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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 121, 135, 145, and 183

[Docket No. FAA-2003-16685; Notice No. 03-13]

RIN 2120-AH79

Establishment of Organization Designation Authorization Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to create an Organization Designation Authorization (ODA) program. This program would expand the approval functions of FAA organizational designees; standardize these functions to increase efficiency; and expand eligibility for organizational designees, including organizations not eligible under the current rules. In addition, as the FAA transitions to the ODA program, the agency would phase-out the Delegation Option Authorization (DOA), Designated Alteration Station Authorization (DAS), SFAR 36 authorization, and the Organizational Designated Airworthiness Representative (ODAR). These actions are necessary to provide the FAA with a more efficient process to delegate certain tasks to external organizations. The intended effect of these actions is to preserve and increase aviation safety.

DATES: Send your comments by [Insert date 120 days after date of publication in the Federal Register].

ADDRESSES: You may send comments [identified by Docket Number FAA-2003-16685] using any of the following methods:

- DOT Docket web site: Go to http://dms.dot.gov and follow the instructions for sending your comments electronically.
- Government-wide rulemaking web site: Go to http://www.regulations.gov and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; US Department of Transportation, 400 Seventh Street, S.W., Nassif Building, Room PL-401, Washington, DC 20590-001.
- Fax: 1-202-493-2251.
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, S.W., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

Privacy: We will post all comments we receive, without change, to http://dms.dot.gov, including any personal information you provide. For more information, see the Privacy Act discussion in the SUPPLEMENTARY INFORMATION section of this document.

Docket: To read background documents or comments received, go to http://dms.dot.gov or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, S.W., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ralph Meyer, Delegation and Airworthiness Programs Branch, Aircraft Engineering Division (AIR-140), Aircraft Certification Service, Federal Aviation Administration, 6500 S. MacArthur Blvd, ARB Room 304A, Oklahoma City, OK, 73169; telephone (405) 954-7072; facsimile (405) 954-4104, e-mail ralph.meyer@faa.gov.

SUPPLEMENTARY INFORMATION

Comments Invited

The FAA invites interested persons to participate in this rulemaking by sending written comments, data, or views. We also invite comments about the economic, environmental, energy or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of your written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the ADDRESSES section of this preamble between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the ADDRESSES section.

Privacy Act: Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business,

labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477-78) or you may visit http://dms.dot.gov.

Before acting on this proposal, we will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal because of the comments we receive.

If you want the FAA to acknowledge receipt of your comments about this proposal, include with your comments a preaddressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) web page (http://dms.dot.gov/search);

(2) Visiting the Office of Rulemaking's web page at http://www.faa.gov/avr/arm/index.cfm; or

(3) Accessing the Government Printing Office's web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue S.W, Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Background

Legal Authority

Title 49 Section 44702(d) of the United States Code provides that the Administrator may delegate to a qualified private person, or an employee supervised by that person, a matter related to the examination, testing, and inspection necessary to issue a certificate and the issuance of the certificate. The term "private person" means an individual or organization other than a governmental authority.

Under the statutory authority, the FAA has set up a delegation system to designate individuals and organizations to perform certain certification functions. Those holding these designations are commonly referred to as "representatives of the Administrator" and "designees." When acting as representatives of the Administrator, designees are required to perform in a manner consistent with the policies, guidelines, and directives of the Administrator. When performing a delegated function, designees are legally distinct from and act independent of the organizations that employ them.

Regulations about individuals and organizations performing airman and aircraft certification functions have been promulgated in 14 CFR parts 21 and 183, and Special Federal Aviation Regulation (SFAR) 36.

Industry/FAA Working Group

The FAA established the Aviation Rulemaking Advisory Committee (ARAC) in January 1991 to provide a continuing mechanism to involve the public in the regulatory process (56 FR 2190, January 22, 1991; 59 FR 9230, February 19, 1993). One subject that ARAC addresses is aircraft certification procedures (57 FR 39267, August 28, 1992).

On March 29, 1993, the FAA established the Delegation System Working Group of ARAC (58 FR 16573) to examine one aspect of certification procedures. Specifically,

the Delegation System Working Group was tasked with reviewing the current designee programs to determine what would improve the safety and the quality and effectiveness of the system. Also, the Working Group was tasked with recommending to the ARAC new rules, revised rules, and advisory, guidance, and other collateral materials (including legislative and training materials).

The FAA sought a recommendation for a comprehensive, up-to-date, systematic approach for delegating aircraft certification functions to both individuals and organizations. The expectation was the proposed approach would provide a smooth transition from the current designation system to the recommended system, and the recommended system would be compatible with similar aviation systems of other countries. The Delegation System Working Group members were directed to send their recommendations to the ARAC, which would determine whether to send them to the FAA.

On June 19, 1998, the FAA expanded the task of the Delegation Working Group (63 FR 33758, June 19, 1998) to include recommendations on designating organizational Designated Airworthiness Representatives (DARs) under § 183.33. Further, the expanded task included evaluation of organizations that would be designated to find compliance for issuing operating certificates under parts 133 and 137, air agency certificates under part 141, and training center certificates under part 142. The Working Group was also asked to review § 183.15 about the duration of designations under part 183.

The ARAC Delegation System Working Group sent a recommendation to the ARAC. The ARAC accepted the recommendation and gave it to the FAA. This proposed rule is based on this recommendation.

History

The present delegation system has evolved over many decades of aircraft certification experience and regulatory development.

In the mid 1940s the FAA's predecessor agency, the Civil Aeronautics Administration (CAA), set up programs to appoint designees to perform airman-, airworthiness-, and certification-approval tasks. These designee programs included the Designated Engineering Representative (DER), the Designated Manufacturing Inspection Representative (DMIR), and the Designated Pilot Examiner (DPE).

In the early 1950s, because of the rapidly expanding aircraft industry and limited CAA engineering and manufacturing resources, the CAA began Delegation Option Authorization (DOA) procedures (currently in part 21, subpart J) for performing aircraft certification functions. The DOA procedures facilitate certification of products manufactured by experienced, knowledgeable organizations. DOAs are granted to manufacturers after an evaluation of their engineering competency, facilities, personnel, and experience. DOAs may be used for certification and airworthiness approval of the products manufactured by the authorization holder.

During the mid 1950s, the CAA received many complaints from the aviation industry about delays in issuing supplemental type certificates (STCs) to approve major alterations. In cooperation with an industry committee representing modification facilities, the CAA studied these delays. The resulting recommendation was the delays

could be decreased by allowing approved engineering staffs of repair stations to issue STCs. Amendment No. 21-6 (30 FR 11379, September 8, 1965) established the procedures for the Designated Alteration Station (DAS) in 14 CFR part 21, subpart M. This designation allows eligible air carriers, commercial operators, domestic repair stations, and manufacturers of products to issue STCs and related airworthiness certificates.

In the mid 1970s, the FAA conducted an operations review program to increase the agency's responsiveness to the needs of the public and the aviation community. While major alteration data could be approved using STCs issued under the DAS provisions of subpart M, similar provisions did not allow approval of major repair data. The FAA, therefore, issued SFAR 36 (43 FR 3085, January 23, 1978) to allow eligible air carriers, commercial operators, and domestic repair stations to develop and use major repair data without getting FAA approval.

During the 1980s, there was an increase in requests for FAA airworthiness certification functions. As a result, Amendment 183-8 (48 FR 16176, April 14, 1983) was adopted in 1983 to set up the Designated Airworthiness Representative (DAR) as a new category of designee. The rule authorized functions not previously covered in 14 CFR part 183. Also, § 183.33 allowed for the designation of organizations to serve as DARs. Such a designation is known as an Organizational Designated Airworthiness Representative (ODAR).

In the late 1990s, the FAA formed a team to consolidate FAA policies and procedures for DAS, DOA, and SFAR 36 authorization holders. The goal of the team was to standardize the selection, oversight, and certification processes of these designated

organizations throughout the FAA. As a result, the FAA developed Order 8100.9, DAS, DOA, and SFAR 36 Authorization Procedures. The requirements of the Order will serve as the basis for managing future delegation efforts, including ODA.

The present system of designations of organizations (DOA, DAS, SFAR 36, and ODAR) has evolved over more than 40 years, during which organizational designations have gained specific experience in aircraft certification. The FAA's management and supervision of the designee system has ensured the system works well. Based on its decades of experience with the system, the FAA has determined the quality of approvals processed by these designee organizations equals those processed by the FAA. The designee system has continually improved procedures and has become essential to the certification system. These programs are examples of those that have continued under the FAA and that have been valuable to the agency and to the aviation industry. They have allowed the FAA to target its direct involvement to the most critical certification functions and provide timely services to the aviation industry, while assuring the airworthiness of aeronautical products.

Also, the FAA has delegated other functions about airmen and operations approvals. For example, the agency has authorized organizations to conduct the knowledge tests that lead to the certification of airmen (Computer Test Designee Program). Further, it has issued a number of Letters of Authorization and Memorandums of Understanding to organizations for determining operational functions. Examples of related programs include--

- The Aerobatic Competency Evaluator Program that authorizes the International Council of Air Shows to conduct functions under 14 CFR part 91; and

- The National Designated Pilot and Designated Flight Engineer Examiners Program that authorizes the Experimental Aircraft Association to conduct functions leading to the certification of pilot and crew-member applicants in vintage aircraft under 14 CFR parts 61 and 63.

In addition, other operational functions have been authorized to help with FAA approvals in various specialized areas.

