[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

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

[Docket No. FAA-98- ; Notice No. 98-]

RIN 2120-

Establishment of Organization Designation Authorization Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to establish an Organization Designation Authorization (ODA) program. Adoption of the proposed rule would (1) expand and further standardize the approval functions of the FAA designee system under the requirements for Representatives of the Administrator in 14 CFR part 183, and (2) allow designated organizations to find compliance for issuing operating certificates under 14 CFR parts 133 and 137, air agency certificates under 14 CFR part 141, and training center certificates under 14 CFR part 142. The proposed rule would also terminate the Delegation Option Authorization (DOA) (part 21, subpart J), Designated Alteration Station Authorization (DAS) (part 21, subpart M), the Development of Major Repair Data Procedures (SFAR 36) authorization, and Organizational Designated Airworthiness Representatives (ODAR). Current holders of DOA, DAS, SFAR 36 authorization, and ODAR, as well as other organizations,

could apply for an ODA. In addition, the FAA proposes to standardize the renewal requirements for individual designees. This proposed rule is needed to provide more efficient use of FAA resources to meet increased demands in certification and approval activity.

DATE: Comments must be received on or before [Insert date 120 days after date of publication in the Federal Register].

ADDRESSES: Comments on this proposed rulemaking should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA-98- , 400 Seventh Street, SW., Room Plaza 401, Washington, DC 20590. Comments may also be sent electronically to the following Internet address: 9-NPRM-CMTS@faa.dot.gov. Comments may be filed and/or examined in Room Plaza 401 between 10a.m. and 5p.m. weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Carol Martineau, Aircraft Engineering Division (AIR-110), Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting written comments, data, views, or arguments. Comments on the possible environmental, economic, and federalism-or energy-related impact of the adoption of this

proposal are welcomed. Comments concerning the proposed implementation and effective date of the rule are also specifically requested.

Comments should carry the regulatory docket or notice number and should be submitted in duplicate to the Rules Docket address specified above. All comments received and a report summarizing any substantive public contact with FAA personnel on this rulemaking will be filed in the docket. The docket is available for public inspection both before and after the closing date for receiving comments.

Before taking any final action on this proposal, the FAA Administrator will consider the comments made on or before the closing date for comments, and the proposal may be changed in light of the comments received.

The FAA will acknowledge receipt of a comment if the commenter includes a self-addressed, stamped postcard with the comment. The postcard should be marked "Comments to Docket No. FAA-98- ." When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the commenter.

Availability of the NPRM

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703-321-3339) or the Federal Register's electronic bulletin board service (telephone: 202-512-1661).

Internet users may reach the FAA's web page at http://www.faa.gov or the Federal Register's webpage at http://www.access.gpo.gov/su_docs for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by mail by submitting a request to the Federal Aviation Administration, Office of Rulemaking, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9677. Communications must identify the notice number of this NPRM.

Persons interested in being placed on the mailing list for future NPRM's should request from the FAA's Office of Rulemaking a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

Current Law and Regulations

Section 44702(d) of Title 49 of the United States Code provides authority to the FAA Administrator to designate a properly qualified private person or an employee under the supervision of that person to perform any function with respect to the examination, testing, and inspection necessary to the issuance of certificates pursuant to Chapter 447 of Title 49. All designees are subject to all regulations, supervision, and review the FAA Administrator prescribes. Pursuant to this authority, the FAA has

established a system of designations of private persons, which includes companies, to perform certain certification functions. ("Person" as defined in Section 1 of Title 1 includes "corporations, companies, associations, firms, partnerships, societies, and joint-stock companies, as well as individuals." In addition, under Section 40102 of Title 49, "person" includes a "governmental authority." "Private person" as used in Section 44702(d) of Title 49 is interpreted to mean a person other than a governmental authority.) Persons holding these designations are commonly referred to as "Representatives of the Administrator."

Regulations pertaining to designees performing airman and aircraft certification functions have been promulgated and codified in 14 CFR parts 21 and 183, and Special Federal Aviation Regulation (SFAR) 36. These designations presently include:

* Delegation Option Authorization (DOA) (14 CFR part 21, subpart J).

* Designated Alteration Station Authorization (DAS) (14 CFR part 21, subpart M).

* Aviation Medical Examiner (AME) (14 CFR 183.21).

* Designated Pilot Examiner (DPE) (14 CFR 183.23).

* Designated Mechanic Examiner (DME) (14 CFR 183.25).

* Designated Parachute Rigger Examiner (DPRE) (14 CFR 183.25).

* Air Traffic Control Tower Operator Examiner (14 CFR 183.25).

* Designated Flight Engineer Examiner (DFEE) (14 CFR 183.25).

* Designated Flight Navigator Examiner (DFNE) (14 CFR 183.25).

* Designated Aircraft Dispatcher Examiner (DADE) (14 CFR 183.25).

* Designated Aircraft Maintenance Inspector (DAMI) (14 CFR 183.27).

* Designated Engineering Representative (DER) (14 CFR 183.29).

* Designated Manufacturing Inspection Representative (DMIR) (14 CFR 183.31).

* Designated Airworthiness Representative (DAR), including Organizational Designated Airworthiness Representative (ODAR), (14 CFR 183.33).

* Companies that hold an SFAR 36 authorization (SFAR 36, printed in the CFR at the beginning of part 121).

The present system of designations of private organizations (DOA, DAS, SFAR 36, and ODAR) has evolved over more than 40 years of aircraft certification experience and regulatory development. During this period, the FAA has found that the quality of approvals processed by these organizations is equivalent to the quality of approvals processed by FAA aviation safety engineers or aviation safety inspectors. Given the past history of the designation program, the FAA intends to expand the rule to encompass other types of organizations and to allow designees to perform additional

functions. This expansion would reduce the cost of the certification process to the public, and would provide more efficient use of FAA resources to meet the demands of increasing certification activity.

History

In the mid-1940's, the Civil Aeronautics Administration (CAA), the FAA's predecessor agency, established programs to appoint qualified individuals to assist CAA personnel in performing their airworthiness, certification, and approval functions. The DER program was designed to assist CAA engineering and manufacturing personnel in the type certification and supplemental type certification process. Under current rules, DER's may witness certification tests and review and approve engineering data, but they may not issue type certificates. The FAA issues type certificates. The DMIR program was designed to assist CAA manufacturing inspection personnel in type and production certification programs. Among other actions, DMIR's may issue original airworthiness certificates, export airworthiness certificates, experimental certificates (show compliance only), and may make conformity determinations. The DPE program was designed to assist CAA examiners in the conduct of practical tests and the issuance of temporary pilot certificates.

These designation programs are examples of the designee programs that have continued under the FAA and that have been very

beneficial to the aviation industry and the FAA. They have enabled the FAA to perform its aircraft airworthiness certification function with fewer resources and in less time, while assuring airworthiness of aeronautical products.

The DOA procedures (part 21, subpart J) were initiated in the early 1950's when it became apparent that the CAA needed to review its aircraft certification procedures because of the rapidly expanding aircraft industry and the limited CAA engineering and manufacturing resources. The DOA procedures were initiated to facilitate certification of products manufactured by experienced, knowledgeable companies. This type of designation presently applies to manufacturers of small airplanes and small gliders, commuter category airplanes, normal category rotorcraft, small turbojet engines, small turbopropeller and reciprocating engines, and certain propellers. It is given by the FAA after an intensive evaluation of the manufacturer's engineering competency, facilities, personnel, and experience. (Two exemptions have been issued to manufacturers of large aircraft, but have never been used.) DOA may be used for type certification; changes in type design for which the holder has a type certificate; amendment of production certificates held by the manufacturer; issuance of airworthiness certificates for products for which the holder has a type certificate; and issuance of airworthiness approval tags for engines, propellers, and parts of products covered by DOA authorization.

During the mid 1950's, the FAA received numerous complaints from the aviation industry regarding delays in the issuance of supplemental type certificates (STC's) to approve major alterations. The sources of these delays were studied by the agency in cooperation with an industry committee representing modification facilities. The committee recommended that, while the STC program should be continued, the delays would be lessened by allowing qualified FAA-approved engineering staffs of FAA-approved repair stations to approve major alterations and issue STC's. Amendment No. 21-6 (30 FR 11379; September 8, 1965) established the procedures for this delegation, the Designated Alteration Station (DAS), in subpart M of part 21. This type of designation for airworthiness certification allows eligible air carriers, commercial operators, domestic repair stations, and manufacturers of products, after specific criteria have been met, to issue STC's, to issue experimental certificates, and to amend standard airworthiness certificates.

In the mid 1970's, the FAA conducted an operations review program to be more responsive to the needs of the general public and the aviation community in fulfilling the agency's aviation safety responsibilities. While FAA-approved major alteration data could be approved under the DAS provisions of subpart M of part 21, similar provisions did not exist under which major repair data could be developed and used by air carrier or commercial operator certificate holders. In response to industry concerns, the FAA

issued SFAR 36 (the text of which is located in 14 CFR part 121) to provide a means for an eligible certificate holder to develop and to use major repair data, not specifically approved by the FAA Administrator, for products that SFAR 36 authorization holders return to service. (43 FR 3085; January 23, 1978). SFAR 36 provides for the maintenance entity of the certificate holder to do the major repair and approve an aircraft, airframe, aircraft engine, propeller, or appliance for return to service when the repair is completed, provided the data for the repair was developed by the certificate holder in accordance with its SFAR 36 authorization.

Amendment 183-8 was adopted in 1983 to establish the Designated Airworthiness Representative (DAR) in § 183.33 as a new category of person appointed under what is now 49 U.S.C. 44702(d). The amendment expanded the FAA designee system into areas not previously provided in part 183. The expansion was necessary to deal with the proliferation of requests for FAA examination, inspection, and testing services necessary to, and the issuance of, certificates under Chapter 447 of Title 49. The FAA has interpreted § 183.33 to allow for the designation of organizations to serve as DAR's. Such a designation is known as an Organizational Designated Airworthiness Representative (ODAR).

Statutory Provisions

As stated above, Section 44702(d) of Title 49 allows the FAA Administrator to designate a private person, or an employee under

the supervision of that person, to perform a "matter related to" an FAA certificate (subsection (d)(1)(A)), and a "matter related to" issuing an FAA certificate (subsection (d)(1)(B)).

The FAA has interpreted § 44702(d)(1)(A) to include a private person's finding that design data, a product, or a person complies with an objective standard, or that an item conforms to design data. The private person may not, as a matter of law, exercise the FAA's discretion; e.g., an equivalent safety "finding" by a private person has no legal significance. In addition, the FAA interprets the provision "matter related to issuing the certificate" to include the formal act of conveying an FAA certificate once all of the requisite findings have been made.

The FAA has interpreted "related" and "necessary to issue" relatively broadly. A matter related to an examination, testing, or inspection necessary to issue a certificate includes any finding of compliance or conformity that is or would be necessary for that issuance. Thus, for example, a finding that a part of a new aircraft conforms to the approved design may be performed by a designee for the purpose of issuing the initial airworthiness certificate; and a subsequent finding that the same part still conforms, for the purpose of confirming that the airworthiness certificate is still valid, may also be performed by a designee.

The authority for designated functions under § 44702(d) is distinct from the authority granted to a "certificate holder" under other provisions of the statute, e.g., the holder of an airman

certificate issued under § 44703 or a type certificate issued under § 44704. A private person, as described in § 44702(d), may perform examinations, testing, and inspections on behalf of the FAA Administrator. A certificate holder engages in activities on its own behalf that are for private purposes.

A certificate holder is subject to certain enforcement actions by the FAA Administrator and the FAA. For example, the FAA Administrator may forcibly amend, modify, suspend, or revoke a holder's certificate only through a certificate "action" under § 44709. Section 44709 affords the holder an appeal process that is litigated before, and reviewed by, the National Transportation Safety Board (NTSB); subsequent appellate review of the NTSB's decision of the holder's appeal is before the U.S. Court of Appeals.

In addition, § 46301 of Title 49 provides that the FAA may assess a civil penalty against a person for a violation of FAA regulations. Depending on the nature of the alleged violation and the status of the alleged violator, the order assessing the civil penalty is litigated before and appealed to the NTSB, or is litigated before a DOT administrative law judge and appealed to the FAA Administrator. Subsequent appellate review of the NTSB's or Administrator's decision of the appeal is before the U.S. Court of Appeals.

During deliberations, the ARAC Delegation Working Group (See "Industry/FAA Working Group," below) questioned whether, if an ODA

Unit made a finding of a violation by the company with the ODA, would the FAA consider that finding of a violation by the company under the FAA's reporting and correction policy, as described in FAA Order No. 2150.3A? That finding, technically, would have been made by the FAA, since the ODA Unit is a representative of the FAA Administrator. However, the fact that the ODA Unit made the finding would not exclude the company from consideration under the reporting and correction policy; in the instance where the FAA discovers a violation, Order No. 2150.3A provides for consideration under the policy if certain other criteria are met.

