

the hotline

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Alexandria, VA

www.arsa.org

Congress averts cliff
(for now)

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Sarah says

Staying a step ahead

By Sarah MacLeod, ARSA executive director

As the aviation industry faces another year, open items haunt the annals of federal regulation. At record speed, the FAA issued a [notice of proposed rulemaking](#) (NPRM) on the relationship between an “air carrier” and its maintenance providers. The [comment](#) period for this rule ends Feb.11, but this debacle began with legislative action (or inaction) during the nearly four-year struggle over the recent FAA reauthorization law. ARSA’s legislative activities related to “maintenance providers” began immediately following VISION-100’s expiration in 2007. The same push for regulatory freedom will guide the Association’s comments to the NPRM.

The power to influence legislative language is a long-term commitment to the well-being of the aviation maintenance industry. The Association’s mission was to limit unintended consequences of lawmakers mandating specific language in a regulated arena. ARSA narrowed targeted provisions to eliminate (or at least limit) confusion and preserve operational freedom for air carriers and repair stations. Fortunately, many of ARSA’s suggestions were adopted by Congress; the final language was much better than that originally presented in numerous FAA reauthorization proposals.

Unfortunately, it’s not perfect. The FAA will have to make some reasonable determinations in its interpretation of the congressional dictates. This struggle is evidenced by the subtle differences the agency is trying to draw among and between “covered maintenance,” “RII,” and “regularly scheduled” actions. The Association will help the FAA balance the demands contained in the congressional language (the law) and the agency’s requirements for issuing regulations within the Administrative Procedure Act.

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Sarah says, continued

The ability to be and stay a step ahead of government dictates, from legislation through regulation, is directly related to ARSA's resources. While we stay a step ahead of government to limit its harmful actions, individual support and active participation ensure success. It behooves the aviation industry to support an Association that stays a step ahead of government.

Contribute to PPC; obtain [information on the PAC](#), [contact your lawmakers](#), become an [ARSA champion](#) and help grow the Association, help [lift the ban](#) on FAA certification of new foreign repair stations. To learn more about ARSA's actions in the policymaking process, and to play a part in it yourself, be sure to [attend the Association's upcoming Legislative Day and Repair Symposium](#), coming up March 20-22.

Legal briefs

The air carrier and repair station regulatory relationship

By Craig Fabian, ARSA vice president of regulatory affairs & assistant general counsel

For the next few months, we will explore the regulatory junction between an air carrier and its contract maintenance providers. This first segment is aimed at framing the basis for our discussion.

The visibility of this important topic is being raised by the FAA's recent notice of proposed rulemaking for "[air carrier contract maintenance requirements](#)." Additionally, its significance is reflected in the FAA's [retraction of a legal interpretation](#) regarding part 121 duty-time limitations for maintenance personnel that directly impacted repair stations.

The "linkage" or "flow" of regulatory requirements from air carrier to repair station demands high regard; it cannot be reduced to the overly simplistic notion that, when it comes to a repair station following an air carrier's maintenance program and manual, "everything applies." A more sophisticated study identifies the exact information the air carriers' maintenance providers need.

The fact still remains that U.S. air carrier manuals were first created when far less work was performed by repair stations. Under the "everything applies" state of affairs it is literally impossible for a maintenance provider to follow each air carrier's manuals, exactly as written. At the very least, it shifts the focus from actually performing work.

The default position cannot be that "everything applies." To reduce cost, eliminate waste and ensure regulatory compliance, identifying the specific information affords the proper focus – for the repair



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Legal Briefs, continued

station, the air carrier, and the regulator. An air carrier simply unloading an entire suite of maintenance manuals and policy and procedure manuals on a repair station, with all parties then working to resolve inapplicable or conflicting aspects as work progresses, can no longer occur.

During the comments to the current NPRM and its regulatory agency for 2013, ARSA will define exactly what is important within the regulations versus what is essential for efficient and cost-effective business.

Regulatory lookout

FAA updates inspector guidance

The FAA's Aircraft Maintenance Division has updated its field approval [job aid](#) to help inspectors determine the appropriate approval mechanism for major repair and alteration data.

The FAA states that the revision clarifies the classifications and definitions of some major alterations, which inspectors are to follow. The document, available on the division's [webpage](#), features interactive navigation tools and direct links to referenced documents.

The modification replaces the guidance found in Figure 4-68, Eligibility Considerations for Field Approval, in [Order 8900.1](#), volume 4, chapter 9, Section 1, change 198. The general portions of change 198, however, remain operative.

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Final documents/Your two cents

“Final documents”: This list includes Federal Register publications such as final rules, Advisory Circulars (ACs), policy statements and related material of interest to ARSA members. For proposals opened for public comment, see **“Your two cents.”** The date shown is the date of publication or other official release.

“Your two cents”: This is your chance to provide input on rules and policies that will affect you. Agencies must provide the public notice and an opportunity for comment before their rules or policies change. Your input matters. Comments should be received before the indicated due date; however, agencies often consider comments they receive before drafting of the final document begins.

“Final documents” and **“Your two cents”** are available at <http://arsa.org/final-documents-your-two-cents/>.

A member asked

By Craig Fabian, ARSA vice president of regulatory affairs & assistant general counsel

Q: Our repair station receives fire bottles without squibs attached, but shipped in the same container. Once the package containing the fire bottle and squib is received, we install the squib per the manufacturer’s manual. Are there regulatory requirements we should be considering for the uninstalled squibs?