Delegation Holders are Not Certificate Holders

Title 49 United States Code section 44702 provides the Administrator of the FAA with the authority to issue certificates (44702(a)) and to make delegations (44702(d)). Delegation holders have different rights than certificate holders. Specifically, a person who holds a delegation holds it at the Administrator's discretion. The Administrator may suspend or revoke the delagation at any time for any reason. This power is specifically described in section 44702(d)(2). By comparison, once a certificate is issued under the power of section 44702(a), that certificate holder has specific appeal rights external to the Administrator, which include a right to appeal an adverse decision to the National Transportation Safety Board (NTSB).

Unfortunately, some existing Federal Aviation Regulations use the term "certificate" to describe the document evidencing a delegation. For example, 14 CFR part 183 says a "Certificate of Designation" or a "Certificate of Authority" is issued to a person who receives a delegation. Although the term "certificate" is used to describe the document, the authority granted is a delegation by the Administrator under 44702(d), not a certificate issued under section 44702(a).

Because of the statutory structure, the authority granted to an ODA Holder under the proposed regulation will be a 44702(d) delegation, not a 44702(a) certificate. This authorization will be in the form of an ODA Letter of Designation. The authority of the Administrator to suspend, revoke, or withhold issuance of the delegations will not be subject to appeal to the NTSB. The procedures used to determine whether delegations will be made, suspended, or revoked will be controlled by administrative procedures set up by the Administrator under the applicable Order.

The Need for Regulatory Change

The FAA's designee management system is essential to the FAA's safety management system and the certification procedures within that system. The designee system enables the FAA to meet its safety requirements and responsibilities and provide timely certification services. Delegating FAA authority to designees maximizes FAA participation in certification projects and allows the FAA to focus on critical safety areas.

Through the designee system, the FAA can focus resources on new applications of existing technology, on new and evolving technologies, and on the growth in the aviation industry as a whole. By consolidating designee programs, the agency can further its standardization efforts and use the resources of the aviation industry more effectively.

There are several factors that are beginning to affect the certification process. FAA workload continues to increase because of increased requests for services and increased levels of complexity in the products being introduced in the aerospace market. Also, the FAA has focused its resources toward continuing the operational safety of in-service products, and developing regulations and airworthiness standards necessary to increase the level of safety. The net effect is a decrease in FAA capacity to perform

certification of products or other certificate holders. In combination, these factors have made it more difficult for the FAA to provide timely services to its customers.

A report issued by the United States General Accounting Office (GAO), entitled "Aircraft Certification: New FAA Approach Needed to Meet Challenges of Advanced Technology" (GAO/RCED-93-155, September 1993), states that since the late 1950s, official estimates show a fivefold increase in the work needed to certificate a new aircraft. During this same period, the FAA's workload increased in areas such as monitoring already certificated aircraft, issuing airworthiness directives, and developing new regulations and policies. With the rise in workload, the FAA's dependence on the designee system has increased. This is particularly true for the certification of new, advanced-technology aircraft software and computer systems.

The report entitled "Challenge 2000: Recommendations for Future Aviation Safety Regulations" prepared for the FAA by Booz-Allen and Hamilton, Incorporated (April 1996), lends support to enhancing the designee program. The report states given the increasing complexity in aircraft manufacturing and maintenance, and in airline operations, ownership, and services, when Federal government resources are being constrained, the FAA must find a means to "do more with less." One of the resources available to the FAA involves working in concert with industry and improving the designation process to make it more effective; this would, in turn, provide industry with needed flexibility to manage its affairs more efficiently. It would also allow the FAA to focus on safety-critical issues.

In response to issues raised in these reports and in recognition of the environment that led to their publication, the FAA determined that the designee program would be

further improved by expanding the eligibility for qualified organizations. Currently, a designated organization must hold some type of FAA certificate, such as a repair station or manufacturer approval. The proposal will allow qualified organizations without FAA certificates to be eligible for certain designations. Also, the current rules are limited in what functions may be delegated. The proposal will allow the FAA to delegate functions it considers necessary to qualified organizations. This expansion would reduce the time and cost of the certification process.

These added designations and delegated functions would benefit general aviation operations because these operations are widely varied and specialized. For example, agricultural aviation is one area where delegation to conduct inspections and issue operating certificates would benefit the FAA and industry. Operators associated with the agricultural aviation industry tend to remain in the industry, and little of that expertise finds its way to the FAA ranks. By allowing delegations in this area, the FAA could benefit from this expertise.

Added benefit is gained by appointing organizations rather than individual designees. Organizational designees are managed using a systems approach, which relies on the experience and qualifications of the organization, approval of the procedures used by the organization and oversight of the functions the organization performs. Thus, the FAA can focus on that organization's delegated functions as one system, rather than concentrating on monitoring and supervising individual designees. Such partnerships with industry leverage the abilities of industry and maximize the effectiveness of the certification process for both the FAA and the organization.

Increasing the number of delegations to organizations will also help prepare industry and the FAA for future certification programs, which may include the Certified Design Organization. Certified Design Organizations were authorized in section 227 of the FAA reauthorization bill-Vision 100--Century of Aviation Reauthorization Act. Under the Certified Design Organization concept, manufacturers would be responsible for ensuring the systems they design and manufacture comply with all FAA requirements. The FAA would rate qualified certificate holders according to their experience and allow them to make the approvals necessary for the certification of the projects they manufacture. The system management concepts implemented under ODA could serve as a basis for the structure and management of the Certified Design Organizations.

In summary, the designee system allows the FAA to maintain the highest level of safety by performing certification services. Through the designee system, the FAA can focus on safety critical issues and its core workload of continued operational safety and regulatory development. By expanding organizational designee programs, the agency can further its standardization efforts and use resources more effectively.

General Discussion of the Proposed Rule

The proposed rule would standardize the duration of certificates for aircraft certification and flight standards individual designees. The designation of individuals would continue under the authority of part 183, subparts B and C. The proposal would create a new subpart D in part 183 that would contain one set of rules to apply to all types of organizational designees. The proposed rule would replace the existing DAS, DOA, SFAR 36, and ODAR delegation programs with a new delegation program for organizations. Accordingly, subparts J and M of part 21, and SFAR 36 would be phased

out.

The proposed designation would be called an Organization Designation Authorization (ODA). The ODA would typically include an ODA Unit and an ODA Holder. The ODA Unit would be an identifiable unit of two or more individuals within an organization that performs the functions on behalf of the Administrator. The ODA Holder would be the parent organization that the FAA grants an ODA Letter of Designation. A common misconception is a designated organization and its parent certificate holder are the same entity. The proposal specifies separate requirements for the designee organization (ODA Unit) and the parent organization (ODA Holder).

Because there will be no eligibility requirement that an applicant hold any FAA certificate, consultant-type groups of engineering and inspection personnel could form an organization, which would be eligible for an ODA. In this situation, it is possible the ODA Holder would be made up entirely by the ODA Unit. The individuals within an organization can perform functions both on behalf of the ODA Unit (as an FAA authority) and the ODA Holder.

The proposal would allow the FAA to delegate aircraft certification approval functions to qualified organizations other than manufacturers, air carriers, commercial operators, or repair stations. The proposal would make organizations that have demonstrated competence, integrity, and expertise in aircraft certification functions eligible for an ODA. More qualified organizations would be eligible for designations to perform airmen and general aviation operations functions discussed in the paragraphs that follow.

The proposal also expands the designee system to delegate more functions related to aircraft certification and new functions pertaining to certification and authorization of airmen, operators, and air agencies. For general aviation operations, the proposed rule would allow designated organizations to issue airman certificates or authorizations under 14 CFR parts 61, 63, and 91. Additionally, the proposed rule would allow designated organizations to find compliance or conduct functions leading to the issuance of certificates or authorizations for--

- Parachute jumping operations under 14 CFR part 105;
- Rotorcraft external load operations under 14 CFR part 133;
- Agricultural operations under 14 CFR part 137;
- Air agencies operations under 14 CFR part 141; and
- Training centers operators under 14 CFR part 142 (air carrier functions excluded).

The proposed rule would contain general requirements to provide flexibility for FAA delegation programs. The proposal allows for future expansion of the designation of organizations and the delegation of functions without further rulemaking. Because every type of delegated function that could be performed by an ODA Unit cannot be foreseen, it is not possible to specify in the regulation all areas in which an ODA Unit may perform. So, specific functions that may be delegated and the eligibility requirements for those functions would be described in the associated FAA Order. The Order also addresses the specific selection, appointment, and oversight procedures the FAA will follow to manage these designations. You may get a draft of this Order, entitled Organization Designation Authorization Procedures, from the Internet at http:/av-info.faa.gov/dst/oda.

The proposed rule provides safeguards to ensure the integrity of the ODA Holder. The proposal requires the ODA Holder to perform self-audits and ensure that no one interferes with individuals performing functions for the FAA. These terms are in addition to current authorization requirements for procedures manuals, recordkeeping, inspections, and data review if an airworthiness problem or unsafe condition occurs. ODA Holders would also be required to cooperate with the FAA in its audit, oversight, and surveillance of their facilities.

The proposal requires the ODA Unit to function as an identifiable unit when performing FAA functions. The proposal does not specify requirements for the structure of the organization. But the structure must ensure the ODA Unit members have enough authority and independence to perform their delegated function without interference. The organizational structure of the existing delegations vary from integrated organizational structures with a matrix-type relationship, which DOAs have successfully employed for many years, to "stand-alone" organizations performing the delegated functions. Under this proposal, the FAA will continue to allow similar variations in structure. Consultants may serve on the ODA Unit as needed. This proposal would require these individuals to be made part of the ODA Unit before they perform activities on behalf of the ODA Unit.

The ODA Holder is ultimately responsible for the functions performed by the ODA Unit. The procedures that the ODA Unit and ODA Holder follow would be identified in the procedures manual. The administration of the ODA Unit would be independent of other parts of the organization whose work the ODA Unit is reviewing and, therefore, the ODA Unit may not be subjected to pressure by any other part of the organization.

