



The View from Washington

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Here in Washington, whether it's dealing with the Federal Aviation Administration (FAA) or another government agency or even with Congress, things seldom happen quickly. The challenge is to keep the issue in the forefront so that when the time is right the issue will be resolved. This month, I get the pleasure to announce that we won one!

In January 2003, the FAA published a direct final rule making a person ineligible to hold an FAA issued certificate if the Transportation Security Administration (TSA) notified the FAA that this person posed a security threat. As part of this direct final rule, there was little or no notification, limited appeals and the entire process was done behind closed "government" doors. There were no published criteria that the TSA was required to follow prior to notifying the FAA of the suspected security threat. And while the Association supports the government's efforts to remove security threats from aviation and aviation maintenance, we also felt very strongly that there were certain civil protections that even those of us who have made their careers in aviation are entitled to, such as facing your accuser, seeing the evidence against you, a public hearing, and the ability to appeal an incorrect finding.

The Association challenged the ruling through the rulemaking process to no avail. In the rush to implement security regulations in the post 9-11 environment, TSA said "trust us" and the FAA said that they had no control over the situation.

In February 2003, the Association sent an open letter to Congress asking that the provisions of this regulation be reviewed by Congress and that, in the opinion of the Association, the regulatory bodies had exceeded the intent of Congress. We asked that the accused certificate holders be given protection so that the FAA and TSA could not arbitrarily take the livelihood away from an aviation maintenance professional without exercising the due process of law extended to any one accused of a crime in the United States.

This past December, Congress listened and President Bush signed into law VISION 100—CENTURY OF AVIATION REAUTHORIZATION ACT which included a provision that guaranteed the aviation professionals the due process we asked for.

Title 49, Chapter 461 of the United States Code has been amended to clarify what Congress expects of the FAA when TSA notifies them of a suspected security threat. Congress expressly requires the FAA Administrator to issue an order amending, modifying, suspending, or revoking any part of a certificate issued under 14 Code of Federal Regulations if the Administrator is notified by the Under Secretary for Border and Transportation Security of the Department of Homeland Security that the holder of the certificate poses, or is suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety. If requested by the Under Secretary, the order may be effective immediately. But the law

also provides that a citizen who is adversely affected by an order of the Administrator is entitled to a hearing on the record.

When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Administrator or the Under Secretary.

If the accused does not feel the hearing was adequate, the law now allows for an appeals process. An appeal from a decision of an administrative law judge as the result of a hearing will be made to the newly established Transportation Security Oversight Board. An important point here is that the Board is required to establish a panel to review the decision. To ensure a fair and impartial review, the members of this panel are not allowed to be employees of the Transportation Security Administration. In addition, they must have the level of security clearance needed to review the determination made and will be given access to all relevant documents that support that determination. The panel may affirm, modify, or reverse the decision.

An individual who commences an appeal must receive a written explanation of the basis for the determination or decision and all relevant documents that support that determination to the maximum extent that the national security interests of the United States and other applicable laws permit.

Congress also ensured that as part of a hearing and upon the request of

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Frequently Asked Questions

TOPIC: What is the scope of major alterations?

QUESTION:

Part 43 Appendix A, Paragraph (a) (1) subparagraph (iii) essentially states that for airframe alterations, alterations of the "fuselage" are airframe major alterations. The question is: how can you install an antenna without the alteration to the fuselage being considered a major alteration?

ANSWER:

The answer to this question actually dates back to 1958 and the Civil Aeronautics Administration. In the 1958 printing of CAM 18, the CAA published an interpretation of major alterations which included the root of the language that was transferred into the FARs in 1964. In this document the CAA states the criteria for an airframe major alteration includes "Major changes to the basic design or external configuration of any structural component such as:...'fuselage'...." It is clear that the intent of this regulation is focused on major changes to the basic design of the fuselage or major changes in the external configuration of the fuselage. A basic communication or navigation antenna seldom, if ever, would constitute a major change.

Why is the CAM 18 interpretation still valid?

