



Aeronautical Repair Station Association

since 1984

***the hotline***

***August 2013***

## Latest News

### ***Sarah Says: Are You In or Are You Out?***

*By Sarah MacLeod, ARSA executive director*

Are you in or are you out?

Drug and alcohol testing under 14 Code of Federal Regulations (CFR) part 120 can be a complicated maze. It is a violation when you don't put people "in the pool" (under-test) as well as when you put the wrong people "in the pool" (over-test). The "pool" is the group of safety-sensitive employees whom the government has decided must be tested under the Department of Transportation (DOT)/Federal Aviation Administration (FAA) regime. The association always hated this rule and believes it should have been limited to those who actually perform aircraft maintenance; that is, only test the persons who work on the completed aircraft. That, unfortunately, is not how the rule is applied; indeed, operators have to ensure their maintenance providers (mostly repair stations) are testing safety-sensitive persons "at any tier" of the contractual relationship.

Persons in the United States performing "directly or by contract (including by subcontract at any tier)...aircraft maintenance or preventive maintenance duties" for parts 121 and 135 air carriers, as well as part 91 operators carrying people for compensation or hire (§ 91.147), must be included in the pool. The description includes people who conduct maintenance or preventive maintenance functions every day, as well as anyone ready to perform or immediately available to perform those safety-sensitive tasks. Alterations are not included, but that doesn't mean the FAA wouldn't consider those tasks "safety-sensitive"; when the government uses sloppy verbiage it merely enforces what it meant to say.

The bottom line is that people are being tested who don't need to be and others are not tested who should be "in the pool." A couple of reasons it is difficult to figure who should be in or out of the pool are:

(1) A company's job descriptions as well as the duties, responsibilities, and authorities in a repair station manual do not contemplate compliance with the drug and alcohol testing rules. Since human resource departments lean on the "quality folk" for job descriptions, there can be a big disconnect when descriptions or duties change. People who should or should not be tested get lost in the shuffle—violations that are easy to find and enforce include transferring a person from a non-safety-sensitive job to a safety-sensitive one without pre-employment testing.

(2) The FAA enforces the rule through drug abatement, but it is the Flight Standards Division that determines whether something is "maintenance or preventive maintenance." Since there is no written procedure of how the two offices must coordinate when questions come up or enforcement actions are contemplated, the message from either to a certificate holder on compliance is problematic.

No need to fear, the association can help its members figure out who should or should not be allowed in the pool—just give us a call or use [arsa@arsa.org](mailto:arsa@arsa.org) to send us a question.

## ***ARSA Pushes for Extension or Withdrawal of Continental Motors NPRM***

On Aug. 30, ARSA and Savvy Aircraft Maintenance Management, Inc. [requested](#) the Federal Aviation Administration (FAA) submit objective evidence to support its proposed airworthiness directive (AD) regarding Continental Motors, Inc. Reciprocating Engines ([Docket No. FAA-2012-0002](#)). Further, the groups want the FAA to either extend the comment period by 120 days after the addition of that information to the docket or withdraw the rule until such data can be placed in it.

The groups contend that although the agency includes engineering data, no evidence of the FAA's deliberations or objective standards supporting its statements were present, and the documents required to comply with the proposed action were not appropriately incorporated by reference.

Additionally, ARSA pointed out that the proposed rule lacked elements for compliance with the Small Business Regulatory Enforcement Fairness Act and the Regulatory Flexibility Act, including demonstrating the action will have minimal significant economic impact on small businesses.

Stay tuned to the ARSA Dispatch and the hotline for news of the FAA's response.

## ***ARSA Requests Interpretation on AMOC Order***

On Aug. 28, ARSA sent the Federal Aviation Administration (FAA) a [request](#) for a legal interpretation confirming question "f" in the appendix of [Order 8110.103A](#) is inaccurate and that it and the answer will either be corrected or removed.

The question and answer listed in the Order are as follows:

*Question: The AD requires that I accomplish specific instructions in a SB [Service Bulletin]. Those instructions require actions from a manual, and the manual requires actions from a standard practice manual. My operating procedure differs from the standard practice manual. Do I need an AMOC [Alternative Methods of Compliance] to keep using my operating procedure?*

*Answer: Yes. You must accomplish the specific instructions in the SB specified in the AD (Airworthiness Directive), including any second- or third-tier documents that are required to complete the action(s).*

ADs are part of the Code of Federal Regulations and are therefore subject to the Administrative Procedures Act, which requires an agency obtain approval for each document it wishes to incorporate by reference (IBR) in a rule. In its request, ARSA argued the answer



The hotline is the monthly publication of the aeronautical Repair Station Association (ARSA), the not-for-profit international trade association for certificated repair stations. For a membership application, please call 703.739.9543 or visit [www.arsa.org](http://www.arsa.org).

**Gary M. Fortner**  
President

**Gary Jordan**  
Senior Vice President

**Jim Perdue**  
Treasurer

**[Sarah MacLeod](#)**  
Executive Director

**[Marshall S. Filler](#)**  
Managing Director & General Counsel

**[Christian A. Klein](#)**  
Executive Vice President

**[Jess Hammett](#)**  
Editor, the hotline

Advertising in the hotline does not constitute endorsement or approval by ARSA. Please direct advertising inquiries to [hotline@arsa.org](mailto:hotline@arsa.org). This material is provided for educational and informational purposes only. It does not constitute legal, consulting, tax or any other type of professional advice.

Law, regulations, guidance and government policies change frequently. While ARSA updates this material, we do not guarantee its accuracy. In addition, the application of this material to a particular situation is always dependent on the facts and circumstances involved. The use of this material is therefore at your own risk.

All content in the hotline, except where indicated otherwise, is the property of ARSA. This content may not be reproduced, distributed or displayed, nor may derivatives or presentations be created from it in whole or in part, in any manner without the prior written consent of ARSA.