Conversely, as § 44702(d)(1) clearly states, a private person under that section serves at the discretion of the FAA Administrator. Some examples of the FAA process for suspending or terminating a designee's authority are described in FAA Order 8130.24, Procedures for Termination/Renewal of Aircraft Certification Service Designation and Delegation; and 8700.1, General Aviation Operators Inspection Handbook. The decision that results from these processes is "final." The designee may file a petition for review of the decision by the Court of Appeals. However, that petition is subject to dismissal as nonreviewable, given that § 44702 allows the FAA Administrator to rescind a delegation "at any time for any reason the FAA Administrator considers appropriate."

In this regard, it should be noted that certain companies have been issued air agency certificates for their DOA or DAS. (Air

agency certificates are described in 49 U.S.C. § 44707.) Those DOA and DAS certificates were issued for purposes of administration, and not for the purpose of "giving" the DOA's or DAS's the legal process described in § 44709. As described above, the Congress never intended § 44702(d) private persons to be subject to the same process as are certificate holders; otherwise, it would not have drafted the statute to refer to them in separate provisions. (A DOA or DAS is afforded the process in § 44709 for the purpose of an action taken against the related type, production, repair station, or operator certificate.) Accordingly, if the rule is adopted as proposed, air agency certificates will not be used to represent designee authorization after a certain date. The FAA would follow FAA Order 8130.24 or 8700.1, as appropriate, for the purpose of suspending or terminating an ODA Certificate of Designation (described in proposed § 183.45, below).

It should also be noted that private persons under § 44702(d) are legally distinct from the certificate holders that may employ them, and to whom certificates and approvals may be issued based on the private person's findings. This distinction is evident from the provisions in § 44702(d)(3), which describes a process for a person affected by an action of the designee to apply to the FAA Administrator for reconsideration of the action, and the provisions of 49 U.S.C. § 45303, which authorizes the Administrator to establish fees that private persons may charge for performing designated functions. It would be illogical to "allow" a person to

"reconsider" their own action, or to "allow" a person to pay themselves a fee.

However, it is common for the designee and the certificate holder who employs that designee to be viewed as one and the same. In fact, the DOA and DAS regulations do not explicitly draw that distinction; note, e.g., an applicant for an amendment to a type certificate issued under that applicant's DOA. The DOA and DAS regulations were not drafted to eliminate the statutory distinction; rather, a fair reading of them is that they recognize the reality that certifications and approvals are most frequently needed where the certificate holder is located. They also recognize that the certificate holder's employees normally have the expertise for finding compliance and determining conformity and airworthiness. This expertise is specific to the certificate holder's activities, and access to the certificate holder's trade secrets is frequently necessary to perform these certification functions.

This proposal would clarify the distinction between the designee organization and the company that employs it. Where the proposed requirements would apply to an applicant for an organization designation, and the applicant holds an FAA certificate, the proposed requirements also would clarify that the organization within that applicant's company would be an identifiable unit. However, the proposal would not require the unit to be separate from other parts of the applicant's company,

nor would it prohibit employees within the unit from performing non-designee functions.

Nor would the proposal necessarily prohibit an ODA Unit from using contractors, i.e., individuals other than full-time employees. The proposal would require that the ODA Unit exercise control over the individuals who perform work for the purpose of making findings of compliance, during the periods in which the individuals are employed in the ODA Unit. This would allow an ODA Holder to hire, but not permanently retain, special experts, depending on the type of project in progress. In this regard, the FAA contemplates that many ODA Units will employ contract employees such as "job shoppers," if the proposal is adopted.

The Need for Regulatory Change

The purpose of designee system is to minimize the administrative burdens of the FAA by allowing designated representatives and organizations to carry out data collecting, testing, and other processes that are part of the FAA certification process. By designating private persons the authority to perform those functions that could be accomplished on site by industry technical experts approved by the FAA, agency resources are freed to focus on other critical safety responsibilities. FAA oversight of a designee program requires the expenditure of fewer FAA resources to accomplish the same amount of work.

For example, when the FAA issued SFAR 36 in January 1978 (43 FR 3085; January 23, 1978), it stated:

> Due to the large number of major repairs being performed and the financial need to have damaged aircraft repaired and returned to service as quickly as possible, the requirement for applying case-by-case approval [by the FAA] has proven to be especially burdensome to affected certificate holders.

Hence, by issuing SFAR 36, the FAA was able to reduce the economic burden on industry that resulted from delays associated with the process that required the FAA to individually approve each major repair. SFAR 36 established procedures for giving authorization to eligible and qualified air carriers, commercial operators, and domestic repair stations to find compliance with the airworthiness regulations and approve the airplane for return to service after accomplishing a major repair. The FAA's function then became evaluating applicants for SFAR 36 authority and monitoring, supervising, and conducting surveillance on certificate holders who held such authority to ensure that they remained qualified and conducted their FAA responsibilities with integrity.

The FAA's administration and monitoring of the designee system, over the several decades of experience with the system, has ensured that the system works well. In fact, the designation system has continually streamlined procedures and become essential to the overall integrity of the certification system.

Two factors that are, however, beginning to affect the certification process are the rapid pace in the advancement of

aircraft technology and the continuing reduction of FAA resources as a result of budget cuts. In combination, these factors have made it increasingly difficult for the FAA to keep abreast of the science and advanced technology and to apply this technical knowledge to the certification of advanced technology aircraft and equipment. Not only are designee systems in the certification process advantageous to both the public and the FAA, they have become essential.

In 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), GAO states that since the late 1950's, official estimates indicate a five-fold increase in the overall work load involved in certifying a new aircraft. Over this time the FAA staff workload has also increased in functions such as monitoring already certificated aircraft, issuing airworthiness directives, and developing new regulations and policies. For example, FAA's Seattle Aircraft Certification Office (ACO) issued 125 airworthiness directives in 1990, an increase of 421 percent from the 24 issued in 1981. With the rise in workload, FAA's dependence on designee system has increased, particularly in areas responsible for certificating new, highly advanced aircraft software and computer systems.

The GAO recommends in the report that the FAA define a minimum effective role for the FAA in the certification process

by identifying critical activities requiring the agency's involvement or oversight, establishing guidance on the necessary level and quality of the oversight of DER's, and developing measures through which staff members' performance and effectiveness can be evaluated. The FAA, in response to some internal initiatives, as well as to the GAO recommendation, has identified and implemented a number of improved methods of DER oversight, as provided for in FAA Order 8110.37, DER Guidance Handbook.

The GAO report specifically focuses on DER's and the FAA's role in certification in relation to DER's. However, the findings in the report, concerning advances in aircraft technology and increases in FAA workload, and the FAA's improved methods of DER oversight are relevant to other FAA designations. The designation system is an important mechanism that supports the continuing efficiency of the certification process. Thus, what is needed is an enhancement of designee system and appropriate oversight of the designee system.

Enhancing the designation process between the FAA and industry is consistent with a recent report entitled "Challenge 2000: Recommendations for Future Aviation Safety Regulations" prepared for the FAA by Booz-Allen and Hamilton, Incorporated (April 1996). The report states that given the increasing complexity in aircraft manufacturing and maintenance, and in airline operations, ownership, and services, at a time 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.

In response to issues raised by the above reports and in recognition of the environment which led to their publication, the FAA has determined that the requirements for designations of organizations, currently found in part 21 and SFAR 36, could be enhanced to provide a mechanism for expanding designated functions and authorizations to all qualified organizations, with FAA oversight and monitoring. This would allow the FAA to focus its resources on new technology items.

As part of the enhancement, organizations that qualify for a designation authorization would include not only air carriers, repair stations, and manufacturers, but also engineering organizations of air carriers or of other organizations that have substantial engineering expertise. The current regulations are limited in formalizing and recognizing such organizations. For many years such engineering organizations have operated with limited provisions under parts 121, 135, and 145, such as SFAR 36 and DAS. Updated rules are needed so that a part 121 or 135 air carrier, a part 145 repair station, or any other qualified organization not covered under SFAR 36 and DAS could apply for and

obtain approval of a designation for its engineering organization. The engineering and maintenance data produced and found to comply by such an organization (when operating in accordance with procedures approved by the FAA Administrator) then would become approved. This, in turn, would mitigate many of the problems that arise in the operator environment in getting specific FAA approval for major repairs and alterations.

Providing a mechanism for approval of other organizations would make additional technical expertise available to FAA. It is recognized that such expertise is essential for effective maintenance of today's complex airframe/engine systems and aging fleets. With these added designee resources, FAA operations would be enhanced.

The proposed enhancements would also allow qualified organizations to be designated authorization to find compliance for issuing operating certificates under 14 CFR parts 133 and 137, air agency certificates under 14 CFR part 141, and training center certificates under 14 CFR part 142. The enhancements would not allow for such authorized organizations to issue original or amended certificates under 14 CFR part 145, or perform air carrier functions under 14 CFR part 142 (121 and 135).

Agricultural aviation provides an example of why the FAA proposes the addition of organizations to the list of persons authorized to conduct inspections and issue operating certificates.

When the FAA begins a certification project for a new part 137 operator, the agency is primarily concerned with aviation safety and the safety on the non-flying public. The rules of 14 CFR part 137 only suggest a small part of the total amount of certification effort which needs to be applied to a new agricultural operator. Additional functions may be carried out by additional agencies such as the Environmental Protection Agency (EPA), various state farm bureaus or university extensions, the Occupational Safety and Health Administration (OSHA), and state aviation agencies, to name but a few. While the FAA's certification of an agricultural operator involves pilot qualifications, knowledge, and skills, and aircraft airworthiness and certification issues, the issuance of an agricultural operator's certificate permits the operator to accomplish a task utilizing aircraft. The ODA applicant would need to have the additional expertise to work with the applicable Federal, State, and local governments that regulate the application of pesticides, fertilizers, and seeds. In addition, fewer FAA personnel are familiar with agricultural operations. Operators associated with the agricultural aviation industry tend to remain in the industry, and very little of that expertise finds its way to the FAA ranks. As a consequence, the FAA has determined that it would be in the best interest of the industry to assist the FAA by assuming those duties delegated by the FAA Administrator in the accomplishment of the certification tasks, by industry representatives and organizations. Such designations in accordance

with 14 CFR part 183, would permit the FAA to increase surveillance of certificated operators to ensure aviation safety, while ensuring that the industry examines the initial applicants to determine that requisite equipment and techniques are used in conjunction with the specialized skills and knowledge required to accomplish the increasingly complex mission of the agricultural operator.

In summary, the designee system enables the FAA to ensure that its aviation safety requirements and responsibilities are being met and to provide timely alternative methods to achieve data approval and certification. However, the needs that generated the designee system have been affected by advancements in technology, materials, and processes; and by more competition for personnel experienced in the new technology. These considerations warrant the extension of the FAA designation programs to organizations with necessary built-in safeguards, such as self-audit systems, that provide checks and balances that will help the FAA to maintain the necessary monitoring, supervision, and surveillance. Through the designee system, the FAA can focus resources on new applications of existing technology, new and evolving technologies, and growth in the aviation industry as a whole. By consolidating designee programs, the agency can further its standardization efforts and resources can be more effectively utilized. Also, by consolidating the designation processes and procedures, the FAA will be able to reduce its administrative burden and redirect these resources to monitoring, supervision, and surveillance duties related to safety.

If a company becomes an ODA Holder, the FAA can focus on that company's designated functions as one system, rather than monitoring and supervising the individual designees, thereby reducing the FAA's oversight burden.

Industry/FAA Working Group

The FAA established the Aviation Rulemaking Advisory Committee (ARAC) in January 1991 to provide an ongoing mechanism to involve the public in the regulatory process (56 FR 2190; January 22, 1991; and 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). The FAA stated in the notice announcing the formation of the working group that the present system of delegations to private organizations has evolved over the past 41 years of aircraft certification experience and regulatory development. During this period, the FAA has found that the level of safety or the quality of approvals processed by these organizations is equivalent to the safety or quality of approvals processed by the FAA aviation safety engineers or aviation safety inspectors. Thus, an opportunity exists to expand the applicability of the designee concepts to other organizations that are not presently eligible. This would mitigate the cost of the certification process to

industry and would also provide a permanent replacement regulation for SFAR 36, which must be renewed periodically.

Specifically, the Delegation System Working Group was tasked with reviewing the current designee programs that perform aircraft certification functions to determine what would improve the safety, quality, and effectiveness of the system, and make recommendations to the ARAC concerning new or revised rules and advisory, guidance and other (including legislative and training) collateral materials. The notice states that the FAA requests a recommendation for a comprehensive, up-to-date, systematic approach for delegating aircraft certification functions to both individuals and organizations. The proposed approach is to provide a smooth transition from the designation systems currently used to the system recommended, and a system as compatible as practicable with the systems used by the civilian aviation authorities of other countries. The Delegation System Working Group was directed to submit recommendations to the ARAC, which would determine whether to forward them to the FAA.

On June 19, 1998, the FAA expanded the task of the Delegation Working Group (63 FR 33758; June 19, 1998). The FAA requested that the Working Group include in its recommendations the designation of Organizational DAR's, which is currently handled under § 183.33, and expand the designation system to include organizations that would be designated to find compliance for issuing operating certificates under 14 CFR parts 133 and

137, air agency certificates under 14 CFR part 141, and training center certificates under 14 CFR part 142. The Working Group was also asked to review § 183.15 relative to the duration of delegations under part 183.