In 1961, the Federal Aviation Agency announced the initiation of a project to recodify the Civil Air Regulations and related regulatory materials. In the notice the FAA claimed that they proposed no substantive changes in the regulations and, therefore, it was not a notice of proposed rule making subject to the Administrative Procedure Act. The program would not result in any new regulatory requirements. Nor will it change any of the regulatory requirements in the present system, with the exception that some obviously obsolete rules possibly can be eliminated. The FAA claimed that most of the current rules and regulatory materials have been inherited from predecessor organizations and were promulgated by them over a period of more than 20 years. As a result, the regulatory system in 1961, which embraces the Civil Air Regulations, Civil Aeronautics Manuals, Regulations of the Administrator, etc., did not reflect the consolidation of rule-making authority affected by the Federal Aviation Act of 1958.

Since the words used in today's Part 43 Appendix A date back to the original recodification of the regulations, the CAA interpretation is still valid.

Note: AEA offers these Frequently Asked Questions (FAQs) in order to foster greater understanding of the rules that govern our industry. AEA strives to make them as accurate as possible at the time they are written, but rules change so you should verify any information you receive from an AEA FAQ before you rely on it. AEA DISCLAIMS ANY WARRANTY FOR THE ACCURACY OF THE INFORMATION PROVIDED. This information is NOT meant to serve as legal advice – if you have particular legal questions, you should contact an attorney.

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the individual adversely affected by an FAA order, the TSA must provide to the individual and reviewing administrative law judge an unclassified summary of any classified information upon which the FAA's order is based.

The FAA's Reauthorization Bill also included a few other sections that are of importance to the membership both domestically and internationally.

Repair Station Security

Repair stations will be the focus of new security regulations during the next year or two. Congress has directed both the TSA and FAA to review and evaluate repair station security regulations and identify areas that can be improved upon.

Within 90 days the FAA must send to the Senate and the House of Representatives a plan containing an implementation schedule to strengthen oversight of domestic and foreign repair stations. In addition, the FAA's plan must ensure that foreign repair stations that are certified by the FAA under Part 145 are subject to an equivalent level of safety, oversight, and quality control as those located in the United States.

Within 240 days, TSA and the FAA must issue security regulations applicable to foreign and domestic aircraft repair stations.

TSA and the FAA must complete a security review and audit of Part 145 foreign repair stations that work on air carrier aircraft and components to ensure the security of maintenance and repair work conducted on aircraft and components at foreign repair stations. This review must be completed not later than 18 months after the security regulations are finalized.

If the security audits are not completed on or before the date that is 18 months after the date regulations are issued, the FAA will be barred from

certifying any foreign repair station until such audits are completed.

TSA has little understanding of the general aviation repair station industry. Your Association is working with the FAA and TSA to ensure that the repair station industry is safe and secure and to the maximum extent possible, that the forthcoming security regulations are applicable to the close-knit business environment of general aviation maintenance.

Aviation Maintenance Technician Curriculum Standards

Congress has directed that within the next 12 months, the FAA must review the training standards for airframe and powerplant mechanics and update and revise these standards to reflect current technology and maintenance practices. The Administrator may use formal rulemaking, advisory circulars or other agency guidance as appropriate to revise the training standards. Any adjustment or modification of current curriculum standards must also be reflected in the certification examinations of airframe and powerplant mechanics.

In addition, the FAA has been directed to perform a review of the content of the curriculum standards for training airframe and powerplant mechanics every three years so that the AMT training curriculum will

stay current with changes in technology and maintenance practices.

FAA Inspector Training

It is the sense of the House of Representatives that the FAA inspectors should be encouraged to take the most up-to-date initial and recurrent training on the latest aviation technologies. The House also believes FAA inspector training should have a direct relation to an individual's job requirements, and if possible, FAA inspectors should be allowed to take training at the location most convenient for the inspector.

As a result, Congress has directed the Comptroller General conduct a study of the training of the aviation safety inspectors of the FAA.

