Aeronautical Repair Station Association

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The Honorable Roger Wicker Chairman Committee on Commerce, Science and Transportation U.S. Senate Washington, D.C. 20510	The Honorable Maria Cantwell Ranking Member Committee on Commerce, Science and Transportation U.S. Senate Washington, D.C. 20510

RE: Coronavirus Relief for the Aviation Maintenance Industry

Dear Chairman Wicker and Ranking Member Cantwell:

On behalf of America's aviation maintenance industry, the Aeronautical Repair Station Association (ARSA) thanks you for your efforts to provide relief to businesses suffering from economic disruptions caused by the SARS-CoV-2/COVID-19 ("coronavirus") pandemic. We appreciate you convening today's hearing to examine the health of the aviation industry and discuss opportunities to help the aviation sector weather the unprecedented economic storm.

Unfortunately, despite recent legislation, conditions for aviation businesses are dire. Hundreds of thousands of well-paying jobs at Federal Aviation Administration (FAA) certificated repair stations and parts manufacturing facilities throughout the country are in jeopardy (a state-by-state overview of the maintenance industry's employment and economic footprint is at arsa.org/news-media/economic-data).

Oliver Wyman CAVOK (OW), a leading aviation consultancy that provides economic data for ARSA, recently reported that:

> While 9/11 represented a sudden, severe shock to the North American aviation market and the 2008 financial crisis presented immense global economic challenges, COVID-19 is proving to be an even greater threat to commercial aviation because of global travel restrictions and massive reductions in consumer demand for air travel, evidenced in cancelled and lost bookings, and the uncertain prospects for a return to normalcy. Commercial airlines have already been forced to make significant cuts to their capacity through a combination of placing aircraft in storage and operating the remaining aircraft at lower levels of utilization. [Emphasis added]

OW has projected that because of the dramatic drop in aircraft utilization, global maintenance, repair and overhaul (MRO) spending will drop by more than 50 percent in 2020, from a pre-pandemic forecasted level of $91.2 billion to $42.3 billion in the post-pandemic world. In the United States, demand is expected to fall 43 percent.

The jobs of more than 250,000 Americans who work in the aviation maintenance sector are at high risk due to the collapse of the MRO market. Worse still, while other industries are likely to rebound quickly from the present downturn, the aviation industry will take years to recover. Under OW's baseline projection, industry revenues will not return to pre-pandemic levels until late 2021; under the worst-case scenario, the industry may not recover until early 2023.

Even once aviation activity returns to pre-pandemic levels, the effects of the coronavirus disruptions are expected to linger and suppress growth for years. OW projects that 4,500 fewer aircraft will be added to the global fleet over the next decade than originally anticipated and that maintenance spending in 2030 will be almost nine percent below prior predictions because of the lingering effects of the pandemic.

In light of the foregoing, it is critical that Congress continue to provide immediate relief and identify opportunities to support aviation over the long-term to help the industry survive.

The MRO sector is not only critical to air carrier operations, but also supports general, business, government and military aviation. Repair station workers are highly trained; it takes years to gain the necessary expertise to be an effective technician. If the industry loses a substantial portion of its workforce, repair stations will lack the capacity to support the nation's civil and military fleets as aviation activity returns to normal levels. This, in turn, will pose long-term risks to both the efficiency of the aviation system and to national security.

As you consider the next phase of relief legislation, we ask that you include the policy proposals below (and addressed in more detail in the attached white paper) to protect U.S. repair station jobs and ensure the survival of this vital economic sector.

Specifically, ARSA encourages Congress to:

- Improve repair station access to federal relief by directing the Small Business Administration (SBA) to immediately increase the small business size standard for all North American Industry Classification System (NAICS) codes applicable to aviation maintenance industry companies to at least 1,500 (and, ideally, to 3,000) employees and by temporarily exempting companies covered by those NAICS codes from SBA's affiliation rules for purposes of accessing pandemic relief.
- Clarify the ability of air carrier maintenance contractors and subcontractors to access Air Carrier Worker Support (ACWS) resources.
- Provide significant additional resources for both the Paycheck Protection and ACWS programs.
- Refrain from imposing unnecessary restrictions and requirements on companies seeking access to relief.