A: Yes. The hazardous materials regulations treat squibs differently if they are shipped without being installed in a fire bottle. Specifically, see the table in [49 CFR § 172.101](#) and compare the classifications for “cartridges, power device” with “fire extinguishers containing compressed or liquefied gas.” The requirements for shipping the cartridges are very restrictive but, as noted in special condition 110: “Fire extinguishers transported under UN1044 . . . may include installed actuating cartridges (cartridges, power device of Division 1.4C or 1.4S), without changing the classification of Division 2.2, provided the aggregate quantity of deflagrating (propellant) explosives does not exceed 3.2 grams per cylinder.” In other words, an uninstalled squib has much more restrictive shipping requirements than one installed on a fire bottle. However, the shipment you describe would have to meet the “cartridge” requirements since the squibs are not fitted to the bottle.

Also, the federal Department of Transportation (DOT) rules that apply to maintaining pressure cylinders (i.e., the fire bottle) must be considered in addition to the FAA regulations. The applicable DOT rules found in [49 CFR part 180](#) (“continuing qualification and maintenance of packaging”), and [subpart C](#) contain the sections describing the requirements for inspecting, repairing, testing, and requalifying specific types of cylinders. There are additional rules in [49 CFR part 173](#) for shipment of compressed gases and other hazardous materials in pressure cylinders that include “maintenance-like” considerations. For instance, the [§ 173.301](#) requirement that: “Any person who installs a valve into an aluminum cylinder in oxygen service must verify the valve and the cylinder have the same thread type.” Installing a squib on a charged fire bottle might be performed under FAA rules (i.e., maintenance under [14 CFR part 43](#)) without triggering the specific DOT requirements. That is, the DOT inspecting, repairing, testing and requalifying may be performed before the bottle was filled for shipment (also under DOT rules). Ultimately, it depends upon a comparison of the 49 CFR requirements cited above with the specific situation you are dealing with (i.e., fire bottle type and squib installation).

Although it may not apply to your situation since the squibs are installed upon receipt, there are storage requirements that should be considered. As mentioned previously, the squibs themselves are classified as explosive devices under the hazmat shipping rules. It also appears that U.S. Alcohol, Tobacco and Firearms (ATF) regulations for commerce in explosives would apply; see the definition of “explosives” in [27 CFR § 555.11](#) which defines an explosive as: “Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters” (*emphasis added*). The ATF regulations that apply to storage of explosives are found in [27 CFR part 27, subpart K](#).

Quality time

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Employment law & repair stations

More enforcement initiatives from the Department of Labor

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

Jonathan is experienced representing employers in employment law issues; his pragmatic approach helps keep relationships with employees from becoming difficult. Please contact him for questions regarding employment relationships.

The Department of Labor (DOL) has been announcing one enforcement initiative after another. The DOL's Wage and Hour Division has increased its number of audits, and is demanding huge damages for violations, primarily in overtime paybacks to employees.

Consider the following:

- In 2011 the DOL launched its first application for smart phones, a timesheet to help employees independently track hours worked and determine wages owed.
- Among many others, the Wage and Hour Division has targeted the North Carolina residential care sector, Seattle nail salons, the Virginia construction industry, and drywall installers in New York.
- Fair Labor Standards Act (FLSA) lawsuits hit a record high in 2012, continuing the trend of sharp growth.
- Since 2009, the DOL has recovered more than \$29 million in back pay for more than 29,000 employees.
- The Florida Agricultural Initiative netted over \$840,000 in back wages.
- The Restaurant Campaign in Florida netted \$682,000 in back wages.

In December 2012, the DOL updated its [regulatory agenda](#); adding more than a dozen new items to the nearly 70 agency initiatives ranging from mine safety to veterans' employment. A new proposal to update regulations setting contractors' affirmative action and sex discrimination obligations that the department states will reflect current law and industry practices is of particular note.

On Jan. 11, 2013, the DOL published a [request for comments](#) on its proposed information collection for a worker classification survey, in an effort to "gather information about workers employment and pay arrangements and measure workers' knowledge about their job classification and associated rights and benefits." The DOL's effort, of course, is to continue to refine worker misclassification.

In addition, the Office of Federal Contract Compliance Programs (OFCCP) is expected to issue a final rule requiring federal contractors to conduct a substantive analysis of their recruitment and placement efforts under the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA). Contractors will need to establish benchmarks to measure the effectiveness of affirmative action and will replace the "good faith" standard.

The OFCCP also plans a final rule on affirmative action obligations under Section 503 of the Rehabilitation Act. The rule will increase contractors' data collection and recordkeeping obligations. The mandate will include a new requirement that contractors establish goals for employing disabled persons.

Finally, the Wage and Hour Division is expected to issue a final rule on regulations to cover more home workers and limit the act's companionship exemption for those who assist homebound clients.

Legal waypoints

A case study in rental engine warranties: *Agape v. Covington*

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

Steven is an experienced counselor to businesses operating in many industries, including aviation. He provides templates, tools, and training to improve contracting efficiency, close deals faster, and control costs.

Planning is the key to a successful scheduled engine overhaul. Owners typically seek estimates, select an overhaul shop, arrange for a rental engine, and set the date for an engine exchange months in advance. Typically there will be at least two significant legal documents -- the engine overhaul and lease agreements.

The first sets forth the key liability terms, the detailed scope, schedule, and the expected cost associated with the engine overhaul. The second, governs the lease of a substitute engine for the period needed to complete the engine overhaul. This "rental," as it is commonly known, is often supplied by an overhaul shop as an accommodation. While not free, it is an alternative to being grounded.

