



News from the Hill

BY JASON DICKSTEIN
AEA GENERAL COUNSEL

Happy 2006! This year promises to be an exciting one for AEA. Many of the rules promulgated in 2005 will affect the way we do business in the future. Two rules likely to affect AEA members include the Delegated Authority rule and the Crew Monitoring System Rule (proposed—not yet final). Two decisions by the FAA to forbear from rule-making could also affect AEA members: the FAA has decided to leave the Mode S rule as they stand and to phase out exemptions; and the FAA has left hazmat training rules standing while adding a requirement for repair stations to certify to the FAA their employee's compliance with hazmat training requirements.

Delegated Authority

The FAA has finally published the long-awaited Organization Designation Authorization (ODA) rule. This rule will merge FAA's existing delegation programs under a single regulatory system and it will widen the scope of organizations and tasks that can fall under an ODA's authority.

By combining the existing certification delegation programs into one system with a single management and set of procedures, the FAA hopes to provide more effective oversight into this area. The expansion of the scope of delegation should also allow the FAA to shift its resources to other areas where they are more needed.

Under the reorganization plan, any organization to which the FAA delegates certification duties will receive an ODA. The designation will identify

both an ODA Holder—a parent organization to which the FAA will grant an ODA Letter of Designation—and an ODA Unit—a unit of individuals within the ODA Holder that will perform the authorized functions. To facilitate the consolidation of existing programs, the ODA rule also includes provisions issuing a standardized set of procedures for ODA Holders.

Individual delegated authority, like DAR or DER authority, will continue to exist in its present form.

AEA members with organizational delegated authority will need to start thinking about transitioning from their existing delegated authority to the ODA structure. This means AEA members with SFAR 36 capabilities, DAS, ODAR and/or DMIR privileges.

The rule is envisioned to have long-term benefits for the FAA, in that it will permit the FAA to delegate additional privileges that it feels are delegable, but that are not currently delegated.

This rule became effective on Nov. 14, 2005; however the FAA plans a three-year transition period that will not begin until Nov. 14, 2006 (they will not accept ODA applications until that date because they have not yet issued the guidance for ODA applicants). During the transition period, FAA will phase out existing certification designations.

New Rule Would Require Crew Monitoring Systems

The latest proposal for increased airline safety in the wake of the Sept. 11, 2001, terrorist attacks would re-

quire all transport-category passenger planes to install a means by which the flight crew could visually monitor the door area outside the flight deck. This is in addition to the current rules that require cockpit door-strength enhancements. The FAA Notice of Proposed Rulemaking (NPRM) putting forth this plan would also mandate that flight attendants have a means to discreetly notify the flight crew of suspicious activity or security breaches in the cabin.

The purpose of the monitoring system would be to observe potentially suspicious behavior and to identify anyone requesting entry to the flight deck. Both new and existing aircraft would have to comply with the monitoring apparatus requirement, with operators of existing planes given two years from the effective date of the rule to retrofit their aircraft.

The NPRM would permit at least two methods of ensuring monitoring from the flight deck. The first method would make use of a video system that would transmit video images of the door area to one or more monitors situated within the flight deck. The second method would involve visual identification of the door area. It would feature a viewing device installed in the flight deck door, through which a person on the flight deck would identify the person seeking access. In each of these systems, a crew member would also provide audio confirmation to the flight crew that the door area, including the lavatory, is clear. As the proposed rule is a performance standard, operators may also develop other monitor-

ing methods that satisfy its objectives. The FAA plans to seek input from the industry as to other methods of compliance.

In addition to requiring monitoring apparatus, the proposed rule would mandate that cabin crew members establish a means to discreetly notify flight crew of suspicious activity or security breaches in the cabin. The FAA believes that this provision could be satisfied by simply developing new procedures to use with current communication systems.