The proposal in this notice is based on the submission of the ARAC Delegation System Working Group that was reviewed and adopted by the ARAC and recommended to the FAA.

The Proposed Rule--General

As explained above, the United States Code Title 49 - TRANSPORTATION, Chapter 447 Safety Regulations, paragraph 44702, provides the authority for the FAA Administrator to designate qualified private persons to act as representatives of the Administrator in the examination, testing, and inspection necessary to issue a certificate under this chapter; and issuing the certificate. Private person means a private individual, company or corporation, etc.

This authorization has been in the United States Code for almost sixty years from the days of Civil Aeronautics Board (CAB) to the present day FAA. The present designee system has evolved over more than 40 years of aircraft certification experience and regulatory development. During this period, the FAA's administration, oversight and surveillance of the designee system has demonstrated the integrity of the designee system. In addition, the level of safety and the quality of

approvals processed by designees have been equivalent to the level of safety and quality of approvals processed by the FAA aviation safety engineers or aviation safety inspectors. Today, most of the aircraft certification examination, testing and inspection necessary to issue a type certificate is accomplished through the FAA's designee system.

The designee system has, in fact, continually enhanced safety results, streamlined procedures, and become essential to the overall certification system.

The GAO report issued in 1993 recognized the effectiveness of and the integrity within the system. GAO further indicated that the system works very well because of the integrity of the designees performing the various certification functions. This integrity can be attributed to the process the FAA has in place of selecting and appointing designees. The public perception of a possible conflict of interest is erroneous. The FAA has found that the quality of approvals processed by these organizations is equivalent to the quality of approvals processed by FAA aviation safety engineers or aviation safety inspectors.

With a system of over 40 years of experience to build upon, the FAA tasked the FAA Aviation Rulemaking Advisory Committee (ARAC) to establish a working group to review the existing designee system and make recommendations to the FAA as to what would improve the quality and effectiveness of the system. The recommendations could include new or revised rules

(regulations) advisory guidance and other (including legislative and training) collateral material. The combined experience level of this working group in airplane certification activities and working within the present designation system is over 600 years and several working group members are designees today.

Realizing that FAA resources are very limited and that the prospects of increasing both human and budget resources is highly unlikely and with the known safety experience of today's designee system, the working group investigated the feasibility of enhancing the designee system by expanding the system to additional types of organizational designees. By allowing the FAA to use additional forms of organizational designees for routine testing and inspection activities, the FAA can concentrate on a program's significant safety issues (not the routine compliance findings), the continued airworthiness of the commercial civil aviation fleet, the promotion of safety, and the reduction of accidents.

In conclusion, the proposed organizational designee system allows the FAA to focus on a much bigger picture for oversight and surveillance, while transferring routine certification activities to the organizational designees. The FAA retains the authority to be involved in all aspects the designee functions as it does with the present designee programs.

The Proposed Rule--Specific Provisions

The proposal would consolidate designee programs for certain certification functions and expand the system to include additional functions. The proposed rule would consolidate the delegation regulations in part 21 subparts J and M and in SFAR 36, as well as § 183.33 relative to ODAR's, into a new subpart D in part 183. The proposed subpart D would contain one simplified set of designation rules to apply to all applicants now eligible under part 21 or under parts 121, 135, and 145, as well as to certain additional applicants. Accordingly, subparts J and M of part 21, SFAR 36, and ODAR's would be phased out. Additionally, the proposal expands the designee system to include compliance findings for the issuance of operating certificates for rotorcraft external load operations under 14 CFR part 133, agricultural aircraft operations under 14 CFR part 137, air agency certificates under 14 CFR part 141, and training center certificates under 14 CFR part 142. The proposed designation would be called an Organization Designation Authorization (ODA). This proposed rule would not affect the current system of designation as it applies to individuals operating under 14 CFR part 183, other than to standardize renewal requirements.

While the basic intent and substance of the regulations would be similar to the current regulations, the requirements would be stated more generally in order to provide broader applicability and greater flexibility. Many of the current

specific requirements would be incorporated under the general language of the regulation and in an FAA order. An order, Organization Designation Authorization System, will be available upon request from Document Inspection Facility, (Attention: APA-220), Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591.

Besides consolidating DOA, DAS, SFAR 36, and ODAR's, the proposed broader regulations would provide a mechanism for expanding the designation of functions within the broader categories, without the necessity of further rulemaking. Since every type of examination, inspection, or testing function that could be performed by an ODA Holder under this proposal cannot presently be envisioned, it is not possible to specify in the regulation all areas in which an ODA may serve consistent with the stated objectives of the proposal. Accordingly, any specific functions that are in addition to those listed in this proposed rule that may be delegated by the FAA would be described in an advisory circular (AC), a draft of which is being published concurrently with this NPRM (available from XXXX). The FAA intends to revise and republish the advisory circular to seek public comment each time it is proposed to add or delete an authorized function. An ODA applicant or holder who desires such additional functions would have to apply for them and submit a draft revised procedures manual listing the specific limitations and functions being requested. After review, the FAA would issue

the designation to eligible candidates and manage their performance and activities through the procedures manual and on-site visits.

By broadening the scope of the current designations, the proposal would allow the FAA to designate approval functions to qualified organizations other than manufacturers of type certificated products, air carriers, commercial operators, or repair stations. The intent is to allow organizations that have demonstrated competence, integrity, and expertise for finding compliance, determining conformity and airworthiness, or issuing certificates to be able to obtain an ODA.

The proposal would also provide safeguards to ensure the integrity of an ODA. In addition to the current authorization requirements for procedures manuals, record keeping, inspections, and data review in the event of an airworthiness problem or unsafe condition, the proposal would require an ODA Holder to conduct self audits (including subcontractors of the ODA) and to ensure that no conflicting restraints are placed on either the ODA Unit or individuals performing ODA functions. An ODA Holder would also be required to cooperate with the FAA in its audit, oversight, and surveillance of an ODA facility.

Most significantly, the proposal clarifies that while the ODA Holder has the responsibility for the designee functions, an ODA Unit within the organization must manage these functions. The ODA Unit would be a structure, consisting of individuals and

procedures, that acts on behalf of the FAA Administrator in the performance of the designee functions. The procedures that make up the ODA Unit would be identified in the procedures manual. The administration of the ODA Unit would be independent from other parts of the company whose work it is reviewing and, therefore, would not be subject to undue pressure by any other part of the company.

The proposal requires that the organization administrating the designee functions is an identifiable unit and allows for flexibility in the design of the organization. The proposed rule also allows flexibility in the relationship of the organization administering the ODA system and the personnel performing the designee functions. As noted earlier, the quality of approvals processed by organizations under the existing designee systems has resulted in the quality of approvals equal to those processed by FAA aviation safety engineers or aviation safety inspectors. The organizational design of the existing systems vary from integrated organizational structures with a matrix type relationship, which DOA's have successfully employed for many years, to "stand alone" organizations performing the designee functions. The FAA will continue to allow such variation provided that the ODA system meets the appropriate criteria.

If the rule is adopted as proposed, the FAA intends to evaluate the ODA's performance using a systems approach to the management and supervision of the ODA Unit. This is in contrast

to the existing designee systems which focus the FAA's efforts on monitoring the individuals authorized to perform the functions. It is not the FAA's intention under ODA to focus on the activities of individuals, but instead on the performance of the ODA system and how the functions are carried out. The FAA always retains the authority to monitor and surveil the ODA Unit to the extent necessary to ensure that the designee functions are carried out. For example, an individual may be removed from a designee function to correct any deficiency.

Under the proposed requirements, organizations that currently have individual designees could continue to use only these designees and operate under standard procedures, could choose to obtain an ODA rather than have the current individual designees, or could operate under both systems, depending on the certification needs of the company and the administrative and regulatory needs of the FAA.

The proposal also would provide qualification standards that an applicant must satisfy in order to be granted a designation. These qualification standards would ensure that only qualified organizations are issued designation authorizations.

It should be noted that under current part 183, subpart B, designations are issued solely at the discretion of the FAA Administrator and may be revoked or canceled in accordance with § 183.15(d)(1), (4), (5), and (6). This discretionary authority will continue to remain within the sole discretion and province of

the FAA, as stated in the statute.

It should also be noted that the proposal would not reduce in any way designation standards or limitations placed on designations to individuals under current part 183, nor would it reduce FAA monitoring, inspection, supervision, or surveillance practices. It would not eliminate any functions now authorized under current part 183, that apply to designations of individuals.

The Proposed Rule -- Section by Section

Part 21 Subparts J and M; part 121 SFAR 36

As previously stated, the proposed rule would phase out subparts J and M of part 21; SFAR 36, which applies to certificate holders who operate under part 121, 135, and 145; and ODAR's.

The functions and limitations currently addressed in those subparts and the SFAR would be covered in proposed subpart D of part 183.

Except for a proposed change to § 183.15 relating to duration of designations, the proposed rule would not change the requirements that pertain to individuals under the current designation requirements of subpart C of part 183.

For further discussion of the transition period, see "Transition to ODA Procedures" in this notice.

§ 183.1 Scope

The scope of current part 183 would remain the same except

that § 183.1 would be revised to reflect that part 183 would continue to cover designations of private individuals, as it now does, as well as cover private organizations. This revision is necessary to include in part 183 the current designation systems in part 21 subparts J and M, SFAR 36, and ODAR's, and also to allow independent organizations to be eligible to apply for an ODA authorization under part 183.

Additionally, the scope of part 183 would be expanded to include the designation of organizations to find compliance for issuing operating certificates under 14 CFR parts 133 and 137, air agency certificates under 14 CFR part 141, and training center certificates under 14 CFR part 142.

§ 183.15 Duration of certificates

Currently, the duration of certificates to individual Representatives of the Administrator under subparts B and C of part 183 varies. Under § 183.15 a designation as an Aviation Medical Examiner is effective for 1 year and may be renewed for additional periods of 1 year; a designation as a Flight Standards and Aircraft Certification Service Designated Representative is effective for 1 year and may be renewed for additional periods of 1 year; and a designation as a Designated Airworthiness Representative is effective until the expiration date shown on the Certificate of Authority. The FAA proposes to standardize the duration of designations of individuals by amending § 183.15 to state that the duration of the above designations are all

effective until the expiration date shown on the Certificate of Authority. The FAA plans to use the same system for the other designations as it does for DAR's, i.e., the appointing office may establish a duration 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 FAA Orders for the various types of designations.

§ 183.41 Applicability and definitions

The proposed new subpart D would apply to any eligible organization that seeks an ODA in order to perform certification functions in the areas of engineering, manufacturing, operational, maintenance and airworthiness approvals, and operator, air agency, pilot school, and training center certificate approvals.

Current subpart J of part 21 (§ 21.231) provides procedures for obtaining and using a DOA for type, production, and airworthiness certification of small airplanes and small gliders, commuter category airplanes, normal category rotorcraft, turbojet engines of not more than 1000 pounds thrust, turbopropeller and reciprocating engines of not more than 500 brake horsepower, and propellers on turbojet engines covered by this section. Procedures are also provided for the issuance of airworthiness approval tags for these products and parts of these products.

Current subpart M of part 21 provides DAS authorization procedures for issuing supplemental type certificates (STC),

issuing experimental certificates, and amending standard airworthiness certificates. The subpart applies to domestic repair stations, air carriers (except air taxi operators), commercial operators of large aircraft, and manufacturers of products (i.e., aircraft, engines, or propellers).

Current SFAR 36 applies to a holder of an air carrier operating or commercial operating certificate, or a holder of an air taxi operating certificate that operates large aircraft, and that has been issued operations specifications providing authorization to operate under part 121 or part 135, and to a holder of a domestic repair station certificate issued under part 145. SFAR 36 provides that a person with an SFAR 36 authorization may perform a major repair on a product using technical data that have not been directly approved by the FAA Administrator, and may approve the product for return to service, provided that the technical data were developed by the SFAR 36 authorization holder and are specific to that product.

Current § 183.33 provides for the appointment of Designated Airworthiness Representatives (DAR's) to perform examination, inspection, and testing services necessary to the issuance of certificates, including issuing certificates, as authorized by the Director, Flight Standards Services, in the area of maintenance, or as authorized by the Director, Aircraft Certification Service, in the areas of manufacturing and engineering. The FAA has interpreted § 183.33 to allow for the

designation of organizations to serve as DAR's, known as an Organizational Designated Airworthiness Representative (ODAR). Under the proposed rule, current ODAR authorizations, like those for DOA and DAS, would be terminated and those holders would have to reapply for an appropriate ODA to avoid confusion within the industry and to standardize to the new ODA designation procedures.

Proposed § 183.41 states that the subpart prescribes: (1) procedural requirements for obtaining an ODA to perform certain certification functions in the areas of engineering, manufacturing, maintenance, and airworthiness approvals; (2) procedural requirements for obtaining an ODA to perform functions associated with issuing operating certificates for rotorcraft external load operations and agricultural aircraft operations, air agency certificates for pilot schools, and aviation training center certificates; and (3) the rules governing the holders of ODA's.

