

ARSA Action ~ 2007

*The following are selected articles that appeared in the ARSA Action section of 2007 issue of **the hotline**. These articles are presented to give the reader an idea of the work the Association does on behalf of its members.*

January

Introducing ARSA Regulatory Compliance Training

Beginning in this issue of the hotline, ARSA will include regulatory compliance training. In our never-ending quest to inform and educate, we will place questions at the end of each issue; before any of you groan too loudly, we have also included the answers on a separate page!

This new feature will provide three levels of challenge. In Level 1 the answers will be in the question or in the newsletter. Level 2 will require reviewing other regulations, and Level 3 will take actual research into regulations and guidance material to find the answers (without looking at them on the separate page!).

Please let us know how you do, and what you think. Should you arrive at an answer different from ours (or should you arrive at the same answer but through a different line of thinking), let us know that as well so we can inform everyone. That way we can all learn together! Finally, ARSA is in the process of getting this training IA-approved, which means we all come out winners—you get the training you need, and we get you to read the entire issue!

February

ARSA Gains 45 Day Extension on Repair Station NPRM

On December 1, 2006, the Federal Aviation Administration (FAA) released a proposed modification to part 145, which revamps the repair station ratings system. On January 26, 2007, ARSA requested the FAA grant a 90-day extension of the comment period for the NPRM. While that length of time was not provided, a 45-day extension was granted. The new due date for comments is April 16, 2007.

March

ARSA Presents Oral Arguments Against Drug & Alcohol Rule Expansion

On the morning of March 28, 2007, ARSA's attorneys argued vigorously against the over-expansion of the FAA's drug and alcohol rule to non-certificated subcontractors before a three-judge panel for the U.S. Court of Appeals for the District of Columbia Circuit. The judges were most interested in ARSA's contentions that the FAA had exceeded its statutory authority by extending testing to sub-contractors at any tier and whether the FAA had properly considered the rule's effect on small businesses, as it is required to do under the Regulatory Flexibility Act.

The attorneys arguing on behalf of ARSA met every challenge posited to them by the court and walked away confident that the major points of our arguments were heard. ARSA felt that the court was receptive to its arguments and that there is hope that the court may yet rule in ARSA's favor.

As ARSA awaits the court's final opinion in this matter, we will be sure to keep you updated in the weekly bulletin and future editions of the hotline.

ARSA Testifies Before House Aviation Subcommittee

Contract maintenance was the focal point of the House of Representatives' Aviation Subcommittee hearing on Thursday, March 29, 2007. The hearing, titled "The Federal Aviation Administration's (FAA) Oversight of Outsourced Air Carrier Maintenance," addressed the rising profile of international contract maintenance and its direct contribution to safer skies and the economic strength of the aviation industry.

Managing Director and General Counsel of ARSA, Marshall S. Filler, testified at the hearing. Filler's written testimony focused on issues facing the over 4,000 domestic repair stations in the U.S. and the almost 700 FAA certificated repair stations located abroad.

The subcommittee members' primary interests were in FAA oversight and the use of non-certificated facilities to perform maintenance. The FAA was questioned on the need for increased inspectors, funding for travel, and how inspections are conducted.

In a victory for ARSA, Congress did not question the safety of certificated repair stations, and representatives from the FAA, ATA, and OIG supported the quality and safety of work done by certificated facilities. However, several representatives stated their concern for non-certificated facilities that conduct heavy maintenance, and inquired as to how the FAA inspects the work done by these facilities.

Filler was the last to testify at the hearing and used his time to address misinformation given in earlier testimony, including clarifying that an air carrier's approved vendor list is made available to the FAA, and that you can't use isolated incidents and accidents to "prove a point." "There's no monopoly on who causes accidents," Filler stated, indicating that no one sector of the aviation industry is solely to blame for recent incidents mentioned by congressional members.

Filler also addressed non-certificated facilities, explaining that while they should not be the sole maintenance provider for air carriers, they are often used for minor tasks such as plating, heat treating, etc. While members were attentive, Aviation Subcommittee Chairman Jerry Costello (D-IL) indicated the need for further review and discussion of issues brought before the committee. A complete copy of ARSA's written testimony may be found at www.arsa.org/node/394. Information on the testimony of other witnesses may be obtained at <http://transportation.house.gov/hearings/hearingdetail.aspx?NewsID=79>

ARSA Members Visit the Hill

Another chapter in ARSA's expanding presence on Capitol Hill was written on March 15, 2007, during the Annual Repair Symposium's Legislative Day.

ARSA members gathered in the hallowed halls of Congress for insightful presentations and discussion. ARSA Legislative Counsel Christian Klein, in a fitting reminder of the importance of member involvement stated, "ARSA's legislative program is not an academic exercise, this will impact your bottom line."

The program focused on several key goals, including increasing ARSA's visibility on Capitol Hill, building relationships with congressional leaders and their staff, showcasing the diverse businesses in the aviation community, and explaining the "basics" of industry contributions to safety and efficiency.

House Aviation Subcommittee Ranking Member Tom Petri (R-WI) was the featured speaker and discussed an array of aviation issues facing the 110th Congress. While FAA reauthorization looms large for 2007, the Subcommittee is also looking to the future, including preparations for the projected growth in passenger volume (expected to eclipse 1 billion by 2015) and researching opportunities within the emerging markets in India and China. Petri also referenced the need to foster an effectual relationship between manufacturers and the aftermarket industry.

The upcoming schedule of the Aviation Subcommittee remains active, as numerous hearings are in the pipeline for the approaching months.

Attendees were also treated to an unexpected appearance by House Transportation and Infrastructure Committee Chairman Jim Oberstar (D-MN). Chairman Oberstar's comments, while brief, reflected his commitment to industry needs and his support of ARSA's "sound practices" in the ongoing ICA issue. ARSA Associate Counsel Virginia Scattergood spoke on the year's hottest issue – FAA reauthorization. Ms. Scattergood discussed how ARSA will navigate through the "noise" on Capitol Hill to get to the heart of issues impacting member needs.