FAA Reaffirms Mode S Transponder Mandate

The FAA requirement for Mode S transponders has been reaffirmed. The current requirements that Part 121 and 135 carriers install Mode S transponders were first established with a 1987 rule, but the FAA issued a proposal to rescind those requirements (Notice 96-5) in 1996. After examining the benefits of Mode S transponders in today's aviation climate, the FAA has withdrawn the proposed revocation of the rule, confirming that carriers should follow the 1987 rule and proposing to extend it further and phase out exemptions that have been issued in the past.

According to a recent FAA notice, significant changes in the National Aerospace System since 1996 justify retaining the Mode S requirement, although for different reasons than those that supported its introduction in 1987. The FAA stressed that the selective interrogation and superior resolution ability of Mode S transponders make them the best-suited technology for 21st Century air systems.

The FAA also proposes extending the scope of the Mode S requirement. The FAA's suggested revision would require that, starting on March 1, 2007, if any transponder needs to be permanently replaced, it must be replaced with a Mode S transponder.

In conjunction with the withdrawal, the FAA issued a notice of policy suggesting a timeframe for the termination of previously granted exemptions to the Mode S rule and the compliance of affected operators with the applicable regulations. The notice proposes that all exemptions terminate no later than March 1, 2007. It states that the FAA will review existing exemptions on a case-by-case basis to determine whether to extend them to that date. It also declares the agency's intention to issue no new exemptions after that date. This could be significant for the many small 135 operators who enjoyed exemptions from the Mode S requirements.

Hazmat Training

The FAA has issued a final rule amending its hazardous materials (hazmat) training requirements as they apply to those who hold Part 121, 135 and/or 145 certificates. The new rules also apply to certain contractors working for 121 and 136 operators who perform transport related functions.

Transport related functions (TRFs), for purposes of the hazmat training rule include acceptance, rejection, handling, storage incidental to transport, packaging of company material, or loading of material for an operator. All persons performing TRFs on behalf of an air carrier or operator— even those who work for a contractor — must receive the operator's training. This could include AEA members located on airports who have a relationship with a 121 or 135 customer that allows the AEA member to circumvent the operator's receiving inspection system (e.g. performing avionics installations of equipment that is not reviewed by the customer's receiving inspection system; holding inventory on behalf of a customer that is sent as company material to another station; etc.).

The rule also contains several components directly applicable to Part 145

repair stations. First, a repair station applicant will be required to submit a certificate to the FAA stating that all hazmat employees are in compliance with the hazmat training requirements before the FAA will issue it a certificate. Probably, many local offices will ask existing repair stations to have this certification as well. The certification must be made any time the certificate is re-issued, so non-U.S. repair stations will have to make a periodic certification of hazmat training, and U.S. repair stations who require reissue of the certificate (e.g. for changes in the location of the repair station, or additions or amendments to the ratings) will also be required to certify compliance. This is meant to help assure that repair stations remain in compliance with the hazmat training requirements.

Obviously, repair stations handling hazmats (and there are many hidden hazmats that can be found in avionics) will be required to have hazardous materials training programs (these can probably be incorporated in to the existing training program).

In addition, existing repair stations will be required to verify receipt of an operator's notification of its will-carry or will-not-carry status and communicate this status to the relevant employees or subcontractors before they perform work for the operator.

Another area that the new rules address is the training necessary for a contractor or other person who works for multiple certificate holders at one time. Under the relevant provision, a person who already received hazmat training in conjunction with performing a particular TRF for one employer may perform that same job function for additional employers while only receiving training in hazmat policies and procedures specific to those employers, provided that certain criteria are met.

The rule became effective on Nov. 7,

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2005 and provides a 15-month compliance window before Feb. 7, 2007, which is the full compliance date.

AEA will continue to provide hazmat training for its members to meet these requirements. AEA plans to petition the FAA for approval of their training for repair stations that need this training. We also hope to roll-out a hazmat training video in 2006. Your operator customers may be able to endorse the AEA training as approved under their program, which will save them the administrative burden of training your employees. □