The FAA intends to evaluate the performance of the ODA Holder and ODA Unit, using the management principles originally established under Order 8100.9, DAS, DOA and SFAR 36 Authorization Procedures. The FAA does not intend to focus on the activities of individuals but will focus instead on the performance of the ODA Holder's system and how the functions are carried out. The FAA always retains the authority to monitor and supervise the ODA Unit to the extent necessary to ensure that the designee functions are carried out properly. For example, an individual may be removed from a designee function to correct any deficiency.

Organizations that currently have individual designees could--

- Continue to use only these designees and operate under standard certification procedures;
- Choose to operate under an ODA rather than use individual designees; or
- Operate under both systems (but not on the same project or program), depending on the certification needs of the organization and the regulatory needs of the FAA.

Organizations that get ODAs would be expected to surrender a significant number of individual designees. Even those organizations that operate under both ODA and standard certification procedures in the future would need a much smaller number of individual designees. The FAA envisions that the functions most designees employed by the organization perform would be done under the auspices of the ODA system. This is necessary to reduce the FAA's administrative burden associated with managing individual designees.

The FAA does not intend to issue authorizations to all qualified organizations that might apply for an ODA. The FAA will issue authorizations only if it has resources to

manage the organization and only if the designation will benefit the FAA and the public. Like all designations, the proposed ODA designations may be revoked or canceled at any time for any reason the Administrator considers proper.

Although the FAA is proposing to expand the delegation system to include organizations that are not eligible under current rules, the proposed system would not dramatically increase aircraft-approval-related delegations. Except for the general aviation operations functions, and certain aircraft-approval-related functions, most of the functions are already delegated to either individuals or organizations. The FAA expects that most ODAs will be issued to existing DAS, DOA, SFAR 36, and ODAR organizations, and other organizations currently authorized to perform delegated functions.

Transition to ODA Procedures

No new DAS, DOA, SFAR 36, or ODAR applications would be accepted after the date the final rule is published. Existing DAS, DOA, SFAR 36, and ODAR designations would need to reapply under part 183, subpart D for an ODA. This will allow the FAA to determine if each applicant meets all the requirements of the ODA regulations, such as the requirements for the procedures manual. To allow for an orderly transition from the current designation system to an ODA, the FAA proposes a transition period of 3 years to begin on the date the final rule is published. At the end of the 3 years, current subparts J and M of part 21 would be terminated. SFAR 36 would terminate 3 years after the publication date of the final rule. Also, all DAS, DOA, SFAR 36, and ODAR designations would be terminated.

Current DASs, DOAs, SFAR 36s, and ODARs would need to apply for an ODA as soon as possible after the publication date of the final rule to allow time for the FAA to

review their applications, draft procedures manuals, and other materials. Other qualified organizations may apply for an ODA after publication of the final rule. The FAA's main priority during the 3-year transition period would be to manage the transition of the existing authorizations to ODAs. Other applications would be processed as FAA resources allow.

The Proposed Rule--Section-by-Section

Part 21, Subparts J and M; SFAR 36

Sections 21.230, 21.430, and section 4 of SFAR 36 would fix a date after which applications for DAS, DOA, or SFAR 36 authority would no longer be accepted. Sections 21.230 and 21.430 would prohibit performing DAS and DOA functions under those authorizations after 3 years from the publication date of the final rule. Section 4 of SFAR 36 sets the expiration date of the SFAR at the same 3-year date. Existing DASs, DOAs, SFAR 36s, and ODARs must convert to an ODA system within 3 years after the date the final rule is published to maintain their delegated authority.

For further discussion of the transition period for existing authorizations, see the section immediately preceding this one entitled "Transition to ODA Procedures."

Section 183.1 Scope

The current § 183.1 refers to "designating private persons." As defined in The Federal Aviation Regulations, "person" can refer to an individual or various types of organizations (14 CFR, § 1.1). Section 183.1 would be revised to reflect that subparts B and C would cover designations of private individuals, while new subpart D would cover private organizations.

Section 183.15 Duration of Certificates

Currently, the duration of certificates for individual designees under part 183 varies. For Aircraft Certification and Flight Standards designees, the FAA proposes to amend § 183.15(b) to state that the designations are effective until the expiration date shown on the Certificate of Authority. This is the same system currently used for DARs. The appointing office may set a period of 1 to 5 years, depending on the experience and track record of the individual. The specific instructions for the appointing office would be detailed in the associated FAA Order.

Section 183.41 Applicability and Definitions

This section begins the proposed new subpart D that would apply to any organization that seeks an ODA to perform functions leading to certification or authorization in the areas of engineering, manufacturing, operations, airworthiness, and maintenance. This section introduces the subpart and contains definitions for terms used in subpart D.

Section 183.43 Application

This section describes the application process and prescribes the application contents. The specific application form, content, instruction, and processes would be provided in the associated FAA Order.

Section 183.45 Issuance of Organization Designation Authorizations

This proposed section states the Administrator may issue an ODA Letter of Designation if the Administrator finds the applicant complies with applicable requirements of this subpart and there is an FAA need for the functions requested. The proposed section incorporates what is implicit in 49 U.S.C. 44702(d) that the designation is at the Administrator's discretion. There would be no assurance that qualified applicants would

receive a designation. Designations would be issued when they benefit the FAA and the public.

The ODA Letter of Designation would identify the authorized functions and limitations; and, as applicable, list the categories of products, components, parts, appliances, and ratings, which may be approved under the designation. The list could be a general list of products, components, parts, appliances, and ratings, authorized under the ODA, or it could be more specific, such as a listing of specific Technical Standard Order items.

Section 183.47 Eligibility

The FAA proposes that only applicants within the United States that have enough experience using standard certification procedures or are current designation holders would be eligible for an ODA. Oversight of nonU.S. activities would be unduly burdensome to the FAA.

The proposed eligibility requirements in paragraph (b) would include all persons who are now eligible under subpart J or subpart M of part 21 or under SFAR 36, and would expand the eligibility to include STC (supplemental type certificate) holders.

Under proposed § 183.47(b)(6), an applicant that has not been issued one of the certificates or authorizations listed would be eligible for an ODA if the applicant has enough experience and proper experience in performing the functions sought. This allows the FAA to issue ODAs to any qualified organization. The specific qualifications and experience requirements for specific designations and functions would be described in the associated FAA Order.

Proposed § 183.47(c) applies to any applicant seeking a designation for a production system. Experience in production is necessary to demonstrate the ODA applicant's production competence. Applicants in this category would have to demonstrate experience in both design approval and production approval.

Proposed § 183.47(d) would clarify that for purposes of this section, specifically 183.47 (b)(1), standard procedures would not include transfers and licenses issued under part 21 and approvals based on identicality covered under § 21.303(c)(4). Thus, certificates used to establish eligibility must have been issued to the applicant by the FAA. The certificates could not have been obtained by transfer from another party, or in the case of Parts Manufacturer Approvals (PMA), could not have been obtained based on findings of identicality.

Section 183.49 Authorized Functions

Under proposed § 183.49(a), the authorized functions are dependent on the qualifications and experience of the applicant, and an ODA Unit is allowed to perform only those functions specifically authorized by the FAA Administrator.

Current designation regulations and functions are specific to the type of authorization and provide specific procedures that the authorized person must follow. To simplify the regulations and maintain greater flexibility, the proposed rule would remove specific details, which would instead be contained in the associated FAA Order and in the applicant's procedures manual.

Proposed § 183.49(c) states that the ODA functions are based on finding compliance with the applicable regulations "of this chapter," which refers to the Federal Aviation Regulations in 14 CFR parts 1-199. The proposed list of functions include, among others,

approving technical data, finding compliance with airworthiness requirements, and approving or accepting manuals and changes or supplements to manuals. Many of these listed functions are now allowed under current designation regulations. Paragraph (c)(1) lists approving technical data and changes to such data as one of the functions that may be granted; these data refer not only to data associated with aircraft certification functions, but they also refer to data relevant to flight standards and maintenance functions. Proposed paragraph (c)(6) lists "approving or accepting manuals and changes/supplements to manuals" (e.g., maintenance manuals and operations manuals).

General aviation operations functions are listed in § 183.49 (c). Included are functions leading to certification authorization for parachute jumping operations, external load operators, and agricultural aircraft operators under parts 105, 133, and 137, respectively. Also included are functions for air agencies under part 141, training centers under part 142 (for non-air carriers), and pilots and crewmembers under parts 61, 63, and 91. ODA Holders in these areas would provide initial evaluations and briefings for applicants, review manuals and procedures, inspect facilities, conduct knowledge and skill tests (as appropriate), conduct conformity inspections (as required), and complete the proper certification reports required in the certification process.

Functions currently authorized for individuals to perform would be available to ODA Holders. For example, issuing pilot certificates and authorizations, to include authorizations to conduct aerobatic maneuvers in wavered airspace, Letters of Authorization (LOA) to operate aircraft for which no type designation exists, and evaluation authority to issue additional pilot ratings or certificates.

The proposed list of functions is not meant to cover all possible functions. Proposed § 183.49(c)(15) would allow delegations for other functions considered proper by the Administrator. This would allow the Administrator to authorize added functions, if appropriate, based on the applicant's qualifications and experience. The associated FAA Order would provide a matrix of options for functions that an organization may request authority to perform based on the organization's qualifications.