The proposed applicability section would be broader than the current regulations; it would provide what is now provided in subparts J and M in part 21 and in SFAR 36, and expand the regulations to apply to additional persons, additional functions, and the full range of products, including large and small transport category aircraft, engines, and propellers. The functions are more specifically covered in proposed § 183.49, and eligibility is covered in proposed § 183.47, both of which are discussed later. Functions that could be performed under an ODA may include or be related to the examination, testing, and inspection necessary to

issue a certificate (as well as the issuing of certain certificates) in the areas of engineering (e.g., design approval), manufacturing, maintenance and airworthiness approvals, and operating, air agency, and training center certificate approvals.

Proposed § 183.41(b) contains definitions for two terms used in subpart D. An "ODA Unit" is an identifiable unit of two or more individuals within a company which performs the designated functions on behalf of the FAA Administrator, in accordance with subpart D. An "ODA Holder" is the company (or other legal entity) which obtained the ODA from the FAA Administrator.

§ 183.43 Application

This proposed section describes the application process, tells where to submit an ODA application, and prescribes the application contents.

Current subparts J, M and SFAR 36 require that a written application for an authorization be submitted to the appropriate FAA office for the area where the applicant is located. The application must include the name, signature, and title of each person for whom authorization is sought. Subpart M requires the applicant's certificate number and current ratings if the applicant is a repair station, or the products that it may operate and maintain if the applicant is an air carrier or commercial operator. SFAR 36 requires the applicant's certificate number and the

specific products the applicant is authorized to maintain under its operations specifications.

The proposed rule would require that eligible organizations apply for an ODA by submitting a letter of request along with a proposed procedures manual in a form and manner prescribed by the FAA Administrator. The application would also have to include a description of the authority requested and a description of the applicant's proposed designation organization, company organization structure, and applicant qualifications.

§ 183.45 Issue of Organization Designation Authorization

This proposed section states that the FAA Administrator may issue an ODA Certificate of Designation if the FAA Administrator finds that the applicant complies with applicable requirements of this subpart. The Certificate of Designation would state that any change to the ODA functions must be approved by the FAA Administrator.

Although subparts J and M and SFAR 36 do not contain a similar section, the proposed section restates what is explicit in the statute, that issuance of an authorization is at the FAA Administrator's discretion.

Though not explicitly stated, under current subpart J and M and SFAR 36, the FAA's normal practice is to issue a letter of authorization.

For ODA applicants, upon finding qualifications under the

regulations, the FAA would issue a Certificate of Designation identifying the company employing an ODA, type of ODA, and location of facilities; and listing the functions of the organization and the categories of products, components, parts, or appliances for which the ODA Holder has been designated authority. The list could be a general list of products, components, parts, appliances, ratings, specific certificates, or other authorizations under the ODA or it could be more specific, for example, listing specific TSO items. The ODA Holder would be subject to periodic audits, supervision, surveillance, or inspection in accordance with the applicable FAA orders and programs.

§ 183.47 Eligibility

Under the proposed rule the FAA intends that only applicants who have significant experience using standard certification procedures would be eligible for an ODA.

Under proposed § 183.47(a) an applicant would be eligible for an ODA if an applicant has adequate facilities, resources, personnel, and qualifications that are appropriate to the designation sought. In addition, an applicant must have experience with FAA regulations, policy, processes, and procedures appropriate to the designation sought. The requirement for personnel is stated in current rules; the FAA experience requirement is not specifically stated in current rules but is implied.

In addition, under proposed § 183.47(a)(3), an applicant

seeking an ODA in the areas of engineering (e.g., design approval), manufacturing, maintenance, and airworthiness (manufacturing and maintenance inspection) must meet one of the following criteria as appropriate to the designation sought:

(1) A current type certificate, supplemental type certificate, or TSO authorization. For all of these, the certificate or approval must have been approved and issued to the applicant using standard procedures of part 21 and under the same or predecessor regulation part or TSO as the product for which an ODA is sought.

(2) A current repair station certificate issued under part 145 of this chapter.

(3) An air carrier or commercial operating certificate issued under part 119 of this chapter.

(4) Have sufficient experience, as determined by the FAA Administrator, in performing the functions in the area for which the ODA is sought. This eligibility criteria is applicable only to organizations in the areas of engineering (e.g., design approval), manufacturing (e.g., conformity inspections), and airworthiness (e.g., determining conformity and issuing certificates) approval, and to organizations with the qualifications to find compliance for certificating rotorcraft external load operations, agricultural aircraft operations, pilot schools, and aviation training centers.

The proposed eligibility requirements in paragraph (a) would include all persons who now are eligible under subpart J or M of part 21 or under SFAR 36, and would broaden the current

requirements to include TSOA holders and STC holders.

In addition to the corporate qualifications, organizations seeking an ODA in the areas of engineering (e.g., design approval), manufacturing (e.g., conformity inspections), and airworthiness (e.g., determining conformity and issuing certificates) approvals, and finding compliance for certificating rotorcraft external load operations, agricultural aircraft operations, pilot schools, and aviation training centers would be required to have qualified individuals who have acquired the necessary experience and qualification by having worked for organizations that hold one or more of the certificates listed in § 183.47(a). Under proposed § 183.47(a)(3)(iv), an applicant who has not been issued one of the certificates or authorizations listed in § 183.47(a)(3)(i)-(iii) is eligible for an ODA if the FAA Administrator determines that the applicant has sufficient and appropriate experience in performing the functions for which the ODA is sought. Proposed § 183.47(a)(3)(iv) would, therefore, allow for greater flexibility than the current requirements.

Proposed § 183.47(b) applies to any applicant requesting a designation for a production system. These proposed requirements would be in addition to those in § 183.47(a). Applicants in this category would have to demonstrate experience in both design approval and production approval.

Experience with design approval would be necessary in order to demonstrate the ODA applicant's engineering competence. The design

approval experience would be demonstrated by holding a design approval, such as a type certificate, STC, TSOA, or a parts manufacturing approval (PMA). Because holding of such approval is meant to demonstrate experience in design approval, design approvals obtained through non-engineering methods would not be sufficient to meet this requirement. However, approvals obtained by comprehensive tests and computations may demonstrate experience with design approval.

Experience in production is necessary to demonstrate the ODA applicant's production competence. This would be demonstrated by: (1) holding a production certificate, a TSOA, or a PMA; or (2) having an FAA approved production inspection system (APIS).

Proposed § 187.47(c) would clarify that for purposes of this section standard procedures would not include transfers and licenses issued under part 21 and approvals based on identicality under § 21.303(c)(4).

§ 183.49 Functions

Proposed § 183.49(a) states that, consistent with the applicant's qualifications and experience, the FAA Administrator may authorize the functions requested by the applicant that may be performed under each ODA. An ODA Unit would be allowed to perform only those functions authorized by the FAA Administrator and implemented and controlled through an approved procedures manual.

Current designation regulations and functions are specific to the type of authorization and provide specific procedures that the

authorized person must follow. In the interest of simplifying the regulations and maintaining greater flexibility, the proposed rule would eliminate specific details, which would instead be contained in the proposed FAA order and in the applicant's approved procedures manual.

Proposed § 183.49(b) states that the ODA functions listed in that paragraph authorize the ODA Unit to find 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 (b)(1), which lists "approving technical data" as one of the functions that may be granted, refers not only to data associated with airworthiness certification functions, but also to data relevant to flight standards and maintenance functions. Thus, the proposed term would be broader than it is in current designation regulations where it pertains only to airworthiness certification functions. Proposed paragraph (b)(5), which lists "approving or accepting manuals and changes/supplements to manuals" as another possible function, refers to manuals such as maintenance manuals and operations manuals; an applicant would request this function only if the applicant were otherwise required to obtain FAA approval or acceptance for the manual or changes to

the manual.

Proposed paragraph (b)(9) lists functions that are not currently designated, but that the FAA proposes to designate to qualified organizations. These functions are providing certification services for rotorcraft external load operators and agricultural aircraft operators under 14 CFR parts 133 and 137 and air agency and training centers under parts 141 and 142 (for non-air carriers). ODA's 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 appropriate certification reports required in the certification process.

The proposed list of functions is not meant to cover all possible functions. Proposed § 183.49(b)(10) would specifically provide for "any other functions deemed appropriate by the Administrator." This would permit the FAA Administrator to authorize additional functions, if appropriate to the applicant's qualifications and experience. An FAA order and advisory circular would provide a matrix of options for functions that an organization may request authority to perform based on the organization's qualifications.

However, some functions are "inherently governmental" or are reserved for the FAA and as such would not be delegated to an ODA Unit or to an individual. Some inherently governmental functions

that could only be performed by employees of the FAA Administrator are the issuance of a Type Certificate, the issuance of a Production Certificate, the issuance of a Technical Standard Order Authorization (TSOA), the issuance of an Airworthiness Directive (AD), the issuance of an exemption, certain findings for the purpose of issuing a design or 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), surveillance, and oversight.

In addition, some Flight Standards functions involve discretionary findings, along with findings of compliance with objective standards; thus, the functions involving discretionary finding will not be delegated by the FAA. For example, functions such as determination of operational suitability (Flight Standardization Board), approval of Master Minimum Equipment List, approval of Air Carrier Minimum Equipment List, approval of air carrier flight crew operating manuals, and approval of air carrier instructions for continued airworthiness, which includes Maintenance Review Board (MRB) and associated maintenance documents, presently involve some discretionary finding. Therefore, some aspects of these functions would not be delegated. The issuance of certain certificates may also involve both discretionary and "objective" findings. Thus, this proposal would limit ODA Unit findings of compliance for the purpose of

issuing part 133, 137, 141 and 142 certificates to those that are nondiscretionary. Further, ODAs would not presently be considered for the purpose of finding compliance for issuing repair station certificates under part 145 or for finding compliance for issuing training center certificates under 14 CFR part 142 for approval of air carrier training programs.

§ 183.51 Personnel

The proposed personnel requirements of § 183.51 would require each ODA Unit to have ODA administrator(s) and a staff of engineering, flight test, production, inspection, maintenance or operations personnel appropriate for the performance of requested designations, who are qualified for finding compliance, determining conformity and airworthiness, or issuing certificates. The proposal is similar to § 21.239(c) in subpart J of part 21. Section 21.439(a) and (b) in part 21, subpart M and § 5(a) and (b) of SFAR 36 contain more specific personnel requirements. Specific requirements would be covered in the appropriate FAA order. By being more general, the proposed rule would establish a single, broad requirement covering all authorizations under this subpart.

§ 183.53 Procedures Manual

The proposed rule would require an applicant for an ODA to submit a procedures manual to the FAA and obtain approval from the FAA for the manual. The manual must identify and describe: (1)

the certification and approval functions for which designation is requested, along with the appropriate categories of products, certificates or ratings, and any limitations; (2) the procedures employed for performing the functions that are authorized under the ODA; (3) the ODA organizational structure and ODA administrative procedures; (4) the facilities used in performing the authorized function; (5) a process and procedure for self audit of the ODA (including subcontractors of the ODA); (6) the requirements, methods, and procedures for communicating and consulting with the appropriate FAA offices; (7) the initial and recurrent ODA training required for personnel who are performing functions authorized under the ODA; (8) the content of records and manner of maintaining the records; (9) position descriptions and required qualifications; (10) the procedures for appointing individuals who are authorized to perform functions listed in proposed § 183.49 and the means for maintaining and removing the names of such individuals; (11) the method of documenting and determining the approval requirements for changes in facilities or organizational structure;(12) the procedures for obtaining and maintaining appropriate regulatory guidance materials; and (13) the process and procedures for revising the procedures manual.

The proposed requirements for a procedures manual are similar to current requirements in SFAR 36, section 6, and subpart M, § 21.441 with two exceptions. The first is that the proposed rule is more general in order to cover all ODA's. The second is that

subpart M and SFAR 36 contain a requirement that a holder of an authorization may not perform an authorized function, if there has been a change in facilities or in staff relevant to performing that function, until the FAA approves the change. This second exception is discussed more fully under the preamble discussion of proposed § 183.55.

§ 183.55 Limitations

Proposed § 183.55(a) states that an ODA Unit may perform under the ODA only certification and approval functions set forth in its approved procedures manual. Proposed § 183.55(b) states that an ODA Unit may not perform under the ODA an authorized function if there has been a change in the location of facilities or organizational structure that affects performing that function until the FAA Administrator is notified of the change, the change has been appropriately documented and approved as required in the procedures manual. Proposed § 183.55(c) states that an ODA Unit may not issue a certificate or other approval for which an inherently governmental finding of the FAA Administrator is required, such as each equivalent level of safety finding, until the FAA Administrator makes that finding. Under proposed § 183.55(d) an ODA Unit would also be subject to any other limitations specified by the FAA Administrator.

Current regulations in subpart J, § 21.251, subpart M, § 21.451, SFAR 36, and ODAR's, § 183.33, limit the authorization to certain specific functions and provide details on these functions.