While ARSA will remain above the fray regarding contested user-fees, issues directly impacting the maintenance and alteration community will take top priority. She pointed to ARSA's growing success on the governmental front, citing growth in both regulatory and legislative efforts. ARSA Managing Director and General Counsel Marshall Filler, along with Christian Klein, provided attendees with an in-depth look at the 2007 legislative landscape. Beyond the "400 lb. gorilla" that is FAA reauthorization, a variety of issues are impacting repair stations.

The return of a Democratic majority in Congress has brought both new opportunities and new challenges to small business owners, as organized labor interests are attempting to "flex their muscle." The "Employee Free Choice Act" is of particular concern, as it robs the work force of the private ballot in determining union representation.

Small business issues remain pivotal to ARSA's members. The ongoing effort to repeal the death tax will remain a high priority, as will attempts to aid employers in providing health insurance, including the use of associated health plans.

One additional constant is the ICA (maintenance manual) issue and ARSA's legislative team will continue to push for fair enforcement of the FAA regulations already on the books.

The final presentation featured Ms. Melissa Burt, legislative counsel to Rep. Sam Graves (R-MO). Burt provided attendees with tips for conducting meetings with a congressional staff. She stressed the importance of presenting how pending legislation will help, or hurt, the business and, subsequently, the constituency.

After the program, invigorated ARSA members took to Capitol Hill, conducting over 35 meetings with members of the House, Senate, and staff. ARSA encourages attendees to contact local district offices in the weeks to come and maintain the dialogue began on Legislative Day.

For more information on getting involved with your Senators and Representatives, please visit www.arsaaction.org.

April

ARSA Human Factors Training Program Material Available

ARSA has launched its Human Factors Training Program, comprehensive material designed to assist repair stations in developing and implementing an in-house program on the subject. The ARSA material follows the guidance of the FAA's Handbook Bulletin for Airworthiness entitled "Guidance for Evaluation and Acceptance of Maintenance Human Factors Training Programs" (HBAW 06-04).

While human factors training is not yet a requirement under the CFRs, the FAA strongly supports its introduction into a facility's training program. Additionally, those repair stations seeking part 145 certification from the European Aviation Safety Agency (EASA) must have human factors incorporated into an FAA-approved training program, per the FAA-EASA Maintenance Implementations Procedures.

The ARSA Human Factors Training Program material, for which you will receive a license to use at one physical location, includes:

- Human Factors Training Program Workbook - an overview, which will enable you to tailor the program to your facility and personnel.
- Nine Training Modules - individual courses that must be reviewed and modified to create human factors training for your repair station.
- Human Factors Training Program Case Studies - illustrate aircraft accidents where human factors played a significant role. Each case study provides a detailed description and analysis of the event that can be adapted to provide instruction to your facility personnel.
- Training for one attendee - one person from the licensed location may register for our IA approved four hour course entitled "Developing A Human Factors Training Program."

In addition, ARSA will be holding training classes entitled "Developing a Human Factors Training Program" at select locations nationwide during the upcoming months.

For more information on how to purchase the "Human Factors Training Program" and how to register for training classes, please visit <http://www.arsa.org/node/407>.

Is the Industry Ready to Take Off?

Leaders in the aviation industry met in Washington, D.C. on April 7 for the National Chamber Foundation's forum, *Aviation 2007: Ready for Takeoff*. Sponsored by ARSA and other major industry associations, the U.S. Chamber of Commerce hosted the event, which encouraged an open dialogue on the impending Federal Aviation Administration (FAA) reauthorization.

The FAA's reauthorization plan was the center of discussions. Representatives from both commercial and general aviation spoke on the needs of their sectors. While agreeing that the funding system needs to be improved, they were not in accord on the best way to allocate costs. In addition, the growing need for the Next Generation Air Traffic Control System, or "NextGen," in order to reduce congestion and increase efficiency was discussed.

To present the congressional view on the FAA's proposed reauthorization plan, House Transportation and Infrastructure Committee Chief of Staff Jim Coon, Senate Aviation Subcommittee Staff Director Chris Bertram, and the Subcommittee's senior staffer, Gael Sullivan, addressed the group. All are working on reauthorization bills to be introduced within the next month. However, they did not indicate whether the legislation will advance or hinder FAA proposals currently on the table. Some in the legislative world have termed the FAA's bill "dead on arrival," while many in the industry believe that Congress is working on a compromise proposal.

Administrator Marion Blakey spoke about the recent successes of the aviation industry, but also reminded the audience that revitalization is critical to maintaining achievements. Citing the current costs of congestion and predictions about increased air travel, Blakey implored the group to recognize that the time to address industry needs is now. According to Ms. Blakey, "The aviation community knows more so than others how high the stakes are. Time is running out. We've got weeks, not months, to get something moving in Congress. If Congress doesn't come forward on true financing reform by September when our taxes expire, we're all going to feel the burden."

And it's a burden that will become oppressive and last for the next 10 years." Despite some disagreements, one thing was clear: change is needed FAA funding, and the financial gap will continue to grow until a new system is in place.

Aviation Maintenance Panel Focuses on Quality, Not Location, of Work

On April 11, 2007, ARSA participated in a webinar program sponsored by the publication *Aviation Today*. The webinar, entitled "Aviation Maintenance: Trends That Will Affect Your 2007 Bottom Line," was a combination conference call/online presentation.

The agenda for the panel included an exploration of the safety and security offered by contract maintenance facilities, while also examining the continual growth of the PMA industry, the rise in MRO expenditures, and potential solutions to the current shortage of trained mechanics in the workforce.

As discussion began to focus on the growth of global contract maintenance and its implications for the future of the industry, ARSA contributed questions and comments reflecting the vital role of international repair stations in ensuring safety and efficiency in the skies. The panel discussion was encouraging, particularly statements holding that the aviation industry "could not survive" without repair station facilities.

The panel referenced a quote from former Department of Transportation Inspector-General Ken Mead, which functioned to summarize the morning's discussion: "It's not where the work is performed but the quality of the oversight provided."