The study is to include an analysis of the type of training provided to FAA inspectors; what actions the FAA has undertaken to ensure that FAA inspectors receive up-to-date training on the latest technologies; what is the extent of FAA inspector training provided by the aviation industry; and whether such training is provided without charge or on a quid pro quo basis; and what is the amount of travel that is required of FAA inspectors in receiving training. Within one year the Comptroller General is to send a report on the results of the study to the House of

Representatives and the Senate.

Within 90 days, the FAA will make appropriate arrangements for the National Academy of Sciences to conduct a study of the assumptions and methods used by the FAA to estimate staffing standards for FAA inspectors to ensure proper oversight over the aviation industry, including the designee program. The study should include a suggested method of modifying FAA inspectors staffing models for application to current local conditions or applying some other approach to developing an objective staffing standard. Within 12 months, the National Academy of Sciences has been directed to transmit a final report to Congress on the results of the study.

The Century of Aviation Reauthorization Act included provision to oversee the FAA's use of the ADIZ here on the East Coast. There are provisions to compensate general aviation maintenance businesses for the economic losses imposed by airspace and airport closure. There were also changes in the FAA's budget that may delay the FAA's implementation of "new technology" in the National Air Space.

Look to the future pages of *Avionics News* for periodic updates on these and other issues originating from The Century of Aviation Reauthorization Act.

Regulatory Update

United States

FAA Published Flight Standards Information Bulletin for Airworthiness (FSAW) 04-01: Maintenance Personnel's Use of the Word "Maintenance" as a Call Sign When Taxiing or Towing an Aircraft

This bulletin provides guidance to Airworthiness Safety Inspectors (ASIs) with responsibility for maintenance related taxi and towing operations conducted under Title 14 of the Code of Federal Regulations (14 CFR) parts 91, 121, 125, 129, and 135.

Section 87.107(a) of the Federal Communications Commission's

(FCC) rules requires an aircraft using radio communication be identified by giving the type of aircraft followed by the characters of the registration marking. On February 26, 2002, the FAA filed a waiver request with the FCC to change the existing communications procedures due to problems encoun-

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tered between air traffic ground controllers and maintenance personnel moving aircraft on the taxiways.

The FAA requested the waiver because the communication problems between air traffic and maintenance personnel were a direct result of the absence of a standard form of station identification specifically applicable to aircraft being operated by maintenance personnel. The FAA requested that the FCC allow an aircraft being taxied or towed by maintenance personnel on an airport to use a station identification consisting of the company name, the word "maintenance," and the last three letters of the "N" number of the aircraft (e.g., "Denver ground control, this is "Frontier Maintenance, 789 Bravo Tango" at Frontier's maintenance hangar, request taxi instructions to Gate 54.").

The FCC granted the waiver on July 12, 2002. ASIs should discuss the new radio communication format with operators and suggest they adopt the new call sign because it alerts the air traffic ground controller that the person taxiing or towing the aircraft is a mechanic and not a pilot.

AEA member companies wishing to use this new procedure should contact their ASIs for coordination.

FAA Published Flight Standards Information Bulletin for Airworthiness (FAAW) 04-02: Changes to Joint Aviation Authorities (JAA) Maintenance Requirements and Transition to European Aviation Safety Agency (EASA)

This bulletin advises aviation safety inspectors (ASI) of changes occurring in Europe. The tasks of regulatory oversight and standardization of aircraft certification and maintenance are being transitioned from the Joint Aviation Authorities (JAA) to the

European Aviation Safety Agency (EASA). This information is relevant for ASIs located in the United States and in International Field Offices (IFO) who are responsible for Title 14 of the Code of Federal Regulations (14 CFR) Part 145 repair stations and are working under the terms and conditions of a Bilateral Aviation Safety Agreement and Maintenance Implementation Procedures (BASA/MIP). These agreements address specific arrangements between governments regarding the oversight provided by regulatory agencies. The existence of an MIP agreement does not affect the maintenance requirements for U.S.-registered aircraft. Any maintenance performed within or outside the United States must still comply with and be performed under 14 CFR part 43, 65, 121, 135, or 145, as applicable.