With all the details associated with this process, the engine lease agreement gets the least attention. These documents are often short form agreements described as "standard." To the extent they get much attention the negotiation usually revolves around the hourly rate for the rental. In most instances, the boilerplate goes unread; but if questioned, an owner may be told "take it or leave it" – no one is required to accept a rental in association with an overhaul.

A recent case, [Agape Flight, Inc. v. Covington Aircraft Engines, Inc.](#) (E.D. Okla., 2012), suggests more attention be paid to the "standard" warranty language in an engine lease agreement. In a [Motion for Summary Judgment](#), the plaintiff, Agape, made numerous claims including a breach of warranty claim arising out of the December 2007 crash of their aircraft. One of several defendants, Covington, supplied the rental engine and argued that Agape's claim should fail, because of the express warranty in the contract between the parties, which excludes all implied warranties.

In its simple form the background is not unusual. Agape operates a Pratt & Whitney Canada PT6A-11A-powered aircraft. In association with a scheduled engine overhaul, Covington provided a rental engine. At the time the rental was installed on Agape's aircraft, there were no required inspections due. After operating the rental engine for approximately five weeks (93 hours), Agape conducted a required *in-situ* inspection of the fuel pump and detected no unusual wear or tear. It was 33 hours of service later when the aircraft crashed in the ocean near the Bahamas.

The engine rental agreement between included an express warranty by Covington that "at the time of delivery the rental engine will be in flight-worthy condition and conform to applicable P&WC specifications." The rental agreement further excluded all other warranties by providing that "this warranty is given in place of all other warranties, express or implied, including without limitation any warranties as to the merchantability or fitness for purpose of the rental engine." Agape claimed that the warranty provision should be rescinded and if rescinded that the warranty of fitness for a particular purpose and merchantability can be imposed on Covington. The Court responded

With respect to the existing limited warranty provision that the Engine would be flight-worthy, the record is undisputed that Covington complied with its obligations. Prior to the Engine being placed in Agape's Aircraft pursuant to the November 7, 2007, Rental Agreement, the Engine had been certified as airworthy . . . In addition, Covington conducted run-ups of the Engine before placing it on Agape's Aircraft. . . . Moreover, Agape itself conducted an inspection some five weeks and 93 hours of service after taking delivery from Covington and Agape certified the Engine as airworthy at the conclusion of its inspection.

Finding in favor of Covington, the Court issued a summary judgment on the breach of warranty claim. In this instance, the often overlooked rental agreement and warranty language protected Covington from becoming the insurer of Agape's flight operations.

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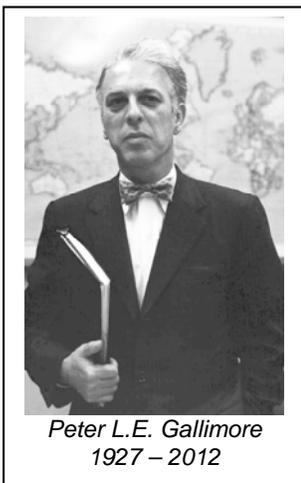
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A tribute to Peter Gallimore, long-time ARSA advocate and aviation leader



It was with great sadness that ARSA learned of the passing of Peter L.E. Gallimore last year. Peter was active in the aerospace industry his entire life and worked with Boeing in flight operations and support for 43 years before his retirement in 2002.

Peter was known as an industry leader in the eradication of unapproved parts in the commercial aviation supply chain. During his years at Boeing, Peter helped the company through numerous challenges and was instrumental in many of the company's innovations throughout the 1970s and 80s.

"Peter saw talent where it existed, not where he wanted to find it. He knew the insides of the Boeing Company like no one before or since, and he loved to learn and teach," reflected ARSA's Executive Director Sarah MacLeod.

"I remember him on a regular basis when trying to deal with some foolishness of the industry or the international aviation safety agencies -- his sense of the inane and ridiculous ensured that the job got done no matter the falderal surrounding the issue. If common ground should be reached, Peter would help it happen; if ground needed to be staked, Peter would be there with a hammer, sometimes a sledge hammer; and, if a line needed to be drawn in the ground, Peter's word to support the effort carried weight."

Peter's son David L.G. Gallimore has put together a lovely tribute to his father, who had a tremendously positive impact on all. The full tribute is available [here](#).

As David recounts, Peter's favorite piece of advice was: "Attitude, one must have a positive attitude if one seeks a successful and happy life."

"Though Dad rarely suffered fools or foolishness, there was never a more loyal man to have in a crisis or just to enjoy a story over a pint of beer," David said.

If any ARSA members would like to share their memories of Peter, please email arsa@arsa.org and the Association will share your thoughts with Peter's family; they would be touched to hear stories of Peter's impact.

Say goodbye to the federal estate tax: A creative solution

By Jack Fitzgerald, owner of Fitzgerald Auto Group, president of Americans Standing for the Simplification of the Estate Tax. www.SimplifyEstateTax.org

The debacle surrounding the fiscal cliff is indicative of the ideologically challenging budget issues that Congress has been unable to resolve for years. However, much of the uncertainty surrounding our nation's economic and tax situation could have been resolved long before pundits coined the term, "fiscal cliff" because there are situations where bipartisan support and creative solutions have been identified. One such area is the federal estate tax.

