the DAH to "furnish at least one set of complete instructions for Continued Airworthiness to the owner of each type aircraft, aircraft engine, or propeller Thereafter, the holder of a design approval must make those instructions available to any other person required ... to comply with any of the terms of those instructions." The same

for Continued Airworthiness shall be made by of those instructions." 2

and distribution of the information. The scope of who ICA is distributed by the FAA to perform maintenance on may require that ICA be made available to maintenance, maintenance, or comply with the terms of ICA.

to make ICA available to a person. It outlines the criteria that must be met by the distributor. For example, if a distributor provides maintenance for an aircraft, the necessary ICA directly from the owner/operator can be provided by the provider could then

When the ICA is rated or not, the provider may obtain the necessary FAA approval required to provide upon

3
 If an owner/operator from distributing ICA, therefore, it is not acceptable for a DAH to use agreements, or by adding restrictive language to the ICA with respect to the

4
 If the FAA will not accept the use of use agreements that have determined the ICA are replacement parts, articles, or

5
 restrictive language in the provisions of 14

6
 replacement by the the DAH close

articles, to their maintainers.

International Harmonization

- **EASA was working on ICA issues**
 - Recognized that these affected US and Canada and invited them
- **FAA has been working with EASA and TCCA on international ICA guidance**
 - They kicked industry out of the meeting while they got their act together
 - Now, they are ready to re-involve industry

Future Plan

- Task groups will be assigned to address specific issues
 - Final issues are still subject to authority discussion
- EASA is drafting Terms of Reference (ToRs) for each task to clarify its scope

Possible Tasks

- **Task 1:** What should be in the ICAs
 - What are the limits of the ICAs (what is not ICAs)?
- **Task 2:** To whom should ICAs be available?
- **Task 3:** Guidance for the MRB Process
 - initial minimum maintenance requirements
- **Task 4:** How should one authority treat ICAs accepted by another?
- **Task 5:** What will be the authority-to-authority validation process?

Questions?

DARs Signing 8130-3 Tags

Ensuring the Continuation of the
Program

DARs and 8130-3s in a Nutshell

- Designated Airworthiness Representatives (DARs) perform functions related to issue of certificates for FAA, including testing in support of issue
- DARs issue FAA 8130-3 tags for airworthiness identification
 - The tag does not make the part airworthy, it merely records the finding of airworthiness

DARs and 8130-3s in a Nutshell

- **DAR must have personal authority to act (e.g. the right function code from Order 8100.8)**
- **DAR must have FAA instructions to make a finding (e.g. Order 8130.21G)**
- **DAR must find that the part is airworthy:**
 - meets the FAA-approved design data and
 - is in a condition for safe operation

Issue

- The latest revision of FAA Order 8100.8 **REMOVED** the authority for Manufacturing DARs to issue 8130-3 tags for demonstrably airworthy parts in a distributor's possession

Solutions

- ASA reminded the FAA of the history of this privilege
- ASA suggested that the removal is likely to have been inadvertent and should be remedied:
 - Short term remedy: a deviation memo
 - Long term remedy: an amendment to the next revision of 8100.8



Federal Aviation Administration

Memorandum

MAY 31 2012

Date: All Manufacturing Inspection Offices
To: Terry Allen, Acting Manager, Production and Airworthiness Division, AIR-200
From: [Signature]

Prepared by: Airworthiness Certification Branch, AIR-230

Subject: INFORMATION: Deviation to FAA Order 8100.8D DAR Function Code 20

This memorandum authorizes a deviation to FAA Order 8100.8D, Designee Management Handbook, Table 15-2, function code 20, to allow manufacturing Designated Airworthiness Representatives (DAR-F) to issue original/recurrent export airworthiness approvals without being an employee of the production approval holder (PAH) of the articles being exported. A DAR-F operating under this deviation may exercise this privilege to any person entitled to make application under § 21.327, including distributors.

FAA Order 8100.8D, Designee Management Handbook, was released in October 2011 with changes in various DAR-F function codes reflecting recent changes to Title 14, Code of Federal Regulations, Part 21. Function code 20 was edited as part of this task resulting in a restriction on DAR-Fs from issuing export airworthiness approvals for articles located at other than a PAH facility. This was not the intent of the change to function code 20.