The proposed general requirements would replace the detailed requirements in the current regulations. Specific details regarding limitations would be in the proposed FAA order.

In addition, proposed § 183.55(b) would provide more flexibility than the current procedures manual requirements in § 21.441(b) and SFAR 36, section 6(b). Current § 21.441(b) states that no DAS may continue to perform any DAS function affected by: (1) any change in facilities or staff necessary to continue to meet the eligibility requirements of § 21.439; or (2) any change in procedures from those approved under § 21.441(a) unless that change is approved and entered in the procedures manual. A log of revision pages is required with the space for the identification of each revised item, page, or date, and the signature of the person approving the change for the FAA Administrator. SFAR 36, section 6(b), has a similar requirement.

In contrast, the proposed ODA requirements are specific to changes in the location of facilities and organizational structure, not staff. The ODA procedures manual would not list the names of staff but rather give the positions and qualifications of staff and means for maintaining and removing the names of individuals who are authorized to perform ODA functions. The procedures manual would list the ODA administrator(s); therefore, individuals other than ODA administrator(s) may change without any change in the procedures manual or any need for FAA approval.

Furthermore, the proposed requirements would not require that

every change in the location of facilities or organizational structure be approved by the FAA Administrator. Rather the proposal would provide that the approval requirements for such change will be set forth in the procedures manual. These approval requirements may or may not require signature approvals for certain kinds of changes.

The proposal would provide for an ODA Unit to continue performing authorized functions after a change in the location of facilities and organizational structure as long as the ODA Holder notifies the FAA Administrator of the change, documents the change as required in the procedures manual, and meets any other approval requirements set forth in its procedures manual.

§ 183.57 Responsibility of an ODA Holder and Companies Employing Consultant ODA Holders

Proposed § 183.57 would establish certain responsibilities of an ODA Holder and companies that employ consultant ODA Holders. The responsibilities of the ODA Holder would be: (1) to ensure that the procedures in the approved ODA procedures manual are followed; (2) to ensure that the employees performing ODA functions are given sufficient authority to administer the authorized functions in accordance with the FAA regulations and policies; (3) to ensure that no conflicting restraints are placed on the ODA Unit or on the personnel performing ODA functions; and (4) to cooperate with the FAA, as necessary, in the performance of the FAA's audit, oversight, and surveillance of an ODA Unit. In effect, the ODA

Unit represents a "mini FAA" within the company, when performing the authorized functions. 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.

The proposed rule would also include responsibilities for companies that employ consultant ODAs. The proposed rule states that no person may interfere with the ability of the ODA holder or ODA personnel to comply with part 183 and the approved procedures manual.

Although no comparable section exists in current subparts J or M of part 21 or in SFAR 36, the proposed responsibilities are implicit in existing designation authorizations. Clearly personnel performing ODA functions must have organizational authority to ensure that authorized functions are performed in accordance with FAA requirements. While discharging the duties of an ODA, an ODA Unit within a company would report to a level of management high enough to enable the ODA Unit to administer duties for the FAA without undue pressure or undue influence from other organizational segments or individuals. The personnel performing ODA functions 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 FAA needs to determine that an ODA Unit will remain free of any conflict of interest.

The ODA Holder would also be responsible for cooperating with the FAA during the FAA's audit, oversight, and surveillance activities to ensure compliance with FAA regulations.

§ 183.59 Maintenance of Eligibility

The proposed rule states that an ODA Unit shall continue to meet the requirements for issuance of the ODA certificate and shall notify the FAA Administrator within 48 hours of a change that could affect the ODA Unit's ability to meet the requirements of the subpart, unless required to notify the FAA Administrator sooner by regulation or by the ODA procedures manual. The proposed language also states that if notification to meet the 48-hour requirement would occur on a Saturday, Sunday, or holiday, the ODA Unit must notify the FAA Administrator on the next workday.

Proposed § 183.59 is substantively the same as current subpart J, § 21.245, and current subpart M, § 21.445, and current SFAR 36, section 6, except that the current rules specify that a change includes a change of key personnel. The proposed requirement would not require notification for a change in personnel if that change does not affect the qualifications of the organization to perform authorized functions. This proposed change would reduce both the ODA's and the FAA's time in processing paperwork.

§ 183.61 Inspection

The proposed rule states that upon request, the FAA Administrator shall be allowed to inspect facilities, products, components, parts, appliances, procedures, and records associated

with the authorized designation.

The proposed language is substantively the same as current requirements in subpart J, subpart M, and SFAR 36.

§ 183.63 Current records

Proposed § 183.63(a) would require an ODA Unit to maintain certain records appropriate to the ODA's specific designation authority and to the work performed under that authority. The proposed rule would require the ODA Unit to maintain for the duration of the designation authorization the records required to approve technical data; data that is required to be submitted with the application for a production certificate and amendments to that production certificate; data required to support the issuance of STC's, airworthiness approvals, major repair or alteration approvals or other authorized approvals; a list of products, components, parts, or appliances for which an ODA Unit performs an authorized function; the names, responsibilities, and qualifications of individuals who are performing or have performed functions under the ODA; copies of applications for issuance of a certificate; copies of the approved or accepted manuals, including all changes; and all other records required by the approved ODA procedures manual. For certification authorizations under 14 CFR parts 133, 137, 141, and 142, the ODA Unit would maintain all reports and records submitted by the applicant for certification and review, tests provided and the results of those tests, and the results of evaluations conducted in the

certification process.

An ODA Unit would also be required to maintain for 2 years a complete inspection record for each product manufactured and a record of service difficulties reported to the ODA Unit.

Proposed § 183.63(b) would require that the records maintained in accordance with paragraph (a) of this section must, upon request, be made available to employees of the FAA Administrator for inspection and must be identified and sent to the FAA Administrator as soon as the ODA Certificate of Designation is in any way terminated.

The proposed requirements are similar to those currently in § 21.293 of subpart J, § 21.493 of subpart M, and section 13 of SFAR 36.

§ 183.65 Data Review and Service Experience

Proposed § 183.65(a) states that if the FAA Administrator finds that a potentially unsafe condition exists in a product, operation, air agency, or training center for which approval was authorized under this subpart, the ODA Holder, upon notification by the FAA Administrator, shall investigate the matter and report to the FAA Administrator the results of the investigation and action, if any, taken or proposed. Under proposed § 183.65(b), an ODA holder making compliance findings for certification under 14 CFR parts 133, 137, 141 or 142 would provide the FAA Administrator with all information obtained in the course of the internal investigation. Surveillance and enforcement action would be

conducted by the FAA Administrator and would not be delegated.

Proposed § 183.65(c) states that if further action is necessary for the safe operation of the product or certificate holder for a condition specified in paragraph (a) of this section, the ODA Holder shall submit to the FAA Administrator information in its possession necessary to support FAA corrective actions.

The proposed language is similar to current requirements in § 21.277 of subpart J, § 21.477 of subpart M, and § 12 of SFAR 36. The proposed language was revised to limit this requirement to an unsafe condition only.

§ 183.67 Transferability and Duration

Proposed § 183.67(a) states that an ODA Certificate of Designation is not transferable and is effective until it is surrendered or until the FAA Administrator suspends, revokes, or otherwise terminates it. This proposed language is substantively the same as current requirements in subpart J, subpart M, and SFAR 36.

Proposed § 183.67(b) states the circumstances for which an ODA Certificate of Designation is terminated. This proposed language is substantively the same as the termination circumstances in current § 183.15(d)(1), (4), (5), and (6).

Transition to ODA Procedures

Eligible organizations may apply for an ODA on or after the date of publication of the final rule. Once the FAA completes its evaluation and authorizes the ODA Unit to perform specified

functions, the ODA Holder must follow the requirements of subpart D of part 183. Any authorizations administered to an ODA Holder under subparts J and M of part 21 and SFAR 36 would be automatically terminated when the ODA Certificate of Designation is granted.

No applications for designations under subpart J or M of part 21 or SFAR 36 would be accepted after the publication date of the final rule. Persons who had received an authorization under these regulations before the publication date would need to reapply under subpart D of part 183 for an ODA. This reapplication process is necessary for current designees so that the FAA can determine that each applicant meets all the specific 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 issued. At the end of 3 years, current designations under subparts J and M of part 21 and SFAR 36 would become ineffective. Current designees should apply for an ODA as soon as possible after the publication date to allow time for FAA review of the application, draft procedures manual, and other materials.

Proposed §§ 21.230 and 21.430 and section 4 of SFAR 36 would provide the compliance schedule for the transition to proposed subpart D of part 183. Paragraph (a) of proposed §§ 21.230 and 21.430 and section 4 of SFAR 36 would provide that no new

applications for subpart J or M or SFAR 36 authority may be submitted when subpart D of part 183 goes into effect (30 days after the final rule is published). Paragraph (b) would provide that 3 years after subpart D goes into effect no person may perform the functions of subpart J or M. This will allow organizations that currently hold subpart J or M authority 3 years to apply for and obtain ODA authority under part 183. Holders of SFAR 36 authorizations may exercise that authority until SFAR 36 expires. The FAA has extended SFAR for 5 [?] years, to provide an adequate transition period. (Federal Register Citation.)

Regulatory Evaluation Summary

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 Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. 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" as defined in the Executive Order; (2) would not be significant as defined in Department of Transportation's Regulatory Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; and (4) would lessen restraints on international trade; and (5) would not contain a significant intergovernmental or private sector mandate. These analyses, available in the docket, are summarized as follows.

As stated elsewhere in this preamble, the proposed rule would create a system for the FAA to designate to an organization, within or without a certificate holder's company, the authority to perform certain certification functions. A company that wishes to obtain a designation of aircraft certification function from the FAA could: (1) apply for an ODA from the FAA; or (2) use only individual designees and operate under standard procedures; or (3) employ both, depending upon the particular activities for which the company needs the designation authorization. The company would apply for the particular type of designation (with the understanding that the FAA must agree that an ODA is acceptable for that particular activity) that would give it the greatest net gain (or the lowest

net loss). However, many companies currently employ designation authorizations under part 21 subparts J or M or under part 121 SFAR 36, which would sunset within 3 years of adoption of this rule. As a result, the cost of compliance with the proposed rule would be the additional cost required to apply for and to operate an ODA in comparison to the existing system governing individual designation authorizations.

These additional costs would be both first-time (initial) costs and annual (recurring) costs. Based on discussions with the members of the ARAC Delegation Working Group, the primary areas of the proposed rule that could generate first-year compliance costs would be those associated with: (1) developing a sufficiently detailed and specific procedures manual that would be acceptable to the FAA; (2) for companies that already employ persons with designated authority, revising some of the existing procedures; (3) revising the company's administrative system to ensure that the ODA and its administrator would be independent from the other parts of the company; (4) establishing a record keeping system that would provide sufficient information for self-audits and for FAA review; (5) developing new initial and recurrent ODA training materials; (6) learning the ODA requirements; (7) submitting the application to the FAA; and (8) coordinating with the FAA's application review - including the FAA's initial audit of the system.

Similarly, the primary areas of the proposed rule that could

generate annual compliance costs would be those associated with: (1) employing a ODA administrator(s); (2) operating a more extensive and exacting self-audit program; (3) creating and maintaining the additional records and documentation needed for the FAA to evaluate the ODA; and (4) undergoing periodic FAA evaluations of the ODA.

The amount of these costs would vary widely across organizations depending upon such factors as the type and level of activity, the size of the organization, the extent to which the existing designated personnel and systems already meet the proposed requirements, etc. For example, some members of the ARAC Delegation Working Group estimate that between 200 and 10,000 additional hours would be needed for compliance in the first year. Similarly, their estimates of the number of recurring incremental annual hours that would be required to comply with the ODA requirements ranged from 130 hours to 12,000 hours. In addition to the previously listed reasons for differing estimates from different organizations, it is probable that part of the wide ranges in these estimates may be due to differing expectations of what would constitute compliance with these proposed requirements. As a result, the FAA requests additional information concerning the expected number of additional hours (if any) an organization would need to address each of the 8 potential areas associated with first-year compliance costs as well as with the 4 areas associated with

annual compliance costs. The FAA also requests information concerning any other requirements in the proposed rule that may generate additional first-year or annual compliance costs for a potential applicant.

The proposed rule would have two general benefits. One benefit would be an enhanced level of safety and the other benefit would be a reduction in the time to design, manufacture, maintain, and repair aircraft.

This proposed rule would allow the FAA to focus its limited resources on the quality of certificate and approval holders' performance rather than on witnessing tests and evaluating data. As discussed earlier in this preamble, although the number of certifications and approvals will increase over time, it is unlikely that FAA resources will increase commensurably. Thus, in order to ensure the future safety of the aviation system, the FAA needs to use its limited resources to review and evaluate the overall quality of the certificate and approval holders' performance that directly relates to maintaining safety; i.e., compliant designs and conforming products. As a result, the FAA believes that the proposed rule would permit the FAA to perform its certification and approval functions in a more efficient, cost-effective manner while maintaining safety. This is particularly significant when the FAA is tasked with evaluating designs involving new technology. Using organizational designations to address findings of compliance for designs of

familiar technology allows the FAA to devote its certification resources to address new technology.

