



WHS 04-09

**General Aviation
Manufacturers Association**

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May 20, 2004

Docket Management Facility
U.S. Department of Transportation
Nassif Building, Room PL-401
400 Seventh Street, SW.
Washington, DC 20590-0001

**Subject: Docket No. FAA-2003-16685; GAMA Comments on Establishment of
Organizational Designation Authorization (ODA) Procedures**

The General Aviation Manufacturers Association (GAMA) is an international trade association headquartered in Washington, DC representing over 50 of the world's leading manufacturers of general aviation aircraft, engines, avionics and related equipment. GAMA's members also operate fleets of aircraft, fixed based operations at many airports, certificated repair stations, and pilot training and maintenance training facilities. GAMA has reviewed Notice of Proposed Rulemaking (NPRM) 03-13 published in the Federal Register (69FR2970) on January 21, 2004 and strongly supports the *Establishment of Organization Designation Authorization Procedures*.

On behalf of our member companies, GAMA welcomes FAA's proposal to expand the approval functions of organizational designees; standardize these functions to increase efficiency; and expand eligibility for organizational designees. The Organization Designation Authorization program (ODA) will improve the safety and the quality and the effectiveness of FAA's oversight system. GAMA respectfully requests FAA's consideration of the following comments for incorporation into the final rule.

GENERAL COMMENTS

Need for Regulatory Change

The delegation system enables FAA to meet its safety responsibilities and provide timely certification services by leveraging limited resources which allows FAA to focus on critical safety areas and the application of new and evolving technologies. The preamble provides a good discussion on the need for regulatory change to enhance the existing delegation system by expanding organizational delegation which shifts FAA oversight from a detailed product approach to a systems or process approach. The preamble references a 1993 GAO report entitled "Aircraft Certification: New FAA Approach Needed to Meet Challenges of Advanced Technology" and a 1996 report entitled "Challenge 2000: Recommendations for Future Aviation Safety Regulations" that lends support to enhancing the designee program. There are other independent reports that recommend improvements to FAA's safety oversight through enhanced organizational delegation:

- White House Commission on Aviation Safety and Security – February 1997: Given the tremendous growth and globalization in the industry, it is neither realistic nor desirable to expect the FAA to rely on hands-on inspections to ensure safety. FAA should develop standards for continuous safety improvement, and should target its regulatory resources based on performance against those standards. FAA should develop objective methods of measuring the ability of companies to monitor and improve its own safety. FAA oversight should be adjusted to recognize the maturity and actual performance of individual operators and manufacturers. Such an approach will allow the FAA to target its inspector resources on those operators demonstrating the greatest risk, while allowing mature operators and manufacturers to manage their organizations without unproductive FAA involvement.
- National Civil Aviation Review Commission – December 1997: The relationship between regulator and the regulated needs to change to reflect the current industry “maturity” level on safety matters. There should be a comprehensive and concerted program by government and industry that require new ways of doing business with each other and a greater emphasis on cooperation and collaboration with more FAA resources focused on effective safety risk management.
- National Research Council, Improving the Continued Airworthiness of Civil Aircraft – 1998: NRC performed an assessment of the safety management process used by the Aircraft Certification Service of the FAA to define how the current process might be improved. The process by which FAA regulates the production of aircraft is a model that should be applied to the type certification process whereby FAA promotes the safety of individual products by verifying that a safe and effective system – that includes its own internal checks – has been established by the manufacturer and is being maintained. FAA should assess and approve the capabilities and procedures of an applicant’s design organization rather than the current process, which requires FAA engineers to analyze independently the safety implications of new and modified designs. Major Recommendation 3: FAA AIR should promote aircraft safety by certifying the competency of applicants’ design organizations rather than relying on the FAA’s ability to detect design deficiencies through spot checks.
- RTCA Task Force 4 – Certification, Final Report – February 1999: The dynamic growth and globalization of aviation have outpaced the government’s certification policies and regulatory oversight of Communications, Navigation, Surveillance / Air Traffic Management (CNS/ATM) systems, equipment and procedures. The RTCA TF4 was tasked to recommend what changes are needed as well as how and when any recommended changes should be implemented to make the certification process more responsive to today’s operational environment.
 - Recommendation 6. The authorities should enhance, expand upon, and standardize designee programs to improve the efficiency, effectiveness, and timeliness of certification approvals. Promptly expand the concept of approving organizations, in addition to individuals, as is done in some cases in the JAA and FAA.
 - JAA goes further than FAA regulations presently permit, and approves organizations as designated to perform and approve certain data and procedures. In the US, the regulations should be promptly amended to provide for the use of organizational designations, as in the case in Europe. Continued delay in this effort only serves to slow down the modernization efforts for the entire NAS.
- RTCA Task Force 4 - Certification Select Committee – August 2001: The current practice of direct agency involvement in each operational and product approval has become an impediment to the growth of aviation. The current practice should be replaced with organizational certification of operators and product manufacturers, modeled after current practices in Europe.

