



**Comments to Docket No. FAA-2003-16685
Notice No. 03-13
RIN 2120-AH79**

Establishment of Organizational Designation Authorization Procedures

General:

AIA welcomes the Organizational Delegation Approval (ODA) NPRM and believes that, with incorporation of the comments outlined below, the ODA rule will represent an important enhancement for both the FAA and those members of industry who wish to take advantage of its framework. When successfully incorporated and applied it will result in increased efficiency and more effective resource application on both sides. It will allow the FAA to apply its limited resources on truly safety critical items instead of diluting them on routine administrative and compliance matters.

The published ODA NPRM is very close in content to the final product the Aviation Rulemaking Advisory Committee (ARAC) ARAC Working Group (WG) submitted to the FAA. The NPRM as proposed provides an additional advantage for the FAA and industry. As constructed it provides flexibility by allowing the FAA to provide additional delegation without changing the rule itself. Instead, only changes to the FAA Order will be required. It also represents an important stepping stone to the development of Certified Design Organizations (CDO).

Specific Comments:

AIA offers the following specific comments to the NPRM that we believe must be addressed to ensure successful incorporation and application of the final ODA rule:

Section 183.1 - The NPRM refers to adding a Subpart D to address "private organizations." However, there is no associated action to add this term to 14 CFR 1.1 (Definitions), nor is the term defined in draft Order 8100, ODA. The definition of

"person" in 14 CFR 1.1 does not distinguish between "person" and "organization;" however; the proposed §183.1 revision is intended to make that distinction.

Recommendation: The FAA should consider adding the definition of "private organization" to either §183.1 or §183.41 (Applicability and Definitions).

Section 183.45 (a) - The rule indicated that the letter of designation will include an expiration date. In developing its proposal, the ARAC WG did not include an expiration date. It intended the ODA letter of designation to remain in effect until surrendered by the applicant or the FAA supercedes or revokes the approval. We note that there is no mention of an expiration date in the preamble of the NPRM. Also, application of an expiration date will create a significant workload for the FAA in renewing these designations. This will have the unfortunate effect of diverting critical FAA resources away from higher priority activities and is counter to the stated intent of ODA.

Recommendation: Eliminate the expiration date in the ODA letter of designation.

Section 183.47 – Under the current construction, the rule addresses that only applicants with facilities in the United States will be issued an ODA. With the discretionary nature of granting ODA, automatically disallowing ODA application by foreign entities is unwarranted and should be removed. Since the industry is global and relies on suppliers outside of the US, rule provisions are required to allow the FAA to issue an ODA to foreign entities and non-US activities.

There is a long history of robust international partnerships for joint design and production of type certified products that also must be recognized. Clearly, a well constructed ODA makes sense for these companies, the FAA, and the foreign authorities that are also engaged in their oversight.

Establishing global ODA structures may enhance the potential for harmonized delegation schemes with foreign authorities such as EASA. It also points out the need to pursue mutual recognition of US ODA approvals with European structures like DOA in the upcoming bilateral discussions with EASA. Experience with international partnerships shows that failure to address these concerns can lead to serious disruptions across the aviation community.

Recommendations: Modify the ODA proposal to allow ODA approval for non-US entities and activities; FAA should pursue internationally recognized delegation structures with foreign authorities.

Section 183.47(c) - The proposed paragraph addresses only Production Certificate (PC) holders holding a current Type Certificate (TC) or STC. However, in today's industry, there are many PC holders who are producing type certificated products under licensing agreements but do not hold a TC for the given product.

Recommendation: Revise §183.47(c) to address PC holders who are producing a type

certificated product under a licensing agreement and do not hold a TC for a given product.

Section 183.47(d) - As written, §183.47(d) could be interpreted to deny ODA to a company that holds a TC that was transferred into the company. This could deny ODA to some of the US's premier aircraft companies. We assume that this is not the intent of the paragraph. If the paragraph is to apply only to PMA or other design approval holders, then it should be revised to clarify this point, and thus reduce confusion or misinterpretation.

Recommendation: Revise §183.47(d) to clarify that those companies holding a transferred TC may obtain ODA.

Section 183.55 - The ARAC WG, in developing this ODA proposed rule, was instructed by the FAA to develop/define the requirements for an organizational delegation based on a *systems approach* rather than based on the individual designees within the delegated organization. The FAA's stated objective was "...for a comprehensive, up-to-date, systematic approach for delegation ... and the recommended system would be compatible with similar aviation systems of other countries."

The FAA reaffirms the value of this approach in the "Background" section of the preamble to the NPRM. Here, the FAA discusses the benefits of a systems approach vs. an individual designee approach:

"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."

However, in another portion of the pre-amble discussion, dealing with §183.55, the FAA expresses the need to continue to approve the individual designees in a manner consistent to what is done today for the DOA, DAS and SFAR-36. This is not a systems approach. A system approach entails an appointment process within the delegated organization that is subject to FAA approval. The ARAC WG recommended in their draft ODA Order that the approved Procedure Manual (PM) would define the qualification of the Authorized Representatives (AR) and that the PM would also define the selection process. FAA oversight would focus on compliance with the *process*, not focus on the *individuals*.

These two preamble discussions are in direct conflict with each other and must be resolved to embrace the systems approach.

The globalization of the aerospace industry also highlights the need for adopting the systems approach. Globalization will result in appointment of ODA staff from all parts of the world. The FAA will have no prior experience with these staff, and developing that experience will be a duplication of the effort expended by the ODA organization in

ensuring that all appointed staff are qualified and operating appropriately. Elimination of duplication of effort is one of the prime reasons for the existence of FAA delegation systems, yet via the proposed requirements of §183.55 such duplication would be perpetuated.