The leaders of [Americans Standing for Simplification of the Estate Tax](#) (ASSET) have advocated for several years a strategy for permanently replacing the federal estate tax in a revenue-neutral manner.

At a time of slow growth and glum economic forecasts, elimination of the "death tax" would be a tonic to the small-business sector and unlock hundreds of billions of dollars of underutilized capital for reinvestment in the economy. This bold stroke could bring together a broad bipartisan coalition that has been growing in the wings for years and make a down payment on fundamental tax reform for the next Congress.

For progressives, the ASSET reform replaces a dysfunctional tax by closing loopholes for high-end taxpayers and increasing capital gains levies. For conservatives, the change would eliminate a barrier to savings, investment and entrepreneurship, funded by a modest tax burden on those who most directly benefit. This revenue neutral reform creates common ground across the political spectrum for a pro-growth change in tax policy.

If ever there was a tax that virtually begged for repeal, it is the estate tax. This outdated levy generates nominal income for the Treasury. It constituted only 0.32 percent of federal revenue in 2011, enough to fund the federal government for less than a day.

But it is an Olympic contender for unintended consequences. Recent studies confirm that estate tax revenues are more than offset by high compliance costs and income tax revenue losses. The Tax Foundation, a nonpartisan research group, has suggested that the estate tax is an overall revenue loser for the Treasury's coffers and costs taxpayers more in preparation expense (compliance costs) than the tax raises in revenue.

A study released in August 2012 by the Tax Foundation concluded, "The compliance costs associated with the estate planning industry exceed the revenue yield of the tax itself." The tax has reduced total capital stock in the U.S. economy by 1.1 Trillion since 1916. Other research has documented the wasteful diversion of productive resources to the estate planning industry and challenged the tax paradoxically as a barrier to income and wealth mobility.

ASSET remains active in advocating replacement of the estate tax because we have personally witnessed how it damages the economy. As small-business leaders, we have seen how the tax can lead to the destruction or devaluation of family businesses, many of which lack the liquidity to cover estate tax liabilities on the death of the owner. This is a tax on small firms and workers' jobs, diverting investment and deterring growth. It cannibalizes productive enterprises while yielding few rewards.

The federal estate tax was repealed once before, but was permitted by political gridlock and fiscal dysfunction to resurrect itself, despite a bipartisan chorus of critics. Now, the tax is at risk of being preserved by the sheer weight of the looming fiscal carnage.

It does not have to end this way. We have laid out a blueprint for how the estate tax could be replaced by a temporary levy to make up for lost revenue, as well as using a change from stepped-up to carry-over basis to tap new capital gains revenues. This approach has the potential to engage thoughtful legislators from across the political spectrum, taking one large issue off the table while improving the tax code.

The ASSET proposal throws a lifeline to congressional leaders looking for bipartisan solutions to both the growth deficit and the fiscal cliff that can permanently improve the tax code. We hope they grasp it.

ARSA action

In response to ARSA protest, FAA reverses maintenance duty time legal interpretation

In a major victory for the aviation industry, on December 26, 2012, the Federal Aviation Administration (FAA) withdrew its faulty legal interpretation of maintenance duty time limitations prescribed in Title 14 Code of Federal Regulations (14 CFR) section 121.377.

Specifically, the agency reversed course on its [May 18, 2010 legal interpretation](#) meant to clarify the application of the rest provisions and equivalency standards under the regulation. However, the FAA erroneously concluded that the rule rigidly required one day off out of every seven days.

A December 2010 ARSA [complaint](#) prompted the agency's reevaluation. The Association noted that the agency's interpretation overlooked the rule's plain language and presented an impermissible deviation from longstanding FAA construction and application. The rule clearly states the period of required rest is "24 consecutive hours during any seven consecutive days, or the equivalent thereof within any one calendar month." (Unfortunately, the FAA interpretation conditioned operation of the underlined phrase to emergencies).

In response to ARSA's complaint, the FAA published a [notice in the Federal Register on April 15, 2011](#) requesting comments on its interpretation. On June 14, 2011, ARSA's [comments](#) reiterated its assertion that the interpretation changed the plain language of the regulation without following the Administrative Procedure Act and must therefore be rescinded.

The agency finally agreed with ARSA. In a [Dec. 26, 2012 response to ARSA](#), the FAA acknowledged its error and stated, "The requirement for equivalency lies in the amount of rest given, not in the way the schedule itself operates or is developed."

This regrettable delay has already imposed serious consequences on the industry. Air carriers and their maintenance providers rewrote schedules at significant cost in order to accommodate a wrongheaded bureaucratic action. It is notable that many other groups including Airlines for America, the Transport Workers Union of America, and the Professional Aviation Maintenance Association joined ARSA's position in their comments to the regulatory [docket](#).

The change in course, however, shows the clear value of actively engaging with the FAA and fighting for regulatory interpretations that are clear and consistent at all points in the rulemaking, interpretation, and enforcement process.

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FAA: Yes, you can serialize and mark that part

A maintenance provider can restore or assign and add a serial number to a part received with that information missing or illegible, and it can assign and add a serial number to a part not originally serialized, [the FAA told ARSA](#).

The FAA's clarification follows ARSA's [Dec. 11, 2012 request](#) seeking to resolve confusion about part marking during maintenance. The Association asked the agency to acknowledge the permissibility of marking parts with serial number information.

The FAA recognized that such part marking is allowed. It also noted that marking life limited parts requires coordination between the maintenance provider and the design approval or type certificate holder.