One potential economic benefit of the proposed rule would be that using an ODA could reduce some of the delays that have occurred under the current system. For example, work schedules have been delayed because the FAA has been unable to perform the necessary certifications and approvals when requested because of its limited resources, other requests, other Agency priorities, etc. By way of illustrating the potential expense of these types of delays, the FAA Aircraft Certification Services has estimated that for a recent transport aircraft certification program the FAA expended approximately 130,000 hours. Updating the September, 1997 FAA estimate (see Final Regulatory Evaluation, Final Regulatory Flexibility Determination, and Trade Impact Assessment for Final Rule: Part 187 Fees for Providing Production Certification-Related Services Outside the United States) of $120 per hour total compensation (including Salary, medical, vacation and other benefits) for an FAA engineer to $125 in 1998 dollars, the FAA estimates that the Aircraft Certification Services spent about $16.25 million over a four year certification program. This $16.25 million does not include the FAA Flight Standard Service's efforts in this same program. Utilizing an organizational designee system approach, the Delegation Working Group estimates that the FAA could have shifted approximately 110,000 hours (this number does not include

the FAA administrative cost of maintaining and approving a manufacturer's designees) of the 130,000 total hours to maintaining the continued airworthiness of the civil aviation commercial transport fleet. The remaining 20,000 hours would have been required for oversight and surveillance of a manufacturer's FAA approved organizational designation system. As another example, a member of the ARAC Delegation Working Group reported that the implementation of a designee program similar to ODA was estimated to save a transport category airplane manufacturer an average of 50 hours per delivered airplane. This estimate was based on actual post-type certification scheduled activity over a specific period.

Another potential economic benefit would be that the proposed rule may reduce the number of tests that must be duplicated. Currently, certification tests are performed first for the company's engineers and then may be repeated for the FAA depending on what the FAA chooses to witness. Besides the additional time involved, performing these tests often involves considerable personnel and equipment expense to the company.

As was true for the discussion of the potential compliance costs for this proposed rule, the potential economic benefits would vary widely among organizations. As a result, the FAA has been unable to quantify these potential cost savings and requests information on this issue during the public comment period.

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. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

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 Act.

However, 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 1980 Act 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.

For manufacturers, a small entity is one with 1,500 or fewer employees. The proposed rule would primarily affect large

companies because they would most likely choose to use an ODA. No company would be required to create an ODA; all companies would continue to have the option to use the system that they are currently using or to make a request for designation authority. As a result, the FAA certifies that the proposed rule would not have a significant impact on a substantial number of small companies.

International Trade Impact Analysis

Consistent with the Administration's belief in the general superiority, desirability, and efficacy of free trade, it is the policy of the FAA Administrator to remove or diminish, to the extent feasible, barriers to free trade, including both barriers affecting the export of American goods and services to foreign countries and those affecting the import of foreign goods and services into the United States,

In accordance with that policy, the FAA is committed to develop as much as possible its aviation standards and practices in harmony with its trading partners. Significant cost savings can result from this, both to American companies doing business in foreign markets, and foreign companies doing business in the United States.

The proposed rule could reduce the costs of developing, manufacturing, maintaining, and repairing aircraft by reducing potential delays in obtaining necessary certification approvals only for persons in the United States. A certificate or approval

holder located outside the United States could not apply for an ODA, but a person located outside the United States could only obtain a certification or approval based on findings of compliance made directly by the FAA, or by designees or designated organizations in the United States. However, the civil aviation authority of a country with which the United States has a bilateral aviation safety agreement may make findings of compliance on behalf of the FAA, if such findings were permitted by the agreement. In addition, the FAA has published a certification cost recovery rule that enables the FAA to provide direct certification oversight of programs of applicants located outside the United States; that rule provides for cost recovery for some functions covered by this proposal. Therefore, the FAA anticipates that the proposed rule would have negligible international trade impact.

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 one 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. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

The FAA determines that this proposed rule would not contain a significant intergovernmental or private sector mandate as defined by the Act.

Paperwork Reduction Act

The reporting and record keeping requirements associated with this proposed rule have previously been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-XXXX.

Environmental Assessment

List of Subjects

14 CFR part 21

Aircraft, Aviation safety, Exports, Imports, Reporting and record keeping requirements.

14 CFR part 121

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

14 CFR part 135

Air taxis, Aircraft, Airmen, Aviation safety, Reporting and record keeping requirements.

14 CFR part 145

Aircraft, Aviation safety, Reporting and record keeping requirements.

14 CFR part 183

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

The Proposed Amendment

The Federal Aviation Administration proposes to amend parts 21, 121, 135, 145, and 183 of the Federal Aviation Regulations [14 CFR parts 21, 121, 135, 145, and 183] 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 [Insert date of publication of final rule]. A person may apply for an Organization Designation Authorization under subpart D of part 183 of this chapter on or after [Insert date of publication of final rule].

(b) No person may perform the functions of a Delegation Option Authorization issued under this subpart after [Insert date 3 years after date of publication of 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 [Insert date of publication of final rule]. A person may apply for an Organization Designation Authorization under subpart D of part 183 of this chapter on or after [Insert date of publication of final rule].

(b) No person may the perform the functions of a designated alteration station authorization issued under this subpart after [Insert date 3 years after date of publication of 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

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 revising the introductory text of section 4 to read as follows:

SFAR 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 of final rule] a person may apply for an Organization Designation Authorization under subpart D of part 183 of this chapter. The application (for SFAR 36 Authorization) must contain --

* * * * *

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. **[Does the authority cite need to be expanded since we have moved part 21 subparts and the part 121 SFAR 36 into part 183?]**

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 and aircraft certificates, operating certificates under parts 133 and 137 of this chapter, air agency certificates under part 141 of this chapter, and training center certificates under part 142 of this chapter. In addition, this part states the privileges of those representatives and prescribes rules for the exercising of those privileges, as follows:

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

(b) Private persons (organizations) may obtain Organization Designation Authorizations under subpart D of this part.

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

§ 183.15 Duration of certificates.

(a) Unless sooner terminated under paragraph (b) of this section, a designation as an Aviation Medical Examiner, Flight Standards & Aircraft Certification Service Designated Representative, or Designated Airworthiness Representative 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 Issue of Organization Designation Authorization.
183.47 Eligibility.
183.49 Functions.
183.51 Personnel.
183.53 Procedures manual.
183.55 Limitations.
183.57 Responsibilities of an ODA Holder and Companies Employing a Consultant ODA Holder.
183.59 Maintenance of eligibility.
183.61 Inspection.
183.63 Records.
183.65 Data review and service experience.
183.67 Transferability and duration.

§ 183.41 Applicability and definitions.

(a) This subpart prescribes --

(1) Procedural requirements for obtaining an Organization Designation Authorization (ODA) to perform, within limits prescribed by and under the general supervision of the FAA Administrator, certain functions in the areas of --

(i) Engineering, manufacturing, operational, airworthiness, and maintenance practices and procedures; and

(ii) Issuance of operating certificates under parts 133 and 137 of this chapter, air agency certificates under part 141 of this chapter, and training center certificates under part 142 of this chapter (other than for approval of air carrier training

programs.)

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

(b) For purposes of this subpart---

(1) "ODA Unit" means an identifiable unit of two or more individuals within a company which performs the designated functions on behalf of the FAA Administrator, in accordance with this subpart.

(2) "ODA Holder" means the company which obtained an ODA by the FAA Administrator.

§ 183.43 Application.

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

(b) The application must include the following:

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

(2) A description of the applicant's proposed designation organization, as it relates to the relevant overall company organizational structure, and the applicant's qualifications.

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

§ 183.45 Issue of Organization Designation Authorization.

(a) The FAA Administrator may issue an ODA Certificate of Designation if the FAA Administrator finds that the applicant is in compliance with applicable requirements of this subpart.

(b) An ODA Certificate of Designation identifies the name of the ODA Holder, type of ODA, location of the facilities; and lists the functions of the organization and, as applicable, the categories of products, components, parts, appliances, ratings, specific certificates, or other authorizations for which the organization has been granted approval.

(c) An ODA Holder must apply to and obtain approval from the FAA Administrator for any changes to the ODA functions.

§ 183.47 Eligibility.

(a) To be eligible to apply for an ODA, the applicant must:

(1) Have adequate facilities, resources, personnel, and qualifications appropriate to the designation sought;

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

(3) Meet one or more of the following requirements as appropriate to the designation sought:

(i) Have been issued and hold a current type certificate, supplemental type certificate, or TSO authorization under the standard procedures of part 21 of this chapter for a product approved under the same or predecessor regulation part or TSO as the product for which an ODA is sought.

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

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

(iv) Have sufficient experience, as determined by the FAA Administrator, in design approval, airworthiness inspection, and in rotorcraft external load operations, agricultural aircraft operations, pilot schools, and aviation training centers, as appropriate for performing the functions in the area for which the ODA is sought.

(b) An applicant requesting a designation in the area of production must also meet the following requirements:

(1) For the product, components, parts, or appliances for which the applicant is seeking designation authorization, 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 applicant under standard procedures using tests and computations; this means the data were approved by the FAA Administrator.

(2) For the product, components, parts, or appliances for which the applicant is seeking designation authorization, the applicant must have one of the following production approvals:

(i) A current Production Certificate, Technical Standards Order Authorization, or Parts Manufacturer Approval, issued under the standard procedures of part 21 of this chapter.

(ii) An FAA Approved Production Inspection System.

(c) 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 Functions.

(a) The FAA Administrator may authorize, consistent with the applicant's qualifications and experience, functions that the applicant has requested and that may be performed under each ODA.

(b) ODA functions granted by the FAA Administrator, based on findings of compliance with the applicable regulations of this chapter, include one or more of the following:

(1) Approving technical data.

(2) Finding compliance with airworthiness requirements.

(3) Approving type design data and changes to type design.

(4) Issuing STC's.

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

(6) Determining conformity requirements and performing conformity inspections.

(7) Issuing Airworthiness Certificates and related approvals.

(8) Approving changes to production approvals.

(9) Conducting examinations and evaluations of facilities, personnel, records, and reports to ensure compliance with the

certification requirements of parts 133, 137, 141, and 142 of this chapter, as appropriate.

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

§ 183.51 Personnel.

Each ODA applicant must have available:

(a) ODA administrator(s); and

(b) A staff consisting of engineering, flight test, production, inspection, maintenance, or operations personnel, appropriate for the performance of requested functions, who have the experience and expertise to find compliance, determining conformity and airworthiness, or issuing certificates.

§ 183.53 Procedures manual.

An ODA is not issued under this subpart until the applicant submits to the FAA and obtains approval of a procedures manual that identifies and describes--

(a) The certification and approval functions along with the appropriate categories of products, certificates or ratings for the designation requested and any limitations.

(b) The procedures for performing the functions that are authorized under the ODA.

(c) An ODA administration procedures section that

explains the ODA organizational structure and responsibilities.

(d) A description of the facilities used in performing the authorized function.

(e) A process and procedure for self audit of the ODA Unit (including subcontractors of the ODA Unit).

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

(g) The initial and recurrent ODA training required for personnel performing functions authorized under the ODA.

(h) The content of records and manner of maintaining records.

(i) Position descriptions and required qualifications.

(j) The procedures for appointing individuals who are authorized to perform the functions listed in § 183.49, and the means for maintaining and removing the names of such individuals.

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

(l) The procedures for obtaining and maintaining appropriate regulatory guidance material.

(m) The process and procedures for revising the procedures manual.

§ 183.55 Limitations.

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

(b) An ODA Unit may not perform under the ODA an authorized function if there has been a change in the location of facilities or the organizational structure that affects performing that function until the FAA 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 or other approval for which an inherently governmental finding of the FAA Administrator is required, such as each equivalent level of safety finding, until the FAA Administrator makes that finding.

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

§ 183.57 Responsibilities of an ODA Holder and a Company Employing a Consultant ODA Holder.

(a) An ODA Unit must comply with the procedures in its approved procedures manual.

(b) An ODA Holder shall give its personnel performing as ODA representatives sufficient authority to enable them to

administer and perform the authorized functions according to FAA regulations and policies.

(c) An ODA Holder shall ensure that no conflicting restraints are placed on the ODA Unit or on the personnel performing the designated functions. No person may interfere with the ability of the ODA Holder to comply with this part and the approved procedures manual.

(d) An ODA Holder shall cooperate with the FAA, as necessary, in the performance of the FAA's audit, oversight, and surveillance of an ODA facility.

§ 183.59 Maintenance of eligibility.

An ODA Unit shall continue to meet the requirements for issue of the Certificate of Designation and shall notify the FAA Administrator within 48 hours of a change that could affect the ODA Unit's ability to meet the requirements of this subpart, unless required to notify the FAA Administrator sooner by regulation or by the ODA procedures manual. If notification to meet the 48-hour requirement of this section would occur on a Saturday, Sunday, or holiday, the ODA Unit must notify the FAA Administrator on the next workday.

§ 183.61 Inspection.

Upon request, the ODA Holder shall allow the FAA

Administrator to inspect facilities, products, components, parts, appliances, procedures, and records associated with the authorized designation.