ARSA grants its members a non-exclusive license to reproduce the content of the hotline. Employees of member organizations are the only parties authorized to receive a duplicate of the hotline.

ARSA reserves all remaining rights and will use any means necessary to protect its intellectual property.

© 2013 Aeronautical Repair Station Association

to question “f” does not make clear what exactly is “required to complete the action(s),” and that the language in the Order does not comply with the requirements governing IBRs.

Stay tuned to ARSA for the FAA’s interpretation.

## ***IRS Mandates Businesses Inform Employees of Health Coverage***

On Aug. 30, the Internal Revenue Service published a [rule](#) in the *Federal Register* requiring employers to provide all employees (full and part time) with information regarding their health coverage options by Oct. 1, 2013.

Mandated by the Affordable Care Act, the new rule applies to businesses that fall under the Fair Labor Standards Act regardless of whether the employer offers health insurance to any of its employees. Businesses will be required to notify new hires of coverage options within 14 days of their start date.

The Department of Labor created model notices for employers that [do offer](#) and [do not offer](#) health coverage to employees. Notices must include information about what is provided in the Health Insurance Marketplace, an employee’s eligibility for premium tax credits for certain plans, and that purchasing coverage in the Marketplace may mean forfeiting an employer-sponsored health care plan.

Stay tuned to ARSA for more information about Affordable Care Act rules.



## ***House and Senate THUD Bills Fail to Make Sound Before Recess***

As lawmakers entered the final legislative week before the August recess, transportation advocates were optimistic that the House and Senate would complete work on Transportation, Housing, & Urban Development (THUD) appropriation bills ([S. 1243](#); [H.R. 2610](#)).

However, in what epitomized the contentious nature of the past eight months, lawmakers left town with both chambers failing to complete work on the bills as interparty squabbles and partisan bickering got in the way of compromise and legislating.

The Senate THUD bill, which contained \$54 billion in funding, largely ignored the spending caps negotiated during in the Budget Control Act of 2011 (the sequestration law). Senate appropriators set aside \$9.707 billion for FAA operations, a 3.3 percent increase from FY 2013 enacted levels. While the bill had the bipartisan support of THUD Subcommittee Chairman Patty Murray (D-Wash.) and Ranking Member Susan Collins (R-Maine), Senate Majority Mitch McConnell (R-Ky.) organized the entire Republican conference on the Senate floor (except Collins) in opposition to the legislation, preventing it from overcoming the 60-vote threshold to bypass a filibuster.

In the House, H.R. 2610 appropriates \$44.1 billion for fiscal year 2015 to the Transportation and Housing & Urban Development Departments, a \$4.4 billion cut to current, post-sequestration levels –the lowest amount in seven years and nearly \$10 billion less than the Senate version. The House bill only increased FAA operation funds from the previous year by 1.3 percent, setting FY 2014 levels at \$9.522 billion. Scoffed at by the Democratic caucus and GOP moderates for inadequately funding infrastructure investments, House Republican leaders pulled the legislation from the floor on July 30 to save face.

Congress has limited days in session before the end of the fiscal year (Sept. 30), so it likely won't revisit the THUD appropriation bills next month. Instead, lawmakers will focus on the arduous task of completing a continuing resolution to avoid a government shutdown.

## ***Filler Highlights BASAs at Asia-Pacific Conference***

At an Aug. 13 FAA Asia-Pacific Flight Standards Meeting, ARSA Managing Director and General Counsel Marshall S. Filler, as part of a panel on maintenance repair organization oversight, spoke about the value of bilateral aviation safety agreements (BASAs).

Filler's presentation illustrated how BASAs reduce regulatory compliance costs and make government oversight more efficient. He also shared ARSA [survey data](#) assessing the economic impact of BASAs on the civil maintenance industry that found it costs repair stations significantly more to become certificated by "foreign" civil aviation authorities when the home country does not have a BASA. Redundant oversight – particularly on small facilities – is costly; these international agreements help make repair stations more profitable. Filler suggested that because virtually all members of the International Civil Aviation Organization (ICAO) exercise state of registry responsibilities it is important to reduce the number of redundant technological determinations in maintenance. Among the options are:

- Complete validation
- Distinguishing between work performed on aircraft vs. components
- Increased regional cooperation
- Negotiating more maintenance bilateral agreements

Filler further discussed how, unlike airworthiness agreements, the number of Maintenance Implementation Procedures between the FAA and other states is limited, suggesting that they should therefore be increased. He also advocated for the U.S.-Canada or EASA-Canada model, where separate certificates are not required because the regulatory oversight structures are seen as equivalent, though the legal and political constraints continue to be an impediment.

The authorities at the meeting agreed that the number of approved maintenance organization (AMO) audits have reached the point of diminishing returns. Filler mentioned that with most maintenance conducted by AMOs the current requirement that the work be performed in accordance with the air carrier's instructions can lead to non-standardization, such as personnel using different task cards to perform the same work on the same aircraft. ARSA believes the maintenance provider knows the most about maintaining the aircraft or other article and hopes ICAO explores opportunities to increase standardization in this area.

## ***Bill to Rein in Regulators Clears House***

On Aug. 2, the House passed legislation that requires new rules with an economic impact of more than \$100 million to undergo review and approval by the House and Senate before taking effect.

The Regulations from the Executive in Need of Scrutiny (REINS) Act ([H.R. 367](#)) also mandates that if Congress doesn't sign off on a "major" rule in 70 legislative days, it cannot be implemented.

According to House Small Business Committee Chairman Sam Graves (R-Mo.), major rules published in the past four years have added nearly \$70 billion in new regulatory costs. The bill's supporters hope the REINS Act would thwart other major regulatory actions, such as rules born out of the Affordable Care Act and Dodd-Frank.

