



INTERNATIONAL NEWS AND REGULATORY UPDATES

F R O M R I C P E R I
VICE PRESIDENT OF GOVERNMENT & INDUSTRY AFFAIRS FOR AEA

The Aircraft Electronics Association's international membership continues to grow. Currently, the AEA represents avionics businesses in more than 35 countries throughout the world. To better serve the needs of the AEA's international membership, the "International News and Regulatory Updates" section of Avionics News offers a greater focus on international regulatory activity, international industry news, and an international "Frequently Asked Questions" column to help promote standardization. If you have comments about this section, send e-mails to avionicsnews@aea.net.

AEA Begins New Year with Many International Irons in the Fire

It seems as though AEA international members will begin this new year with a roar like a lion. As I write this column in late November, we have just won a major effort in Europe; we are drafting our most comprehensive set of comments to a Canadian proposal; and we are commenting on the suite of maintenance regulations in Australia.

Our proposal for a general aviation avionics license in Europe has passed a major hurdle. The Engineering & Maintenance subcommittee of EA-SA's Safety Standards Consultative Committee unanimously endorsed the proposal and sent it to the full SSCC for approval.

Not only is this a major accomplishment for the European avionics industry as a whole, but it also is an accomplishment for the AEA European Government & Industry Affairs working group. Without the working group's commitment and volunteerism, this effort never would have moved forward.

By the time of the AEA Europe Meeting in 2010, we will have a much better idea of the rulemaking timeline for this project.

In Canada, we have mounted a full-court press to hold Transport Canada

In addition, we have pursued the legislative approach on this issue. Although there has been no calculated effort on the part of Transport Canada to circumvent the law, its efforts to mandate an unbound SMS result in

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accountable for its regulatory mandates on its proposal to expand safety management systems into all of the AMOs.

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the loss of legal protections Parliament has put in place to protect small businesses from an overzealous government.

When implemented, SMS would require an individual shop to evaluate any "suspected" risk to determine if it might be applicable to the organization without the benefit of the legal cost/benefit analysis Transport Canada must do to enact regulations.

Therefore, even though Transport Canada could not justify rulemaking to mitigate this possible risk, the business might have to mitigate the risk anyway. SMS results in a risk-mitigation process, which is an indirect mandate from Transport Canada allowing it to completely bypass this and other legal rulemaking mandates.

Finally, at the end of 2009, we were reviewing and commenting on the Australian suite of maintenance regulations. After working with CASA for years on finding a balance between the needs of the airline industry and the needs of the rest of aviation in Australia, CASA published a draft suite, which includes a significant number of recommendations from the AEA membership.

The comments and discussions generated during the past few AEA South Pacific Meetings were instrumental in forging the changes necessary to protect non-airline interests.

It is not perfect, but the draft suite does consider the needs of non-airline businesses to the maximum extent possible while still elevating the Australian maintenance community to be more in line with the International Civil Aviation Organization mandates.

The link to CASA's proposal can be found on the AEA website at <http://aea.net/governmentaffairs/southpacific>.

Proposals, comments and reports on various AEA international activities can be found on under the "Government Affairs" link at www.aea.net.

Wherever you are in the world, it is my sincere wish for you, your business and your employees to have a healthy, happy and prosperous 2010.

UNITED STATES News & Regulatory Updates

FAA Amends Policy on Inspecting Repair Station Technical Data

Earlier in 2009, the FAA legal department issued a clarification to the requirements of 14 CFR Part 91.409(e). As a result of this action, the FAA has amended its audit process for repair station technical libraries.

The changed instructions read as follows:

c) Inspection Programs. Part 91, §91.409(e) requires owners/operators of certain large aircraft to select an inspection program under §91.409(f). In turn, §91.409(f) requires the owner/operator to use the program it selected and identified in the maintenance records of the aircraft. Therefore, the maintenance provider should use either the inspection program that has been selected and identified by the owner/operator in the aircraft maintenance records or the most recent manufacturer's inspection program.

d) Program Availability. It should be noted §91.409(f) also requires each operator to include in its identification of the selected program the name and address of the person responsible for scheduling the inspections required by the program and make a copy of that program available to the person performing inspections on the aircraft and, upon request, to the Administrator.

Note: To comply with a regulatory requirement to incorporate the current manufacturer's recommended inspection program, an operator needs only to properly adopt a manufacturer's program that is "current" as of the time the operator selects

and identifies it in the aircraft maintenance records. The program remains "current" unless the FAA mandates revisions to it in the form of an Airworthiness Directive or an amendment to the operating rules. The interpretation is available at www.faa.gov.

g) Air Carrier's Approved/Accepted Data. Each air carrier will have a process to approve data for major repairs or alterations. The air carrier has the responsibility to determine if the repair or alteration is major. Once the maintenance is determined to be major, the air carrier should provide the repair station with documentation that the repair or alteration has approved data. The repair station may have other data that has been approved, but the air carrier must authorize the repair station to use that data if the repair station is providing maintenance for the air carrier.