Transition to ODA Procedures

The proposed rule replaces existing DAS, DOA, SFAR 36 and ODAR delegation programs with the new ODA delegation program for organizations and provides for a 3-year transition period. Appropriately, FAA's priority during the first 3-years will be to manage the transition of existing organizational delegations to ODA. Many of these companies have already voluntarily invested significant time and resources to re-write their manuals to meet the standardized format of Order 8100.9 DDS procedures. Since this Order was expressly intended to serve as the basis for managing future delegation efforts, including ODA, the preamble discussion about the transition to ODA procedures should expressly state that manuals approved to Order 8100.9 can transition seamlessly over to ODA with minimal changes necessary to reflect specific differences in delegated functions.

Appointment/Approval of Airworthiness Representatives

The preamble discussion regarding the appointment and approval of ODA Unit staff changes is conflicting and implies a regulatory limitation that is completely inappropriate. It states that FAA disagrees with the ARAC recommendation that the approved ODA procedures manual would describe how to maintain and remove the names of ARs and that FAA would continue to require FAA approval of ODA Unit staff changes as in the current delegation systems. Not allowing an ODA Unit to make staff changes in accordance with their approved procedures contradicts the fundamental concept of organizational delegation and the systems approach to safety oversight and management.

FAA then contradicts this position when it states that FAA expects, in the future, qualified ODA Holders will be allowed to make ODA Unit staff changes without FAA involvement, but the FAA would still require notice of staff changes. This makes it clear that FAA, in fact, agrees with the ARAC recommendation that a competent and experienced ODA Unit will be able to make staff changes in accordance with their approved procedures manual without direct FAA involvement/approval of each staff change.

GAMA recommends that the preamble discussion in the final rule make it clear that an ODA Unit can approve the appointment of ARs in accordance with approved procedures under §183.53(k) when it has demonstrated the appropriate experience and competence. Until such time, limitations on approval of staff changes can be expected under §183.55 which clearly states that the ODA Units's authority is limited to the certification and approval functions defined in its approved procedures manual and that any change in limitations or functions must be approved by the FAA and incorporated into the procedures manual before the ODA Unit may perform the function. This is an important clarification to be made in the preamble because there are several existing organizational delegations with significant operating experience that have shown the ability to perform this function. The preamble discussion should not, in any way, imply limitations or restrictions that would prohibit an ODA Unit from performing this task if they have demonstrated the necessary competence.

Location of ODA

GAMA strongly disagrees with proposed §183.47(a)(1) that an applicant for an ODA must be located in the United States. This limitation is not consistent with the systems approach to safety management oversight and contradicts global industry trends in the design and production of

aerospace products. It is completely unnecessary for the regulation to limit the location of an applicant since the issuance of an ODA is at the discretion of FAA. In fact, this requirement would only serve to restrict FAA's ability to provide efficient and effective safety oversight by disallowing the issuance of an ODA even when this approach would be most appropriate in consideration of an organization's qualifications and experience. An ODA could not be issued even if there is an FAA need under §183.45. This also contradicts the FAA Administrators strategic goal for international leadership. The U.S. has established Bilateral Aviation Safety Agreements with several other countries that significantly enhances cooperation between FAA and the respective National Aviation Authority to perform safety functions. The ODA rule should not prohibit the ability to explore future cooperation and harmonization regarding the oversight of organizations that perform similar functions on behalf of the aviation authorities.