Facing a veto threat from the White House, the REINS Act will likely encounter the same fate as a [similar bill](#) that passed the House in December 2011, which never made it to the Senate floor. Sen. Rand Paul (R-Ky.) has introduced the REINS Act ([S. 15](#)) in the Senate.



## ***Congressmen Spend Recess Studying at Repair Stations***

With lawmakers home for the month-long August recess, repair stations across the country stepped up to ARSA's challenge to educate their representatives about the aviation maintenance industry.

On Aug. 22, Rep. Dave Joyce, R-Ohio, member of the House Appropriations Subcommittee on Transportation, Housing, & Urban Development, toured Component Repair Technologies' (CRT) Mentor, Ohio facility. CRT's leadership team explained to Joyce the concerns surrounding the ban on new foreign repair station certificates and the possible retaliation from other civil aviation authorities, and discussed other business issues such as the implementation of the Affordable Care Act.



"Repair stations employ 10,624 Ohioans and generate more than \$1.7 billion in annual economic impact," Joyce said. "I'm proud to have companies like Component Repair Technologies in Northeast Ohio and will continue working to reduce the regulatory burden on small businesses in our region."



On Aug. 28, House Appropriations Subcommittee on Homeland Security Chairman John Carter, R-Texas, will meet with leaders at Red Aviation in Georgetown, Texas. The chairman's subcommittee has jurisdiction over the funding determined for the Transportation Security Administration, which is tasked with completing the repair station security rules.

On the same day, senior staffers from the office of Rep. Frederica Wilson, D-Fla., will visit with Josh Clot, the owner of Aircraft Electric Motors in Miami Lakes, Fla. Wilson is a member of House Science, Space, & Technology Subcommittee on Space, which has jurisdiction over civil aviation research and development issues.

Congressional facility visits are the best way to introduce policymakers to your company, your employees, and your industry. ARSA is standing by to facilitate these visits. Please [contact us](#) if you need help making an appointment. Remember, congressional staff visiting your facility is as important as a visit from the actual member of Congress. These tours are a great way to raise the visibility of your company and your industry.



## ***Lower Your 2013 Tax Bill by Investing in Your Company***

With the depreciation bonus set to end on Dec. 31, time is running out for your company to cut its 2013 tax bill by making new capital investments.

The depreciation bonus was first enacted to help pull us out of the 2000-2002 recession. It lapsed in 2005, but was reinstated in 2008 as the economy again took a turn for the worse. Congress has renewed the law ever since; but given recent signs of economic strength, it's unlikely lawmakers will extend it again.

Here's what you need to know to take advantage of the depreciation bonus in the time that's left:

In a nutshell, the law lets a company that buys new equipment in 2013 write off 50 percent of the value plus the percentage of remaining basis that it would normally deduct in the first year. That, in turn, reduces the company's taxable income, which in turn reduces the company's tax bill.

Here's an example of how it works. Assume you buy a new \$100,000 asset with five-year MACRS life. Under the temporary law, you can write off \$50,000 (50 percent bonus depreciation) plus \$10,000 (20 percent of

remaining \$50,000 in basis) for a total write-off (taxable income reduction) of \$60,000. If you're in the highest tax bracket, that can mean a savings of \$15,840 off your 2013 tax bill.

To qualify, the equipment must be:

- New (first use must occur with the taxpayer claiming the bonus depreciation);
- Depreciable under MACRS with a cost recovery period of 20 years or less;
- Put in service in calendar year 2013 (so don't wait until Dec. 31 to place your order!); AND
- Purchased in 2013.

A couple additional things to keep in mind:

- There's no limit on the value of the assets that can be depreciated.
- The depreciation bonus can be combined with Sec. 179 (which allows some companies to expense new AND used capital asset purchases) for even more tax savings.
- The depreciation bonus isn't mandatory (you can opt out).
- Depreciating more of an asset's value this year means you'll have less to depreciate in the future, so your tax bills in the out-years could be higher (but consider the time value of the money – would you rather have Uncle Sam holding onto it or be able to use it now to pay workers, make other investments in your company, etc.)
- The law can also put you in a negative tax situation if you sell the asset before the end of its tax life. However, the pain can be negated by taking advantage of Like-Kind Exchange rules.
- Some states have disallowed the depreciation bonus, so claiming it on your federal return may create some complexities when you file with the state.

More information about the law is available at <http://www.depreciationbonus.org> and at <http://www.irs.gov/publications/p946/index.html>.

Of course, the tax code is incredibly complex and every company's tax situation is unique. This article isn't intended to be tax or legal advice. Be sure to check with your tax professional before making any purchase with the intention of claiming depreciation bonus.

—ADVERTISEMENT—

**BLUESTONE PAYMENTS** 

THE SOLID CHOICE FOR MERCHANT SERVICES

[Click for details](#)

## ***50th Anniversary of March on Washington***

*By Eric Byer, ARSA vice president of communications, policy and planning*

A little while ago, Sarah MacLeod alerted me to the fact that ARSA had not highlighted today is the [50th Anniversary of the March on Washington](#). While this is an obviously historical date in American history, I did not recognize its importance to ARSA. Sadly, nor did I know as much as I thought I did about this date in history.

This afternoon, a crowd of over 50,000 people is expected to listen to President Obama, as well as former U.S. Presidents Clinton and Carter, commemorate Martin Luther King's famous "I Have a Dream" speech made on this day in 1963. King delivered the speech before more than a quarter million people from the steps of the

Lincoln Memorial during the [March on Washington for Jobs and Freedom](#). It is widely acknowledged as one of the defining moments in the American Civil Rights Movement in the U.S.

The speech did much more than highlight eradicating racism; it focused on equality for everyone, regardless of skin color, sex, orientation or ethnicity. It spurred African-Americans, women, indeed all minorities and the disadvantaged to run for and succeed in politics (insert President Obama, Congressmen John Lewis and Barney Frank, and Senator Barbara Boxer), to become titans of business (insert Robert L. Johnson and Kenneth Chenault), to top the entertainment industry charts (insert Oprah, Jay-Z, Puff Daddy, and Russell Simmons), and to be sports icons (insert Jackie Joyner-Kersey, Michael Jordan, Alex Rodriguez and Tiger Woods).