- Create temporary tax incentives and grant programs to encourage business investment in worker training, equipment and facilities and air carrier investment in maintenance.
- Resolve the uncertainty surrounding the tax treatment of PPP loans.

ARSA and its members look forward to working with you to continue to implement the CARES Act and craft additional legislation to sustain the U.S. economy through this uncertain period.

Thank for your consideration.

Sincerely,

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CORONAVIRUS RELIEF FOR THE AVIATION MAINTENANCE INDUSTRY

Background

The civil aviation maintenance industry is a vital part of the U.S. economy and the aviation ecosystem. It provides close to two-thirds of the maintenance for U.S. air carriers and supports general, business, state and local government, and military aviation operations.

As of March 9, 2020, America's 4,017 Federal Aviation Administration (FAA) certificated repair stations employed an estimated 263,000 workers and contributed more than $25 billion annually to the U.S. economy. When aircraft parts and manufacturing distribution are factored in, the industry employed approximately 320,000 workers and generated more than $50 billion in annual economic activity. A state-by-state analysis of the aviation maintenance industry's economic and employment footprint is available at http://arsa.org/news-media/economic-data/.

Because airlines are such important customers for so many repair stations, the maintenance industry has been hit hard by the air travel disruptions caused by the SARS-CoV-2/COVID-19 ("coronavirus") pandemic.

According to the Transportation Security Administration (TSA), passenger traffic at airports is less than seven percent of what it was a year ago. The latest industry economic forecast by aviation consultancy Oliver Wyman CAVOK (OW) suggests that demand for maintenance, repair and overhaul (MRO) services in 2020 will drop nearly 50 percent compared to the firm's previous pre-coronavirus pandemic estimates. Under OW's baseline projection, industry revenues will not return to pre-pandemic levels until late 2021; under the worst-case scenario, the industry may not recover until early 2023. Even once the aviation activity returns to pre-pandemic levels, the effects of the coronavirus disruptions will linger for years, suppressing growth. OW predicts that 4,500 fewer aircraft will be added to the global fleet over the next decade and that maintenance spending in 2030 will be almost nine percent below prior predictions because of the lingering effects of the pandemic. Similarly, according to Argus International, charter flights are down 65 percent relative to the same time last year.

The full impact of the disruptions and federal relief is still uncertain, but hundreds of thousands of maintenance industry jobs throughout the country are at risk.

While the Coronavirus Aid, Relief and Economic Security (CARES) Act (H.R. 748) has helped many maintenance companies, some repair stations have fallen through the cracks and are ineligible for certain CARES Act relief. And even those that have been able to access federal resources will almost certainly require more support to survive.

ARSA therefore encourages Congress and the administration to take the actions described below to save as many aviation jobs as possible in the months ahead. In addition to preventing repair station workers from ending up on unemployment rolls and keeping small and medium-size companies afloat, ARSA's proposals will help ensure that maintenance industry has the necessary capacity to maintain the U.S. fleet when the pandemic ends and air travel once again increases.

1. Update SBA Size Standard for Aviation Maintenance NAICS Codes

> **RECOMMENDATION: To address inequities in the CARES Act, allow more aviation maintenance companies to access PPP resources and save more repair station jobs, the next relief bill should direct the SBA to issue a direct final rule (or take other appropriate administrative action) within 10 days of enactment to increase the small business size standard for NAICS codes 336413 and 488190 to at least 1,500 employees or, ideally, increase the size standards for all NAICS codes applicable to aviation maintenance to 3,000 employees.**

Most aviation maintenance companies fall into one of the following four North American Industry Classification System (NAICS) codes:

- 336411 - Aircraft Manufacturing, including "overhaul"
- 336412 - Aircraft Engine and Parts Manufacturing, including "overhaul"
- 336413 - Other Aircraft Parts and Auxiliary Equipment Manufacturing
- 488190 - Other Support Activities for Air Transportation

Pursuant to 13 CFR part 121, the Small Business Administration (SBA) establishes small business size standards for industries based on NAICS codes. Companies classified as 336411 and 33641 are considered small businesses if they have fewer than 1,500 employees. The standard for 336413 is fewer than 1,250 employees. The standard for 488190 – the category into which many repair stations fall – is less than $35 million in annual revenues.

Based on ARSA estimates that one employee, on average, is associated with each $100,000 in repair station revenues, a company with $35 million in revenues would have just 350 employees, 80 percent fewer workers than those companies considered small businesses in categories 336411 and 336412 and 72 percent fewer than the number of workers at category 336413 companies.

The CARES Act has highlighted how this disproportionality works to the disadvantage of small and medium-size aviation businesses. Sec. 1102 of the law created a Paycheck Protection Program (PPP) through which certain companies may obtain forgivable loans to cover payroll and some overhead costs during the national emergency. To be eligible, a company must either have 500 or fewer employees or be considered a small business under its NAICS code (whichever is greater). Thus, while companies in many industries with significantly more than 500 employees will ultimately be able to obtain relief through PPP loans because of the size standard for their NAICS codes, many repair stations with more than 500 employees will not.

ARSA therefore requests that the next relief bill require the SBA to issue a direct final rule or to take other appropriate administrative action within ten days of enactment to increase the small business size standard for NAICS codes 336413 and 488190 to at least 1,500 employees or, ideally, increase the size standards for all NAICS codes applicable to aviation maintenance to 3,000 employees.

2. Exempt Repair Stations from Affiliation Rules for PPP Purposes

> **RECOMMENDATION: To allow a broader cross-section of small and medium-size repair stations to access PPP relief, Congress should exempt businesses covered by aviation maintenance related NAICS codes from SBA's affiliation rules for PPP purposes.**

The SBA's size standards and affiliation rules have also made it difficult for some aviation maintenance companies to access PPP relief; in particular, those partially or wholly owned by private equity companies or operated as a family of small companies with a common ownership umbrella.

13 CFR Sec. 121.103(a)(6) states that, "In determining the concern's size, SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit." (Emphasis added.) 13 CFR Sec. 121.103(a)(1) states that, "Concerns and entities are affiliates of each other when one controls or has the power to control the other, or a third party or parties controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists."

Thus, if Company A is owned wholly or partially by an individual or business with other business interests, the employees and receipts of those other business interests are imputed to Company A in determining whether it is a small business. As a result, many repair stations that would otherwise qualify for PPP relief are excluded based on their ownership structures.

Recognizing that the affiliation rules would prevent small and medium-size businesses in certain industries from accessing PPP relief, Congress included language in the CARES Act exempting them from the affiliation rules. Sec. 1102 of the law waived the affiliation rules for companies with up to 500 employees per location if the company was assigned a NAICS code beginning with 72 (i.e., the accommodation and food service sectors), for franchises assigned an SBA franchise identified code and for business that receive financial assistance from SBA-licensed small business investment companies. However, despite being similarly situated and in desperate need of assistance, none of these exemptions apply to repair stations, precluding some from accessing PPP relief.

To allow a broader cross-section of small and medium-size aviation maintenance companies to access PPP relief, ARSA urges Congress to exempt businesses with NAICS codes 336411 ("Aircraft Manufacturing), 336412 (Aircraft Engine and Parts

Manufacturing), 336413 ("Other Aircraft Parts and Auxiliary Equipment Manufacturing") and 488190 ("Other Support Activities for Air Transportation") from the SBA's affiliation rules for PPP purposes.