May

ARSA Seeks Human Factors Clarification

Responding to member concerns, on May 8 ARSA submitted a letter to the European Aviation Safety Agency (EASA) requesting clarification of the appropriate regulations and guidance for human factors training courses adopted by U.S. repair stations seeking or holding EASA part 145 approval.

ARSA advocated that these repair stations need to follow Federal Aviation Administration (FAA) guidance rather than the EASA requirements. Currently, there are no United States civil aviation regulations requiring a human factors program, but the FAA has supplied guidance for repair stations seeking to implement a program either for in-house benefit or for EASA Part 145 certification.

ARSA is looking forward to working with EASA on the issue and attaining a resolution. To view ARSA's correspondence visit http://www.arsa.org/files/ARSA_EASA_HF.pdf

For more information on ARSA's human factors program please visit: www.arsa.org/node/407

Suspected Unapproved Parts Office (AVS-20) to be Re-Aligned

On May 15, 2007, ARSA attended the Suspected Unapproved Parts (SUPs) Steering Committee Meeting in Dulles, Virginia. The big news is the SUPs Program Office is being re-aligned. The office will close with the functions re-assigned to Aircraft Certification Office and Flight Standards Service. Investigations of reported SUPs will continue and, coordination with outside law enforcement and other organizations will remain. Investigations of SUPs will be handled by the field offices. It was noted that the SUPs office was always intended to be temporary and was originally scheduled to be closed five years ago.

In other news, FAA Order 8130.21 revision F is now undergoing FAA in-house review. It is may be released for comment in June, with final release in August. Some of the proposed changes include harmonization with EASA by eliminating block 9, using international date formats and introducing electronic exchange of airworthiness data.

The revised order will also include more examples of completed forms.

Boeing made a presentation on Radio Frequency Identification (RFID). RFID full implementation is being schedule with the launch of the new 787. There will be 700 part numbers and 2000 individual parts on the 787 with RFID tags. The tags are capable of containing basic birth and maintenance data. The tags are not flight required, so missing or non-functional tags should not be an issue. An example of RFID use is life vest verification. An appropriately RFID-fitted wide body aircraft can survey all life vests in fewer than six minutes; a task normally taking 2 people 30 minutes. Boeing noted RFID will also allow for better on-off no-fault-found reliability tracking.

The status of the SUPs Steering Committee is undecided. Frank Paskiewicz, manager of the FAA Production and Airworthiness Certification Division, advised Committee Chair Jason Dickstein that he would like to see the committee continue in some form. The committee is a good medium for the industry and the FAA to exchange information. The name and function of the committee, however, is subject to change.

ARSA Supports AMT Recognition at Home and Abroad

Over the past month, ARSA has joined with representatives from throughout the industry in supporting the designation of May 24 as Aviation Maintenance Technician (AMT) Day. May 24 was chosen because it is the birthday of Charles Taylor, the mechanic for the Wright Brothers' flyer, who is heralded as the "father of aviation maintenance."

In a letter to Transportation and Infrastructure Committee Chairman James Oberstar (D-MN-8), ARSA emphasized that aviation maintenance technicians not only ensure safety in the skies, but are also a valuable sector of the nation's economy.

Support arrived, however, from another member of the Transportation and Infrastructure Committee—Representative Bob Filner (D-CA-51). On May 24, Rep. Filner introduced House Resolution 444, "supporting the goals and ideals of National Aviation Maintenance Technician Day...and recognizing the essential role of aviation maintenance technicians in ensuring the safety and security of civil and military aircraft."

ARSA strongly supports Representative Filner's legislation. Please visit www.ARSAaction.org for details.

On the local level, ARSA offered support for a state resolution in Ohio designating May 24 as AMT Day. Despite the historic ties between the state and the birth of aviation, Ohio has yet to formally establish a day of recognition. Beyond the United States, ARSA has also lent support to undertakings abroad. Letters to leading members of Parliament in both Canada and Australia, respectively, echoed the call for AMT recognition and highlighted the role of AMTs throughout the world.

ARSA looks forward to ensuring that maintenance technicians, and the industry as a whole, continue to be recognized for the quality work produced everywhere in the world.

Congratulations—You've Been Promoted!

Christian A. Klein, formerly ARSA legislative counsel, has been promoted to executive vice president. Virginia Scattergood, formerly the organization's associate counsel, has been named director of government relations and legislative counsel.

"Our members consistently rank the association's aggressive advocacy on behalf of the aviation maintenance industry as the most important thing we do," ARSA Executive Director Sarah MacLeod said. "As the volume of contract maintenance has grown in recent years, repair stations have increasingly found themselves in the political and media spotlights. With Christian's decade of experience in association public affairs and strategic communications, and Virginia's strong background in congressional lobbying I'm confident that these promotions will help us further enhance ARSA's public profile and the political visibility of our industry."

In his new role, Klein will be responsible for managing a range of association activities, including ARSA's public relations, preferred provider, and industry analysis programs. Scattergood will assume management of ARSA's legislative program and, in particular, be the association's point person for the on-going reauthorization of the Federal Aviation Administration (FAA).

ARSA is an Alexandria, Virginia-based international trade association whose primary members are companies that hold part 145 repair station certificates issued by civil aviation authorities. ARSA's members include leading aviation maintenance, repair, and overhaul (MRO) companies; aviation manufacturers; airlines; and businesses that serve the repair station industry. More information about ARSA is available at <http://www.arsa.org>.

Congratulations to Christian and Virginia on their new roles!

To view ARSA's press release visit:

<http://www.arsa.org/files/23May07ARSAPromotionsPressRelease.pdf>

June

It's Not Where You Do It, It's How You Do It

On June 20, ARSA Managing Director and General Counsel Marshall Filler testified before the Senate Commerce, Science and Transportation subcommittee on Aviation Operations, Safety and Security. The hearing, entitled "Oversight of Foreign Aviation Repair Stations," focused on the expanding market of contract maintenance and the Federal Aviation Administration's (FAA's) ability to oversee foreign repair stations. This hearing resulted in part from ARSA's efforts in defeating proposed language to the FAA reauthorization bill (S. 1300) that would have required drug and alcohol testing for foreign repair station personnel, and placed new restrictions on contract maintenance.