It continues to move and create highly motivated, and somewhat outspoken, young professionals such as Sarah MacLeod to start an organization 25 years later with only \$6,000 and a dream.

So, please take a moment to learn more about the march and its date in American history. You might learn a lot more than you thought you already knew.

## *Aviation and Beyond...*

When you think about ARSA, you probably think of the association as the voice of repair stations on aviation policy issues. While aviation policy is our primary focus, did you know that ARSA's legislative team is also hard at work representing the aviation maintenance industry on other issues that impact your cost of doing business?

The hot topic on Capitol Hill right now is tax reform. In April, ARSA submitted comments to the House Ways & Means Committee's Small Business Tax Reform Working Group urging lawmakers to create a simpler tax code with greater tax certainty. News organizations outside the aviation trade press covered the association's comments.

Additionally, ARSA is represented at monthly Family Business Coalition meetings, an alliance of organizations committed to federal estate tax repeal and other small business tax issues. The association has also been active with a coalition of industry groups representing S corporations, partnerships, and sole proprietorships to urge lawmakers to reform both the individual and corporate tax codes.

Tax reform isn't the only issue that ARSA is engaged on that impacts your cost of doing business. The association has been working with our Capitol Hill and industry allies advocating for fair and pragmatic labor policy that protects the rights of employees and employers. ARSA also engaged policymakers in opposition to proposals that would severely restrict government employee attendance at meetings and conferences hosted by associations. Finally, regulatory reform has long-been a top priority, particularly strengthening small business protections under the Regulatory Flexibility Act to hold regulators accountable for ensuring rules are narrowly tailored, supported by strong evidence, and impose the lowest possible burden.

ARSA isn't just an aviation policy-focused association; it's a staunch defender of free markets, entrepreneurship, and economic growth. What's increasing your cost of doing business and preventing your company from growing?



### **ARSA Members: [Benefit from Staples Business Advantage](#)**

- Competitive pricing on the products and services you use
- Process and efficiency savings through supplier consolidation
- Greater control and visibility of your company's spend
- Increased compliance to maximize your program savings

**[Click here for more information and to sign up!](#)**

## Go Ahead, Give ‘Em Your Digits

By Josh Pudnos, ARSA communications manager

One of the ways ARSA and other organizations with public relations interests build relationships with the media is providing additional information on an article they wrote –journalists often report on the same subject and may revisit their notes for the next article. Creating this relationship and providing information to the press not only solidifies your company as a go-to source on the subject, it also helps ensure you dictate how your story is told time and time again.

Last week ARSA spotted an article in a regional newspaper about the growth of the aviation maintenance industry and jobs in central Florida. We were very excited to see such a terrific and positive story – precisely the goal of the association’s [Positive Publicity Campaign](#) – but the article lacked one critical element: aviation maintenance industry economic data specific to the state.

I emailed the author to tell her about ARSA’s various [economic research reports](#) detailing the global MRO market, the impact of bilateral aviation safety agreements, and the industry’s economic and jobs footprint in each state. Specifically, I stated that Florida is the fourth largest state in terms of aviation maintenance employees, with 18,873 workers, and the industry has a total annual impact of \$2.162 billion on the state’s economy.

She responded, “[I] wish I would have had this last week! I’ll keep that in mind for future articles concerning the industry.”

The aviation maintenance sector isn’t the easiest for outsiders to understand. Our technicians don’t refurbish engine parts in a garage next to McDonald’s, and our leaders are rarely written up in Forbes. But together we keep planes safe and dependable, and we bring home food to our families. That’s something the public can relate to, and that’s a story you can tell.

When you’re talking to the press or federal, state, and local lawmakers, point them to your state’s [industry economic impact numbers](#). They’ll be as happy as ARSA that you did.

## Legal Briefs

### *Looking Back and Forward: Drug and Alcohol Testing*

Adding to the regulatory issue page “library,” this month we look at some history surrounding the repair station antidrug & alcohol (D&A) testing rules, what ARSA did to combat the original rulemaking, and what the association does to assist its members with compliance. This article and further information is available at <http://arsa.org/regulatory/faa/operations/arsas-drug-and-alcohol-testing-rule-action/>.

On Jan. 10, 2006, the Federal Aviation Administration (FAA) issued a [final rule](#) “to clarify” D&A testing regulations; henceforth “...each person who performs a safety-sensitive function for a regulated employer by contract, *including by subcontract at any tier*, [will be] subject to testing” (emphasis added).

ARSA promptly challenged the mandate; in a July 17, 2007 decision, the U.S. Court of Appeals for the District of Columbia Circuit agreed the FAA violated the [Regulatory Flexibility Act](#) (RFA) by not properly considering the rule’s impact on small businesses ([ARSA, et. Al. v. FAA, 494 F. 3d 161](#)).

The RFA ([5 U.S.C. § 603 \(a\)](#)), passed by Congress in 1980, addresses the disproportionate economic impact of federal regulations on small businesses. The law does not require special treatment or regulatory exemptions for small businesses, but mandates that agencies look at different ways to achieve public policy objectives without unduly burdening those enterprises.



In its D&A rulemaking, the FAA argued the new rule would only affect 297 repair station subcontractors. In response, ARSA conducted a member survey and its own economic analysis and estimated the number of subcontractors affected at more than 12,000. The discrepancy caused the Small Business Administration's Office of Advocacy to weigh in; it also concluded the FAA's analysis was flawed.

The Court ultimately upheld the D&A testing requirements but directed the FAA to conduct the proper RFA analysis. For more than three years, the FAA failed to make any effort to comply with the court's ruling. On Feb. 17, 2011, ARSA filed a [petition for a writ of mandamus](#) to force the FAA into compliance and on March 1, 2011, the court [sided with ARSA](#), giving the FAA until March 10 to perform the final regulatory flexibility analysis.