§ 183.63 Records.

(a) Each ODA Unit, as appropriate for the specific designation authority held and the work performed under that authority, shall maintain the following records:

(1) For the duration of the designation authorization:

(i) The records required to approve technical data. These records may include support reports on tests prescribed by part 21 of this chapter, and the original type inspection report and amendments to that report, or required certification reports and correspondence.

(ii) The data required to be submitted with the application for a production certificate and amendments there unto.

(iii) The data required to support the issuance of supplemental type certificates, airworthiness certificates, major repair or alteration approvals, or any other approval authorized under this subpart.

(iv) 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.

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

(vi) Applications for issuance of a certificate.

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

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

(2) For 2 years:

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

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

(b) The records and data specified in paragraph (a) of this section shall, upon the FAA Administrator's request, be--

(1) Made available, for examination at any time; and

(2) Identified and sent to the FAA Administrator as soon as the ODA Certificate of Designation is surrendered,

suspended, revoked, or otherwise terminated.

§ 183.65 Data review and service experience.

(a) If the FAA Administrator finds that a potentially unsafe condition exists in a product, operation, air agency or training center for which approval or issuance of certificate was authorized under this subpart, the ODA Unit, upon notification by the FAA Administrator, shall investigate the matter and report to the FAA Administrator the results of the investigation and action, if any, taken or proposed.

(b) If an ODA Unit who is making findings of compliance for certification of operators under parts 133 or 137 of this chapter, air agencies under part 141 of this chapter, or training centers under part 142 of this chapter, finds an unsafe or unsatisfactory condition as a result of the inspections or evaluations conducted in the certification process, the ODA Unit shall notify the FAA Administrator and halt the certification process until such time as the condition or operation has been determined to be in compliance.

(c) If the FAA Administrator determines that further action is necessary for the safe operation of the product or certificate holder for a condition specified in paragraph (a) of this section, the ODA Unit shall submit to the FAA

Administrator the information in its possession necessary to support FAA corrective action.

§ 183.67 Transferability and duration.

(a) An ODA Certificate of Designation issued under this subpart is not transferable and is effective until it is surrendered or until the FAA Administrator suspends, revokes, or otherwise terminates it.

(b) An ODA Certificate of Designation terminates upon any of the following circumstances:

(1) The written request of the ODA holder.

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

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

(4) Any reason the FAA Administrator considers appropriate.

Issued in Washington, D.C., on

U.S. Department of Transportation

Federal Aviation Administration

DRAFT

Advisory Circular

9/14/98

Subject: AIRWORTHINESS DESIGNEE FUNCTION CODES AND CONSOLIDATED DIRECTORY FOR DMIR/DAR/ODAR/DAS/DOA AND SFAR NO. 36 AND THE NEW ODA

Date: DRAFT 9/14/98
Initiated by: AFS-640

AC No: 183-35
Change:

1. PURPOSE.

a. **This advisory circular (AC) contains information and guidance** concerning designee application, authorized functions, and initial and subsequent certificates of authority for Designated Manufacturing Inspection Representatives (DMIR), Designated Airworthiness Representatives (DAR) for Maintenance and/or Manufacturing, Organizational Designated Airworthiness Representatives (ODAR) for Maintenance and/or Manufacturing, Designated Alteration Stations (DAS), manufacturing organizations with a Delegation Option Authorization (DOA), organizations certificated under the provisions of Special Federal Aviation Regulations (SFAR) No. 36, and introducing the new Organization Designation Authorization (ODA).

b. **In addition, this AC provides a consolidated directory** of DAR-Maintenance (appendix 1), DAR-Manufacturing (appendix 2), ODAR-Maintenance (appendix 3), ODAR-Manufacturing (appendix 4), DAS (appendix5), DOA (appendix 6), SFAR No. 36 (appendix 7), and ODA (appendix 8).

2. **CANCELLATION.** AC 183-35, (last revision prior ODA rule and this AC's placement in the FR) Airworthiness Designee Function Codes and Consolidated Directory for DMIR/DAR/ODAR/DAS/DOA and SFAR No. 36, dated XX/XX/XX, is canceled.

3. RELATED REGULATION: CHAPTERS I AND III OF TITLE 14 OF THE CODE OF FEDERAL REGULATIONS (14 CFR).

4. DEFINITIONS.

a. **Private Person.** The term private person includes individuals, corporations, associations, and partnerships.

b. **DAR–F and ODAR–F.** A private person appointed as a DAR or ODAR with manufacturing functions. (F) coded per Designee Information Network (DIN).

c. **DAR–T and ODAR–T.** A private person appointed as a DAR or ODAR with maintenance functions. (T) coded per DIN.

d. **ODA Holder.** An organization of 2 or more individuals authorized to perform maintenance or manufacturing or engineering or operation functions or combinations thereof.

5. FUNCTIONS.

a. **Explanation of Functions.** The following is a list of functions each designee/representative/organization may be authorized to perform. Authorized functions may be limited by category, class, and type. **A new application for additional functions is required, in accordance with paragraph 7 for designee/representative/organization.**

NOTE: This AC contains current authorized function(s) codes a designee may perform on behalf of the Federal Aviation Administration (FAA) and does NOT automatically grant any additional authority. The authorized functions are established in order to allow all appointing/managing offices to review their designee functions to ensure compliance with appropriate FAA orders and the Designee Information Network (DIN). The appointing/managing offices may approve new or added functions by issuing a new Certificate of Authority, to include any supplements, or by placing a letter/memorandum in the designee's file stating the designee meets all qualifications required by the appropriate FAA order.

b. Definition of Function Codes.

(1) DMIR CODES AND FUNCTIONS.

01 Issue original standard or special airworthiness certificate for eligible aircraft and airworthiness approvals for engines, propellers, and product parts at a Production Approval Holder's (PAH's) facility, only when it has been determined that the product(s) conform to the approved design requirements and are in a condition for safe operation.

02 Issue special airworthiness certificate, in the experimental classification, for the purpose of showing compliance with 14 CFR chapters I and III for aircraft which the PAH holds the Type Certificate (TC) and has undergone changes to the type design that require an FAA official flight test.

03 Issue export certificate of airworthiness and export airworthiness approval tag in accordance with 14 CFR part 21, subpart L, for the PAH after determining that the products and parts submitted by the PAH conform to the type design, are in a condition for safe operation, and comply with the special requirements of the importing country.

04 Issue special flight permits to export aircraft after determining that all products presented by the PAH for export conform to the PAH's type design, are in a condition for safe operation, and comply with the special requirements of the importing country.

05 Conduct conformity inspections to determine that prototype products and related parts conform to the design specifications.

06 Conduct conformity inspections to determine that production products and related parts conform to the approved type design and are in a condition for safe operation.

07 Perform functions specifically identified on the DMIR certificate of authority for the PAH, or the PAH's supplier, at any location authorized by the FAA.

08 through 10 reserved.

(2) DAR-F AND ODAR-F CODES AND FUNCTIONS.

11 Issue original standard airworthiness certificate for U.S. registered aircraft and original airworthiness approvals for engines, propellers, parts and appliances that conform to the approved design requirements and are in a condition for safe operation.

NOTE: This includes Very Light Aircraft (VLA), aircraft built from spare and surplus parts, and surplus military aircraft. This does not include aircraft built in countries with which the United States does not have a Bilateral Airworthiness Agreement (BAA).

12 Issue special airworthiness certificate, in the experimental classification, for the purpose of showing compliance with 14 CFR chapter I, for U.S. registered aircraft which have undergone changes to the type design and require a flight test prior to the issuance/reissuance of an airworthiness certificate.

13 Issue original/recurrent special airworthiness certificate for primary category aircraft.

14 Issue original/recurrent special airworthiness certificate, in the experimental classification, for the purposes of operating amateur-built aircraft, market survey, research and development, and crew training on U.S. registered aircraft.

15 Issue original/recurrent special airworthiness certificate, in the experimental classification, for the purpose of operating exhibition and air racing U.S. manufactured/registered aircraft and non-U.S. manufactured surplus military aircraft. (See FAA Order 8130.27, Certification and Operation of Aircraft Under The Experimental Purpose of Research and Development, Exhibition, and/or Air Racing; and Issuance of Special Flight Authorization for Non-U.S. Aircraft, for exclusions.)

16 Issue original special airworthiness certificate for U.S. registered restricted category aircraft, including aircraft built from spare and surplus parts or surplus military aircraft.

17 Issue original Class I provisional airworthiness certificate.

18 Issue original/recurrent special airworthiness certificate for limited category.

19 Issue special flight permits for U.S. registered aircraft for the purposes outlined in 14 CFR part 21, sections 21.197(a) (1), (2), (3), (4), (5), and 21.197(b).

20 Issue replacement for lost, stolen, or mutilated standard or special airworthiness certificate if the proper documentation can be obtained from the applicant.

21 Issue original export airworthiness approval for Class I products in accordance with the provisions of part 21, subpart L.

22 Issue original export airworthiness approval for Class II products manufactured and located in the United States in accordance with part 21, subpart L.

23 Issue original export airworthiness approval for Class III products that are manufactured and located in the United States in accordance with part 21, subpart L. When this function is delegated to an individual DAR, the application is limited to exporting of Class III products only when employed by an applicant who is the PAH of the product being exported.

24 Make conformity determinations on aircraft, engines, propellers, and parts thereof to be used for design evaluation programs (e.g., TC and supplemental type certification (STC) programs), and complete all necessary reports.

25 Issue conformity certifications on behalf of the Civil Air Authority (CAA) for components manufactured by U.S. suppliers for non-U.S. product manufacturers. Determinations of conformity to the design, test, and quality requirements may be accomplished by a DAR only after the FAA has received notification from the CAA of the country in which the product is located.

26 ~~through 30~~ reserved.

(3) DAR–T AND ODAR–T CODES AND FUNCTIONS.

31 Issue recurrent standard airworthiness certificate for U.S. registered aircraft, including and recurrent airworthiness approvals for engines, propellers, parts and appliances that conform to the approved design requirements and are in a condition for safe operation.

32 Issue recurrent standard airworthiness certificate for non-U.S. manufactured aircraft imported from countries other than the country of manufacture with whom the United States has a BAA. Import aircraft for which a U.S. TC **has been issued under 14 CFR part 21, section 21.29, is required** to be accompanied by an export certificate of airworthiness from the country of manufacturer's CAA with whom the United States has a BAA which provides for its issuance.

33 Issue recurrent special airworthiness certificate for U.S. registered restricted category aircraft.

34 Issue recurrent/original special airworthiness certificate, in the experimental classification, for the purposes of operating exhibition and air racing on U.S. manufactured/registered aircraft and non-U.S. manufactured surplus military aircraft. (See FAA Order 8130.27 for exclusions.)

35 Issue recurrent/original special airworthiness certificate for primary category aircraft.

36 Issue recurrent/original special airworthiness certificate, in the experimental classification, for the purposes of operating amateur-built aircraft, market survey, research and development, and crew training on U.S. registered aircraft.

37 Issue special flight permits for U.S. registered aircraft for the purposes outlined in section 21.197(a)(1), (2), (4), and 21.197(b).

38 Issue recurrent/original special airworthiness certificate for limited category.

39 Issue recurrent export airworthiness approvals for Class I products in accordance with part 21, subpart L.

40 Issue recurrent export airworthiness approvals for Class II products that are manufactured and located in the United States in accordance with part 21, subpart L.

41 Issue replacement for lost, stolen, or mutilated standard or special airworthiness certificate if the proper documentation can be obtained from the applicant.

42 through 50 reserved.

(4) **ODA CODES AND FUNCTIONS.**

51 Prepare and approve data for type certificate, STC , TSOA, design approval, major repairs, or alterations.

52 Prepare and approve data for the Supplemental Type Certificate and issue the Supplemental Type Certificate.

53 Prepare and approve data for changes in the type certificate, STC, TSOA or design approval.

54 Amend the Production Certificate held by the manufacturer to include additional models or additional types for which the Production Approval Holder (PAH) holds or obtains a type certificate.

55 Amend production records for which the PAH holds the design approval.

56 Execute the FAA form 337, Major Repair and Alteration, and make required log book entries.

57 Make compliance determinations to the applicable airworthiness standards.

58 Establish means of compliance to airworthiness standards for TC, TSOA or STC.

59 Prepare and approve alternate methods of compliance to airworthiness directives.

60 Issue an approval of a major repair on a product or article using technical data that has not been approved by the Administrator, and approve that product or article for return to service.

61 Issue an amended standard airworthiness certificate for aircraft for which the ODA has issued an STC.

62 Issue airworthiness certificate (other than experimental certificate) for eligible aircraft and airworthiness approvals for engines, propellers, appliances, and product parts, for the ODA, only when it has been determined that the product conforms to the approved design requirements and is in a condition for safe operation.

63 Issue export certificate of airworthiness and airworthiness approval tags in accordance with part 21, subpart L, after determining that the products, appliances, and parts submitted by the applicant conform to the type design, are in a condition for safe operation, and comply with the special requirements, if any, of the importing country.

