



News from the Hill

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Nine Innings of Home Runs to Keep You Successful

It is baseball season once again. And in honor of baseball season, this month's article features nine "innings" of information designed to keep your business on the cutting-edge of legal compliance and business development throughout the baseball season and beyond.

These nine innings include:

- 1) Multiple Required Hazmat Training Standards for Repair Stations
- 2) Fabricating Aircraft/Avionics Parts
- 3) Standard Electronic Parts
- 4) Software Copyrights
- 5) The Government's Plan for Radionavigation Systems
- 6) The Future of Radionavigation Systems
- 7) Protecting Your Right to Get Paid
- 8) International Registration of Liens
- 9) Improving the IRS

First Inning: Hazmat Training

Don't forget there are now several different standards for hazmat training. Repair stations will need to make sure their training systems adequately cover each type of hazmat training for required employees in order to assure compliance with the repair station rules (14 C.F.R. § 145.163) and the DOT, as well as other regulations applying directly to hazmat training. This is becoming an increasingly serious issue as more FAA inspectors start to focus on hazmat in their oversight:

1) Under the FAA's guidance for Repair Station Training Programs, initial and recurrent employee indoctrination programs should include educational units on U.S. DOT hazardous materials regulations. AEA will offer a program that provides this training (along with the other subjects described in Advisory Circular 145.10 §§ 301(b)(3) and 301(c)(6)) as part of its Fast Trak program at the annual AEA International Convention & Trade Show from April 19-22, in Palm Springs. All of your employees should be subject to this level of indoctrination training. For more information about this AEA course, visit www.aea.net/Convention/FT/PSFT1.asp#Hazmat.

2) Under the U.S. DOT and ICAO guidance, those responsible for any safety decision related to the safe shipping of hazardous materials must receive training in the relevant regulations and practices. Under FAA guidance, at least one of your personnel should receive this training and, if more than one person is involved in hazmat shipping, then each should be trained to this standard. AEA will offer a two-day training course that meets this requirement from April 17-18, immediately prior to the annual convention. AEA will offer this training course at other times during the year as well. For more information about this AEA course, visit www.dangerousgoodstraining.net.

Remember: AEA members often will have hazmats in their facilities, ranging from batteries (including those installed in equipment) to chemicals (such as alodine). There are many exceptions that can make these very easy to ship, but you should attend training to understand them — as well as to meet the regulatory requirements for training.

Second Inning: Manufacturing Aircraft/Avionics Parts

Do you need to fabricate parts as part of your business? It is not unusual for repair stations performing installations to need to fabricate certain types of parts. When you make them, you should carefully document your manufacturing process and indicate the reason the parts were fabricated (such as indicating where they were intended to be installed so it is clear from the records they were created with the intent of being consumed during a maintenance activity).

You also should be on the lookout for the FAA's Fabrication Advisory Circular, which is expected to be released next year. That advisory circular will recommend repair stations performing fabrication employ a quality assurance system comparable to that described in Part 21 for PMA parts (although it will not specifically need to be approved by the FAA). It also will recommend that

all fabricated parts be marked to indicate their source.

Do you have a great idea for a part you want to sell to others? There are many good ideas and improvements for sale in the industry, ranging from mounting brackets to replacement instrument panels. If you intend to manufacture an article you will offer for sale to others with the intent it be installed in a type certificated aircraft, then you will need to either have FAA approval for the fabrication or need to fit into one of the narrowly defined exceptions in the regulations.

Some common FAA production approvals include a Technical Standard Order Authorization (TSOA), Parts Manufacturer Approval (PMA) or Production Certificate (PC). Each of these provides specific production approval following an FAA analysis of the company's production quality system.

Contrary to popular belief, a Supplemental Type Certificate (STC) is not a production approval; therefore, an STC alone is insufficient FAA approval to support manufacturing for sale to the public. An STC usually is adequate design approval to support consumption of the product during a maintenance activity performed by the person who produced the part — production approval is not necessary in such a case because the government has taken the position that parts consumed during maintenance are not parts "offered for sale" (even if they are separately itemized on the invoice to the customer); therefore, those parts are not subject to the production approval requirements of the regulations.

Third Inning: Using Standard Parts

One common exception to the FAA production approval rule is standard parts (parts made to an industry standard, such as an IEEE standard, or parts made to a government standard, such

as a military specification). Standard parts do not need to be manufactured to an FAA approval, but they must meet all of the requirements of the published standard.

The FAA published a notice making it clear that electronic parts manufactured to industry standards are standard parts and are excepted from the production approval rules. That notice also made it clear this status only applies to nonprogrammable electronic components. Programmable electronic parts (such as EPROMS and other similar programmable circuitry) are not considered standard parts because their function relies on their programming.

Fourth Inning: Software Copyrights

While we are talking about programmable circuitry, let's talk about the software itself. Most repair station operators know software is protected by copyright laws and it is unacceptable to make multiple copies for installation in multiple units (unless each copy is covered by an appropriate license from the manufacturer/copyright holder).

But did you know the copyrights cover the compiled versions as well as the source code? This means copying software from an installation is just as forbidden as if it had been copied from a disk.

You can reverse-engineer software, but reverse engineering software entails:

- Examining the software to determine the functionality of the software.
- Writing new source code that is distinct from the original.

When you reverse-engineer, you generally are permitted to use identical algorithms to the extent there is no other reasonable method for approaching a programming issue.

Don't forget the FAA has standards (based on RTCA recommendations) for approving software. So, if you are re-

verse-engineering software or designing your own software, it is wise to coordinate with a software engineer from the local FAA Aircraft Certification Office to make sure your development plan will address appropriate testing to support certification.