On July 15, 2002, the European Parliament and the Council of the European Union (EU) adopted Regulation (EC) No. 1592/2002. This legislation required the adoption at the European Community level of binding, uniform aviation safety rules, initially in the fields of aircraft certification and maintenance. An amendment to the regulation is being proposed to add requirements for aircraft operations and crew licensing. In addition, the legislation established EASA to oversee and enforce EU Member States' standardized application of the common rules and to carry out certain certification activities directly.

The JAA includes member authorities from countries that are not EU Member States or EU candidate members. Non-EU JAA members are not required to adopt EASA rules, guidance materials, certification specifications, or to rely on the findings of EASA to issue their own certifications. However, because key JAA members are now required to follow EASA rules on aircraft certification

and maintenance, the JAA's role in these areas will diminish. Initially, the JAA will continue to carry out many of these functions under contract to EASA, such as Maintenance Aviation Standardization Team (MAST), and Maintenance International Standardization Team (MIST) visits. EASA will gradually assume leadership in these areas. In addition, EASA has joined the JAA, allowing EASA to participate in the JAA for the benefit of non-EU members. In the areas of aircraft certification and maintenance, the JAA will likely be reduced to a small governing body to make EASA decisions applicable to other JAA members. The latest information regarding the transition and EASA development is on the JAA website at <http://www.jaa.nl> or <http://www.easa.eu.int>.

The FAA has concluded MIPs with its counterpart organizations under BASAs between the United States and France, Germany and Ireland. These agreements allow the FAA to rely on findings made by French, German and Irish aviation authorities during surveillance and providing the FAA with a recommendation for certification of Part 145 foreign repair stations in their respective countries. At the same time, the MIPs allow all 37 JAA members to rely on FAA certification and surveillance of JAA-accepted repair stations in the United States.

For now, the parties to these agreements have agreed to continue to abide by the existing agreements, provided the United States actively negotiates a new agreement with the European Community to replace the MIPs, as called for in the EASA regulation. However, EASA rules and procedures may result in some administrative differences that do not require amendments to the MIPs, but which may require authorities and certificate holders to make minor adjustments to how they conduct business under the MIP.

The current BASA/MIP with certain European countries will remain in effect until a new agreement is concluded between the United States and the European Community. The FAA is currently evaluating the EASA system to facilitate the development of a new agreement. All ASIs with repair station certificate responsibilities that include JAA acceptance should continue following the procedures in the current BASA/MIP until it is superseded by revised guidance.

FAA ASIs with JAA repair station acceptance located in the United States should, until further notice, continue following the procedures described in FAA Order 8300.10, Airworthiness Inspector's Handbook, volume 2, chapters 167, 168, and 169 for processing JAA initial, renewal, and JAAMIST team procedures. ASIs should advise U.S. industry to continue following Advisory Circular (AC) 145-8, Acceptance of Repair Stations by the JAA and JAA-Member NAAs Under the Maintenance Implementation Procedures of a Bilateral Aviation Safety Agreement, as amended, and JAA TGL No. 22.

Order 8300.10, volume 2, chapters 170, 171 and 172 contain initial, renewal and turnover processes for FAA IFOs working in France, Germany and Ireland. Additionally, Order 8300.10, volume 3, chapter 99, International Field Office Procedures for Participating in Foreign National Aviation Authorities Internal Quality Audits and Sample Surveillance of Repair Stations Under a BASA/MIP, contains surveillance procedures for IFOs under a BASA/MIP. All IFO ASIs are required to continue following the above handbook guidance until notified otherwise. IFO ASIs are also required to continue recognizing the current MIP initial, renewal and amendment procedures described in AC 145-7, Issuance of Repair Station Certificates to Foreign Approved

Maintenance Organizations Under the Maintenance Implementation Procedures of a Bilateral Aviation Safety Agreement, as amended.

Replacement of JAA Forms

All FAA ASIs will soon be using EASA forms that will be replacing JAA forms, i.e.:

- JAA Form 1, Authorized Release Certificate, will be changed to EASA Form 1.