3. Ensure All Repair Stations Serving Airlines Can Access to Air Carrier Worker Support Program Resources

> **RECOMMENDATION: Congress should amend Sec. 4111(3) of the CARES Act to remove the requirement that airline contractors and subcontractors must be "on airport" to access Air Carrier Worker Support assistance.**

Subtitle B of Title IV ("Air Carrier Worker Support") (Secs. 4111 – 4120) establishes a program to provide direct assistance to airlines, cargo carriers and airline contractors. The term contractor is defined at Sec. 4111(3) to mean:

> (A) person that performs, under contract with a passenger air carrier conducting operations under part 121 of title 14, Code of Federal Regulations –
> (i) catering functions; or
> (ii) functions on the property of an airport that are directly related to the air transportation of persons, property, or mail, including but not limited to the loading and unloading of property on aircraft; assistance to passengers under part 382 of title 14, Code of Federal Regulations; security; airport ticking and check-in functions; ground handling of aircraft; or aircraft cleaning and sanitization functions and waste removal; or
> (B) a subcontractor that performs such functions.

The Treasury Department has recognized that maintenance is a function directly related to air transportation and confirmed that repair stations located at airports that provide maintenance to air carriers are eligible to apply for ACWS relief. However, the lion's share of aviation maintenance takes place "off the aircraft" and "off the airport" at highly specialized FAA certificated component and engine maintenance facilities. These off-airport companies may be direct contractors of airlines or may be subcontractors of other on-airport repair stations.

ARSA believes that in creating the ACWS program it was Congress's intent to provide relief to the full spectrum of airline contractors impacted by the coronavirus-related airline disruptions. However, the language of statute discriminates against airline maintenance contractors not located at airports and is, at best, unclear about where a subcontractor must be located to be eligible for the ACWS program.

ARSA therefore urges that Sec. 4111(3)(A)(2) be amended to add "maintenance performed under part 43 of title 14, Code of Federal Regulations, regardless of whether such work is performed on the property of an airport" to the list enumerated functions in that section.

4. Increase Loan and Grant Program Resources

> **RECOMMENDATION: Congress should increase and extend financial resources available to businesses under the CARES Act's loan and grant programs and reduce burdensome requirements to ensure all companies requiring relief are able to access it.**

The CARES Act created, *inter alia*, the $349 billion PPP for small and medium size companies; the ACWS Program, which authorizes $25 billion for assistance to airlines, $4 billion for cargo carriers and $3 billion for airline contractors; and a $500 billion loan program, of which $25 billion is set aside in Sec. 4003(b)(1) specifically for FAA-certificated part 145 repair stations, airlines and ticket agents. The law also authorized a "main street" lending program with preferential interest rates for medium size companies (i.e., those with between 500 and 10,000 employees).

The present crisis is likely to persist for at least several more weeks and it is highly unlikely that air travel will return to pre-March 2020 levels before the end of the year. <u>ARSA therefore urges that the grant and loan programs be extended and receive additional funds to sustain affected companies and their workers</u>. Doing so will help maintain business capacity and worker readiness, thereby helping to facilitate a speedier recovery.

ARSA also asks that Congress reconsider the various requirements associated with accessing loan and grant money to make it easier for already struggling companies to access these critical resources. Congress created these new grant and loans programs to protect jobs in industries affected by the coronavirus pandemic. However, the various "taxpayer protection" requirements applicable to the programs may have the opposite effect. The CARES Act adds terms to loans that would be unthinkable in the commercial world because they impact business operations and limit decisionmaking well beyond the term of the loan. For example, Main Street Lending Program recipients are prohibited from outsourcing or offshoring jobs during the term of the loan <u>and for two years thereafter.</u>

In other words, if a company facing desperate economic circumstances through no fault of its own takes on debt now through the program to pay its workers, <u>even after the loan is paid off</u> the company will be limited in its ability to adjust supply chains and take other actions to make itself more competitive in the future. By adding restrictions to loans at a time when businesses are desperate for liquidity, Congress has, in some respect, made it less attractive for companies to seek government relief than it would be to obtain a commercial loan.