Fifth Inning: Reading the Future of Radionavigation Systems

An important element of success in business is being able to predict what the customer will want next. Knowing which avionics systems will be outdated when and what will replace them has obvious value in our industry. One of the best sources for this information is the Federal Radionavigation Plan (FRP), which summarizes the current U.S. radionavigation infrastructure and predicts the future of that infrastructure based on the domestic strategic plan for radionavigation.

The FRP is the official source of radionavigation policy and planning for the federal government. It covers common-use radionavigation systems, such as systems used by both civil and military sectors. Systems used exclusively by the military are not covered in this plan.

The Federal Radionavigation Plan is published periodically. The last revision was the 2001 revision. The 2005 revision was just published (yes, I know, it is 2006 already) and is available on the Internet for download. The next scheduled revision will be the 2007 revision — don't ask me when it actually gets published.

The policies in the 2005 FRP focus on:

- Transition to GPS-based services.
- Recognizing the need to maintain backup navigation aids.
- Recognizing the need to provide redundant radionavigation service where required.

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The FRP is available at www.navcen.uscg.gov/pubs/frp2005.

Sixth Inning: Radionavigation Details

Some of the conclusions found in the 2005 edition of the FRP include:

- The government plans to enhance GPS signals over the next 15 years.
- The government has begun the process of establishing a second civil GPS signal (known as L2C) and hopes to have a full complement of 24 satellites orbiting by 2013.
- The government soon will begin the process of establishing a third civil GPS signal (known as L5) and hopes to have a full complement of 24 satellites orbiting by 2015.
- The LORAN system is not necessary, and a decision whether to discontinue it is expected to be made in 2006.
- Phase-down of VHF Omni-directional Range transmitter equipment is scheduled to begin 2010.
- Phase-down of Category I Instrument Landing Systems is scheduled to begin 2015.

The clear message of this report is that GPS is the future, and the government is gambling that the vulnerabilities of GPS will be addressed in the near future.

Any comments, concerns and suggestions the FAA receives regarding the current policies and plans in the 2005 FRP will be considered in formulating the 2007 FRP. This is your opportunity to affect the future of avionics by influencing the radionavigation system as a whole.

In order to have an effect on the 2007 FRP, you should submit your comments by July 31, 2006.

Comments should be forwarded to:
Chairman, DOT POS/NAV
Working Group
U.S. Department of Transportation
Navigation and Spectrum Policy

(P-50)
Room 6423-F, , 400 7th St., SW.
Washington, DC 20590

Additional information also can be obtained from:

John Augustine
U.S. Department of Transportation
Navigation and Spectrum Policy
(P-50)
400 7th St., S.W.
Washington, DC 20590

Augustine can be reached at 202-366-0353 or by e-mail at John.Augustine@dot.gov.

Seventh Inning: Protecting Your Right to Get Paid

Are you using liens to protect your right to get paid? The lien laws vary from state to state, but one thing remains constant: If you file a lien against an aircraft, then you must file a copy of it with the FAA Registry in Oklahoma City. For more information, visit the FAA's Registry website at www.faa.gov/licenses_certificates/aircraft_certification/aircraft_registry/record_aircraft_lien.

Be sure to review your state's lien laws — different states can have very different standards. The federal law applies to the validity of the registration with the FAA, but the courts will apply state law to the validity of the underlying lien that was registered.

Eighth Inning: International Registration of Liens

The FAA has announced that international registration of aircraft liens is now a reality.

Often, completing the legal requirements that would permit you to be successful is enough to ensure you will win your dispute without having to go to court (most people don't see the need to go to court if they know they are going to lose anyway). Therefore, completing the prerequisites for protecting your right to get paid can be a very important step in making sure

you stay out of court.

When you file a lien against an aircraft with the FAA in Oklahoma City, that registration (if properly completed) is effective in any U.S. jurisdiction where it is legal to sue.

But what do you do if you need to sue in a foreign court?

The United States entered into an agreement known as the Cape Town Treaty, which would become effective in the United States when eight countries ratified the treaty. The eighth nation has just ratified the treaty, so it is now effective in the United States as of March 1, 2006.

With the ratification, documents filed with the FAA Registry now will be forwarded to an international registry. This means notice documents (such as notice of lien) properly filed in the United States will have international effect with all of the parties to the Cape Town Treaty. Thus, if the aircraft is moved to another country but your lien remains valid, then your rights become enforceable in the other nation without having to separately file a lien in that nation.

Ninth Inning: IRS Improvement

It is tax season, and if you haven't filed your personal income tax return yet, then it is time to get moving on that. This is the season when you are most likely to notice whether the IRS is responsive to your needs. If you have a story to tell about the IRS, especially if you have an improvement that can be made, there is now a forum for your constructive criticisms.

If you know of a way the IRS could improve the services it provides to the public, you should communicate your good ideas to the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel. TAP is a federal advisory committee focused on improving the IRS and making it more accountable, responsive and user-friendly for

the American people. The IRS uses TAP to solicit public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

For more information about TAP, call Dave Coffman at 1-888-912-1227 (toll-free in the U.S.) or at 206-220-6096. If you would like TAP to consider a written statement at its next meeting, call Coffman or write to him at:

Dave Coffman
TAP Office
915 2nd Ave.
MS W-406
Seattle, WA 98174

Additional information is available by visiting www.improveirs.org.

Extra Innings

There is much going on in the world that affects our business on a day-to-day basis and there are many ways you can run afoul of the law. If you have a question about the issues in this article or any other legal issue affecting the avionics business community, contact the AEA at 816-373-6565. □



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