Mr. Filler testified alongside representatives from the FAA, U.S. Department of Transportation, International Association of Machinists and Aerospace Workers, Air Transport Association, and the Professional Airway Systems Specialists. Subcommittee Chairman John Rockefeller (D-WV) opened the hearing before turning the chairman's role over to Sen. Claire McCaskill (D-MO), a strong proponent of investigating FAA oversight capabilities.

During his testimony, Mr. Filler stressed that "although the location of work may differ, quality does not. The fact remains that foreign repair stations are subject to a tremendous amount of oversight by regulators, their customers, and other entities." Additionally, Mr. Filler was the only witness to exhibit that there are currently more EASA-certificated repair stations in the U.S. than there are FAA-certificated repair stations worldwide. Despite this statistic, the Senators still showed concern that U.S. jobs were going overseas, and that airlines were chasing "cheap labor."

The questioning by Sen. McCaskill was pointed, and focused on the use of certificated versus "non-certificated" facilities and corresponding FAA oversight capabilities. The FAA stressed that safety records remain robust for certificated facilities, individuals, and air carriers. Complementing the FAA points, ARSA re-iterated that repair stations, both domestic and foreign, are subject to numerous audits, both by the FAA, carriers and additional third parties.

ARSA and FAA representatives also emphasized the crucial role of foreign repair stations in the aviation industry. As ARSA continues to educate and interact with Congress on this issue, it is important that you stay involved as well. Visit ARSAAction.org for legislative updates and ways that you can help.

FAA Heeds ARSA Request, Withdraws Memo

In response to ARSA's request, the Federal Aviation Administration (FAA) recently withdrew a controversial memorandum. The memo indicated that a repair station could not change the identification information of a component to reflect an alteration accomplished using the manufacturer's component maintenance manual (CMM). It also stated that a repair station could not use Technical Orders (TO) to perform maintenance and approve that work for return to service unless the document was approved by an Aircraft Certification Office (ACO). ARSA argued that the regulations allow both actions.

First, § 43.13 allows minor alterations to articles using acceptable methods, techniques and practices identified in a CMM covering multiple dash numbers. Repair stations must then update the end dash number of the article using the CMM or its own acceptable methods when the CMM is silent (§§ 43.13(a), 45.13(d), and 21.611(c)).

Second, TOs are instructions providing methods, techniques and practices for maintaining military aircraft, many of which are now type certificated by the FAA. Therefore, when a TO describes a minor repair or alteration of a type certificated article it needs no further approval (§§ 43.13(b), 145.201(c)(1)). If it describes a major repair or alteration, the technical data supporting the TO is already approved as part of the type certification process (§ 21.31) and also needs no further approval (§ 145.201(c)(2)) from the ACO.

The FAA considered the arguments and agreed to rescind the memo and conduct a proper regulatory evaluation of both issues. ARSA will keep its members posted on any new developments.

ARSA's letter and proposed revised memo can be viewed at <http://www.arsa.org/files/ARSA-Letter-to-FAA-Final-05152007.pdf>

The withdrawn FAA memorandum may be available at <http://www.arsa.org/files/AFS-340-Moten-TO-DP-Memo.pdf>

The FAA's letter rescinding the memo can be found at <http://www.arsa.org/files/FAA-Rescind-TO-DP-Memo.pdf>

July

Congress Pushes TSA; Leaving Industry on the Hook

Despite ARSA's efforts, Congress stood firm in pushing repair station security rules; keeping industry on the hook for agency delays.

The bills from the House and Senate implementing suggestions from the 9/11 Commission have been reconciled in a conference, which concluded on July 26. ARSA continuously advocated removal of a Senate provision that prohibited the Federal Aviation Administration (FAA) from issuing new foreign repair station certificates (renewals could still be issued) unless the Transportation Security Administration (TSA) issued its final security rules within 90 days of enactment. In addition, the legislation shortened from 18 months to six the time that TSA has to audit foreign repair stations once the new rules are issued.

In a letter to conferees from both the House and Senate, ARSA stressed that the legislation's placement of an excessive burden on business, rather than the TSA, has the potential to create negative repercussions in the aviation industry. Working with industry allies, ARSA also sought to educate Hill staff on the legislation's potential

impact not only on foreign repair stations, but also on domestic entities. In addition, ARSA provided members with the opportunity to contact their elected representatives through ARSAaction.org to request removal of the provision.

ARSA and its allies successfully changed the original provision. The agreement between the House and Senate now mandates that:

- TSA has one year after enactment to issue repair station security regulations.
- If the regulations are not issued within the allotted time, the FAA is prohibited from certificating a foreign repair station unless:
 - o The station was previously certificated; or,
 - o The station is in the process of certification.

Once the security rules are issued, the law will:

- Give TSA 6 months to conduct audits of all foreign repair stations.
- Bar the FAA from certifying any foreign repair station other than ones previously certificated, or in the process of certification, until the audits have been completed.

President Bush is expected to sign the comprehensive legislation. Previous attempts to push TSA on this rulemaking were even more harmful to the repair industry. ARSA continues to remain vigilant against such attempts to restrict the use of repair stations, and asks its members to continue contacting Congress to educate it on the repair industry.

August

The Next Stage in the Race

Just as the Iditarod puts competitors through numerous grueling stages before declaring a victor, so too does ARSA's marathon struggle against the Federal Aviation Administration's (FAA) expanded anti-drug and alcohol testing requirements. On August 30, 2007, the Association completed yet another stage by filing a petition for a rehearing in the U.S. Court of Appeals for the District of Columbia Circuit.

During the previous stage, the Association endured a setback when the Court upheld the FAA rule. However, ARSA has pushed the victory for small business since the Court remanded the rule to the agency for proper analyses under the Regulatory Flexibility Act (RFA). This win, coupled with a dissenting opinion that would have thrown the rule out entirely, gave the Association the stamina to petition for a rehearing.