- JAA Form 9, FAA Status Report on a FAR Part 145 Repair Station JAA Accepted or Applicant for JAA Acceptance, will become EASA Form 9, Recommendations for Renewal and Surveillance.

- JAA Form 16, USA Repair Station Application for Initial/Renewal/Amendment of JAA Acceptance in Accordance With JAR-145, will become EASA Form 16, Application for EASA Approval of U.S. Domestic Repair Stations.

During the transition from JAA to EASA, each ASI should give the same validity to EASA forms as they currently give JAA forms.

NOTE: Some JAA forms, such as JAA Form 1, may continue to be used by non-EU member countries. The FAA will inform ASIs of any new developments that may impact maintenance documentation requirements.

FAA Order 8100.14, Interim Procedures for Working with the European Community on Airworthiness Certification and Continued Airworthiness

This provides detailed information on the import and export changes that may affect current and future products. The order may be accessed at <http://www1.faa.gov/certification/aircraft/>.

Guidance for Demonstration of System, Hardware and Software Development Assurance Levels on Transport Category Airplanes

The FAA has announced the availability of policy on guidance for demonstration of software, hardware and software development assurance levels on transport category airplanes. The policy was issued by the Transport Airplane Directorate on January 15, 2004.

Canada

Transport Canada Proposes Regulations for Implementation of a Fatigue Risk Management System in Approved Maintenance Organizations

TCCA has published NPAs 2004-010, -011, -012 and -013 to propose implementation of fatigue risk management in AMOs. TCCA commissioned a study in 1996 to assess the impact of fatigue in the civil aviation maintenance environment. The study, which looked at the impact of fatigue on human performance through an analysis of numerous variables, including: shift duration, shift times, number of consecutive days worked, geographic location and type of work arrangement, provided evidence to suggest that fatigue and excessive periods of work may be present in the aircraft maintenance workforce and that fatigue induced maintenance errors could pose a significant problem. TCCA is therefore proposing regulations that would require maintenance organizations to implement a fatigue management system that is tailored to their own particular circumstances, as part of their broader safety management systems.

A new CAR 573.16 is proposed that states: "Each AMO shall establish and

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maintain a Fatigue Risk Management System that meets the criteria set forth in STD 573 – Approved Maintenance Organizations, for the management of risks arising from fatigue related errors.”

An amendment to STD 573.06 (3) is proposed that adds required elements for fatigue training to AMO training programs.

An amendment to STD 573.10 (1) is proposed that adds a requirement to include details of the fatigue risk management system in the AMO Maintenance Policy Manual.

An amendment to STD 573.16 is proposed that provides standards for a fatigue risk management system. The system shall include defined responsibilities; procedures for reporting,

investigating, analyzing, monitoring and recording fatigue related hazards; practical guidelines for minimizing or eliminating the effect of fatigue related hazards; a contingency plan for dealing with fatigue related situations; a review of legal and operational responsibilities; an auditable methodology for ensuring employees have the opportunity to obtain sufficient sleep and are not assigned to safety sensitive functions following an excessive period of wakefulness; a competency-based training and education program; and an ongoing system for review of the system’s effectiveness and a mechanism for continuous improvement.

The NPAs were to be discussed at the CARAC Maintenance and Manufacturing Technical Committee, March 9-10, 2004. Full text of the NPAs may be viewed at:

<http://www.tc.gc.ca/civilaviation/RegServ/Affairs/carac/NPAs/MM/mar04/menu.htm>

Transport Canada Proposes Standards for Safety Management Systems

TCCA has proposed that Safety Management Systems (SMS) be introduced for maintenance management of CAR 704 (Commuter Operations) and 705 (Commercial Air Carrier) operations, and for AMOs with ratings for aircraft that are eligible for these operations. Proposed generic regulations and standards have been prepared for review at the March 9-10, 2004 CARAC M&M Technical Committee meeting. Once accepted, the contents will be reformatted and presented as NPAs for integration into the relevant CARs. At that time the text will be adjusted as necessary to suit the type of certificate holder’s operations. Although SMS requirements have currently only been proposed for maintenance operations as identified above, it is understood that TCCA will eventually require all AMOs to implement a