CRI ARC recommends OpSpecs clarity

ARSA and other members of the Consistency of Regulatory Interpretation Aviation Rulemaking Committee (CRI ARC) [notified](#) FAA Associate Administrator for Aviation Safety Margaret Gilligan of the group's findings that changes and amendments to FAA Operations Specifications (OpSpecs) often serve as a proxy for rulemaking or regulation.

The CRI ARC closely studied OpSpecs language to develop an effective method for identifying, reviewing, and improving this essential regulatory and oversight tool.

"With the need for more efficiency in the administration of aviation safety compliance, we urge your attention to the methodology used to identify effective actions for improvement in this area," the committee stated.

The CRI ARC noted that the proliferation of OpSpecs changes creates inconsistent application and uncertainty among operators. Due to this confusion, the committee recommends that FAA periodically review the reasons for each OpSpecs paragraph as well as:

- Remove OpSpecs with redundant regulatory requirements, i.e., those that merely repeat regulatory language
- Ensure that OpSpecs clearly delineate between—
 - A safety requirement that must be followed by the certificate holder (and can be appealed if disagreement surfaces); and
 - A data collection activity for FAA internal or external use, which is used as a convenient method of holding information, but is not "required to be followed" in the interest of safety.

"OpSpecs should not be used as proxies for rulemakings," stated ARSA Executive Director Sarah MacLeod. "Curtailing amendments and other changes to OpSpecs eliminates the potential for circumventing the rulemaking process and provides greater clarity. To this end, much like the CRI ARC recommendations issued late last year, we believe that less is more."

The committee's findings follow its November 2012 [primary recommendations](#): the FAA should review all guidance documents and interpretations, identify and cancel outdated material, and cross-reference (electronically link) material to the applicable rule.

Members of the Association may display the Member Web Badge on their company Web site. Contact arsa@arsa.org for more information.



New workforce development site aims high

[Aviation Workforce Development](#) (AWD), a nonprofit group dedicated to providing labor market information and career entry and development resources for the U.S. aviation industry, has launched a new website in its quest to promote aviation careers.

As all of us in the industry know, aviation faces a “perfect storm” of 21st century leadership and development issues: a large number of retirements, changing U.S. demographics, rising global market demands, technological innovations, and political and regulatory challenges. To address this storm, AWD is seeking to connect industry leaders, facilitate cross-generational bridges, encourage careers in aviation, and develop future leaders.

To that end, AWD created a new website with information about the many career options in aviation. With overviews of different career paths and links to resources, the site provides those interested in the industry with a plethora of information. In support of the new site, AWD also unveiled a new Facebook profile and LinkedIn group to encourage a dialogue about the industry’s needs and share information. In the near future, the AWD site will host a careers portal to connected interested parties with employers.

Originally launched as a consulting firm to address issues within business aviation, AWD quickly realized that the issues facing the business aviation community were prevalent within all areas of aviation. This realization prompted the group’s broader focus and gave rise to the idea of creating a platform to address workforce issues and connect young professionals to aviation.

Be sure to check out their new [website](#) and follow their activities through popular social media sites such as [Facebook](#), [LinkedIn](#), and [Twitter](#).

FAA: UAS not anticipated to impact existing fleet

On Dec. 26, then Acting FAA Administrator Michael Huerta [wrote](#) ARSA and other aviation industry groups in response to a [Nov. 8 industry letter](#) concerning the integration of Unmanned Aircraft Systems (UAS) into national airspace. The stakeholders asked the agency to ensure that the introduction of UAS would not limit access to airspace or require modification to existing aircraft beyond that necessary to accommodate the NextGen transition.

In response, Huerta noted that the FAA is pursuing its UAS obligations from the FAA Modernization & Reform Act of 2012 in a prudent matter and that the agency does not anticipate UAS integration to impact modification requirements for existing fleets. He also stated that the agency is working to ensure that UAS are incorporated in NextGen planning.

Support ARSA’s Positive Publicity Campaign

It’s no secret; the contract maintenance industry suffers from an image problem. Years of baseless attacks have created a hostile media environment, and worse yet, has blinded some lawmakers and portions of the public to the benefits of aviation contract maintenance.

ARSA’s [Positive Publicity Campaign](#) (PPC) confronts these challenges; its message is clear: repair stations make air travel safer, create air carrier efficiencies, contribute to the economy, and generate jobs.

PPC resources support industry economic impact studies, defend the industry in the national media, and monitor media coverage. All industry stakeholders are asked to support the campaign through a financial contribution. Make your [pledge](#) today!

Positive publicity corner

Understanding our industry's value

By Jason Langford, ARSA director of communications

One of the positive publicity campaign's (PPC) chief contributions to ARSA and the aviation maintenance industry has been to provide a picture of our industry's overall economic and employment impact. This research revealed that our industry has a \$50 billion global economic impact, employs more than 274,000 American workers, and analyzed total employment on a state-by-state basis.

This data has proven invaluable in ARSA's advocacy for repair stations on Capitol Hill. It has provided lawmakers skeptical about contract maintenance with concrete examples of the value the industry provides to their districts by employing constituents and growing local tax revenues. Members of Congress may have no idea how maintenance is performed or any understanding of the industry's technical details, but they understand the impact of the jobs a growing field provides, especially during tough economic times.

To help prepare the Association for looming legislative battles over the use and regulation of contract maintenance, ARSA is presently updating this research. While necessary, it does not come cheap. The costs to outside economists and industry experts are substantial. Yet, as an ARSA member, you can help defray some of this cost and ensure that the Association maintains healthy reserves to support our efforts to improve the operating climates for repair station by supporting the PPC.