The petition argues that the Court misinterpreted the applicable law when it ruled that the FAA had not exceeded its statutory authority in extending testing to contractors and subcontractors at any tier. It also asks the Court to clarify its mandate forcing the FAA to go back and do the proper RFA analyses. ARSA requested the Court direct the agency to prepare both an initial and a final regulatory flexibility analysis and make them available for public comment.

Even if the Court decides not to grant a rehearing, ARSA will continue to run this race to the finish, pushing the FAA all the way. The next leg will see the Association monitoring the forthcoming RFA analyses to ensure the FAA lives up to its obligation to consider the impact of this rule on the industry.

A copy of ARSA's petition for rehearing may be found here:

<http://www.arsa.org/files/FinalPetitionForRehearing.pdf>

Dear Mr. President...

Marion Blakey's five-year tenure as Administrator of the Federal Aviation Administration (FAA) will come to a close on September 13, 2007. In anticipation of the move, ARSA has joined the aviation community in encouraging President Bush to nominate a strong candidate for the post. Additionally, the industry emphasized to the President the importance of nominating a candidate for a five-year term, a reaction to implications that he may name a recess appointee to this position.

In a letter sent to President Bush on August 20, 2007, ARSA stressed that the effectiveness of the new Administrator is tied to having a level of continuity at the Administration's helm. The letter featured the following quote from former Secretary of Transportation Norman Y. Mineta, which highlighted the need to avoid a recess appointee:

This is an agency that is so highly technical that past administrators have acknowledged that, despite their aviation expertise, the learning curve to become a proficient administrator is over a year. The result

of this combination of constant turnover and complex subject matter is that the FAA has had significant periods of time in the past several years in which the agency was being run by an administrator in training. Hopefully, this bill will provide some additional stability to this agency that is so vital to aviation safety.

As the agency and aviation industry confront critical issues in the coming months and years, from FAA reauthorization to the investment in the nation's aviation infrastructure, continuity at the helm should be a top priority.

Ms. Blakey has accepted a new position as President and Chief Executive Officer for the Aerospace Industries Association, a role she will begin in mid-November.

ARSA's letter to the President may be found at: <http://www.arsa.org/files/Bush-FAAAdminltr8-20-07.pdf>

SBA Holds Roundtable on ARSA Anti-Drug and Alcohol Decision

On August 20, 2007, the Small Business Administration, Office of Advocacy held a roundtable discussion on the impact of ARSA's anti-drug and alcohol rule challenge on the small business community. The discussion focused on the United States Appellate Court's ruling that the Federal Aviation Administration (FAA) failed to conduct proper Regulatory Flexibility Act (RFA) analyses of the rule's impact on small businesses. The RFA is in place to ensure that federal regulatory initiatives are balanced against the needs and capabilities of small businesses.

The roundtable began with presentations on the history of the RFA, including past litigation that challenged federal agencies' application of the Act. From there, the focus shifted to the small business implications of the Court's ruling in the ARSA case. The discussion produced three important lessons to take from the decision:

1. The RFA imposes real obligations on an agency. Thus, an agency must harmonize the interests advanced in a proposed rule with the interests of small business;
2. An agency must take the precise, specific steps outlined in the RFA – there is no RFA-like compliance or substitute; and
3. If the regulation “directly imposes” responsibility on small entities, the RFA applies to those entities.

After the presentations, an open discussion centered on additional insight gained from this case. Perhaps the most important was the need for trade associations and small businesses to be thoroughly involved in every step of the rulemaking process. ARSA was commended for having challenged the FAA's rationale early and often in the process, ultimately making the Court's decision on the RFA a victory for small business.

The importance of this decision was recently featured in the *New York Times*. To read the article visit:

<http://www.nytimes.com/allbusiness/29girard.html>

For an in-depth look at the decision's impact on the RFA, ARSA has prepared the following:

<http://www.arsa.org/files/DAStoryGeneral.pdf>

EASA Clarifies Human Factors Requirements

In response to an ARSA inquiry, the European Aviation Safety Agency (EASA) confirmed that United States repair stations with EASA part 145 approval should achieve compliance with human factors requirements by following Federal Aviation Administration (FAA) guidance. There had been confusion on this issue since some repair stations were told to comply with guidance prepared by EASA for repair stations directly certificated by that agency. The EASA part 145 guidance material for human factors training programs, specified in GM 145.A.30(e), differs from current FAA guidance, notably in its recommendations for topics requiring coverage in a training program.

While 14 CFR does not specifically require human factors training, the FAA has released guidance on the subject in response to the Bilateral Aviation Safety Agreement (BASA) executed through the Maintenance Implementation Procedures. The guidance, issued to FAA Aviation Safety Inspectors, outlines the acceptable components of a human factors training course needed to secure EASA part 145 approval. This guidance was subsequently incorporated into FAA Order 8300.10, Volume 2, Chapter 168, which includes the listing of topics to be covered in a training program.

The communication between ARSA and EASA confirmed that compliance with the FAA guidance would be treated as the equivalent of compliance with GM 145.A.30(e), dispelling earlier confusion. Additional clarification will be included in the proposed new FAA-European Union BASA.

ARSA's correspondence and the EASA response can be viewed at:

<http://www.arsa.org/files/EasaResponse081007.pdf>

September

Let's See If It Can Follow Orders

This summer ARSA snatched victory from the jaws of defeat when the U.S. Court of Appeals for the District of Columbia Circuit remanded the Federal Aviation Administration's (FAA) expanded anti-drug and alcohol testing rule to the agency for a proper analysis under the Regulatory Flexibility Act (RFA). This win, coupled with a dissenting opinion that would have thrown the rule out entirely, gave the Association the steam to push forward and petition for a rehearing.

Although the Court recently declined to rehear ARSA's arguments, we are not disheartened. While a rehearing is often requested but rarely granted, ARSA has pledged to fight for a reasonably applied anti-drug and alcohol rule at every step and will continue to do so. The Court's ruling puts the spotlight directly on the FAA to follow its mandate and prepare a proper analysis under the RFA, considering the rule's impact on small business.