On March 8, 2011, the FAA published a supplemental regulatory flexibility determination (SRFD) in the [Federal Register](#), which the court accepted in its April 13, 2011 [order](#). While the association [submitted comments](#) challenging the FAA's SRFD conclusion (arguing the FAA failed to use reliable and independently verifiable data as required by the RFA and the Data Quality Act), the FAA published its [final regulatory flexibility determination](#) on July 12, 2011.

ARSA continues to assist its members in complying with the D&A rules. Additionally, the association has partnered with NATA Compliance Services (NATACS) to provide antidrug and alcohol program management services for accurate, fast and reliable solutions. NATACS is a "one stop" solution that provides policy templates, plan setup, regulatory assistance, and program administration. Learn more at the Sept. 18, 2013 [Drug & Alcohol Program Webinar](#).

## ARSA on the Hill

*By Daniel Fisher, ARSA vice president of legislative affairs*

In August, ARSA continued to work behind the scenes with the aviation maintenance industry's strongest Capitol Hill allies to introduce legislation to lift the ban on FAA foreign repair station certifications. If you're interested in joining our push, please contact [Daniel Fisher](#). It takes a combination of the association's legislative team educating Congress and hearing from constituents about the issue to get a bill introduced.

The legislative team coordinated several lawmaker visits to ARSA member facilities during the August congressional recess. On Aug. 22, Rep. David Joyce (R-Ohio) visited Component Repair Technologies in Mentor, OH. On August 28, two ARSA members played host. In the morning, senior staffers from [Rep. Frederica Wilson's](#) (D-Fla.) toured [Aircraft Electric Motors](#) in Miami Lakes, Fla. Later in the day, [Red Aviation](#) in Georgetown, Texas, visited with [Rep. John Carter](#) (R-Texas). Facility visits are the best way to educate policymakers (both lawmakers and staffers) about the industry and your business while raising your company's visibility.

Before the August recess, ARSA PAC delivered campaign support to Congressman John Mica (R-Fla.). Mica, a senior member of the Transportation & Infrastructure Committee, has been a strong advocate for the aviation maintenance industry and was a past recipient of ARSA's Legislative Leadership Award.

To ensure lawmakers like Rep. Mica return to Capitol Hill, ARSA PAC is continuing to push for more support. This year, 20 members have given \$7,095 to the PAC. To learn more visit <http://arsa.org/legislative/about-arsa-pac/>.

AAIRRG**Insurance for Repair Stations**  
*click here for information*

AVIATION ALLIANCE INSURANCE RISK RETENTION GROUP, INC.

# Regulatory Outlook

## *FAA Confirms Capability is the Key*

On July 29, 2013, the Federal Aviation Administration (FAA) [responded](#) to an ARSA request that the agency confirm part-specific training is not required for work performed under a repair station certificate.

Misperception of [§ 145.157\(a\)](#) led to the mistaken conclusion that the general privileges and limitations of [§ 65.81\(a\)](#) applied to an individual authorized by a repair station to approve work for return to service. It was falsely reasoned that part-specific training was required based on the limitation of a certificated mechanic. That individual “may not supervise the [work on], or approve and return to service, any aircraft or appliance, or part thereof, for which he is rated unless he has satisfactorily performed the work concerned at an earlier date....” (Emphasis added) (Editor’s Note: Even that limitation does not require part specific training.)

ARSA pointed out that the [part 65](#) certification requirement in [§ 145.157\(a\)](#) is only a pre-requisite for granting authorization to approve work on articles for return to service. The part 65 certificate is not issuing the approval for return to service; that certification is made under the repair station certificate.

The training requirements for a part 145 certificate holder are contained in [§ 145.163](#). Paragraph (b) of that section succinctly states the repair station “must ensure each employee assigned to perform maintenance, preventive maintenance, or alterations, and inspection functions is capable of performing the assigned task.”

The FAA agreed there is no requirement for “manufacturer training” or even specific part number/dash number instruction, concluding, “[I]f a person understands the current instructions of the manufacturer, and the maintenance manuals, that person is not required to have specific part number/dash number articles.”

Going one step further, the FAA Aircraft Maintenance Division reiterated its determination in a [Memorandum](#).

ARSA has long maintained that [part 145](#) focuses on the knowledge and ability to perform tasks associated with the maintenance, preventive maintenance or alteration activity. Experience or training on similar methods, techniques and practices, tools, equipment, materials, systems, maintenance requirements and tasks are all relevant. The regulations do not demand the “whens and wheres” of the skills needed to perform specific tasks appropriately; they demand capability.

## *FAA Updates Form 8130-3*

The Federal Aviation Administration (FAA) recently [announced](#) a revised FAA Form 8130-3, used for domestic airworthiness approval of new products and articles; approval for return to service of altered aircraft parts; and export airworthiness approvals of aircraft engines, propellers, or articles. The FAA revised the form as part of harmonization efforts with other civil aviation authorities to ease the identification and traceability of goods between the United States and other countries.

A presentation outlining the major changes is available [here](#). The most notable revisions:

- Updated “User/Installer Responsibilities” to match the new part 21 terminology (i.e. articles)
- Changed record retention requirements for domestic and export airworthiness approvals to five years for products and articles and 10 years for critical parts
- Updated guidance describing how copies of FAA Form 8130-3 are handled and marked
- Created instructions for batch or lot numbers
- Clarified that prototype products and articles are not eligible for installation on in-service, type certificated aircraft
- Incorporated new guidance regarding eligibility of commercial parts

- Documented procedures for splitting bulk shipments
- Added instructions for handling articles marked with dual or multiple part numbers
- Updated products and articles language to reflect changes to part 21
- Added information on exporting a product or article to a country or jurisdiction without a bilateral agreement with the United States
- Removed of the “Printed from Electronic File” watermark requirement from the electronic FAA Form 8130-3

Order 8130.21H is an “internal agency mandate,” issued to agency staff to explain positions on questions not addressed by a statute or regulation. While this order is non-binding for the public, it does have practical implications for determining whether businesses stay on the right side of regulations.