The PPC's mission is to serve as the voice of aviation maintenance and is funded entirely by the voluntary donations of ARSA-member companies. If you're looking for a way to make a positive investment in the industry's future this new year, pledge your support for the PPC!

To show your support for the PPC and ARSA's advocacy on behalf of repair stations, contribute today to the campaign. [Click here to pledge your support.](#)

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 \$50 billion industry and its vital importance to global civil aviation. To accomplish this goal, ARSA monitors media coverage about 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.

[AAR Duluth recruiting in Minneapolis \(AINOnline\)](#)

[Evolution of Lockheed Martin's Montreal MRO \(Aviation Week\)](#)

[Duluth aircraft maintenance base gets OK for mega sign \(Duluth News Tribune\)](#)

[Gulfstream adding 100 jobs in Greenville \(AviationPros.com\)](#)

[Constant Aviation expands accessory facility \(AviTrader\)](#)

[Baker Aviation expands maintenance hangar space in Addison, TX \(AviationPros.com\)](#)

[Legacy Aviation expands maintenance capacity \(AINOnline\)](#)

[Wilmington Air Park project to create 250 new jobs \(Dayton Business Journal\)](#)

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ARSA on the Hill

By Daniel Fisher, ARSA vice president of legislative affairs

In January, ARSA's legislative team began laying the groundwork for the "Lift the Ban" lobbying campaign by launching a [survey](#) to quantify the impact of the prohibition on new foreign repair station certifications.

The legislative team attended swearing-in receptions and meet and greets for new and returning lawmakers, including recently appointed members to the House Transportation & Infrastructure Committee.

ARSA was represented at a meeting of the [Family Business Coalition](#) to discuss legislative strategy following the fiscal cliff deal, which set the estate tax rate at 40 percent with a \$5 million exemption (indexed for inflation). The legislative team also focused on finalizing the agenda for the annual [Legislative Day](#).



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Bills on the Hill

Meet the new T&I committee leadership

Incoming House Transportation & Infrastructure (T&I) Committee Chairman Bill Shuster (R-Pa.) and Ranking Member Nick Rahall (D-W.V.) unveiled the panel's vice chairman and subcommittee chairs for the 113th Congress.

Rep. John Duncan (R-Tenn.), a former chairman of the aviation subcommittee, will serve as the vice-chair. In this position, Duncan will lead special panels tasked with making recommendations to the full committee.

Rep. Frank LoBiondo (R-N.J.), will take over the reins of the aviation subcommittee. Rep. Rick Larsen (D-Wash.) will replace retired Rep. Jerry Costello (D-Ill.) as the top Democrat. Larsen's congressional district includes Boeing's Everett factory for the 747s, 767s, 777s, 787s and the new Air Force KC-46A tankers. He has been a strong ally of ARSA's on repair station issues in the past.

Freshman Rep. Rodney Davis (R-Ill.) will serve as the subcommittee's vice-chair.

A full listing of all subcommittee assignments is available [here](#).

Congress temporarily averts fiscal cliff

On Jan. 3, President Obama signed the American Taxpayer Relief Act ([H.R. 8](#)), bipartisan legislation forestalling the fiscal cliff, without addressing the tax and spending issues.

The law prevented massive tax hikes for most Americans, raised taxes on high-earners and temporarily delayed the across-the-board spending cuts required by sequestration. Rather than using this historic

the hotline

opportunity to address comprehensive tax reform or reduce federal spending, lawmakers simply punted, leaving the 113th Congress to clean up the mess. What's more, the battles exposed political fissures that will present challenges for an ultimate resolution.

Important tax items in cliff deal

Included in the legislation were several beneficial tax changes.

The law extends 50 percent depreciation bonus through 2013, with the option to accelerate Alternative Minimum Tax credits in lieu of the depreciation bonus and allowing companies using PCM (percentage of completion method of accounting) to benefit. It also includes a provision setting Sec. 179 expensing levels at \$500,000 with a \$2 million phase-out retroactively for last year through the end of 2013.

The fiscal cliff agreement also provided a "fix" to estate tax uncertainty. While the tax has varied widely in recent years, the deal establishes a permanent rate of 40 percent with a \$5 million exemption (\$10 million for couples), indexed to inflation. ARSA continues to believe, however, that the only real fix is permanent repeal.

New year, new challenges, old problems

Having merely delayed long-term action on sequestration, tax reform, and the national debt, the fiscal cliff battle revealed important fault lines.

The clash uncovered a rift within the House GOP. Speaker John Boehner (R-Ohio) abandoned negotiations with President Obama after Republican colleagues soundly rejected his proposed fix. This shifted action to the Senate, where Minority Leader Mitch McConnell (R-Ky.) took the GOP lead to work with Vice President Joe Biden on a solution to avert the cliff.

In the opening days of the 113th Congress, several GOP lawmakers voted against Boehner to serve a second term as speaker. Since that time, many Republicans have come out adamantly against any future revenue increases. All this demonstrates that in the looming battle over sequestration and comprehensive tax reform, the House Republican conference is likely to be a wild card as the party establishment battles tea party-backed conservatives for the majority of the GOP vote.