TSA Announces Publication of Long-Awaited Repair Station Security Proposal

The Transportation Security Administration announced the publication of a Notice of Proposed Rulemaking to strengthen the Aircraft Repair Station Security Program. The proposed rulemaking would establish security requirements for maintenance and repair work conducted on aircraft and aircraft components at domestic and foreign repair stations certificated by the FAA.

The proposed rulemaking would:

- Require foreign and domestic repair stations certificated by the FAA under Part 145 of the FAA's rules to allow TSA and Department of Homeland Security officials to enter, inspect, audit and test property, facilities and records relevant to repair stations.

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- Require foreign and domestic repair stations certificated by the FAA to adopt and carry out a standard security program issued by TSA to safeguard the security of the repair station, the repair work conducted at the repair station and all aircraft and aircraft components at the repair station.

- Require each security program to describe the specific measures the repair station has implemented to identify individuals authorized access to the repair station, aircraft and aircraft components; control access to the repair station, aircraft and aircraft components; challenge individuals who are not authorized access and use escort measures for authorized visitors; provide security awareness training to all employees; verify employee background

information; designate a security coordinator; and establish a contingency plan.

- Require each repair station to comply with security directives issued by TSA.

- Establish a process to notify the FAA to suspend a certificate upon written notification from TSA that a repair station has not corrected security deficiencies. For a full review of the proposal and the opportunity to comment, go to www.aea.net.

FREQUENTLY ASKED QUESTIONS

United States

Aircraft Condition Notice

The following information is from FAA Order 8900.1 and 14 CFR Part 91.

QUESTION:

My FAA inspector recently told me a customer's aircraft was grounded. What are the proper procedures for this type of action? What do I do?

ANSWER:

I will assume the inspector was referring to a concern regarding the airworthiness of the aircraft. And, for the sake of argument, I also will assume we are talking about an aircraft operating under Part 91.

Who is responsible for airworthiness?

14 CFR Part 91 tells us the owner or operator of an aircraft is primarily responsible for maintaining the aircraft in an airworthy condition. Part 91 also tells us the pilot in command of a civil aircraft is responsible for determining whether or not the aircraft is in condition for safe flight. It also says the pilot in command shall discontinue the flight when unairworthy mechanical, electrical or structural conditions occur.

If your inspector raises a concern regarding airworthiness, you should as-

sume the aircraft is not worthy for flight until verified otherwise. The aircraft should not be flown until the issue has been resolved either through inspection or corrective action.

In addition, FAA Order 8900.1, Volume 6, "Surveillance," instructs an inspector that if he or she finds an obviously unairworthy aircraft, it is the responsibility of the inspector to see an Aircraft Condition Notice (FAA Form 8620-1) is issued.

Because the owner or operator is primarily responsible for airworthiness, what is the message from your inspector? Is he telling you the aircraft is unairworthy? Or is he telling you he "suspects" the aircraft is unairworthy.

FAA Order 8900.1, Volume 8, "General Technical Functions," addresses the issuance of Aircraft Condition Notices in Section 5. Paragraph 8-405 states, "Aircraft Condition Notices are issued to aircraft when, during the normal conduct of duties, the inspector finds possible unsafe conditions that will require immediate action by the operator prior to operation."

It can be argued that the issuance of the Aircraft Condition Notice is a worst-case scenario. When an inspector simply verbalizes his or her concerns, if we follow the disposition procedures for an Aircraft Condition Notice, we should be able to satisfy the inspector's concerns.

How do you resolve the issue?

First, get it in writing. If your inspector does not issue an FAA Form 8620-1,

take the time to talk with your inspector, synopsise his comments to you and send him a letter (or e-mail) asking if you adequately captured his concerns. Before you do anything, you want to ensure you fully understand the concerns for airworthiness.

Let's look at the disposition of the FAA Form 8620-1. This procedure should be adequate whether the concern is documented on the Aircraft Condition Notice or simply offered verbally.

There is no advisory circular or policy on how to dispose of an Aircraft Condition Notice; the only guidance we have is on the form itself. On the back of the Aircraft Condition Notice, there is a statement the owner signs certifying, "All items indicated on the Aircraft Condition Notice have been corrected, repaired or replaced, and required entries have been made in the appropriate maintenance records pursuant to Parts 43 and 91 of the Federal Aviation Regulations."

Remember, this is a maintenance discrepancy and it should be recorded as such. Resolve the possible discrepancy and document the corrective action.

Because an Aircraft Condition Notice is issued when an "inspector finds possible unsafe conditions," a possible "corrective action" is simply to inspect the discrepancy and determine that the aircraft is, in fact, airworthy. Do the same maintenance you normally would perform when a pilot cites a possible discrepancy.