NOTE: If the export request is for a class III product, the ODA **MUST** be employed by a Production Approval Holder (PAH).

64 Issue special airworthiness certificate for primary category aircraft.

65 Issue special airworthiness certificate, in the experimental classification, for the purposes of research and development, crew training, market surveys, or the showing of compliance with applicable airworthiness requirements, for aircraft that the applicant has applied for a TC, an amended TC, or an STC.

66 Issue special airworthiness certificate, in the experimental classification, for the purposes of operating amateur-built aircraft, exhibition, and air racing, on U.S. manufactured/registered aircraft and non-U.S. manufactured surplus military aircraft. (See FAA Order 8130.27 for exclusions.)

67 Issue special flight permits for U.S. registered aircraft for the purposes outlined in sections 21.197(a)(1),(2),(3),(4),(5) and 21.197(b)&(c).

68 Establish conformity requirements, and, if necessary, issue the request for conformity, **Order 8120.10, FULL TITLE GOES HERE**, or TIA, **AC 8110-?, FULL TITLE GOES HERE.**

69 Conduct conformity inspections to determine that prototype products and related parts conform to the design specifications and issue FAA Form 8130-3, Airworthiness Approval Tag, and, if necessary, issue the Type Inspection Report or Type Inspection Report.

70 Conduct conformity inspections to determine that production products and related parts conform to the approved type design, are in a condition for safe operation, and issue FAA Form 8130-3 and, if necessary, issue the Type Inspection Report or Supplemental Type Inspection Report.

71 Conduct conformity inspections to certify components produced under Bilateral Airworthiness Agreements or Bilateral Aviation Safety Agreements (BASAs), and, if necessary, issue the Type Inspection Report or Supplemental Type Inspection Report.

72 Prepare, approve or accept manual/supplements or their changes, except for operating specifications for 14 CFR part 121 air carriers.

73 Find compliance for issuing, to the extent of the authority granted, operational certificates under 14 CFR part 133, 14 CFR part 137, air agency certificates under 14 CFR part 141 or training center certificates under 14 CFR part 142 and in accordance with the appropriate FAA orders.

74 Approve or accept instructions for continued airworthiness and manufacturer's maintenance manuals having airworthiness limitations sections per 14 CFR part 21, section 21.50.

75 through 80 reserved.

(5) **DAS CODES AND FUNCTIONS.**

81 Prepare and approve data for the Supplemental Type Certificate and issue the Supplemental Type Certificate.

82 Make compliance determinations to the applicable airworthiness standards.

83 Conduct prototype conformity inspections related to STC programs.

84 Issue experimental certificate for aircraft for which the DAS has applied for an STC or amend their own STC to permit the operation of those aircraft for the purpose of showing compliance with regulations. Make conformity determinations on aircraft, engines, propellers, and parts thereof, to be used for design evaluation programs (e.g., STC programs), and complete all necessary reports.

85 Issue an amended standard airworthiness certificate for aircraft for which the DAS has issued an STC.

86 Issue an FAA Form 8130-3, to approve engines, propellers, and products/parts for which the DAS has issued an STC.

87 through 90 reserved.

(6) **SFAR NO. 36 CODES AND FUNCTIONS.**

91 Issue an approval of major repair on a product or article using technical data that have not been approved by the Administrator, and approve that product or article for return to service.

92 through 100 reserved.

(7) **DOA CODES AND FUNCTIONS.**

101 Prepare and approve data for FAA issued type certificate.

102 Prepare and approve **data** for changes in the FAA issued type certificate.

103 Amend the Production Certificate held by the manufacturer to include additional models or additional types for which the Production Approval Holder (PAH) holds or obtains a type certificate.

104 ~~Execute the~~ FAA Form 337 and make required log book entries.

105 Make compliance determinations to the applicable airworthiness standards.

106 Issue airworthiness certificate (other than experimental certificate) for eligible aircraft and airworthiness approvals for engines, propellers, and product parts, for the DOA, only when it has been determined that the product conforms to the approved design requirements and is in a condition for safe operation.

107 Issue export certificate of airworthiness and airworthiness approval tags in accordance with part 21, subpart L, for the Production Certificate Holder (PCH), after determining that the products and parts submitted by the PCH conform to the type design, are in a condition for safe operation, and comply with the special requirements, if any, of the importing country.

108 Issue special airworthiness certificate, in the experimental classification, for the purposes of research and development, crew training, market surveys, or the showing of compliance with applicable airworthiness requirements, for aircraft that the PCH has applied for a TC or an amended TC.

109 Issue special flight permits to export aircraft after determining that all products presented by the PCH for export conform to the PCH's type design, are in a condition for safe operation and comply with the special requirements, if any, of the importing country.

110 Conduct conformity inspections to determine that prototype products and related parts conform to the design specifications and issue FAA Form 8130-3.

111 Conduct conformity inspections to determine that production products and related parts conform to the approved type design, are in a condition for safe operation, and issue FAA Form 8130-3.

112 through 120 reserved.

6. **CERTIFICATE OF AUTHORITY.** All certificates of authority for each designee/representative/organization will be issued by the appointing office, or an FAA office designated by the appointing office, and will reflect the authorized functions identified in this AC, as appropriate. The appointing office will enter any new authorized functions into the designee/representative/organization record which is maintained in the DIN.

7. **APPLICATION.** Any qualified private person may apply for appointment as a representative of the Administrator to perform certain certification functions in the areas of maintenance, manufacturing, engineering, and operations as a:

a. **Designated Manufacturing Inspection Representative (DMIR). 14 CFR part 183 requires a PAH to** submit a letter of request and Statement of Qualifications, to the local Manufacturing Inspection District Office (MIDO) or Manufacturing Inspection Satellite Office (MISO).

b. **Designated Airworthiness Representative (Manufacturing DAR/ODAR). 14 CFR part 183 requires** an applicant for a manufacturing DAR/ODAR to submit a letter of request and FAA Form 8110-14, **FULL TITLE GOES HERE,** to the local MIDO/MISO.

c. **Designated Airworthiness Representative (Maintenance DAR/ODAR). 14 CFR part 183 requires** an applicant for a maintenance DAR/ODAR to submit a letter of request and FAA Form 8110-14, to the appropriate Flight Standards Regional Office.

d. **Delegated Option Authorization (DOA). 14 CFR part 21 requires** an applicant for a DOA to submit an application, in a form and manner prescribed by the Administrator, to the Aircraft Certification Office (ACO) for the area in which the manufacturer is located. The application includes the names, signatures, and titles of the persons for whom authorization to sign airworthiness certificates, repair and alteration forms, and inspection forms.

e. **Designated Alteration Station (DAS). 14 CFR part 21 requires** an applicant for a DAS to submit an application, in writing and signed by an official of the applicant, to the ACO responsible for the geographic area in which the applicant is located. The application contains:

(1) The repair station certificate number held by the repair station applicant and the current ratings covered by the certificate; or

(2) The air carrier or commercial operator operating certificate number held by the air carrier or commercial operator applicant and the products that it may operate and maintain under that certificate; or

(3) A statement by the manufacturer, who is the applicant, for the products which the manufacturer holds the TC; and

(4) The name, signature, and title of each person for whom authorization to issue an STC, or experimental certificate, or amended airworthiness certificate, is requested; and

(5) A description of the applicant's facilities, and of the staff whom the DAS applicant intends to employ or have available.

f. **SFAR No. 36. requires** an applicant for an authorization under SFAR No. 36 to submit an application, in writing and signed by an officer of the applicant, to the FAA Flight Standards District Office (FSDO) charged with the overall inspection of the applicant's operations under its certificate.

(1) The applicant is the holder of an air carrier operating certificate or commercial operating certificate, or the holder of an air taxi operating certificate that operates large aircraft, the application contain:

(a) The applicant's certificate number.

(b) A listing of the specific product(s) the applicant is authorized to maintain under its certificate, the applicant's operating specifications, and the applicant's maintenance manual.

(2) If the applicant is the holder of a domestic repair station certificate, the application contain:

(a) The applicant's certificate number.

(b) A copy of the applicant's operations specification.

(c) The specific article(s) for which the applicant is rated.

(3) The name, signature, and title of each person for whom authorization to approve on behalf of the authorized holder, the use of technical data for major repairs is requested is requested.

(4) The qualifications of the applicant's staff that will develop data, repair the product, and determine compliance with the applicable airworthiness requirements of 14 CFR.

g. **Organization Designation Authorization System (ODA 14 CFR part 183 requires** an applicant for an ODA to submit an application, in a form and manner prescribed by the Administrator to the appropriate FAA office as described in the Order. The application contains:

(1) A list of certificates or approvals currently held, if applicable, as:

(a) The repair station certificate number held by the repair station applicant and the current ratings covered by the certificate; or

(b) The air carrier or commercial operator operating certificate number held by the air carrier or commercial operator applicant and the products that it may operate and maintain under that certificate; or

(c) A statement by the manufacturer, who is the applicant, for the products which the manufacturer holds the TC, PC, STC, or TSOA; or design approval; and

(2) A statement by the applicant describing functions to be performed and eligibility in accordance with 14 CFR part 183, section 47; and

(3) A description of the applicant's proposed designated organization including the name, signature, and title of each person who will be authorized to administer the ODA system; and

(4) The applicant's and their ODA system personnel qualifications; and

(5) The company organization structure; and

(6) A copy of the draft procedures manual.

NOTE: ODAR, DAS, DOA, and SFAR No. 36 designation/authorization will expire 3 years from the date of this Advisory Circular. Those designation/authorizations will have the 3-year timeframe to convert from their present designation/authorization to the applicable ODA.

NOTE: Detailed requirements and procedures are in the following FAA Orders

ODA - Order 8000.ODA, **The Full Title of the Order Goes Here.** ,
DAS/DOA/SFAR - Order 8100.xx, Designee Management Handbook
DAR/ODAR/DIMR- Order 8130.28,

A copy of any of these Orders may be ordered from **the U.S. Department of Transportation, Subsequent Distribution Office, SVC-121.23, Ardmore East Business Center, 3341 Q 75th Avenue, Landover, MD. 20785**

8. **DIRECTORY CHANGES.** Additions, changes, and deletions to this directory are made by the FAA office serving the area in which the designee/representative is located. Errors or omissions should be brought to the attention of the FAA office that certificated the designee/representative.

9. **COMMENTS AND INQUIRIES.**

a. **Specific comments or inquiries about a designee/representative should be directed** to the FAA office that certificated the designee/representative.

b. **Comments regarding this publication should be directed to:** FAA, ATTN: AFS-640, P.O. Box 25082, Oklahoma City, OK 73125.

Joseph K. Tintera
Manager, Regulatory Support Division

U.S. Department
of Transportation
**Federal Aviation
Administration**

800 Independence Ave., S.W.
Washington, D.C. 20591

JUN 10 1998

Mr. William H. Schultz
Assistant Chair, Aviation Rulemaking
Advisory Committee
1400 K Street NW
Washington, DC 20004-1707

Dear Mr. Schultz:

This letter responds to your letter dated April 14, 1998, in which you request revisions to the task concerning the Federal Aviation Administration (FAA) system of delegations to perform certain functions. The task is assigned to the Aviation Rulemaking Advisory Committee (ARAC), Aircraft Certification Procedures Issues.

After much internal deliberation and discussions with aviation industry representatives, the FAA has determined that the delegation task should be revised to include certain operations functions as well as the certification functions contained in the original task. The task is revised as follows:

> Review the current system of delegation functions to determine what would improve the safety, quality, and effectiveness of the system, and making recommendations concerning new or revised rules and advisory, guidance, and other (including legislative and training) collateral materials. The FAA is seeking a comprehensive, up-to-date, systematic approach for delegating certification functions to both individuals and organizations, a smooth transition from the delegation systems currently used to the system recommended, and a system as compatible as practicable with the systems used by the civilian aviation authorities of other countries. Specifically, the FAA desires to consolidate the delegation regulations in subparts J and M of part 21, SFAR 36, and section 183.33, into a new subpart. Revise section 183.15 to reflect a change in duration of delegations and in addition, the designation system would be expanded to include organizations designated to issue operating certificates under 14 CFR parts 133 and 137, air agency certificates under CFR part 141, and training center certificates under 14 CFR part 142.

While the examiners delegation functions relative to certification of aircraft and operations have been added to the overall list of delegations, the FAA does not intend to

approve designations for functions that are related to air carrier operations at this time. Some examples of functions of which delegation will not be designated include, (1) training center certificates for approval of air carrier training programs (14 CFR part 142), (2) determination of operational suitability, (3) approval of master minimum equipment lists, (4) approval of air carrier minimum equipment lists, (5) issuance of repair station certificates (14 CFR part 145), (6) approval of flight crew operating manuals, (7) instructions for continued airworthiness which includes the Maintenance Review Board and associated maintenance documents, and other items deemed inappropriate by the Administrator.

A notice announcing the revised task assignment will be published in the Federal Register.

If you have any questions, please contact Mr. Brian Yanez, Aircraft Certification Service, on (202) 267-9588.

Sincerely,

Margaret Gilligan

for Guy S. Gardner
Associate Administrator for Regulation and Certification