President Obama, emboldened by his recent election and fiscal cliff victory (raising taxes on the wealthy), has stated that he will not negotiate with the GOP over increasing the nation's borrowing ceiling. Sensing that a battle over the debt limit is a political loser, House Republicans passed a plan ([H.R. 325](#)) to allow the federal government to continue to pay its debt through May 19. This buys time for lawmakers on a longer-term solution to sequestration and comprehensive tax reform.

As *the hotline* went to press, the Senate was expected to approve H.R. 325 and send it to the White House for the president's signature.

What's next

With the battle lines drawn, Washington is again in the middle of high-stakes political drama.

Even as the 113th Congress finishes organizing, many are expressing pessimism over lawmakers' ability to right the nation's fiscal house. Despite the widespread budget and tax uncertainty, much of the motivation to reach a deal has seemingly vanished. Though the looming threat of sequestration is only a month away, the issue is rarely addressed in Washington.

Over the next few weeks, ARSA will aggressively push lawmakers to avoid sequestration and its [potentially disastrous impact on the FAA](#). The Association will also be working with elected officials to reform the tax code and develop sustainable debt solutions. But, we're going to need your help.

Visit the newly updated www.ARSAaction.org to send a message to your lawmakers encouraging leadership on tax and spending issues. And, attend ARSA's 2013 Legislative Day and Annual Symposium, March 20-22.

Is the foreign repair station ban impacting your company?

ARSA has launched a survey to measure the impact of the ban on new FAA foreign repair station certificates.

Congress prohibited the FAA from acting on foreign repair station certificate applications submitted after Aug. 3, 2008 because the Transportation Security Administration (TSA) had not finalized repair station security rules. The ban is an unprecedented example of punishing industry for a federal agency's inaction. U.S. aviation companies are barred from tapping into rapidly expanding overseas markets, which is hindering job creation and growth at home.

"ARSA members are paying the price for bureaucratic foot-dragging and a poorly thought-out policy," said ARSA Vice President of Legislative Affairs Daniel Fisher.

The latest survey is a follow up to one conducted in [fall 2011](#). That survey found that the prohibition was hurting small to medium sized businesses in the United States, preventing growth, and costing American companies millions of dollars in lost revenues. ARSA will share the data with policymakers as part of the Association's ongoing campaign to lift the ban.

All repair stations impacted by the prohibition are encouraged to participate. To complete the brief survey, please visit: <https://www.surveymonkey.com/s/FHJNP2B>.

ARSA welcomes 113th Congress

On Jan. 4, ARSA welcomed new and returning lawmakers to the 113th Congress.

"On behalf of its members, ARSA is standing by to serve as a resource about the aviation maintenance industry and its contributions to the safety, efficiency, and reliability of America's civil aviation system," said ARSA Vice President of Legislative Affairs Daniel Fisher.

During the next two years, the Association looks forward to working with lawmakers to guarantee the continued success of repair stations on several issues:

- Removing the prohibition on new FAA foreign repair station certificates;
- Ensuring the FAA is equipped with the resources necessary to accomplish the agency's mandates and priorities;
- Overseeing implementation of the FAA Modernization and Reform Act so the law is carried out according to congressional intent;
- Strengthening the small business protections of the Regulatory Flexibility Act; and
- Restoring certainty to the tax code.

"ARSA looks forward to working in a bipartisan manner to craft aviation policy that permits repair stations to build on the industry's exemplary safety record while creating jobs and economic growth in communities throughout the country," said Fisher.

As ARSA works with lawmakers, be sure to reinforce the Association's efforts with lawmakers by visiting www.ARSAaction.org and urging your members of Congress on ARSA's top priorities.

Staying in Touch: ARSAaction.org

ARSA has made many upgrades to its grassroots advocacy and congressional outreach tools at ARSAaction.org.

The revised site features a modern design, improved action alerts, and easier access to information about ARSA's legislative priorities. If you haven't done so yet, visit today!

www.ARSAaction.org

ARSA congratulates Huerta on confirmation

On Jan. 1, the Senate finally confirmed Michael Huerta to serve a five-year term as FAA Administrator. Huerta has been the agency's acting leader since December 2011.

"ARSA congratulates Michael Huerta on his long overdue confirmation to serve a five-year term as FAA Administrator. The Association and its members look forward to working with him to ensure U.S. commercial aviation remains the safest in the world," said ARSA Executive Director Sarah MacLeod.

"While the aviation maintenance industry continues to grow, many threats to the sector are looming. ARSA is eager to work with Administrator Huerta to ensure that the agency's guidance, policy, and interpretations are clear, concise, and consistently applied. Additionally, the Association anticipates working with him on the implementation of the FAA Modernization and Reform Act to guarantee that the law is carried out according to congressional intent."

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Court rules Obama NLRB appointments unconstitutional

On Jan. 25, the U.S. Court of Appeals for the District of Columbia circuit [ruled](#) that President Obama's recess appointments to the National Labor Relations Board (NLRB) violated the Constitution.

The case, *Noel Canning v. National Labor Relations Board*, challenged the validity of three Obama appointees made in early 2012. The court held that at the time, the Senate was not in recess and that the individuals did not fulfill a vacancy that happened during a recess of the upper chamber.

The NLRB argued that the president had the authority to determine when the Senate was in recess for the purpose of making appointments. "As a matter of cold, unadorned logic, it makes no sense to adopt the Board's proposition," the court declared. Rather, it found that under the Constitution, the president's power to make recess appointments only applies to the recess between sessions of Congress.

Secondly, the court held that "[T]he filling up of a vacancy that happens during a recess must be done during the same recess in which the vacancy arose," the court ruled.

