

February 21, 2010

Mr. Dave W. Hempe
Manager, Aircraft Engineering Division
Federal Aviation Administration (AIR-100)
800 Independence Ave. S.W.
Washington, DC 20591

**RE: DRAFT ADVISORY CIRCULAR 21.101-1A; ESTABLISHING THE
CERTIFICATION BASIS OF CHANGED AERONAUTICAL PRODUCTS**

Dear Mr. Hempe:

The National Air Transportation Association (NATA), the voice of aviation business, is the public policy group representing the interests of aviation businesses before Congress, federal agencies and state governments. NATA's 2,000 member companies own, operate, and service aircraft. These companies provide for the needs of the traveling public by offering services and products to aircraft air carriers and others such as fuel sales, aircraft maintenance, parts sales, storage, rental, airline servicing, flight training, Part 135 on-demand air transportation, fractional aircraft program management and scheduled commuter operations in smaller aircraft. NATA members are a vital link in the aviation industry providing services to the general public, airlines, general aviation, and the military.

NATA appreciates the opportunity to comment on this proposed revision to Advisory Circular (AC) 21.101-1 on behalf of our members performing maintenance, repair, and interior finishing activities. The new AC, once finalized, will be numbered AC 21.101-1A.

Scope

Federal Aviation Regulation (FAR) 21.101, also known as the Changed Product Rule, requires an applicant for a change to a type certificate to meet the latest requirements, except where the change is not significant, where areas of the product are not affected, where it would be impractical, or where it would not contribute materially to the level of safety of the changed product. Current AC 21.101-1, published in 2003, provides guidance for establishing the certification basis for changed aeronautical projects and identifying the conditions under which it will be necessary to apply for a new type certificate. The FAA has proposed revisions of this AC to harmonize with Transport Canada (TC) and the European Aviation Safety Agency (EASA) guidance.

The AC applies to type certification during design but can also significantly impact aircraft modifications. Maintenance organizations performing avionics or interiors modifications will need to comply with the new AC.

Erroneous “Substantial” Designations

The FAA provides many examples in Appendix A of maintenance activities that will be considered “substantial” or “significant.” In most cases, these examples are helpful. However, several items listed as “substantial,” specifically the four activities listed on pages A-3 and A-4, are not currently considered “substantial” under existing regulations and guidance. NATA believes these items were included in the “substantial” table in error. (For example, when did adding a winglet become a substantial change and require a new Type Certificate?) If the FAA did in fact intend for these activities to be considered “substantial” now, the agency is reaching beyond the existing applicable regulations and formal rulemaking must be pursued in order to maintain compliance with the Administrative Procedures Act. Such a considerable change is not appropriate through a revised AC. NATA requests these four activities be moved to the “significant” table or the FAA begin formal rulemaking proceedings to make these changes through legitimate procedures.

Erroneous “Significant” Designations

NATA has similar concerns with several items on the Significant tables, specifically on pages A-7, A-22, and A-30. For example, the tables say “changing from federated display ... architecture to an integrated electronic flight information system” would be a significant change. However, this might not always be the case. Simply exchanging individual displays for a combined display is not necessarily a “comprehensive flight deck upgrade.” Further, the intended operation of an aircraft should be taken into consideration when determining the significance of such a change. This is especially valid for rotorcraft.

The example of “comprehensive flight deck upgrade” goes on to say “Requires new AFM.” The FAA’s intent of this statement is unclear. Does the FAA mean that if a new AFM is required because of an avionics change then the change is significant? If so, this logic is flawed. A relatively minor avionics upgrade could require a new AFM but would not be considered a significant change. Further, this concept is drastically different from currently acceptable methods of compliance. Such a major change in acceptable methods of compliance cannot be achieved through revisions to policy guidance. Rather, these changes must be pursued through formal rulemaking procedures.

In any case, this example must be clarified. There are far too many possible activities that could fall under this “comprehensive flight deck upgrade” example.

Fuselage Stretch versus Plug

The AC lists examples related to fuselage changes in several places, but there is no clear, defined difference between the two concepts. Are the two different terms meant to indicate a difference in the size of the fuselage change? Further confusing the point is that the two con-

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cepts are handled similarly – both are considered to be significant changes in most cases. So, what is the purpose of listing them separately? Specifically, pages A-8 and A-20 both refer to “install a plug in fuselage and add interior in the plug” and “fuselage stretch and entire new interior.” If the two concepts – plug and stretch – are the same, then these are redundant. If the two terms are meant to have different meanings, this needs to be made clear to the reader. These are either conflicting or redundant examples, depending on the FAA’s intended meaning.

Attachment System

NATA also seeks clarification of “new/revised attachment system,” as found on pages A-8 and A-20 (“New interior or revised arrangement with a new/revised attachment system for interior components [e.g. seats, galleys, or closets]”). Revised attachment systems might not necessarily change so drastically as to raise the interior change to a significant status. The FAA should clarify its intent, perhaps indicating that changes to attachment “principles” would be significant changes.

NATA respectfully requests additional clarification on the above issues before this AC is published. This version of the AC – 21.101A, as currently drafted, is certain to create substantial confusion in the field among FAA representatives, maintenance repair facilities, aircraft operators, and aircraft manufacturers. Additionally, this document proposes several changes that exceed the permissible limitations of policy guidance. If the FAA intends to make these changes, as outlined above, the agency must begin rulemaking procedures, including a full regulatory analysis and assessment of the economic impact of the proposed revisions. NATA is aware of the agency’s desire to harmonize with TC and EASA regulation and policy. However, this desire does not alleviate the FAA’s responsibility to comply with the Administrative Procedures Act.

The association and our members look forward to working with the FAA to achieve clear, well-defined guidance.

Sincerely,



Eric R. Byer
Vice President, Government and Industry Affairs