INTERNATIONAL News & Regulatory Updates

Comment Period Ends Soon for New, Revised ETSOs

Current regulation states that parts and appliances meeting the requirements of TSO but for which there is no equivalent ETSO can be ap-

proved only when they are part of a supplemental type certificate or type certificate. Therefore, the absence of an equivalent ETSO results in a disadvantaged position for European parts and appliance manufacturers and installers.

With the issuance of the latest NPA 2009-11, the European Aviation Safety Agency has followed the guidelines and deadlines identified

earlier in the Terms of Reference ETSO.007.

The NPA, which is available on the EASA website, contains a number of new and revised ETSOs for equipment and appliances transposed from the related TSOs. The comment period for the NPA ends Jan. 20, 2010.

For more information, visit www.easa.europa.eu.

FREQUENTLY ASKED QUESTIONS

International: Canada

Authorized Release Certificate (Form One)

The following information is from Transport Canada Civil Aviation's Aviation Safety Letter.

QUESTION:

With the replacement of Form 24-0078 with the Form One Authorized Release Certificate, what are the changes applicable to maintenance releases?

ANSWER:

What has changed exactly? The new Appendix J has changed the certificate from an official Transport Canada form to a template, allowing more flexibility while establishing the mandatory elements to meet CAR Standard 571.10. There also have been some changes in the data blocks in terms of content, terminology and persons authorized to sign:

- Block 9 "eligibility" has been eliminated. Block 9 was removed because it was determined to serve no useful purpose and was cause for concern to some when their specific aircraft type was not listed. Some operators believed the certificate represented an authority to install

the part on their aircraft when they should have been referring to their type certificate, illustrated parts catalogue or other instructions for continued airworthiness issued by the manufacturer. Removing this feature from the certificate reduces the possibility of installer error and reinforces best practices by encouraging use of the manufacturer's ICA.

- Block 11 status/work terminology has changed. Terminology was changed in an effort to standardize with EASA's terms and definitions. The only term that changed was "inspected/tested." It is important to note, the intent of the new term is not to insist that if an inspection is certified, it also must be supported with a test. The new term allows for certification of an inspection, a test or both. The details should appear in Block 12. The complete term "inspected/tested" must be used even if one of the actions was not carried out.

Remember, inspections of aeronautical parts always must be carried out and certified in accordance with approved or acceptable data of some kind. Attesting that a general receiving inspection was conducted would not be subject to a maintenance release and, as such, could not be certified with an authorized release certificate.

- Block 14b requirements have changed. CAR Standard 571, Ap-

pendix J, states, "Only persons specifically authorized by the certificate holder in accordance with CAR 573 are permitted to sign this block." This means you must be working under the authority of an approved maintenance organization to make a maintenance release on the new Form One. This is a significant change from the previous requirement.

What has not changed? What is referred to as the "look and feel" of the certificate has not changed, which means it should not be a challenge for industry to adapt, and global acceptance should be unchanged from Form 24-0078. While the certificate has seen some minor changes, some unacceptable issues still exist.

Use of the term "overhaul" has not changed with the release of the new CAR; yet, use of it remains an issue in certain areas of the business. It is generally accepted that if an AMO performs all the functions stated in the CARs definition of "overhaul," the AMO is within its rights to state the product was "overhauled." Technically, this may be correct; however, problems arise when working on products for which no overhaul criteria exists.

An AMO might be tempted to release a product as "overhauled" and,

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in doing so, enhance the value of the product in the eyes of the industry. The product really is only repaired and tested, as no overhaul criteria were published by the manufacturer.

The solution to the problem is to only use the term “overhaul” if the product has been reworked and tested in accordance with the manufacturer’s overhaul instructions. If no such documentation exists, the product cannot be overhauled.

What about over-tagging? The industry has submitted numerous questions and concerns regarding over-tagging a certificate — what is it and why is it unacceptable? Over-tagging occurs when someone receives a repaired part with a complet-

ed certificate and proceeds to write a new certificate under its company’s name.

There are various justifications given for this activity, including internal process and document flow, as well as hesitance to reveal one’s sources. Regardless of the reason for the activity, it does not conform to the regulations. The organization responsible for performing the maintenance activity needs to be the one responsible and accountable for the certification of the work.

How can an organization be responsible if they had no control over the process and quality control involved with the activity? If a second organization takes responsibility for

the work, it breaks the traceability between the installer and the repairer of the part. □

Note: The AEA offers “Frequently Asked Questions” to foster greater understanding of the aviation regulations and the rules governing the industry. The AEA strives to ensure FAQs are as accurate as possible at the time of publication; however, rules change. Therefore information received from an AEA FAQ should be verified before being relied upon. This information is not meant to serve as legal advice. If you have particular legal questions, they should be directed to an attorney. The AEA disclaims any warranty for the accuracy of the information provided.

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