Aeronautical Repair Station Association

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FOR IMMEDIATE RELEASE

Court Delays FAA Drug/Alcohol Rule Compliance Date 10 Days; Will Examine ARSA Request For Nine-Month Extension

Alexandria, Virginia, October 5—The U.S. Court of Appeals for the District of Columbia Circuit has issued an interim order that pushes the new FAA drug & alcohol testing rule's compliance date back 10 days, to October 20. The court will use the 10 day extension to take a closer look at an ARSA filing that asks for the compliance date to be pushed back nine months, to July 10, 2007, while the court decides ARSA's full appeal on the legality of the FAA's new rule.

ARSA's filing--legally an "emergency motion to stay"--was made Tuesday with the intention of relieving industry from having to comply with the new regulation before the court ruled on ARSA's full appeal, filed March 10, asking the court to review the new drug & alcohol (D&A) testing rule.

The FAA last week rejected an ARSA request for a nine-month extension, leading ARSA to file its emergency motion with the court. The agency informed the court that it would consent to the 10-day extension, clearing the way for the court to take the unusual step of issuing an interim order.

"We are pleased by the court's order and appreciate the FAA's consenting to it," said Al Givray, a partner with Jacobs Chase Frick Kleinkopf & Kelley LLC, the firm leading ARSA's court effort against the FAA's new D&A rule. "The 10-day extension will give the court time to study the reasoning behind ARSA's emergency request on why the rule should be suspended for nine more months so the industry and the FAA can work together in clarifying the new rule and the guidance issued so far. Should these clarification efforts fail, ARSA's requested nine-month suspension of the new rule will allow the court to consider the powerful arguments that ARSA and the other petitioners have made in the full appeal that explain why the new rule is poorly written, is not needed, violates present law, and should be struck down."

The court's order, issued October 4, gives the FAA until Friday, October 13, to submit a response to ARSA's emergency motion, and gives ARSA and the other petitioners until Tuesday, October 17, to file a reply to the FAA's response.

About ARSA

The Aeronautical Repair Station Association (ARSA) is the only trade association dedicated exclusively to representing the interests of aircraft maintenance and alteration facilities before the Federal Aviation Administration (FAA) and other government agencies in the U.S. and abroad. Its 700 members perform maintenance and alterations on behalf of U.S. and foreign air carriers, as well as other aircraft owners and operators.

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Notes To Editors

Links to related documents/information:

A copy of the court's interim order can be downloaded here:
http://www.arsa.org/files/dastayorder261004.pdf

A copy of ARSA's emergency motion can be downloaded here:
http://www.arsa.org/files/261004_arsa_staymotion.pdf

For information on the FAA's new D&A testing program rule issued January 10, see this link:
http://www.arsa.org/da

Safety & the current D&A testing requirements:

The FAA D&A testing program requirements currently in effect date back to 1988 (for drug testing) and 1994 (alcohol testing). ARSA supports the current rules.

Under the current requirements, employees performing "safety-sensitive" functions--including maintenance--for part 121 or part 135 certificate holders (air carriers and other commercial operators), either directly or by contract, must be part of an FAA-approved D&A testing program. Employees of certificated repair stations in the U.S. performing such work must be tested under an FAA-approved D&A testing program.

Repair stations and commercial aircraft operators must, under FAA regulations, test and/or inspect all work done by non-certificated subcontractors at any tier to ensure its airworthiness.

Therefore, expanding the D&A testing requirements to all subcontractors at any tier--as the January 10, 2006 rule does--fails to add any safety benefits to the maintenance process. Rather, the new rule would add burdensome requirements to companies that, under FAA's own rules, already have their work inspected and approved as airworthy by FAA-certificated repair stations and/or operators.

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