The FAA has determined that certain functions will not be delegated at this time because they are reserved for the FAA to perform or because experience should be gained with the new delegation system before expanding it to include these functions. The list that follows identifies those areas where the FAA would reserve the functions to itself. The proposed ODA system would allow future delegations in some of these areas if judged proper. Currently, delegation to ODAs would not be considered for--

- Finding compliance for issuing repair station certificates under part 145;
- Finding compliance for issuing training center certificates under part 142 for approval of air carrier training programs;
- Issuing a Type Certificate and an amended Type Certificate;
- Issuing a Production Certificate;
- Approving quality assurance procedures and manuals;
- Issuing a Parts Manufacturer Approval (PMA);
- Making certain findings for issuing a design or a production approval (e.g., establishing the certification basis or special conditions, establishing means of compliance not previously accepted by the FAA, and determining equivalent level of safety);

- Determining operational suitability (Flight Standardization Board);
- Approving Master Minimum Equipment List;
- Approving Air Carrier Minimum Equipment List;
- Approving air carrier flight crew operating manuals; and
- Approving air carrier instructions for continued airworthiness, which includes Maintenance Review Board (MRB) and associated maintenance documents.

The issuance of certain certificates may also involve both discretionary and "objective" findings. Thus, the FAA would limit ODA Unit findings of compliance for issuing parts 133, 137, 141, and 142 certificates to those that are objective.

Additionally, there is no regulatory basis for designees to perform rulemaking activity or FAA oversight of certificate holders or other designees. Therefore, ODA will not allow delegation of any of the following:

- Issuing an Airworthiness Directive (AD).
- Issuing an exemption.
- Conducting surveillance and oversight.

Section 183.51 Personnel

The proposed personnel requirements of § 183.51 would call for each ODA applicant to have within its ODA Unit a qualified ODA administrator(s) and staff. The staff for aircraft-approval-related functions would be required to meet the same requirements as individual designees that perform similar functions. Examples include the following:

- ODA Unit personnel making findings of compliance or approving technical data would have to meet the same qualification requirements as a DER.
- Organizations seeking general aviation operations functions would need individuals who have worked as an operator, have held positions required by the FAA that directly relate

to the activity the ODA Unit would perform, or have worked for organizations that hold one or more of the certificates listed in § 183.47(b).

- ODA administrators would need 5 years of experience working with the FAA on similar projects as those approved under the ODA and a comprehensive knowledge of related FAA regulations and procedures.
- Both ODA administrators and staff would need to demonstrate integrity and a cooperative attitude with the FAA. The specific administrator and staff eligibility requirements are contained in the draft ODA Order and Order 8100.8, Designee Management Handbook.
- ODA Holders performing operations functions leading to certifications or authorizations under parts 61, 63, 105, 133, 137, 141, and 142 would need to employ qualified, experienced individuals who have held positions in areas directly related to the activity or function to be performed by the ODA Unit.

Section 183.53 Procedures Manual

The proposed rule would require an ODA Holder to have an FAA-approved procedures manual, containing at least the material specified in 183.53. The procedures manual would specify the authorized functions and limitations of the organization and prescribe the procedures used to perform the authorized functions. The FAA must approve changes to the procedures manual before implementation. As discussed in the following section, the procedures manual is also important in identifying the scope of the ODA Unit's function.

Section 183.55 Limitations

Proposed § 183.55(a) limits the authority of the ODA Unit to the certification and approval functions defined in its approved procedures manual. Any change in limitations or functions desired by the ODA Holder must be approved by the FAA and incorporated into the procedures manual before the ODA Unit may perform the function. Limitations will be defined based on the experience and knowledge of the ODA Holder and ODA Unit.

Proposed § 183.55(b) states the ODA Unit may not perform a function if there is a change in the Unit or Holder that might affect its ability to perform that function. Changes that might affect performing a function must be approved by the FAA and documented in the procedures manual. For example, for ODA Units performing production functions (e.g., conformity inspections, issuance of airworthiness certificates, export, etc.), FAA approval of a change in facilities would be required. The proposal, however, does not require that every change in the location of facilities or organizational structure of every ODA Holder and ODA Unit be approved. Rather, under § 183.53 (l), the ODA Holder's procedures manual would show what changes can be made without prior FAA approval. These would be changes that do not affect its qualifications to perform a function. For example, an ODA Unit could continue to perform authorized functions after a minor change in organizational structure if it met the requirements set forth in its procedures manual.

Proposed § 183.55(c) states that an ODA Unit may not issue a certificate or other approval for which a finding of the Administrator is required, such as equivalent level of safety findings, until the Administrator makes that finding. An ODA Holder needs to be aware of the limits of its authority and of the obligation to get necessary approvals from the FAA before exercising its authorized function.

Under proposed § 183.55(d) an ODA Unit would also be subject to any other limitations specified by the Administrator. For example, the ARAC recommendation was to not list the names of ODA Unit staff members in the ODA procedures manual but, instead, identify the positions and qualifications of these staff members. The ARAC proposed that the procedures manual would describe how to maintain and remove the names of the staff members, but the names would be maintained in a file separate from the procedures manual. The ARAC anticipated the staff-member file could be updated without letting the FAA know. The FAA disagrees with the last part of the ARAC recommendation and would continue (as in the current delegation systems) to require FAA approval of ODA Unit staff changes. ODA Unit staff members could be identified in a file separate from the procedures manual. The FAA determined that continuing to approve staff members would enable the agency to gain experience working with these organizations while developing and assessing the systems approach to management of the organizations. The FAA expects that, 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. Although the FAA is not specifically proposing rule language for this requirement, the FAA intends to implement it under § 183.55(d).

Section 183.57 Responsibilities of an ODA Holder

Proposed § 183.57 would show certain responsibilities of an ODA Holder. In effect, when performing the authorized functions, the ODA Unit represents the FAA within the organization. As such, employees performing the designated functions specified in the FAA-approved procedures manual would report to the ODA administrator(s) when performing FAA functions.

Clearly, personnel performing ODA functions must have organizational authority and independence to ensure that authorized functions are performed according to FAA requirements. While performing authorized functions, an ODA Unit within an organization would report to a level of management high enough to enable the ODA Unit to operate without pressure or influence from other organizational segments or individuals. The ODA Unit must be free of conflicting restraints that would limit the ODA Holder's ability to ensure that authorized functions are performed in compliance with FAA regulations. The ODA Holder would also be responsible for cooperating with the FAA during the FAA's audit, oversight, and surveillance activities.

Section 183.59 Continued Eligibility

Proposed § 183.59 would require the ODA Holder to notify the FAA of any change that could affect its ability to meet the requirements of the regulations. For example, if its ODA administrator were to leave the organization, the ODA Holder would have to notify the FAA. The specific changes that require notice would be determined by the types of functions the organization is authorized to perform, and the basis of the organization's eligibility.

Section 183.61 Inspection

The proposed language would require both ODA Holders and applicants to allow the FAA to make any inspection necessary to determine compliance with the regulations. Applicants may be inspected as part of evaluating their application. ODA Holders would have to provide access for the FAA to perform on-site evaluations of the ODA Holder, as the FAA considers necessary.

Section 183.63 Records and Reports

Proposed § 183.63 would require an ODA Holder to maintain and make available certain records. The required records depend on the ODA Holder's specific authority and the work performed under that authority.

Proposed § 183.63(d) would require an ODA Holder and ODA Unit under this part to make such reports that are prescribed by the Administrator. The specific reports would be described in the associated FAA Order.

Section 183.65 Data Review and Service Experience

Proposed § 183.65 would require an ODA Unit to investigate safety concerns it or the FAA identifies. The FAA would require that such investigations take priority over all delegated functions performed by the organization. Additionally, the ODA Unit must provide the FAA with any information in its possession that is necessary to implement corrective action. These responsibilities for safety concerns apply to all approvals and certificates issued by the ODA Unit. This would also apply to certificates and approvals the ODA Unit transfers to other persons.

Section 183.67 Transferability and Duration

Proposed § 183.67(a) states that an ODA Letter of Designation is not transferable and is effective until the expiration date shown on the Letter of Designation. Proposed §183.67(b) states the circumstances for which an ODA is terminated or suspended. This proposed language is substantively the same as the termination and suspension rules for individual designees. The associated FAA Order will describe some of the reasons for which the FAA might terminate or suspend an ODA. The reasons include improper performance; lack of care, poor judgment, or lack of integrity; lack of FAA need or ability to manage; insufficient activity; and lapse of qualifications. The Order will also outline a

means for the ODA Holder to appeal a termination or suspension decision. The right to appeal depends on the reason for the termination or suspension. See the associated draft FAA Order for more information.

Paperwork Reduction Act

This proposal contains the following new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. § 3507(d)), the Department of Transportation has sent the information requirements associated with this proposal to the Office of Management and Budget for its review.

Title: Establishment of Organization Designation Authorization Procedures

Summary: This proposal requires the creation of an Organization Designation Authorization (ODA) program. This program would expand the approval functions of FAA organizational designees; standardize these functions to increase efficiency; and expand eligibility for organizational designees, including organizations not eligible under the current rules. In addition, as the FAA transitions to the ODA program, the agency would phase-out the Delegation Option Authorization (DOA), Designated Alteration Station Authorization (DAS), SFAR 36 authorization, and the Organizational Designated Airworthiness Representative (ODAR).

Use of: The information in this proposal is required to establish the qualifications of prospective applicants and to manage the activities of organizations authorized as Organization Designation Authorization Holders. Reporting and recordkeeping requirements are necessary to manage the various approvals issued by the organization and to document approvals issued that must be maintained to address any future safety issues.

Respondents (including number of): The likely respondents to this proposed information requirement are organizations and companies within industry that desire the authority to make approvals on behalf of the FAA. During the initial 3-year period, it is expected that about 60 applications per year will be processed. We expect about 10 about per year after the initial 3-year period.

Frequency: After initial application and authorization, the frequency of submittals will be dependent upon the type of authority granted by the FAA. Recurrent information requirements are based on the approvals issued by the organization and changes to the authorization desired by the authorization holder.