ARSA looks forward to the FAA's analysis, and will ensure the agency uses proper data and prepares a complete and thorough RFA analysis.

Notice This Notice

Notice 8900.18, "Recording Operations Specification (OpsSpecs) for A449 for Part 145 Repair Stations," memorializes an ARSA request for clarification and confirmation that a part 145 repair station with multiple locations or certificates can choose to register its combined drug and alcohol testing program directly with the Drug Abatement Division, rather than obtaining an OpsSpecs paragraph A449.

Additionally, the Federal Aviation Administration revises the documentation process for the issuance of OpsSpecs paragraph A449, "Antidrug and Alcohol Misuse Prevention Program." A part 145 repair station has the option of obtaining its own OpsSpecs paragraph A449 or be included under an operator's drug and alcohol testing program.

To view Notice 8900.18 visit: <http://www.arsa.org/files/N8900-18.pdf>

ARSA Requests EASA/FAA-Only Maintenance Release

ARSA requested the European Aviation Safety Agency (EASA) and the Federal Aviation Administration (FAA), resolve an issue facing companies that hold both FAA and EASA part 145 certificates. The question is whether these entities may issue an EASA or FAA-only maintenance release for components when the design has been approved by only one agency.

The matter was brought to the Association's attention by a U.S.-based repair station that holds an EASA part 145 approval. It wished to perform maintenance on a component in the U.S. whose design was approved under an EASA Supplemental Type Certificate (STC) for use by EU air carriers. Because this component's design is not included in any FAA design approval, the repair station could not issue the traditional dual release on FAA Form 8130-3.

ARSA petitioned EASA and the FAA to recognize that the regulations allow a repair station in this situation to issue an EASA or FAA-only maintenance release on Form 8130-3. This may be accomplished by checking only the "Other regulations specified..." box in Block 19 of the 8130-3 and inserting the EASA release statement in Block 13, making clear that the component is only eligible for installation in an EU-registered aircraft.

The same rationale and methodology would apply for EU-based repair stations issuing an FAA-only maintenance release. In the alternative, ARSA argued that a qualified dual release is also permissible with a statement in Block 13 indicating the component is only eligible for installation on EU (or U.S.-)registered aircraft. We will inform our members when we receive a reply from EASA and the FAA.

For further details, a copy of ARSA's letter to EASA and the FAA may be found at:

<http://www.arsa.org/files/EASA-Single-Release-Request.pdf>

October

ARSA Comments Reflected in AMOC Order

In November 2006, ARSA submitted comments to the Federal Aviation Administration (FAA) on its draft Alternative Means of Compliance (AMOC) order. The FAA issued Order 8110.103 with several of ARSA's comments mirrored in the document. ARSA's input included, recommendations on an appropriate definition of an

AMOC, determining when one is necessary or desirable, establishing who can approve a request and substantive modifications to the AMOC process.

The FAA's adopted definition of an AMOC closely resembles ARSA suggestions, that is:

[A] different way, other than the one specified in an AD, to address the unsafe condition on an aircraft, aircraft engine, propeller or appliance. An AMOC must ensure the unsafe condition is corrected by providing an acceptable level of safety.

Beyond shaping the AMOC definition, ARSA's comments are also reflected in the FAA determination of "when and why and AMOC is necessary or desirable." ARSA focused on improvements to the substantive language of this section, which includes a short list outlining situations appropriate for an AMOC request.

Order 8110.103 contains additional information on AMOC requests from foreign entities performing maintenance on U.S. state of design products, AMOC approvals through delegated authorities and an appendix with frequently asked questions from AMOC requesters and specific answers for FAA personnel.

A copy of the final Order may be viewed at:

[http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgOrders.nsf/0/c878547f2d0bace786257367005694c3/\\$FILE/Order%208110.103.pdf](http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgOrders.nsf/0/c878547f2d0bace786257367005694c3/$FILE/Order%208110.103.pdf)

ARSA Asks EPA for Extension—Industry Comments Needed

ARSA joined with other industry groups in petitioning the Environmental Protection Agency (EPA) for a 90-day extension to comment on a proposed rule dealing with paint stripping and surface coating operations. The proposal would impose new equipment requirements, management practices and personnel training to reduce the amount of air pollutants released by certain paint stripping and surface coating operations.

The EPA lists the aerospace industry, including manufacturers of aircraft, aircraft engines and parts amongst the group of entities affected by the proposed rule. The Association believed that the basic manufacturing operations apply equally to maintenance.

Specifically targeted activities include:

- Paint stripping using methylene chloride-containing chemicals;
- Operations involving application of coatings to metal and plastic parts; and
- Refinishing, by applying coating to motor vehicles and mobile equipment.

ARSA felt an extension was necessary so all affected businesses would have adequate time to fully digest the EPA's proposal and submit comprehensive comments on the rule. Although a full 90-day extension has not yet been granted, an additional three weeks were given, making comments due November 7, 2007. As with most agencies, the EPA will accept and review comments submitted after the deadline provided they are received before final rule drafting commences.

The EPA needs to hear how this rule will affect your business. Please let ARSA's Regulatory Associate Colin Carroll <<mailto:colin@arsa.org>> know if your company submits comments regarding this issue.

A copy of the proposed rule can be found here: <http://edocket.access.gpo.gov/2007/E7-17973.htm>

Setting the Record Straight...

On October 26, ARSA set the record straight in the official record of the Senate Committee on Commerce, Science and Transportation hearing on oversight of the Transportation Security Administration (TSA). The hearing, held October 16, included discussion on a myriad of TSA responsibilities, but lawmakers focused on gauging the success of implementing post-9/11 congressional security mandates.

Pointed questioning by Sen. Claire McCaskill (D-MO) turned attention to TSA inaction in constructing regulations aimed at perceived security threats at foreign repair stations.

ARSA ensured the record contained information on safety and security of repair stations, both foreign and domestic. The Association drew attention to the role on the excellent safety and security records of foreign repair stations in the global aviation system and, correspondingly, to the impact any negative measures will have on the domestic aviation industry. Additionally, it was pointed out that foreign repair stations are subject to safety and security oversight from many sources, including other civil aviation entities and private business. Most importantly ARSA seized the opportunity to emphasize the negative effects of TSA's inaction; namely that the delayed security rule punishing the industry, rather than TSA, for a failure to act sets a dangerous precedent.