The CARES Act also included $1.5 billion for the Economic Adjustment Assistance (EAA) grant program administered by the Department of Commerce's Economic Development Administration (EDA). While these resources can play a vital role in expanding local economic opportunities, particularly in distressed communities, the EDA has yet to provide guidance and release CARES Act funding. <u>EDA should be encouraged to begin</u>

making grants as soon as possible because the resources will enable state EDA offices to provide grants to mitigate business lease and rent costs, support worker training and retraining and fund entrepreneurial ideas that can stimulate more employment.

The CARES Act provides the infrastructure to channel economic relief to American businesses and workers. Now Congress must refine the programs to make them as effective as possible and ensure federal relief continues to flow as quickly and freely as possible.

5. Tax Credits to Encourage Investment, Training and Maintenance Activity

> **Recommendation: Congress should create additional short-term refundable tax incentives and/or grant programs to encourage activity that will sustain affected industries during the pandemic and position companies and workers for future success.**

Historically, tax incentives such as the highly successful depreciation bonus created after 9/11 have incentivized stimulated economic activity by encouraging businesses to shift future purchasing into the present.

While any relief provided to all employees and small-to-medium sized organizations will be helpful to the long-term health of repair stations, additional measures will no doubt be needed for the entire aviation supply chain to survive intact. ARSA therefore proposes Congress and the administration create a temporary refundable tax credit for airlines and other aircraft operators equal to 50 percent of the cost of maintenance contracted to and performed by U.S. repair stations between April 1 and Dec. 31, 2020. The temporary tax credit would encourage airlines and other aircraft operators to continue to contract for maintenance during the downturn. Aside from creating economic activity that will flow through the supply chains, this will ensure that aircraft remain airworthy and that worker skills remain sharp.

Similarly, Congress should use the tax code to incentivize businesses to invest in employee skills during the downturn, when many workers have been idled. ARSA therefore proposes that Congress create a grant program or a temporary refundable tax credit equal to 50 percent of training costs incurred by U.S. companies between May 1 and Dec. 31, 2020. This would encourage businesses whose employees are idled to invest in those workers, allowing them to maintain proficiency and acquire new expertise.

Finally, to help companies prepare for the ultimate recovery, Congress should explore new ways to incentivize business investment in research and development, facilities and capital equipment placed in service before the end of the year. This could potentially be done through refundable tax credits, grants or changes to depreciation rules.

6. Resolve PPP Tax Uncertainty

> **Recommendation: Congress should work with the IRS to resolve the uncertainty created by the IRS surrounding the tax treatment of PPP loans or amend the CARES Act to waive the applicability of 26 USC Sec. 265 to PPP loan forgiveness.**

On April 30, the Internal Revenue Service (IRS) issued Notice 2020-32 which "clarifie[d] that no deduction is allowed under the Internal Revenue Code (Code) for an expense that is otherwise deductible if the payment of the expense results in forgiveness of a covered loan pursuant to section 1106(b)" of the CARES Act. The IRS notice apparently contradicts Sec. 1106(i), which states that, with regard to the "taxability" of the loan forgiveness available to PPP recipients, any amounts forgiven by a PPP loan "shall be excluded from gross income."

Many repair stations are small and medium size entities that have likely taken advantage of the PPP. ARSA is concerned that, contrary to the apparent intent of Congress, this IRS ruling will increase tax liability for PPP recipients in the aviation maintenance industry at a time when many companies are struggling to survive.

We believe that IRS's interpretation is inconsistent with the intent of the law. Congress should work with the IRS to resolve the inconsistency or amend the CARES Act to waive the applicability of 26 USC Sec. 265 from applying to PPP loan forgiveness.

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For additional information regarding these proposals, please contact ARSA Executive Vice President Christian Klein at christian.klein@arsa.org or 703.599.0164.

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