



News from the Hill

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EASA & ODA: Changes in Europe and Delegated Privileges Could Provide Both Challenges and Opportunities for AEA Members

This month's column focuses on two issues, and also includes some brief warnings about upcoming issues.

First, the FAA has proposed a new rule for handling delegation of FAA authority which could be a real benefit to AEA members using DERs to approval data associated with major repairs and alterations.

Second there is a new sheriff in Europe, and his name is EASA. EASA will be the European equivalent to the FAA but the twist is that EASA will oversee the work done by all of the member nations of the European Community—this creates both complications and opportunities for American businesses seeking to do business in Europe.

Skip to the end of the article for some short thoughts on upcoming government initiatives.

Why is the FAA Changing the Delegations Rules?

In the March issue, AEA's Vice President of Government and Industry Affairs, Ric Peri, noted that the Organization Designation Authorization (ODA) procedures have been published for comment and that comments are due May 20, 2004. This new rule could be very important to AEA members, because it could represent the

future of how we interact with the FAA as a regulatory approval body.

Because of increasing workload and limited manpower, the FAA now relies heavily on persons with delegated authority, like DERs. A 1993 study by the General Accounting Office, for example, found that there has been a fivefold increase since the 1950s in the amount of work needed to certificate a new aircraft. A 1996 report by a major consulting firm pointed to the need for the FAA to "do more with less" as it deals with increasing complexity in aircraft manufacturing and maintenance issues, and in airline operations, ownership and services.

One of the complaints about individual designees is that their work can be very difficult to track, and that it takes a great deal of effort for an FAA employee to properly manage the work performed by the designees under his or her charge. Many FAA employees prefer organization delegated authority, because the organizations have greater documentation requirements, better defined procedures, and the details concerning the work of many individuals can be channeled to the FAA through a single point of contact.

The ODA program was developed in response to these challenges. The ODA program creates a uniform rule

for all organizational delegations.

Current organizations with delegated authority (like ODARs, DASs, etc.) will be able to operate under this new authority, but the new rule offers a great deal of flexibility that the old rules did not offer. One important aspect of the new rule is that it severs the previous requirement that an organizational delegation be attached to an organization with some other FAA certificate or approval (like a type certificate). Under the new rule, it will be possible to obtain delegated authority without some other FAA certificate if the applicant can demonstrate sufficient experience in the FAA function that is being sought.

FAA functions that may be delegated include (but are not limited to) design approval, airworthiness inspection, conformity inspection, and certification and authorizations of pilots and crew members.

Under current rules, DERs may operate as a team on a large project but each one interacts individually with the FAA.

AEA's Role in the Project

AEA was a key part of this rule-making project. The draft of the rule was produced by the Aviation Rulemaking Committee and AEA was represented on that committee

throughout the process. We made sure that the final rule would permit greater efficiency in the approval of repairs and alterations for AEA members.

AEA did more than help write the rules—we also proved that the rules could work. Working closely with the FAA, AEA and engineering consultants created ADEOS, which was a demonstration project designed to prove the concept of a managed organization providing engineering services of the sort traditionally provided by DERs. The projects were managed by an airworthiness designee—an “M-DAR”—who helped coordinate the engineering work to assure that it was complete. This demonstration project also led to the creation of a new DAR designee function code (function code 50) which permits someone with maintenance DAR privileges to support a major alteration data approval process by reviewing the engineering package to confirm whether it is complete (reflects all needed engineering data to support the intended alteration).

How Might the Rule Affect Me?

How does this rule change affect an AEA member? Let's say you are working on a significant STC completion package. It may involve several disciplines because of the significant scope of the project—as a consequence you may be relying on a team of DERs to approve the data that will be submitted to the FAA. Under today's rules each of those DERs is subject to individual management by the FAA. This means that each one completes his/her own paperwork and interfaces with the FAA directly. This puts a strain on the time resources of the individual DERs, but it also places a cap on how many DERs can be managed by the FAA (based on available FAA inspector resources). Under the proposed rules, management of a team

of DERs can be performed internally by the organization according to a written procedures manual. The entire team of DERs can report to the FAA through one administrative contact. While the need to have a documented process may appear (at first blush) to increase the paperwork burden, it actually should streamline it, because the reporting burden of several individuals is now streamlined into a single interface and reporting burden. This can mean more time for the DERs to work on the AEA members' projects. It also means that FAA personnel can manage large teams of DERs through single points of contact—making it possible to increase the number of total DERs available in any FAA region while at the same time freeing up FAA personnel to focus more of their time on other safety issues that cannot be delegated. More DERs with more time to perform engineering review means more resources available to AEA members.

This is particularly important because the increasing FAA focus on better engineering data to support STC and field approval packages means that the need for AEA members to use DERs will be on the rise in the near term.

The New Sheriff is in Town and His Name is EASA

The European Aviation Safety Agency (EASA) was formally established in September 2003. EASA will be responsible for regulating aircraft certification and maintenance throughout the European Union. The agency is gradually taking over the maintenance-related functions currently coordinated by the JAA, including the acceptance and oversight of repair stations located outside of Europe.

EASA Rulemaking

One of the factors that prevented the

JAA from being effective was lack of direct rulemaking authority. Only some of the JAA 'regulations' were codified, while the majority had to be voluntarily adopted and implemented by JAA member nations. To counter this problem, all EASA regulations will be published by the European Commission in order to make them legally binding. In most cases, EASA is basing its initial regulations on the existing Joint Aviation Requirements (JARs) with very few changes. European authorities hope that this will preserve much of the detailed harmonization work that has gone on between the JAA, the FAA, and Transport Canada over the past two decades.