The new 8130-3 is final and will go into effect on Feb. 1, 2014; until then, continue to use the current form dated June 1, 2001 (06/01).

## ***Which Business Practices are Allowed under Antitrust Law (and Which Aren’t)?***

Understanding the basics of anti-trust law is essential to anyone in the business world who interacts with competitors. Although these laws were born out of the late 18th Century, 2012 was a record year for antitrust fines and crossing that line may be all too easy for anyone trying to improve the bottom line for their company.

ARSA is working hard to help you better understand the ins and outs of antitrust rules. ARSA Executive Vice President Christian Klein’s webinar, “Antitrust: A Map to the Legal Minefield,” is now available, and the association created a guide for repair stations to understand why the laws exist and what is and is not allowed. The guide offers suggestions for what businesses can do to be on the right side of antitrust compliance.

While the guide is meant to serve as a resource in crafting an antitrust policy, the association encourages repair stations to consult legal counsel when conducting business practices that deal with issues of competition.

Click here to view the webinar [“Antitrust: A Map to the Legal Minefield”](#).

[Click here to view the antitrust law guide.](#)

## ***Final Documents/Your Two Cents***

This list includes Federal Register publications, such as final rules, Advisory Circulars, and policy statements, as well as proposed rules and policies of interest to ARSA members. *Read more at <http://arsa.org/final-documents-your-two-cents/>.*

 <p><b>component control</b></p>	<p>Component Control, based in San Diego, is a leading developer and provider of MRO and Logistics Software solutions for the aviation industry. Its core product, Quantum Control, provides advanced aviation management support to original equipment manufacturers, aftermarket service divisions, component repair and overhaul companies, fixed base operators, aircraft completion centers, airlines, MRO facilities and part distribution / redistribution companies. Quantum is installed in over 50 countries and can be deployed as a single-site or multinational solution.</p>
<p>For more information, <a href="#">please click here!</a></p>	

# Quality Time

*Editor's note: The views and opinions expressed by contributing authors do not necessarily state or reflect those of ARSA, and shall not be used for endorsement purposes.*

## ***You Mean I Can't Play Golf?***

By [Jonathan W. Yarborough](#), Constangy, Brooks & Smith, LLC, 80 Peachtree Rd., Ste. 208, Asheville, NC 28803-3160. © 2013 Jonathan W. Yarborough ALL RIGHTS RESERVED.

When a decision to terminate an employee for the misuse of Family Medical Leave Act (FMLA) is based on an honest belief the individual abused his/her leave, a company does not violate the FMLA.

Under that law, a company with fifty or more employees must provide up to twelve (12) weeks of unpaid leave. Employees must have worked for the company twelve (12) months and have logged at least one thousand fifty (1250) hours. An employee may qualify if s/he has a "serious health condition" or requires leave to care for a family member and the leave can be taken intermittently.

A recent court case involved an employee who asked for and was granted FMLA leave to care for an ailing father. The employer began to see a pattern to the leave requests; the employee seemingly asked for FMLA leave when there was no personal leave remaining. The employee's record showed nine warnings, one suspension for attendance problems and a final written warning for dishonesty involving a safety violation.

After the employee once again requested FMLA leave to take the father to the doctor, the supervisor, having just denied this individual's request for time off for another purpose, brought the employer's suspicions to a human resources official. Human resources called the father's doctor to confirm the appointment and discovered one had not been made. The doctor's office also informed human resources it had been instructed not to provide past appointment dates to the employer. Later that day, however, the doctor's office called and confirmed the appointment.

The employer subsequently conducted an investigation. Two co-workers stated in an interview that the employee had not misused the FMLA leave. However, two others submitted statements that the employee had used FMLA leave to play golf, spend time with significant other, and have breakfast with friends. The employee did admit to using FMLA leave to attend a country music festival.

When fired however, the employee filed a lawsuit claiming the employer had either interfered with the employee's legitimate use of FMLA leave or retaliated for taking leave. The employee challenged the truthfulness of the reports the employer had obtained during the investigation.

The court dismissed the case, agreeing with the company's decision to terminate the employee. This case is important for raising credibility issues: the doctor's office did eventually confirm an appointment had been made and two co-workers who were interviewed stated the employee had not misused his leave.

In the language of the court, "Even if an employee claims that the investigation into the alleged misconduct was deficient, as long as the employer had an honest suspicion that misuse had occurred—even if that basis is ultimately incorrect and even if the employer 'could have conducted a more thorough investigation'—the employer does not violate the FMLA." The court considered the following factors enough to conclude the employer had an honest belief the employee was, indeed, misusing FMLA:

- evidence of the employee's past attendance problems;
- the warning for dishonesty;
- suspicious timing of requests for leave;
- an initial call to the doctor's office; and
- the fact the doctor's office was instructed not to provide appointment information.

The bottom line is that this company did not violate the FMLA when terminating an employee for the misuse of FMLA based on the honest belief the individual abused the leave—even though it was later determined the investigation was deficient or flawed.



## ***Deposition – Ten Tips for Being a Good Witness***

By [Steven E. Pazar](#), Attorney at Law, 11 Carriage House Lane, Boxford, Massachusetts 01921. © 2013 Steven E. Pazar ALL RIGHTS RESERVED.