GAMA recommends that FAA delete the statement "located in the United States" from §183.47(a)(1) and insert a new section or paragraph regarding the location of an ODA which incorporate the concept of "no undue burden" upon FAA in administering the applicable requirements. This is the same approach the regulations prescribe in §21.137 regarding the location of manufacturing facilities. In addition, GAMA recommends that the preamble explicitly discuss the conditions under which an ODA may have ARs performing their approved functions while located at a supplier facility within or outside of the U.S.

International Recognition of ODA by National Aviation Authorities

If ODA is to be successful, it is important for FAA to ensure international recognition and acceptance of findings/approvals made by an ODA. In consideration of FAA's strategic goal for international leadership and the industry trends in the globalization of design and production of aerospace products, GAMA recommends that FAA discuss its efforts to ensure the international recognition of ODA by National Aviation Authorities.

SECTION BY SECTION COMMENTS

§183.47 Eligibility

Paragraph (a)(1) states that to be eligible for an ODA, the applicant must be located in the United States. For the reasons stated above in the section titled Location of ODA, GAMA recommends that FAA delete the statement "located in the United States" from §183.47(a)(1) and insert a new section or paragraph regarding the location of an ODA which incorporate the concept of "no undue burden" upon FAA in administering the applicable requirements. This is the same approach the regulations prescribe in §21.137 regarding the location of manufacturing facilities.

§183.47(c) Eligibility – Functions in the Area of Production

It is not clear whether the statement in §183.47(c)(1) that "the applicant must have one of the following design approvals..." means that the applicant has contractual and legal access to the design approval for the component/part/appliance or if the applicant must actually "hold" the design approval. This is a very important distinction regarding the functions of manufacturing ODARs such as the issuance of FAA Form 8130-3 airworthiness approvals. This is particularly important because there is no proposed ODA type that would allow for the direct transition of existing ODARs. There are many situations, such as manufacturing through a consortium or

licensing, in which an ODAR does not hold the TC. GAMA recommends that FAA assess the eligibility of all existing ODAR holders to ensure that the final ODA rule provides for a smooth transition to an ODA type that allows them to perform the necessary functions. Furthermore, ODA should enhance, not restrict, the ability for qualified and experienced manufacturers to issue 8130-3 airworthiness approvals for parts produced under their production system without limitations on location.

§183.47(d) Eligibility – Standard Procedures

This section states that the holder of a TC/STC that was not issued the certificate directly from FAA is not eligible for an ODA because it was obtained through transfer or license agreement. This is appropriate when the holder does not have adequate facilities, resources, personnel, and qualifications appropriate to the functions sought. However, a large number of organizations obtain a TC through acquisition in which they continue to meet all of the §183.47 eligibility requirements. For example, Boeing is the holder of Douglas TCs, Raytheon is the holder of Beechcraft TCs, Honeywell is the holder of Allied Signal and Garrett TCs, and there are many many more. In addition, consortiums often license the TC to the partner manufacturer responsible a certain portion of the product. GAMA recommends that FAA revise this paragraph so as not to prohibit qualified and experienced applicants from obtaining an ODA. In fact, the requirements of §183.47(a)(1) and FAA's discretionary role make it unnecessary for paragraph §183.47(b)(1) to even include the statement "under the standard procedures of part 21..."

§183.55 Limitations

For the reasons discussed in the above, GAMA strongly disagrees with the preamble discussion under §183.55 regarding the appointment and approval of ODA Unit staff members such as airworthiness representatives (ARs). GAMA recommends that the preamble discussion in the final rule make it clear that an ODA Unit can approve the appointment of ARs in accordance with approved procedures under §183.53(k) when it has demonstrated the appropriate experience and competence. Until such time, limitations on approval of staff changes can be appropriately identified under §183.55 which clearly states that the ODA Units's authority is limited to the certification and approval functions defined in its approved procedures manual and that any change in limitations or functions must be approved by the FAA and incorporated into the procedures manual before the ODA Unit may perform the function.