Manufacturing managing offices exercising this deviation will add a note in the general comment section of the designee's Designee Information Network (DIN) record. A new electronic Certificate of Authorization (eCOA) is not required. A new eCOA with a comment for function code 20 will be generated with the next designee renewal.

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

If you have any questions, please contact the Airworthiness Certification Branch, AIR-230, at (202) 385-6346.

Deviation Memo

- The change was inadvertent
- DAR-Fs with Function Code 20 can issue 8130-3 tags for parts in any person's possession (including distributors)
- No change to the DAR's eCOA is necessary now; at next renewal, the DAR's eCOA should include a comment for the function code 20 authority

Questions?

Notice of Proposed Amendment: EASA Supplier Oversight

Background

- Europe has had a long-standing action item to examine distributor oversight and control
- ToR/Workgroup 145.017
- NPA 2012-03. “*Control of suppliers of components and material used in maintenance.*”

Movements Within the Rules

- The segregation and documentation requirements of EASA 145.A.42(a) would remain unchanged, but they would be moved to EASA 145.A.42(e)
- This would make room for a new EASA 145.A.42(a)

EASA 145.A.42 (a)

- New text
- *(a) The organisation shall establish procedures for the acceptance of components and material.*

EASA 145.A.42 (a)

- *(a) The organisation shall establish procedures for the acceptance of components and material.*
- A request for such procedures is already found in the advisory material, which establishes this as an element of the Maintenance Exposition

New AMC 145.A.42 (a)

- **AMC 145.A.42 (a) Acceptance of components**
- The procedures for acceptance of components should have the objective of ensuring that the supplied components and material are in satisfactory condition and meet the organisation's requirements. These procedures may be based upon:
 - 1) incoming inspections which include:
 - physical inspection of components and/or material;
 - review of accompanying documentation and data, which should be acceptable in accordance with 145.A.42(e).
 - 2) supplier evaluation and control.

New AMC 145.A.42 (b)

- The organisation should establish a procedure to determine the eligibility of a component before installation. Such procedure should specify how the organisation:
 - is satisfied that the component is in satisfactory condition and has been appropriately released,
 - ensures compliance with the applicable Critical Design Configuration Control Limitations,
 - ensures that the installation of the component is not prohibited by an Airworthiness Directive, and
 - determines that the component meets the required modification status. This may be accomplished by reference to the manufacturer's parts catalogue or other approved data (i.e. Service Bulletin).

GM 145.A.42 (b)

- 1. The EASA Form 1 identifies the airworthiness status of an aircraft component in relation to the work being certified. Block 12 'Remarks' on the EASA Form 1 in some cases contains vital airworthiness related information (see also Part-M Appendix II) which may need appropriate and necessary actions.

GM 145.A.42 (a)(1)

Elements and procedures to identify during supplier' audits:

- Access to regulations, specifications and standards;
- Training and competency assessment;
- Shelf-life control;
- ESD;
- Source identification;
- Purchasing (including documentation);
- Receiving inspection;
- Measuring equipment control and calibration;
- Adequate storage;
- Packing and shipping;
- SUPs detection and reporting;
- Scrap parts
- Batch splitting;
- Customer notification of non-conformities;
- Recall control;
- Self-audit.

GM 145.A.42 (a)(2)

- Suppliers certified to officially recognised standards that have a quality system that includes the elements specified in 1) may be acceptable; such standards include:
 - a. EN/AS9120 and listed in the OASIS database;
 - b. ASA-100;
 - c. EASO 2012;
 - d. FAA AC00-56.
- The use of such suppliers does not exempt the organisation from its obligations under 145.A.42 to ensure that supplied components and material are in satisfactory condition and meet the applicable criteria of 145.A.42(e).

Questions?

Thank You

Jason Dickstein, ASA Counsel
Washington Aviation Group, PC
2233 Wisconsin Avenue, Suite 503
Washington, DC 20007

Tel: (202) 628-6776 – Fax: (202) 628-8948
Jason@WashingtonAviation.com