Annual Burden Estimate: We estimate the proposed rule imposes an annual public reporting burden of $235,840 based on 4288 hours at $55.00 per hour. The estimated recordkeeping costs are $161,700, based on 2940 hours at $55.00 per hour. Both of these cost estimates are based on clerical, technical, and overhead expenses.

Estimates of the burden created by the rule are based on the following: The rule will phase-out over 3 years the existing Designated Alteration Station and Delegation Option Authorization rules contained in Subparts J and M of part 21, as well as Special Federal Aviation Regulation No. 36. The collection and recordkeeping requirements imposed by those rules will transition to the requirements contained here over the initial 3- year period. In addition, existing Organization Designated Airworthiness Representatives that are currently managed under part 183 will also be converted to Organization Designation Authorization over the initial 3-year period. As a result, the initial 3-year burden will be large, with a smaller burden over the life of the program. It is expected that about 180 applications will be processed within the first 3 years of the

program, with an estimated 10 more applications being submitted per year over the life of the program.

The annual cost to the Federal Government to analyze and process the information received is estimated to be $69,300 per year. This estimate is based on 1260 hours at $55.00 per hour.

The agency is seeking comments to--

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including responses through the use of proper automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology.

Individuals and organizations may send comments on the information collection requirement by *[insert date 60 days after publication in the Federal Register]*, and should direct them to the address listed in the **ADDRESSES** section of this document.

According to the regulations, implementing the Paperwork Reduction Act of 1995, (5 CFR 1320.8(b)(2)(vi)), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection will be

published in the Federal Register, after the Office of Management and Budget approves it.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is the FAA's policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Economic Evaluation, Initial Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531-2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the bases of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal

governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA has determined that this proposed rule: (1) would generate benefits that justify its costs and would not be "a significant regulatory action"; (2) would not have a significant impact on a substantial number of small entities; (3) would have little effect on international trade; and (4) would impose no unfunded mandates on State, local, or tribal governments, or on the private sector. These analyses, contained in the Initial Regulatory Evaluation, Regulatory Flexibility Analysis, Trade Impact Assessment, and Unfunded Mandates Act Determination for Proposed Rule: Establishment of Organization Designation Authorization Procedures, which is available in the docket, are summarized as follows.

Request for Comments

The FAA requests comments on its assumptions, methodology, and data used in its economic analyses. The FAA also requests that commentators provide data with supporting documentation for their comments.

Costs

The potential costs of compliance with the proposed rule would occur because the proposed requirement that all organizational designation authorizations under part 21, subparts J or M, or under part 121, SFAR 36, or under part 183 would end within 3 years of the publication date of the final rule. As a result, the costs of compliance would be the added (or incremental) costs required for a company or an organization to apply for and to operate an ODA above the costs required for it to operate its existing designation

authorizations. These costs would be both initial (first-year) costs and annual (recurring) costs.

To estimate the potential costs, the FAA used a telephone survey of 8 of the 21 programs that volunteered to participate in the DDS (an acronym taken from DOA, DAS, and SFAR 36) program developed under Order 8100.9. As the DDS program was developed to closely model the proposed ODA program, the FAA assumed the experiences of these DDS participants would likely model the experiences of future ODA programs. These DDS participants have voluntarily experienced the initial compliance costs involved in setting up their programs. However, as the DDS program has not become active at this time, these DDS participants have not experienced the annual compliance costs but did provide anticipated estimates based on their experiences with their existing designation programs. In addition, as there are no ODAR programs in the DDS program, the FAA could not use the DDS participant estimates to proxy the compliance costs for ODAR programs. Rather, the FAA used its knowledge and expertise to develop compliance cost estimates for the ODAR programs.

Compliance costs would vary across companies depending upon the amount of activity that would be administered by the ODA, the size of the company, and the extent to which the existing designated procedures, personnel, and systems would already meet the proposed ODA requirements. Based on the telephone survey, the FAA determined that the larger the DOA, DAS, and SFAR 36 program, the higher the cost would tend to be. The FAA then assumed that a similar result would occur for ODAR programs. On that basis, the FAA estimated the cost impact of an average "large" ODA program and an average "small" ODA program. The FAA then assumed that a company with an existing

designation authorization having more than 1,500 employees would typically have a large ODA program, while one with fewer than 1,500 employees would typically have a small ODA program. Thus, the FAA classified the existing designation authorization programs into the following four general categories. The first category is large DOA, DAS, and SFAR 36 programs (assumed to have an average of 20 ODA personnel). The second category is small DOA, DAS, and SFAR 36 programs (assumed to have an average of 10 ODA personnel). The third category is large ODAR programs (assumed to have an average of 10 ODA personnel). The fourth category is small ODAR programs (assumed to have an average of five ODA personnel).

The primary costs of compliance would result from the number of labor hours of engineers/administrators necessary to meet various proposed requirements. On that basis, the estimated number of additional hours for each of the several requirements in the proposed rule that the DDS participants pointed out would involve incremental costs by type of current designation and by size of designation activity are contained in Table 1. The paragraphs following Table 1 briefly explain these estimated hours. A more complete discussion is found in the Initial Regulatory Evaluation.

TABLE 1

Initial Number of Administrative Hours Per Company by Type of Current Designation Authorization and by Size of Operation

Type of Initial Activity	Large Non-DDS Participant	Small Non-DDS Participant	Large ODAR	Small ODAR
Revise Procedures Manual	40	20	16	12
Revise Recordkeeping System	4	4	4	4
Initial Employee	40	20	20	10

Instruction				
FAA Application	26	16	14	14
ODA Administrator Travel	8	8	8	8
TOTAL	118	68	62	48

All the DDS participants reported that their procedures had followed accepted industry practices and did not need to be changed for the DDS program. However, the manuals had to be rewritten into the FAA-approved format and this entailed rewriting and then checking to be certain that the rewrite had not inadvertently introduced potential errors into the procedures. Clearly, then, the more procedures involved, the more time required for the rewrite. Thus, the number of hours would tend to vary with the size of the ODA program.

The number of hours to review the recordkeeping system was determined not to vary very much with the size of the records because it would be a record system review and not a review of each individual type of record.

The number of hours for the initial ODA employee instruction was based mainly on training the employees on the new formats and forms rather than on learning new technical procedures. On that basis, the FAA estimated that this initial training would take 2 hours per ODA employee, which, when multiplied by the average number of ODA employees, produces the estimated number of hours in Table 1.

The number of hours to apply for an FAA approval was based on the size and complexity of the ODA program. These estimates included the number of engineering/administration hours needed to respond to likely FAA questions concerning the program after the initial application was made.

Finally, the proposed FAA Order requires an ODA administrator to attend an ODA Standardization class that would be given by the FAA. The FAA assumed that this would be a class that would require the ODA administrator to spend 1 day (including travel time) away from work.

Thus, the FAA determined that the proposed rule would involve between 48 and 128 additional, initial engineering/administration hours to apply for an ODA.

Similarly, Table 2 contains the FAA's estimate of the annual number of additional engineering/administration hours that would be needed to remain in compliance with the proposed rule. The paragraphs following Table 2 briefly explain these estimated hours. A more complete discussion is found in the Initial Regulatory Evaluation.

TABLE 2

Annual Number of Administrative Hours Per Company by Type of Current Designation Authorization and by Size of Operation

Type of Annual Activity	Large Non-DDS Participant	Small Non-DDS Participant	Large ODAR	Small ODAR
Refresher Training	40	20	20	10
Additional ODA Administrator Time	16	12	12	8
Periodic Self-Audits	36	16	16	16
FAA Review	32	12	8	8
ODA Administrator Travel	4	4	4	4
TOTAL	128	64	60	56

Five of the DDS participants reported that they did not have a scheduled refresher training program as would be effectively required by the proposed FAA Order that ODA personnel receive biennial refresher training. Three reported that they did have a

scheduled biennial program. On the basis that the DDS participants that did have a training program reported that each employee would need between 4 to 6 hours every 2 years, the FAA estimated that an annual equivalent would be 3 hours per year. Given the expected number of programs that would not incur additional training time, the FAA estimated that, on average, all ODA programs would need to add 2 hours of annual training to comply with the proposed requirement. This increase, when multiplied by the average number of ODA employees, produces the estimated number of additional engineer training hours in Table 2.

The annual additional ODA administrator time is based on the perception of the surveyed DDS participants that an ODA program may require an administrator to perform more documentation for personnel than is required for the previous designation authorizations. As a result, this extra paperwork would likely be directly related to the size and complexity of the ODA program, which is reflected in the estimated numbers of ODA administrator hours in Table 2.

The periodic self-audits were determined to vary by size and complexity of the work being performed under an ODA program. On that basis, the FAA estimated that the large non-DDS participant would need 12 engineering/administration hours and all other designation authorization programs would need 8 engineering/administration hours for a complete self-audit. In addition, the FAA estimated that a large non-DDS participant would conduct three of these self-audits annually while all other designation authorization programs would conduct two annual self-audits.

Similarly, the FAA anticipates that it would spend more time reviewing larger and more complex ODA programs, which, in turn, would require a larger ODA program to

spend more time cooperating with FAA reviews. On that basis, the FAA estimated that it would take 16 engineering/administration hours for a large non-DDS participant ODA program, 12 engineering/administration hours for a small non-DDS participant ODA program, and 8 engineering/administration hours for an ODAR program to cooperate with an FAA review. The FAA also anticipates that it would perform these reviews twice a year for the large non-DDS participant ODA programs and once a year for all other ODA programs.

Finally, the ODA administrator would need to attend the 1-day biennial ODA Standardization class. This analysis assumed that this every other year activity could be approximated by dividing the 8 hours biennial amount of time for travel and class attendance into annual 4-hour equivalents.