The ARAC proposal defined a systems approach to appointing ARs under organizational delegation rather than requiring FAA approval for each staff change. This means that FAA would approve the ODA procedure manual which defines the minimum qualifications of an AR and the specific procedures for selection and appointment. FAA oversight ensures adherence to these procedures and the appointment of properly qualified individuals. Under ODA, FAA has limited direct contact with AR candidates and, therefore, would have a limited contribution to the approval of the candidate.

§183.57 Responsibilities of an ODA Holder

The wording of §183.57(c) which states that the ODA holder must "ensure that no interference or conflicting restraints are placed on the ODA Unit or on the personnel performing the designated functions while complying with this part and the approved procedures manual..." is not consistent with existing wording used for the same purpose. This opens the question as to how this paragraph

is different from similar requirements for existing organizational delegations. Since the intent is exactly the same, GAMA recommends that FAA revise this paragraph to adopt wording similar to that in Order 8100.9 paragraph 3-3(a) which states “The authorization holder must ensure that the administrator and AR’s remain free of any restraints that would limit the DOA’s, DAS’s, or SFAR 36’s ability to ensure that authorized functions are performed in compliance with FAA regulations.”

DRAFT ORDER 8100.ODA (dated January 4, 2004)

The preamble section entitled *general discussion of the proposed rule* states that the rule would contain general requirements to provide flexibility for FAA delegation programs and to allow for future expansion of the designation of organizations and the delegation of functions without further rulemaking. GAMA believes that this kind of flexibility is important in order for FAA to perform its safety oversight function while providing adequate services to an ever changing and growing industry. However, it is also important that any prescriptive and detailed requirements that provide additional definition to the general requirements of the ODA rule be made available for public review and comment as required by the Administrative Procedures Act.

GAMA appreciates the opportunity to review draft Order 8100.ODA through reference in the third column of the preamble on Federal Register page 2973. Since the rule must stand on its own, GAMA understands why FAA did not request comments on this draft Order. Any changes made to the rule must be reflected in the associated Order and any Guidance. Since it is a working document, we understand that many changes have already been made. Nevertheless, many GAMA member companies did review the Order and provide comments back to GAMA. Their detailed section-by-section comments are available upon request.

In general, GAMA is concerned that certain sections of draft Order 8100.ODA do not seem to reflect the intent of this proposal which is to enhance organizational delegation systems and to shift FAA activity and resources to evaluating the quality of the certificate and approval holders’ performance rather than on witnessing tests and evaluating detailed data. Instead of focusing on the applicants systems, compliance with the general requirements of the rule, and adherence to approved procedures, the Order often dictates prescriptive requirements with very little flexibility. At times, FAA personnel is directed to approve specific ODA activities and functions for which there should already be an FAA approved process in the procedures manual. FAA should not be approving actions for which the ODA has an approved process to perform, but instead should provide oversight to ensure that the ODA performs in accordance with the approved procedures. GAMA recommends that FAA review draft order 8100.ODA to ensure consistency with the objectives of this ODA proposal as discussed in the preamble and in the section above entitled *Need for Regulatory Change*.

May 20, 2004
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GAMA Comments (WHS04-09)

CONCLUSION

GAMA welcomes FAA's proposal to expand the approval functions of organizational designees; standardize these functions to increase efficiency; and expand eligibility for organizational designees. The Organization Designation Authorization program (ODA) will improve the safety and the quality and the effectiveness of FAA's oversight system.

GAMA appreciates the opportunity to review and comment on NPRM 03-13 for the *Establishment of Organization Designation Authorization Procedures*. Please contact me at wdesrosier@gama.aero or (202) 393-1500 or if there are any questions or clarifications necessary regarding the enclosed comments.

Sincerely,

A handwritten signature in black ink that reads "Walter Desrosier". The signature is written in a cursive, flowing style.

Walter Desrosier
Vice President, Engineering & Maintenance
General Aviation Manufacturers Association