To view ARSA's comments visit: <http://www.arsa.org/files/ARSAComments10262007.pdf>

ARSA Requests EASA/FAA-Only Maintenance Release

ARSA sent a letter to the European Aviation Safety Agency (EASA) and the Federal Aviation Administration (FAA) requesting the agencies resolve an issue facing companies that hold both FAA and EASA part 145 certificates. The question was whether these entities may issue an EASA or FAA-only maintenance release for components when the design has been approved by only one agency.

This matter was brought to the Association's attention by a U.S.-based repair station that holds an EASA part 145 approval. It wished to perform maintenance in the U.S. on a component whose design was approved under an EASA Supplemental Type Certificate (STC) and is only used by European Union (EU) air carriers. Because this component's design is not included in any FAA design approval (STC) the repair station could not issue the traditional dual release on FAA Form 8130-3.

ARSA petitioned EASA and the FAA to recognize that the regulations allow a repair station in this situation to issue an EASA or FAA-only maintenance release on Form 8130-3. This is accomplished by checking only the "Other regulations specified..." box in Block 19 of the form and inserting an EASA release statement in Block 13.

This ensures that the component is only eligible for installation in an EU-registered aircraft. The same rationale applies in reverse for EU-based repair stations to issue an FAA-only maintenance release. In the alternative, ARSA argued that a qualified dual release is also permissible with a statement in Block 13 indicating the component is only eligible for installation on EU-registered aircraft.

While EASA has indicated that it is still pondering the question, the FAA, in an unusually swift response, took only ten business days to deliver its retort. The agency refuses to allow a repair station to add a component to its FAA capabilities list without first obtaining an FAA design approval, essentially killing the idea of an EASA or FAA-only maintenance release.

A copy of ARSA's letter requesting the EASA/FAA-only maintenance release may be found here:

<http://www.arsa.org/files/ARSA-EASA-Single-Release-Request-09282007.pdf>

A copy of the FAA's response may be found here:

http://www.arsa.org/files/ARSA-EASA_Single-Release-Request-FAA-Response.pdf

A copy of EASA's response may be found here:

http://www.arsa.org/files/ARSA-EASA_Single-Release-Request-EASA-Response.pdf

Clarifying Contract Maintenance Functions

ARSA recently submitted a letter requesting the Federal Aviation Administration (FAA) clarify the subject of contracting maintenance functions. ARSA contends that the regulations allow a repair station to contract any maintenance, preventive maintenance or alteration for which it holds a rating. That work can be performed by certificated and non-certificated entities.

After the work is performed the repair station can make the decision that it wishes to take responsibility for the entire scope of work performed by issuing an approval for return for service. Under the regulations, the only time this action is prohibited is when the work is performed on a complete type certificated product, e.g., on an aircraft, aircraft engine or propeller.

In order to exercise this privilege, the repair station must:

- Make a list of the maintenance functions that it:
 - Does not perform in-house; and
 - Takes regulatory responsibility by issuing an approval for return to service for the exact same work under its rating.
- Obtain approval of the listed functions per § 145.217 and provide that list to the FAA per its procedures under § 145.209,
- Ensure that it qualifies the sources to which it contracts those maintenance functions per § 145.201(a)(2) (quality system),
- Maintain a current list of those contractors per § 145.217 and provide that list to the FAA per its procedures under § 145.209,
- Ensure that it has procedures to perform the incoming inspection of articles, final inspection and approval for return to service per the pertinent subparagraphs of § 145.211(c)(1), and

- Provide a procedure by which it confirms by inspection or test that the work was performed satisfactorily (which can be by review of the paperwork setting forth the exact steps performed and the inspections and tests performed) per the requirements of § 145.217.

ARSA recommended that FAA guidance on the subject be revised so they are consistent in their treatment of which contract maintenance functions require FAA approval.

A copy of ARSA's letter to the FAA may be found here:

<http://www.arsa.org/files/ARSA-Maint-Function-Clarification-Ltr-10262007.pdf>

Have I Complied Yet?

In a letter to the Federal Aviation Administration (FAA), ARSA requested clarification on what constitutes full compliance with an Airworthiness Directive (AD). The question arose from members that received an Unapproved Parts Notification (UPN) that accused a particular repair station of improperly contracting maintenance to a source that was not "approved" by the manufacturer. The maintenance at issue involved re-coating engine disks after removing and inspecting them for cracks or pits in accordance with AD 2003-12-07.

ARSA contended that the AD only required the removal, inspection and replacement of the disks that were beyond a serviceable limit. If a disk was still serviceable (i.e., no crack or pits existed) the repair station could use methods, techniques and practices that return it to at least the original (or properly altered) condition.

In other words, any maintenance performed on disks after the AD was complied with, including the work that was contracted to the "unapproved" source, could be accomplished in accordance with 14 CFR § 43.13. Therefore, the repair station was not required by the AD to use a source "approved" by the manufacturer to re-coat the disks.

As a result, ARSA requested affirmation of its interpretation of the subject AD, withdrawal of the UPN and confirmation that "approval" by a manufacturer is not required to establish compliance with 14 CFR § 43.13. We will keep our members updated as soon as we get a reply from the FAA.

A copy of ARSA's letter to the FAA may be found here:

<http://www.arsa.org/files/ARSA-AD-Compliance-10222007.pdf>

November

ARSA Asks for Clarification on AMT Awards Program

On Nov. 8, ARSA sent a letter to the Federal Aviation Administration (FAA) seeking clarification of Advisory Circular (AC) 65-25(D), "Aviation Maintenance Technician (AMT) Awards Program." ARSA specifically requested that the agency acknowledge that regulatory compliance training courses developed and provided under 14 CFR part 145 approved training programs are conducted by "persons acceptable to the FAA." Currently, individuals who normally would conduct such training courses are not specifically designated as "persons acceptable to the FAA," thus some Aviation Safety Inspectors have excluded such training from consideration under the awards program.