In conversations with industry, FAA has indicated that they believe FAA approval of individual ARs would be an interim step only, and that this would be in effect only as long as necessary for FAA to gain comfort with an applicant's application of their process. However, the existing preamble language will constrain FAA from moving away from approval of individual ARs. If the FAA does intend to transition to full process oversight in the systems approach, this must be clearly stated in the preamble. Alternately, the preamble can state that a transition plan should be included in the PM. Under such an approved transition plan, FAA would retain oversight of individual appointments while it gains comfort with the applicant's application of their approved process. Once the required performance is demonstrated as defined by the transition plan, the FAA will operate solely in a systems oversight mode with the applicant.

Failure to account for the systems approach will result in unnecessary delays for industry in gaining ARs and could negate many of the benefits ODA can provide for both the FAA and industry. Therefore, we request that FAA modify §183.55 to allow ODA organizations to appoint and manage their staff via FAA-approved processes, without direct FAA approval of each staff member.

Recommendation: Revise the proposal to eliminate FAA approval of each designee operating under an approved ODA. Instead use the systems approach by relying on the approved ODA processes and FAA oversight of that processes.

Section 183.63(b)(1) - The term "associated correspondence" is vague and should be clarified.

Recommendation: Clarify the term "associated correspondence".

Section 183.65 - §183.65(a) states that investigations into potentially unsafe conditions must take priority over all other delegated activities. There is concern that the text may be misinterpreted or misapplied in practice. Organizations have the capability to perform parallel activities, such as continued airworthiness investigations on one program and certification work on another. It must be recognized that under most circumstances this poses no issue as appropriate prioritization and resources are brought to bear. However, clarification should be made to ensure misapplication of this language does not improperly impact ongoing activities. We believe the preamble must clarify that the priority clause serves two purposes. First it highlights that an ODA has an FAA interface responsibility on continued airworthiness and safety issues. Secondly, if FAA perceives inadequate resources are being applied to resolve continued airworthiness and safety issues, the FAA can require that resources be diverted from delegated activities to the investigation and resolution of the safety concern.

Also, §183.65(b) states that the ODA must submit “information” necessary for the FAA to implement corrective action. It should be made clear that the ODA is the interface between the approval holder and the FAA. The approval holder’s obligations to develop and submitted under §21.99 and §21.277(b) remain in effect.

Recommendation: Modify §183.65(a) and (b) or their associated preamble material as noted above.

ODAR Capability - Currently, there are approximately 86 FAA production approval holders appointed as FAA Organizational Designated Airworthiness Representatives (ODARs), the majority of which have been delegated conformity inspection and airworthiness approval authorizations as specified in function codes 8, 19, 20, 21, and 22 in FAA Order 8100.8B Appendix 1. The proposed rule and accompanying draft Order, as written, make no provision for a direct transition of the current manufacturing ODAR to an ODA. The loss of this capability, or mandatory transition to a full ODA, can lead to large cost increases for the affected ODAR holders.

Recommendation – The ODA regulatory proposal must be modified to either include the ability for a direct transition of the current manufacturing ODAR framework into ODA with minimal costs associated with the transition or allow organizations with existing ODARs to retain these limited approvals.

Costs – Existing DDS Holders: Holders of existing DDS approvals recently went through a lengthy process with significant cost to obtain their FAA delegation. The conversion of these DDS approvals to ODA should be extremely straightforward and streamlined as DDS practices served as a model for the features of ODA. Therefore, existing DDS delegation holders should expect their conversion process should require minimal time, resources or changes to their approved practices. The preamble of the rule should more clearly state this expectation.

New ODA Applicants: Recent experience by members of the Aerospace Industries of America (AIA) and General Aviation Manufacturers Association (GAMA) with updating their DDS procedures to comply with the 2002 DDS Order indicates that the FAA’s cost estimates explained in the preamble to the NPRM are approximately one order of magnitude too low. While the FAA did conduct a telephone survey of DDS participants to develop these estimates, the telephone survey was conducted prior to this recent experience. The AIA/GAMA members have experienced long delays and multiple revisions by their cognizant Aircraft Certification Offices for relatively minor changes to comply with an update of the DDS order. For new applicants changes to comply with ODA for those who elect to pursue this delegation are expected to be more significant, and thus will likely require significantly more expenditures. Therefore, to provide a more accurate estimate of compliance costs, we request that FAA incorporate the latest DDS experience into its calculations for new ODA applicants.

Recommendations – Modify the preamble material to reflect the above comments for existing DDS delegation holders; Update compliance cost estimates for new ODA applicants.

Extension to 14 CFR Parts 34 and 36 - FAA Order 8100-9, “DAS, DOA, and SFAR 36 Authorization Procedures,” explicitly indicates that it does not apply to 14 CFR Parts 34 (Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes) and 36 (Noise Standards). The proposed rule, however, does not indicate if ODA will apply to these parts. Applying the delegation principles to these areas is a significant opportunity to gain efficiency in the certification process with no associated safety risk. We request that the FAA revise the proposal to state that Parts 34 and 36 are included under ODA.

In support of this request, we note that well documented and familiar processes and guidelines exist in these areas to allow effective use of delegation. We also note that this does not constitute a safety critical area, nor is there an inherently governmental function involved with noise or emissions approvals. These considerations highlight that this is an extremely attractive area for delegation and will lead to increasingly effective use of limited FAA resources.

Recommendation - We request that the FAA revised the proposed rule to state that Parts 34 and 36 are included under ODA.