Thus, the FAA determined the proposed rule would involve between 56 and 128 more annual engineering/administration hours to apply for an ODA from the FAA.

In converting these hours to dollar values, the FAA assumed that, on average, the total hourly compensation (salary plus fringe benefits) for an engineer/administrator would be $110. This $110 value also incorporates the costs associated with any non-engineering/administration ancillary hours that would be needed for compliance. In addition, the FAA assumed the travel costs for an ODA administrator to attend the FAA ODA Standardization class would be $500 per trip.

On that basis, the FAA calculated the initial and the annual costs of compliance. The initial compliance cost per ODA program is contained in Table 3. The annual compliance cost per ODA program is calculated based on evenly dividing the biennial travel costs of $500 and lost engineering/administration labor cost of $880 by 2 to obtain

an annual travel cost of $250 and an annual lost engineering/administration labor cost of $440. The annual compliance cost per ODA program is contained in Table 4.

TABLE 3

Per Company Initial Compliance Cost by Type of Designation Authorization and by Size of Operation

Type of Initial Expenditure	Large Non-DDS Participant	Small Non-DDS Participant	Large ODAR	Small ODAR
Revise Procedures Manual	$4,400	$2,200	$1,760	$1,320
Revise Recordkeeping System	$440	$440	$440	$440
Initial Employee Instruction	$4,400	$2,200	$2,200	$1,100
FAA Application	$2,860	$1,760	$1,540	$1,540
Travel	$1,380	$1,380	$1,380	$1,380
TOTAL	$13,480	$7,980	$7,320	$5,780
PRESENT VALUE	$12,490	$7,400	$6,780	$5,350

TABLE 4

Per Company Annual Compliance Cost by Type of Designation Authorization and by Size of Operation

Type of Annual Expenditure	Large Non-DDS Participant	Small Non-DDS Participant	Large ODAR	Small ODAR
Refresher Training	$4,400	$2,200	$2,200	$1,100
Additional ODA Administrator Time	$1,760	$1,320	$1,320	$880
Periodic Self-Audits	$3,960	$1,760	$1,760	$1,760
FAA Review	$3,520	$1,320	$880	$880
Travel	$690	$690	$690	$690
TOTAL	$14,330	$7,290	$6,850	$5,310
PRESENT VALUE	$10,980	$5,590	$4,835	$3,975

In estimating the total compliance costs, the FAA determined that the designation authorization programs taking part in the DDS program would incur minimal compliance costs because they have already incurred the initial costs and they would incur similar annual costs if they remained in the DDS program. Companies in the DDS program have already voluntarily made the initial expenditures and have voluntarily agreed to make the future annual expenditures to remain in the program.

On that basis, the FAA determined that large companies would operate 24 of the non-DDS participant programs and small companies would operate 14 of the non-DDS participant programs. The FAA also determined that large companies would operate 36 of the ODAR programs and small companies would operate 77 of the ODAR programs. As seen in Table 5, the FAA estimates that the undiscounted total initial compliance costs would be $1.144 million, which has a present value of $1.060 million. Further, as seen in Table 6, the FAA estimates that the undiscounted total annual compliance costs would be $1.102 million.

TABLE 5

Total Initial Cost by Type of Designation Authorization and by Size of Operation

(Values rounded to nearest $100)

Type of Initial Expenditure	Large Non-DDS Participant	Small Non-DDS Participant	Large ODAR	Small ODAR	TOTAL *
Revise Procedures Manual	$105,600	$30,800	$63,400	$101,600	$301,400
Revise Recordkeeping System	$10,600	$6,200	$15,800	$33,900	$66,400
Initial Employee Instruction	$105,600	$30,800	$79,200	$84,700	$300,300
FAA Application	$68,600	$24,600	$55,400	$118,60	$208,400

				0	
Travel	$33,100	$19,300	$49,700	$102,300	$208,40033,220
TOTAL *	$323,500	$111,700	$263,500	$445,100	$1,143,800
PRESENT VALUE	$299,800	$103,500	$244,200	$412,400	$1,059,900

* NOTE: Totals may not add due to rounding.

TABLE 6

Total Annual Cost by Type of Designation Authorization and by Size of Operation

(Values rounded to nearest $100)

Type of Annual Expenditure	Large Non-DDS Participant	Small Non-DDS Participant	Large ODAR	Small ODAR	TOTAL *
Refresher Training	$105,600	$30,800	$79,200	$84,700	$300,300
Additional ODA Administrator Time	$21,100	$12,300	$31,700	$67,800	$132,900
Periodic Self-Audits	$95,000	$24,600	$63,400	$135,500	$318,600
FAA Review	$84,500	$18,500	$31,700	$67,800	$202,400
ODA Administrator Travel	$16,600	$9,700	$24,800	$53,100	$104,200
TOTAL *	$343,900	$102,100	$246,600	$408,900	$1,101,500
PRESENT VALUE	$280,800	$83,300	$201,300	$333,800	$899,100

* NOTE: Totals may not add due to rounding.

Further, the FAA did not estimate the benefits or costs for companies or organizations that do not now hold a designation authorization but that might apply for an ODA. Any estimate of the number of such companies and organizations would be speculative. Although they would incur costs, their decisions would be voluntary choices because they could continue to employ FAA-approved personnel following standard procedures to meet the FAA requirements. Thus, the decision to apply for an ODA

would be made only if a company anticipated making a profit; that is, incurring negative net costs.

Finally, the FAA does not have enough information at this time to estimate the potential costs for companies and organizations to apply for ODAs that would be applicable in the general aviation sector. The FAA requests data and information on these companies and organizations.

Benefits

The proposed rule would enhance safety by: (1) setting up an improved designation authorization system; and (2) allowing the FAA to better distribute its increasingly scarce certification and inspection resources.

The safety benefits that would arise from an improved designation authorization system would primarily be derived from: (1) an improved FAA-approved procedures manual that would result in higher quality certification processes; and (2) periodic ODA self-audits that would ensure certification activities were performed according to the procedures manual. Although the FAA believes that these are real safety benefits, the FAA is unable to calculate a quantitative value for them because the effect of these improvements in processes cannot be directly translated into a percentage increase in safety. That is, the FAA cannot state that "the airplane will be X percent safer under an ODA system than under the current designation authorization system. As a result, the FAA can only provide this qualitative discussion of the expected benefits of establishing an ODA system.

The safety benefits that would arise from allowing the FAA to better distribute its increasingly scarce resources would derive from the FAA's applying these resources to

evaluating the quality of the certificate and approval holders' performances rather than on witnessing tests and evaluating data. As the number of certifications and approvals increase over time, it is unlikely that FAA resources will increase commensurately. Thus, efficient use of these resources dictates that the FAA review and evaluate the overall quality of the certificate and approval holders' performances that directly relate to maintaining safety; that is, compliant designs and conforming products. This shift in FAA activity would be particularly significant when the FAA is tasked with evaluating designs involving new technology. By using ODAs to address findings of compliance for designs of familiar technology, the FAA would be able to devote more of its certification and inspection resources to addressing the safety concerns associated with new technology. Also, there are certain specialized general aviation areas where the FAA has not been able to obtain adequate resources to perform its certifications and authorizations at the desired quality level. At this time, the FAA cannot quantify the extent of the potential certification and inspection hours that it would be able to shift to other certification and inspection activities because the FAA cannot predict the number of companies that would apply for an ODA or the amount of these activities that would be delegated to the ODA.

By way of illustrating the potential savings in hours associated with a new aircraft certification, the FAA Aircraft Certification Services has estimated that it expended approximately 130,000 labor hours on a recent large transport category airplane certification. Using an estimate of $110 per hour total compensation rate for an FAA engineer/administrator (including salary, medical, vacation and other benefits as well as an adjustment factor for supervisory and administrative personnel time), the FAA

estimates that its Aircraft Certification Services spent about $14.3 million over the 4-year certification program. Note that these estimated hours do not include those hours expended by FAA Flight Standard Service in this same program. Had an organizational designee system approach been in effect, the FAA estimated that it could have shifted between 10 percent and 20 percent or about 13,000 to 26,000 of these hours from that certification program to programs that would have focused on the continued airworthiness of the commercial transport fleet. The FAA would still have expended about 104,000 to 117,000 hours in overseeing the operation of that manufacturer's ODA program for that program's activities.

Cost Savings

The proposed rule would provide potential cost savings to the aviation industry by reducing: (1) the number and length of some delays in work schedules due to the existing designation authorization system; and (2) the number of tests that must be performed.

Industry work schedules have been interrupted and work delayed because the FAA could not complete the requested certifications and approvals at the time needed due to its limited resources, other requests, and other agency priorities. Most of the DDS participants stated that the potential reduction of aircraft downtime was an important consideration in voluntarily undertaking the effort required for the DDS program. As an illustration of the amount of time savings that may be achieved, a member of the Delegation Authorization Working Group reported that his transport category airplane manufacturer implemented an internal designee program similar to that of an ODA and this was estimated to save an average of 50 hours per delivered airplane. This estimate was based on actual post-type certification scheduled activity over a specific period.

Under the current system, some certification tests are performed once for the company's engineers and then repeated for an FAA observer. Further, performing these tests often involve considerable equipment expense to the company, as well as the extra personnel time required. The proposed ODA program would remove some of these duplicate tests, although the Delegation Authorization Working Group members were unable to estimate the number of duplicate tests that would be eliminated.