The AMT Awards Program began in 1992; it was updated in February 2007, via AC 45-25D. The stated goal is to provide incentive to employees and employers to "participate aggressively in available initial and recurrent maintenance/training courses." The FAA issues over 20,000 awards annually.

To view ARSA's letter, visit: <http://www.arsa.org/files/ARSA-AMTAwardAC-Request-11082007.pdf>

To get more information on this program and to access application materials visit: <http://www.faasafety.gov/>

You may also consult AC 65-25D, available here:

[http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/65d3b7bdd622752e8625727c006a1dd2/\\$FILE/AC%2065-25D.pdf](http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/65d3b7bdd622752e8625727c006a1dd2/$FILE/AC%2065-25D.pdf)

ARSA Urges Expedited TSA Action

Finding itself in the ironic position of requesting immediate rulemaking on unnecessary and potentially burdensome requirements; ARSA sent a letter to Administrator Kip Hawley of the Transportation Security Administration (TSA) calling for an expedient notice for proposed rulemaking on repair station security rules. TSA must publish a final rule by Aug. 3, 2008, or the FAA will be prohibited from issuing foreign repair station certificates (with limited exceptions). This mandate results from the enacting of the 9/11 Commission Recommendation Act (Public Law 110-53), which was signed into law in early August, 2007.

ARSA emphasized that agency inaction will punish the industry and create harmful consequences. The letter stated, in part, "The Association certainly recognizes that TSA is confronted with a myriad of more pressing issues with only limited resources...However, the severe penalty necessitates immediate action."

To view ARSA's Nov. 21, 2007 letter visit:

<http://www.arsa.org/node/466>

ARSA Seeks Removal of Prohibition for Issuing Repairman Certificates

In a letter to the Federal Aviation Administration (FAA), ARSA requested removal of the prohibition on issuing repairman certificates for airframe and powerplant qualified individuals. Current internal FAA guidance prohibits the issuance of repairman certificates as a substitute for a mechanic certificate. After researching the issue, the Association requested that the FAA issue airmen certificates based upon the request and qualifications of the individual.

To view ARSA's letter visit:

<http://www.arsa.org/node/465>

ARSA Requests Memo on Operations Specifications

On Nov. 21, ARSA requested that the Federal Aviation Administration (FAA) Office of the Chief Counsel issue a memorandum clarifying the proper procedures for Aviation Safety Inspectors to make changes to 14 CFR part 145 air agency certificates. After hearing from members that they are receiving "new" Operations Specifications (OpsSpecs) with changes to their ratings that had not been requested, ARSA believed action was necessary.

These new OpsSpecs were provided with the intent of having an immediate effect on the repair station certificate. As ARSA stated in its letter, "While the FAA can take immediate action in the interests of safety, the proper procedures for certificate action are being circumvented by removing or changing ratings set forth in OpsSpecs without the certificate holder's request or due process."

Due to the serious nature of this action, ARSA requested an expedited review. Stay tuned to www.arsa.org for updates.

A copy of the letter can be found here:

<http://www.arsa.org/files/ARSA-Request-Memorandum-OpsSpecs-Changes.pdf>

December

FAA Adopts ARSA's Recommendations in New Order

The Federal Aviation Administration (FAA) released Order 8300.14, Repair Specification Approval Process, which defines the responsibilities of FAA personnel and designees in approving specifications for major repairs. Repair specifications are repairs developed by maintenance providers that are not covered by maintenance data available from the manufacturer. The Order defines the procedures for FAA review of repair specifications and what is expected from applicants.

It incorporates many of the suggestions presented by ARSA in a letter to the FAA. That letter requested that the agency create comprehensive guidance for repair stations that develop their own maintenance processes (repair specifications).

The new Order delineates the different responsibilities of applicants, local Flight Standards District Offices (FSDOs), the Aircraft Certification Office (ACO) and Designated Engineering Representatives (DER) during the development, review and approval process.

Once an applicant (most likely a repair station) determines a repair specification is appropriate, it must develop the data necessary to substantiate the repair and submit it to the local FSDO for review. The FSDO must review the application and coordinate with the ACO for technical review and approval of the substantiation data. The FSDO does not coordinate with the ACO however, if the repair station uses an appropriately rated DER to approve the technical data.

When the data has been approved by the FAA through either the ACO or DER, the FSDO must then evaluate the repair station's capabilities to perform the repair appropriately. The FSDO must determine that the repair station has the appropriate housing, facilities, equipment and personnel. If the FSDO determines that the capabilities exist to make repairs in accordance with the specification, the Aviation Safety Inspector will sign the repair specification and add it to the repair station's Operations Specifications.

ARSA is encouraged that the FAA incorporated many of its suggestions into the final Order. The agency did stop short of allowing repair stations to develop similar alteration specifications and, in addition, failed to implement specific timelines for the review and approval process as ARSA suggested.

A copy of ARSA's letter may be found at:

<http://www.arsa.org/files/ARSA-LettertoFAA-Maintenance-Specifications-05012007.pdf>

The final Order may be found here:

http://fsims.faa.gov/wdocs/orders/8300_14.pdf

TSA Replies to ARSA Appeal

On Dec. 19, the Transportation Security Administration (TSA) responded to ARSA's call for an expedient rulemaking on repair station security rules as mandated by the 9/11 Commission Recommendation Act of 2007.

ARSA found itself in an ironic position requesting the rulemaking, however if the TSA cannot issue a final rule by Aug. 3, 2008, the Federal Aviation Administration will be prohibited from issuing new foreign repair station certificates—a move that will negatively impact all repair stations, both foreign and domestic.

In its response, the TSA stated that it continues to gather information and will “work aggressively” to complete the rulemaking.

To read the TSA response, visit:

<http://www.arsa.org/files/TSA-USDeptHomelandSecurity-12262007.pdf>

To read ARSA's letter, visit:

<http://www.arsa.org/files/ARSA-TSA-11212007.pdf>