The European Commission published its Regulation for Continuing Airworthiness on November 28, 2003. This new regulation includes four annexes, which are informally referred to by the number of the JAR on which they were based: Annex 1 (“Part M”); Annex 2 (“Part 145”); Annex 3 (“Part 66”); and Annex 4 (“Part 147”). EASA “Part 145” and its associated guidance material are similar to JAR 145 and its associated Guidance Material (GM), Temporary Guidance Leaflets (TGLs) and Acceptable Means of Compliance (AMOCs).

FAA-EASA Relations

The United States has established executive agreements with its major aviation trading partners. These agreements are known as bilateral agreements and they establish standard practices and agreement between the United States and its trading partners concerning mutual acceptance of foreign certifications and approvals.

The United States ultimately plans to conclude a Bilateral Aviation Safety Agreement (BASA) with the

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European Community as a whole that will replace the BASAs it currently has with individual European Union countries. Existing bilateral agreements and BASAs will remain in effect until then. Similarly, the Maintenance Implementation Procedures (MIPs) in force between the United States and France, Germany, and Ireland will remain in effect until the EC BASA is concluded. The MIPs allow the FAA to rely on findings made by French, German and Irish aviation authorities during surveillance and during inspections for the purpose of providing the FAA with a recommendation for certification of Part 145 foreign repair stations in their respective countries (the MIPs DO NOT automatically allow the United States to accept any maintenance performed in an MIP country!). The Treaty of Malta (the JAA implementing treaty) and other JAA Agreements and practices permit each JAA member to rely on maintenance performed in a manner acceptable to any other JAA member. Because the United States has MIPs with three JAA members (France, Germany and Ireland), the MIPs have allowed all 37 JAA members to rely on FAA certification and surveillance of JAA-accepted repair stations in the United States.

The Future Of The JAA

The fate of the JAA has been a major question ever since EASA was proposed. The situation is complicated by the fact that the JAA includes member authorities from countries that are not EU Member States or EU candidate members.

Non-EU JAA members are not required to adopt EASA rules, guidance materials, certification specifications, or to rely on the findings of EASA to issue their own certifications. However, because key JAA members are now required to follow EASA rules

on aircraft certification and maintenance, the JAA's role in these areas will diminish. Initially, the JAA will continue to carry out many of these functions under contract to EASA, such as Maintenance Aviation Standardization Team (MAST), and Maintenance International Standardization Team (MIST) visits. EASA will gradually assume leadership in these areas. In addition, EASA itself has joined the JAA, allowing EASA to participate in the JAA for the benefit of non-EU members.

In the areas of aircraft certification and maintenance, the JAA will likely be reduced to a small governing body to make EASA decisions applicable to other JAA members. The latest information regarding the transition and EASA development is on the JAA website www.jaa.nl or www.easa.eu.int.

Transition Procedures

In the coming months, several JAA forms will be converted into EASA forms and begin to make their appearance:

JAA Form 1, Authorized Release Certificate, will become EASA Form 1. JAA Form 9, FAA Status Report on a FAR Part 145 Repair Station JAA Accepted or Applicant for JAA Acceptance, will become EASA Form 9, Recommendations for Renewal and Surveillance.

JAA Form 16, USA Repair Station Application for Initial/Renewal/Amendment of JAA Acceptance in Accordance With JAR-145, will become EASA Form 16, Application for EASA Approval of U.S. Domestic Repair Stations.

During the transition from JAA to EASA, the FAA is instructing its ASIs to give the same validity to EASA forms as they currently give JAA forms. The FAA notes, however, that some JAA forms, such as JAA Form 1, may continue to be used by non-EU

member countries.

The FAA is instructing ASIs with JAA-accepted repair stations located in the United States to continue following the procedures described in FAA Order 8300.10, Airworthiness Inspector's Handbook, volume 2, chapters 167, 168, and 169 for processing JAA initial, renewal, and JAAMIST team procedures until further notice. The industry should continue to follow Advisory Circular (AC) 145-8, Acceptance of Repair Stations by the JAA and JAA-Member NAAs Under the Maintenance Implementation Procedures of a Bilateral Aviation Safety Agreement, as amended, and JAATGL No. 22.

In addition, FAA Order 8100.14, Interim Procedures for Working with the European Community on Airworthiness Certification and Continued Airworthiness, provides detailed information on the import and export changes that may affect current and future products. The order may be accessed at www1.faa.gov/certification/aircraft/ via the "Regulations, Policy, and Guidance" publications tab at left.

Look Closely

Although FAA and EASA officials stress that they are endeavoring to make the JAA/EASA transition as smooth as possible, repair stations should carefully review new EASA regulations and guidance as they appear to ensure that there have not been significant substantive changes. Sometimes even relatively minor changes in wording can have a large effect, whether or not that effect was intended. EASA members who discover or encounter problems that could affect their business should bring them to the Association's attention.

Short Thoughts:

Watch Congress closely this summer for efforts to accelerate the phase-out of the estate tax (death tax) to eliminate

it one year earlier than current plans.

Expect Congressional discussions this year, but no final action until next year, on continuation of the bonus depreciation programs.

Hazardous materials regulations applying the training standards to repair stations that do not handle hazmats are expected in 2005. In the meantime, FAA handbook bulletins suggest that all repair stations are presumed to be hazmat employers and should have at least one hazmat trained employee.

Also expected from the FAA in 2005—new regulations concerning false and misleading statements.

RSPA has discussed better guidance on the Materials of Trade exception—this is the exception that allows the hazmats in a mechanic's tool box to be transported to a job that is performed off-site.

Don't forget that general training guidance should be out soon, and general training regulations for repair stations will go into effect in less than a year (April 2005)! □

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