Safety Management System. TCCA has published a guide to SMS implementation: TP13881E “Safety Management Systems for Flight Operations and Maintenance Operations.” This is available for download from the TCCA website at: <http://www.tc.gc.ca/CivilAviation/maintenance/SMS/menu.htm>

Europe

EASA continues to staff their new organization. On January 23, EASA announced their updated organizational chart. The designated persons had been announced earlier. Many of the support staff position will not be filled until EASA moves into their new building in Cologne which is expected to be in late September or October 2004.

Decision No. 2004/01/RM of the executive director of the agency on the acceptance of design changes and repairs to products designed in the USA was issued on the January 9.

Changes

Major Level 2 and minor changes to the design of products for which the United States are State of design and for which a certificate has been issued or defined in accordance with the provisions of Article 2 of the Commission Regulation, are automatically accepted by the Agency when approved by the Federal Aviation Administration (FAA) in accordance with the procedures of an agreement in force between a Member State and the United States.

Repairs

For products for which the United States are State of design and for which a certificate has been issued or defined in accordance with the provisions of Article 2 of the Commission Regulation, the Agency automatically accepts, when they are approved by

AEA Members: Have a Regulator y Question?

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AIRCRAFT ELECTRONICS
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the FAA in accordance with the procedures of an agreement in force between a Member State and the United States:

(a) Repairs designed by the type-certificate holder; and

(b) Minor repairs designed by others than the type-certificate holders.

EUROCONTROL

Eurocontrol held a Mode S Briefing Day on March 24, 2004 in the EUROCONTROL Headquarters (Brussels, Belgium). Eurocontrol wants to keep airspace users fully informed about the decision made and the transition period ending on March 31, 2005, until which operators will have to introduce Mode S Elementary Surveillance for IFR flights in the airspace of Belgium, France, Germany, Luxembourg, the Netherlands and Switzerland.

The decision requires that aircraft operators equip their fleet with Mode-S capable equipment to ensure an acceptable and safe probability of aircraft detection, to reduce Radio Frequency (RF) congestion and to alleviate the shortage of available Mode-A codes.

Australia

Firm But Fair— New Charter for Aviation Safety Regulator

A new charter and strategic direction for the Civil Aviation Safety Authority (CASA) was released on December 23, 2003 by Deputy Prime Minister and Minister for Transport and Regional Services, John Anderson. The release follows discussions between Anderson and CASA's newly appointed Chief Executive Officer, Bruce Byron.

"I have provided Mr. Byron with a new 'Charter Letter' to guide his leadership and the work of CASA over the next few years," Anderson said. "The charter reflects CASA's new operating

environment and sets out the government's vision for Australia's aviation safety regulator.

"Although I have an increased role in CASA policy setting and organizational performance, I have emphasized in the charter that it is essential Mr. Byron retains his independence in the management of the regulatory function.

"The charter recognizes that safety is CASA's primary concern, but the organization must also be aware of the government's aviation reform agenda and be in a position to respond fully to government policy directions and decisions. I have detailed a range of characteristics that I believe should be systematically entrenched in CASA. Consultation, consistency, fairness, accountability, courtesy and independence are key attributes of a world class regulator. I am looking to the CEO to guide CASA staff in balancing their dual roles of regulator and educator as the organization implements its revised governance arrangements.

"Over the coming year, CASA should measure and benchmark its organizational performance in a number of key areas including communication and consultation, effectiveness and efficiency, and timeliness. I also expect CASA to remain up to date on international developments and to continue its commitment to the International Civil Aviation Organization.

"Firm but fair should be the guiding force for CASA over the coming years. I look forward to working with Mr. Byron and CASA in maintaining Australia's exemplary safety reputation and providing world best practice aviation safety regulation." Anderson promised to table the CASA Charter Letter when Parliament resumed in February.

The new CASA Charter Letter is available on the CASA website at: casa.gov.au/corporate/charter.htm □