Cost/Benefit Comparison

The Delegation Authorization Working Group and companies participating in the DDS program believe that the proposed rule would be cost beneficial. As noted earlier, companies that currently use FAA-approved personnel operating under standard practices to get FAA approvals could continue to operate under that system. Those companies would not be required to develop an ODA unless they believed it would be to their financial advantage. Companies that currently have designation authorizations would, however, be required to obtain an ODA if they intend to continue to have a designation authorization. If they do not intend to continue to have a designation authorization, they would be able to use FAA-approved personnel operating under standard practices. Members of the Delegation Authorization Working Group and seven of the eight surveyed DDS participants believe that the financial advantages from having an ODA would be sufficiently large that all, or nearly all, of the companies holding a current designation authorization would develop an ODA. They further reported that an ODA, as proposed in this rule, would be more cost-effective and would provide greater safety benefits than those provided by the current designation authorizations. Finally, the fact that many more designation authorization programs than the 21 ultimately selected by the

FAA tried to enroll in the prototype program, provides strong evidence that those programs had expected a positive benefit cost result from participating in an ODA-like system.

Regarding general aviation, the FAA believes extending an ODA system to areas in general aviation that currently do not have designation authorization type programs would similarly benefit many in general aviation by reducing certification and authorization delays. On net, the FAA believes that the expansion of the ODA program in general aviation would have a positive net benefit.

In conclusion, the FAA believes that the benefits from the proposed rule would be greater than the costs of complying with the proposed rule.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation. To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions.

Agencies must perform a review to determine whether a proposed or a final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a Regulatory Flexibility Analysis as described in the RFA.

If an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of

the RFA provides that the head of the agency may so certify and a Regulatory Flexibility Analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This proposed rule would promote greater efficiency gains than it would create added costs. For example, small manufacturing companies would be able to set their production schedules without being dependent upon an outside individual's availibility at the required time to approve a product. Further, small airlines and repair stations would be able to minimize the amount of aircraft downtime, which results in lost revenue, to complete specified repairs. In addition, a small company that does not now have a designation authorization would voluntarily choose to apply for an ODA only if it was financially advantageous. Finally, the costs for an individual small business would ultimately be borne by the end user and the distribution of those costs between large and small businesses could not be determined.

Because of those arguments, the FAA Administrator certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.

International Trade Impact Analysis

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that would create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where proper, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule, according to that standard.

Thus, for both U.S. and European companies with plants and repair stations operating in the United States, the proposed rule would reduce the costs of certifying certain exams, tests, and inspections. The European aviation product certification system is so significantly different from the U.S. system that a harmonization effort is not possible. As a result, the FAA concludes that the proposed rule would have a minimal impact on international trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104-4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. The FAA determined that this proposed rule would not contain a Federal intergovernmental or private sector mandate that would exceed $100 million in any year, therefore, the requirements of the Act do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Also, the FAA has determined that this notice of proposed rulemaking would not have federalism implications.

List of Subjects

14 CFR Part 21

Aircraft, Aviation safety, Exports, Imports, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 145

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 183

Aircraft, Airmen, Authority delegations (Government agencies), Reporting and recordkeeping requirements.

The Proposed Amendment

The Federal Aviation Administration proposes to amend parts 21, 121, 135, 145, and 183 of the Federal Aviation Regulations as follows:

PART 21--CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

1. The authority citation for part 21 continues to read as follows:

AUTHORITY: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701-44702, 44707, 44709, 44711, 44713, 44715, 45303.

2. Section 21.230 is added to read as follows:

§ 21.230 Compliance dates.

(a) No person may apply for a Delegation Option Authorization under this subpart after [Date of Publication in the Federal Register of the final rule]. A person may apply for an Organization Designation Authorization under subpart D of part 183 of this chapter on or after [Date of Publication in the Federal Register of the final rule].

(b) No person may perform the functions of a Delegation Option Authorization issued under this subpart after [Date 3 years after date of publication in the Federal Register of the final rule].

3. Section 21.430 is added to read as follows:

§ 21.430 Compliance dates.

(a) No person may apply for a Designated Alteration Station authorization under this subpart after [Date of publication in the Federal Register of the final rule]. A person may apply for an Organization Designation Authorization under subpart D of part 183 of this chapter on or after [Date of publication in the Federal Register of the final rule].

(b) No person may perform the functions of a designated alteration station authorization issued under this subpart after [Date 3 years after date of publication in the Federal Register of the final rule].

PART 121--OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

4. The authority citation for part 121 continues to read as follows:

AUTHORITY: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44901, 44903-44904, 44912, 46105.

PART 135-- OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

5. The authority citation for part 135 continues to read as follows:

AUTHORITY: 49 U.S.C. 106(g), 40113, 44701-44702, 44705, 44709, 44711-44713, 44715-44717, 44722.

PART 145--REPAIR STATIONS

6. The authority citation for part 145 continues to read as follows:

AUTHORITY: 49 U.S.C. 106(g), 40113, 44701-44702, 44707, 44717.

7. In parts 121, 135, and 145, Special Federal Aviation Regulation No. 36, the text of which is found at the beginning of part 121, is amended by--

(a) Revising the introductory text of section 4 as set forth below; and

(b) Revising the unnumbered paragraph in section 13 to read as set forth below.

Special Federal Aviation Regulation No. 36

* * * * *

4. Application. The applicant for an authorization under this Special Federal Aviation Regulation must submit an application before [Insert date of publication of final rule], in writing, and signed by an officer of the applicant, to the certificate holding district office. On or after [Insert Date of publication in the Federal Register of the final rule] a person may apply for an Organization Designation Authorization under subpart D of part 183 of this chapter. The application must contain--

* * * * *

This Special Federal Aviation Regulation terminates [Insert Date 3 years after date of publication in the Federal Register of the final rule], and no person may perform a function authorized under this SFAR after that date.

PART 183--REPRESENTATIVES OF THE ADMINISTRATOR

8. The authority citation for part 183 continues to read as follows:

AUTHORITY: 31 U.S.C. 9701; 49 U.S.C. 106(g), 40113, 44702, 44721, 45303.

9. Section 183.1 is revised to read as follows:

§ 183.1 Scope.

This part describes the requirements for designating private persons to act as representatives of the Administrator in examining, inspecting, and testing persons and aircraft for the purpose of issuing airman, operating, and aircraft certificates. In addition, this part states the privileges of those representatives and prescribes rules for the exercising of those privileges, as follows:

(a) Private individuals may be designated as representatives of the Administrator under subparts B and C of this part.

(b) Private organizations may be designated as representatives of the Administrator by obtaining Organization Designation Authorizations under subpart D of this part.

10. Section 183.15 is amended by removing paragraph (c), redesignating paragraph (d) as paragraph (c), and revising paragraphs (a) and (b) to read as follows:

§ 183.15 Duration of certificates.

(a) Unless sooner terminated under paragraph (c) of this section, a designation as an Aviation Medical Examiner is effective for 1 year after the date it is issued, and may be renewed for additional periods of 1 year at the Federal Air Surgeon's discretion. A renewal is effected by a letter and issuance of a new identification card specifying the renewal period.

(b) Unless sooner terminated under paragraph (c) of this section, a designation as Flight Standards or Aircraft Certification Service Designated Representative as described in §§ 183.27, 183.29, 183.31, or 183.33 is effective until the expiration date shown on the Certificate of Authority.

* * * * *

11. A new subpart D is added to part 183 to read as follows:

Subpart D--Organization Designation Authorization

183.41 Applicability and definitions.
183.43 Application.
183.45 Issuance of Organization Designation Authorizations.
183.47 Eligibility.
183.49 Authorized functions.
183.51 Personnel.
183.53 Procedures manual.
183.55 Limitations.
183.57 Responsibilities of an ODA Holder.
183.59 Continued eligibility.

183.61 Inspection.
183.63 Records and reports.
183.65 Data review and service experience.
183.67 Transferability and duration.

§ 183.41 Applicability and definitions.

(a) This subpart prescribes--

(1) The procedural requirements for obtaining an Organization Designation Authorization (ODA) to perform functions authorized in the areas of engineering, manufacturing, operations, airworthiness, and maintenance; and

(2) The rules governing the holders and units of such authorizations.

(b) For the purposes of this subpart--

(1) ODA Unit means an identifiable unit of two or more individuals within an organization that performs the functions on behalf of the Administrator, according to this subpart;

(2) ODA Holder means the parent organization that obtained an ODA Letter of Designation; and

(3) ODA means the authorization to perform functions on behalf of the FAA.

§ 183.43 Application.

(a) An application for an ODA must be submitted in a form and manner prescribed by the Administrator.

(b) The application must include the following:

(1) A description of the authorized functions requested and evidence of eligibility for the functions in accordance with § 183.47.

(2) A description of the applicant's proposed organizational structure, including the ODA Unit as it relates to the relevant overall structure.

(3) A proposed procedures manual as described in § 183.53.

§ 183.45 Issuance of Organization Designation Authorizations.

The Administrator may issue an ODA Letter of Designation if the Administrator finds that the applicant meets the applicable requirements of this subpart and if there is an FAA need.

(a) The ODA Letter of Designation identifies the ODA Holder, type of ODA, the ODA number, expiration date, location of facilities, date issued, authorizing office, and authorized functions with any limitations; and as applicable, the categories of products, components, parts, appliances, ratings, or specific certificates or authorizations.

(b) An ODA Holder must apply to and obtain approval from the Administrator for any changes to the authorized functions or limitations.

§ 183.47 Eligibility.

(a) To be eligible for an ODA, the applicant must--

(1) Have adequate facilities located in the United States, resources, personnel, and qualifications appropriate to the functions sought; and

(2) Have sufficient experience with FAA requirements, policy, processes, and procedures appropriate to the functions sought.

(b) An applicant for an ODA must meet one or more of the following requirements as appropriate to the functions sought:

(1) Have been issued and hold a current type certificate, supplemental type certificate (STC), or parts manufacturer approval (PMA) under the standard procedures of part 21 of this chapter for a product approved under the same or predecessor regulation part for which an ODA is sought.