*Steven is a counselor to businesses operating in high-risk industries, including aviation. He provides templates, tools, and training to improve contracting efficiency, close deals faster, and control costs.*

Being deposed in a legal proceeding is a modern day rite of passage. Sooner or later you will likely be called to testify under oath on behalf of your business or as a third-party witness. Experienced litigators often say: “You can’t win a case at a deposition, but you can lose one.” To avoid a bad result under oath, you must prepare. Here are some simple tips for being a good witness:

**1. Tell the truth.** You are under oath and must tell the truth. A lie may constitute perjury. Don’t exaggerate. Your truthfulness reflects directly on your credibility.

**2. Don’t qualify favorable facts.** Be definitive; don’t use qualifiers such as: I think; I might have; it seems; I assume; possibly, or correct me if I am wrong, etc. Qualified answers are viewed as weak answers. It is acceptable to indicate certain assumptions must be made to answer a particular question or that a question poses an unrealistic hypothetical.

**3. Never guess.** If you are not sure of the answer to a question, **do not guess**. If you don’t know the answer, just say so. It is fine to say “I don’t remember” if that is a truthful answer. If you do not understand a question just say so until it is clear to you.

**4. Don’t volunteer information.** You are a witness not an educator. If the counsel asking questions does not have a good grasp of the case or the issues, it is not your job to fill in the gaps. **Just answer the questions asked**. You are not obligated to “help” direct the testimony. Similarly, don’t be lured into offering additional information if there is a time gap between your completed answer and the next question.

**5. Don’t apologize.** You have nothing to apologize for if you don’t understand or have the answer to a question – it is not your fault. You can only testify as to your knowledge and recollections. **Resist the natural tendency to clarify counsel’s apparent confusion**.

**6. Take your time.** Listen carefully **to the whole question** and consider your response before answering. The length of time you take to consider a particular question will not be reflected on the transcript. Finish your answers but **don’t ramble**. Take care to avoid providing a confusing response if interrupted during an answer.

**7. Listen to objections.** Stop and listen to your counsel if s/he objects to a question. This may be followed by specific instructions from your counsel either to answer a particular question or not. Be consistent even when asked the same or similar questions in several different ways in an attempt to obtain conflicting or more favorable answers.

**8. Stay calm.** Resist attempts to make you angry or excited. Avoid being drawn into an argument – keep your answers short and simple. You are at a deposition not a debate.

**9. No jokes.** Testimony under oath is not the time for jokes, sarcastic remarks, or flippancy. **Be professional**, speak clearly, and avoid non-verbal responses. Don’t engage in any idle chitchat with attendees before, during, or after the deposition. Put on your “game face” and don’t let an opponent’s friendly demeanor drop your guard.

**10. Get a good night’s sleep.** A deposition is hard work. Be well rested so you can stay sharp for the duration.

# Membership-

## *Member Spotlight: Red Aviation – Georgetown, Texas*

Red Aviation began as Challenger Spares & Support in 2001 providing airframe parts specifically for the Challenger Series of aircraft. Throughout the years, the product line and repair services have expanded to support the Global, Learjet, Falcon, and Gulfstream aircraft. The company's customer base has also grown from working directly with operators and service centers to doing business with brokers, aviation management firms, insurers, and FBOs.

After extending several divisions and capabilities, Challenger Spares & Support rebranded to Red Aviation in 2012.

Red Aviation has quickly become an active member of ARSA, inviting Rep. John Carter (R-Texas) for a facility visit in August.

For more information, visit <http://www.redaviation.aero>.

*Are you an ARSA member who would like to be in the "Member Spotlight?" If so, please contact Josh Pudnos at [Josh.Pudnos@arsa.org](mailto:Josh.Pudnos@arsa.org).*

## *Have You Seen This Person?*

Each month, **the hotline** spotlights key regulatory, legislative, and business leaders making important contributions to the aviation industry. This month we look at Rep. Frank LoBiondo, R-N.J., chairman of the House Transportation & Infrastructure (T&I) Subcommittee on Aviation.

### **Rep. Frank LoBiondo, chairman of the T&I Subcommittee on Aviation**

Rep. LoBiondo is currently serving his tenth term in the U.S. House of Representatives. He is a member of the Transportation & Infrastructure Committee, where he sits on the Coast Guard & Maritime Transportation and Highways & Transit Subcommittees. He is also the chairman of the Aviation Subcommittee.

Additionally, LoBiondo serves on the House Armed Services Committee and is a champion for New Jersey's bases and service personnel, especially on issues of military pay and benefits. LoBiondo was also appointed in the 112th Congress to sit on the House Permanent Select Committee on Intelligence.



Before Congress, LoBiondo was elected to the New Jersey General Assembly and worked in the state capitol from 1988-1994. Prior to that, he served on the Cumberland County Board of Chosen Freeholders.

LoBiondo earned a Bachelor of Arts in business administration from Saint Joseph's University and worked for a family-owned trucking company for 26 years.

The image shows two promotional banners for the AVM Summit. The left banner is for the AVM Summit USA, held on 21-22 Nov 2013 in Orlando, featuring an American flag. The right banner is for the AVM Summit Europe, held on 21-22 Jan 2014 in London, UK, featuring the European Union flag. Both banners include the website [www.avm-summit.com](http://www.avm-summit.com) and the tagline "World beating aerospace summits at the leading edge of aviation".

## ***A Member Asked...***

**Q:** The FAA aviation safety inspector (ASI) assigned to our company is difficult to work with; is there a process that allows repair stations to request a replacement?

**A:** Removing an ASI takes a lot of persistence and documentation. In the alternative, ARSA suggests that the company take a more professional approach with the ASI, to include—

1. Ensuring understanding of the politics of aviation safety. Have regular meetings with government officials to set a professional tone and introduce the company and its people when “things are good” instead of only communicating on issues that are “bad.”
2. Documenting every single communication with the government. Follow up with every single visit or important oral communication in writing within 36 hours. Ensure the communication includes the meeting date and time, person(s) present by name and title, and a summary of all facts presented, issues discussed and action items assigned.
3. Keeping communications factual in nature. Do not include subjective information or accusations; indeed, try not to use the word “you” to describe the actions of the FAA inspector.