(2) Have been issued and hold a current repair station certificate under part 145 of this chapter.

(3) Have been issued and hold a current air carrier or commercial operating certificate under part 119 of this chapter.

(4) Hold or have held designation authority for the issuance of airman certificates or authorizations.

(5) Hold or have held designation authority for conducting pilot and flight engineer proficiency checks.

(6) Have sufficient experience, as determined by the Administrator, in design approval; airworthiness inspection; conformity inspection; certification and authorizations of pilots and crew members; external load operations; agricultural operations; pilot schools; training centers; or parachute jumping operations, as appropriate for performing the ODA authorizations sought.

(c) An applicant seeking functions in the area of production must also meet the following requirements:

(1) For the product, components, parts, or appliances for which the applicant seeks functions, the applicant must have one of the following design approvals:

(i) A current type certificate.

(ii) A current supplemental type certificate.

(iii) Design data developed by the PMA applicant under standard procedures using tests and computations. This means the Administrator approved the data.

(2) For the product, components, parts, or appliances for which the applicant is seeking designation authorization, the applicant must have a current Production Certificate or PMA issued under the standard procedures of part 21 of this chapter.

(d) For the purposes of this section, standard procedures do not include transfers and licenses issued under part 21 of this chapter and approvals based on identicality under § 21.303(c)(4) of this chapter.

§ 183.49 Authorized functions.

(a) The Administrator may authorize, consistent with the ODA Holder's qualifications and experience, functions that may be performed by an ODA Unit.

(b) The ODA Unit may perform, within the limits prescribed by and under the general supervision of the Administrator, functions authorized by the Administrator.

(c) ODA functions that may be authorized by the Administrator, based on findings of compliance with the applicable regulations of this chapter, may include one or more of the following:

(1) Approving technical data and changes to approved data.

(2) Determining means of compliance with airworthiness standards previously approved by the Administrator.

(3) Finding compliance with airworthiness standards.

(4) Issuing STCs.

(5) Issuing PMA supplements for test and computations or licensing agreements.

(6) Approving or accepting manuals and changes/supplements to manuals.

(7) Issuing certain Airworthiness Certificates and related approvals.

(8) Establishing conformity requirements and determining conformity.

(9) Finding compliance to part 21, subpart G necessary to issue a Production Limitation Record.

(10) Conducting knowledge tests required for the certification of airmen.

(11) Finding compliance with operating requirements for certification and authorization of pilots and crewmembers under parts 61 and 63, and authorizations under part 91.

(12) Issuing authorizations for determining operational competency or proficiency.

(13) Issuing authorizations for parachute jumping operations under part 105.

(14) Finding compliance with operating requirements for certification and authorization of air agencies under part 141, training centers under part 142, external load operators under part 133, and agricultural operators under part 137.

(15) Performing any other functions deemed appropriate by the Administrator.

§ 183.51 Personnel.

Each ODA Holder must have within the ODA Unit--

(a) A qualified ODA administrator(s); and

(b) A staff consisting of engineering, flight test, inspection, and maintenance personnel appropriate for the performance of authorized functions, who have the experience and expertise in aircraft certification to find compliance, determine conformity and airworthiness, issue certificates; or

(c) A staff consisting of operations personnel who have the experience and expertise to find compliance for the issuance of pilot, crew member, or

operating certificates, authorizations, or endorsements as appropriate for the performance of functions requested.

§ 183.53 Procedures manual.

An ODA may be issued under this subpart when the applicant submits to the FAA and obtains approval of a procedures manual. The current approved procedures manual must be made available to each individual of the ODA Unit. Changes to the procedures manual may not be implemented until approved by the FAA. The procedures manual must contain--

(a) The authorized certification and approval functions and the appropriate categories of products, certificates, authorizations, or ratings for the designation requested, and any limitations;

(b) The procedures for performing the authorized functions;

(c) Procedures that explain the ODA organizational structure and responsibilities;

(d) A description of the facilities used in performing the authorized functions;

(e) A process and procedure for self-audit by the ODA Holder of the ODA Unit;

(f) Procedures that document the self-audit results and demonstrate that all necessary corrective actions were taken;

(g) The requirements, methods, and procedures for communicating and consulting with the appropriate FAA offices;

(h) The training required for personnel performing functions authorized under the ODA Unit;

(i) The content of records and manner of maintaining records;

(j) Position descriptions and required qualifications;

(k) The procedures for appointing ODA Unit staff members and the means for documenting the names of such individuals;

(l) The method of documenting and determining the approval requirements for changes in facilities or organizational structure;

(m) The procedures for obtaining and maintaining related regulatory guidance material;

(n) Procedures for performing continued airworthiness functions, including coordinating and assisting the FAA in the investigation and resolution of service difficulties; and

(o) The process and procedures for revising the procedures manual and notifying the FAA of the changes.

§ 183.55 Limitations.

(a) An ODA Unit may perform only the certification, authorization, and approval functions set forth in the procedures manual.

(b) An ODA Unit may not perform an authorized function if there has been a change within the ODA Unit or ODA Holder that may affect the Unit's qualifications or ability to perform that function (including but not limited to changes in location of facilities, resources, personnel or the organizational structure) until the Administrator is notified of the change and the change has

been appropriately documented and approved as required in the procedures manual.

(c) An ODA Unit may not issue a certificate, authorization, or other approval for which a finding of the Administrator is required until the Administrator makes that finding.

(d) An ODA Unit is subject to any other limitations as specified by the Administrator.

§ 183.57 Responsibilities of an ODA Holder.

The ODA Holder must--

(a) Comply with the procedures in its approved procedures manual;

(b) Give its personnel performing as ODA authorized representatives within the ODA Unit, sufficient authority and independence to enable them to administer and perform the authorized functions according to FAA regulations and policies;

(c) 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; and

(d) Cooperate with the FAA, as necessary, in the performance of the FAA's audit, oversight, and surveillance of an ODA Unit.

§ 183.59 Continued eligibility.

An ODA Holder must continue to meet the requirements of this subpart. The ODA Holder must notify the FAA Administrator within 48 hours of a change that could affect the ODA Holder's ability to meet the requirements of this subpart.

§ 183.61 Inspection.

Each applicant and ODA Holder must allow the FAA to inspect facilities, products, components, parts, appliances, procedures, operations, and records associated with the authorized designation to determine compliance with this part.

§ 183.63 Records and reports.

(a) The ODA Holder must--

(1) Upon request of the FAA, make available, at any time, for examination, the records and data specified in this section; and

(2) Identify and send the records and data specified in this section to the Administrator as soon as the ODA is surrendered, suspended, revoked, or otherwise terminated.

(b) Each ODA Holder must maintain or ensure that the following records are maintained for the duration of the authorization:

(1) The records required to approve technical data. These records must include any other data as prescribed by 14 CFR part 21, the original type inspection report, amendments to that report, required certification reports, and associated correspondence.

(2) The data required to be submitted with the application for a production certificate, PMA and amendments thereof.

(3) The data required to be submitted to support the issuance of supplemental type certificates, airworthiness certificates, export approvals, production limitation record, or any other approval authorized under this subpart.

(4) A list of the products, components, parts, or appliances for which an ODA Unit performs an authorized function. For each product, the list must include manufacturer and model, manufacturer's serial number, as applicable, and any FAA identification number that has been issued under this subpart or under a type certificate, amended type certificate, supplemental type certificate, or a major repair or alteration as applicable.

(5) The names (including signatures), responsibilities, and qualifications of individuals, who are performing or have performed functions under the ODA.

(6) Applications and applicable data for issuance of certificates and/or approvals.

(7) A copy of the approved or accepted manuals, including all changes.

(8) Training records showing ODA Unit personnel and ODA administrator training.

(9) Self-audit and corrective action records.

(10) All other records required by the approved ODA procedures manual.

(c) Each ODA Holder must maintain for 2 years--

(1) A complete inspection record, by serial number, for each product manufactured and data covering the processes and tests to which the products' materials and parts are subjected; and

(2) A record of service difficulties reported to the ODA Unit.

(d) Each ODA Holder and each ODA Unit under this subpart must make such reports as prescribed by the Administrator.

§ 183.65 Data review and service experience.

(a) If the Administrator or ODA Unit finds that a potentially unsafe condition exists in a product or the product does not meet the applicable airworthiness requirements for which approval or issuance of a certificate or authorization was authorized under this subpart, the ODA Unit, in coordination with the FAA, must investigate the matter. The investigation must take priority over all other delegated activities. The ODA Unit must report to the FAA the results of the investigation and action, if any, taken or proposed by the ODA Holder, as required by 14 CFR §§ 21.3 and 21.99.

(b) If the Administrator determines that further action is necessary for the safe operation of the product for a condition specified in paragraph (a) of this section, the ODA Unit must submit to the FAA the information in its possession necessary to support the FAA in implementing corrective action.

(c) An ODA Unit performing operations certification or authorization under parts 61, 63, 91, 105, 133, 137, 141, or 142 of this chapter, that finds an unsafe or unsatisfactory condition must notify the Administrator and halt the certification or authorization process until such time as the condition or operation has been determined by the Administrator to be corrected and in compliance with the requirements.

§ 183.67 Transferability and duration.

(a) An Organization Designation Authorization is effective until the expiration date shown on the Letter of Designation and is not transferable.

(b) An ODA terminates, or may be suspended, upon any of the following circumstances:

(1) The written request of the ODA Holder.

(2) A determination by the Administrator that the ODA Unit has not properly performed its duty under the designation.

(3) A determination by the Administrator that the assistance of the ODA Unit is no longer needed.

(4) Any other reason the Administrator considers appropriate.

Issued in Washington, D.C., on

Certified to be a True Copy

John J. Hickey

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Director, Aircraft Certification Service