For information and resources, visit our [Dealing with the Government](#) issue page.

## ***Check Out ARSA’s Library of Recorded Webinars and Online Training Classes***

ARSA is pleased to announce that recorded online training classes and webinars are now available for member purchase. Check back often as courses will be continually added. *Read more at <http://arsa.org/training-2/online-training/>.*



The International Aerospace Quality Group (IAQG) is a cooperative global organization that brings aviation, space and defense companies together to deliver more value at all levels of the supply chain. The Americas Aerospace Quality Group (AAQG) is a cooperative organization within the aerospace industry in the Americas (including North, Central and South Americas). Its processes are established in a set of agreed, documented, operational procedures.

**For more information, [please click here!](#)**

## ***Take Advantage of ARSA’s Members Getting Members Program, Get 10% Off on Membership Dues***

The best form of advertising is word of mouth. Use the [Members Getting Members Toolkit](#) to recruit an ARSA member and your company will receive a discounted membership rate for your next membership term. *Get more information at <http://arsa.org/membership/members-getting-members/>.*

## ***Target Your Message: Advertise Today in ARSA's Newsletters and Website!***

ARSA recently updated its menu of advertising opportunities for [arsa.org](http://arsa.org), **the hotline** and the *ARSA Dispatch*. Take advantage of these great opportunities today to showcase your company, a new product or event. For more information go to <http://arsa.org/advertise/>.

## ***Exhibit, Sponsor the 2014 Repair Symposium***

As the maintenance industry's top event devoted exclusively to regulatory compliance, the ARSA Symposium attracts a highly qualified professional audience. Use this opportunity to promote your company while showing support for ARSA. Get more information at <http://arsa.org/news-media/events/arsa-symposium/arsa-annual-repair-symposium-sponsorship/>.

## **Positive Publicity**

As part of ARSA's ongoing [Positive Publicity Campaign](#) (PPC), the association is actively working to enhance the media's understanding of our \$65 billion industry and its vital importance to global civil aviation. To accomplish this goal, ARSA monitors media coverage on aviation maintenance to spread the word about the valuable role repair stations provide their communities in jobs, economic opportunities, and community involvement. [These are some of this month's top stories highlighting the industry's contributions.](#)

—ADVERTISEMENT—

**Piper Aircraft Maintenance Libraries Now From ATP**

To continue to provide the best possible safety and compliance, Piper Aircraft and ATP have partnered to bring you the most advanced, single-source maintenance library service available.

[Learn More](#) Download the Free Information and Upgrade Kit Today at [www.atp.com/piperkit](http://www.atp.com/piperkit).



## **International News**

### ***EASA Authorizes FlightSafety Training Courses***

On Aug. 6, the European Aviation Safety Agency (EASA) approved more than 140 aviation maintenance courses offered by [FlightSafety International](#). The agency signed off on the programs following a detailed review and evaluation of the company's existing offerings in accordance with the EASA Training Needs Analysis regulation 1149/2011.



Classes range from two to 25 days in duration and are aligned to the latest standards set by EASA as well as the Civil Aviation Authority of Australia, the Civil Aviation Administration of China, and Transport Canada. Course topics include maintenance, avionics, and transitioning from one airframe category to another.

The training sessions are available for technicians who support and maintain Pratt & Whitney Canada engines and aircraft manufactured by Beechcraft, Bombardier, Cessna, Dassault Falcon, Gulfstream, Hawker, and Sikorsky.

## ***International Roundup***

*To provide more international coverage, ARSA presents a monthly roundup of world events pertaining to the industry:*

[Airbus and S7 Engineering to Develop Strategic A320 Maintenance Training Partnership in Russia](#) (*AviTrader*)

[Mattala Airport to Become A Repair Shop](#) (*The Sunday Leader*)

[Sri Lanka Plans Aircraft Repair Hub with Lufthansa](#) (*Gulf News*)

[EgyptAir Training Center Announces Specialized Maintenance Training](#) (*Arabian Aerospace*)

[Vector Aerospace to Establish Permanent Facility in Brazil](#) (*AIN Online*)

[AgustaWestland to Expand Facilities in Brazil](#) (*AviTrader*)

[Lufthansa Bombardier Aviation Services Opens Another Hangar](#) (*AviTrader*)

[Turkish Technic Gains Indian MRO Approval](#) (*Flight Global*)

## **Welcome New Members**

- [Ajeton, Inc., Los Angeles, Calif.](#)
- Aviation Inspection Services, Fort Worth, Texas
- [Brim Aviation, Ashland, Ore.](#)
- [Crystal Avionics LLC, New Braunfels, Texas](#)
- Fleet Support Services, Inc., Monroe, Wis.
- Helicopter Services, Inc., Warwick, R.I.
- Robair Repair, LLC, Silverdale, Wash.



## **Regulatory Compliance Training**

[Test your knowledge on \\$145.55 Duration and Renewal of Certificate.](#)

## **Upcoming Events**

[InfoShare](#) – Sept. 17-19, 2013

[MRO Europe 2013](#) – Sept. 24-26, 2013

[MRO Network: Airline E&M North America](#) – Oct. 15-17, 2013

[NBAA Annual Meeting and Convention](#) – Oct. 20-26, 2013

[MARPA Annual Conferences](#) – Oct. 23-25, 2013

[MRO Asia](#) – Oct. 29-31, 2013

[International Aviation Forecast Conference](#) – Nov. 3-5, 2013

[SpeedNews 18th Annual Regional & Business Aviation Industry Suppliers Conference](#) – Nov. 6-8, 2013

[International PMA Summit](#) – Nov. 8-9, 2013

[AVM Summit, USA – November 21-22, 2013](#) – Nov. 21-22, 2013

[ARSA Annual Repair Symposium and Legislative Fly-In](#) – March 19-21, 2014