While the ruling is a significant victory for employers burdened by the Obama administration's activist labor board, it has political ramifications that reach far beyond the NLRB.

As Washington has become increasingly polarized, the Senate has refused to recess in order to prevent the president from making recess appointments. Citing the need to ensure efficient government, however, President Obama has made several recess appointments to other positions. The validity of these will likely be called into question and any decisions made by those individuals will be challenged.

The D.C. Circuit's decision is sure to be appealed, especially as other courts have recently permitted recess appointments in similar cases. Given the importance of the outcome, most judicial commentators anticipate the U.S. Supreme Court will take up the case in the future.

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 newly-confirmed FAA Administrator Michael Huerta.

Michael Huerta, Administrator FAA



Michael Huerta was sworn in as FAA Administrator on Jan. 9, 2013. Overseeing a \$16 billion budget, Huerta is responsible for the safety and efficiency of the world's largest aerospace system.

Huerta had been serving as acting administrator since Dec. 2011. Prior to working in that capacity, he was confirmed as the agency's deputy administrator in 2010. Before joining the FAA, he held senior positions at Affiliated Computer Services, eventually becoming president of the Transportation Solutions Group. He also served as a managing director for the 2002 Winter Olympics in Salt Lake City.

Huerta has long been involved in transportation issues, serving as the commissioner of New York City's Department of Ports, International Trade & Commerce from 1986-1989, the executive director of the Port of San Francisco from 1989-1993, and filling senior positions at the US Department of Transportation during Bill Clinton's presidency.

He earned a bachelor's degree in political science from the University of California-Riverside and a master's in international relations from Princeton.

International news

EASA proposes SMS incorporation for 145s

On Jan. 21, the European Aviation Safety Agency (EASA) posted a [notice of proposed amendment](#) (NPA) incorporating safety management system (SMS) requirements into its part 145 (Maintenance Organization Approval) and part M (Continuing Airworthiness) rules.

A full accounting of all proposed amendments is available [online](#). For an explanatory note and regulatory impact assessment from EASA, [click here](#). Stay tuned for more information as ARSA analyzes the proposal and its potential impacts. The agency is accepting comments through April 22, 2013.

International roundup

Editor's Note: To provide more international coverage, ARSA presents a monthly roundup of world events pertaining to the industry.

[Bombardier expands business aircraft support network in Nigeria](#) (*BusinessDayOnline*)

[Lufthansa Technik's restructuring plans for its administration](#) (*Air Transport News*)

[Middle East MRO set to grow, but hurdles remain](#) (*Aviation Week*)

['Nigeria needs aircraft maintenance facility now'](#) (*PUNCH*)

[Air India's average fleet age shrinks from 15 years to 2.5](#) (*live mint*)

[Malaysia's SAE plans 2013 expansion of MRO business](#) (*Aviation Week*)

[India and Russia sign major aircraft deal](#) (*The Australian*)

[Chinese carriers in for the long hall, but face stumbling blocks](#) (*Centre for Aviation*)

Member spotlight

Star Aviation, Mobile, Ala.

Star Aviation specializes in post-delivery modifications of aircraft and marine engineering. After a recent merger, the company now offers complete engineering and manufacturing services to both aviation and marine industries.

Founded in 1999 as an aircraft engineering, certification, and technical services firm the company has steadily grown and today boasts over 100 employees and two locations. Star Aviation provides a wide range of technical services, from production illustration drawings and computer-aided drafting, to maintenance manuals, service bulletins, and data management.

Star Aviation manages its client's products from prototype to mass production in an effective and professional manner.

For more information, visit <http://www.staraviation.com/>

Are you an ARSA member who would like to be in the "Member Spotlight?" If so, please contact Keith Mendenhall <Keith.Mendenhall@arsa.org>.



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Welcome new members

Air Repair LLC, Kahului, HI

[Airline Tech Reps LLC dba STS Line Maintenance](#), Lantana, TX

[AirResource Group, LLC](#), Springdale, AR

[Nelson Engineering Co.](#), Phoenix, AZ

ARSA regulatory compliance training—Answers

Correct answers are in **bold**

Part 1: General Comprehension

Level 1: For anyone working in aviation

§ 65.104: Repairman certificate: Experimental aircraft builder – Eligibility, privileges and limitations.

- (a) To be eligible for a repairman certificate (experimental aircraft builder), an individual must—
- (1) Be at least 18 years of age;
 - (2) Be the primary builder of the aircraft to which the privileges of the certificate are applicable;
 - (3) Show to the satisfaction of the Administrator that the individual has the requisite skill to determine whether the aircraft is in a condition for safe operations; and
 - (4) Be a citizen of the United States or an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States.
- (b) The holder of a repairman certificate (experimental aircraft builder) may perform condition inspections on the aircraft constructed by the holder in accordance with the operating limitations of that aircraft.
- (c) Section 65.103 does not apply to the holder of a repairman certificate (experimental aircraft builder) while performing under that certificate.

<p>Question 1: It is not necessary to be the primary builder of an experimental aircraft to earn a repairman certificate (experimental aircraft builder) for the aircraft to which the privileges attach.</p>	<p>Question 2: A holder of a repairman certificate (experimental aircraft builder) can perform any type of condition inspection.</p>
<p>A—True.</p> <p>B—False. To qualify for a repairman certificate (experimental aircraft builder), it is necessary to be the primary builder of the aircraft to which the privileges attach.</p>	<p>A—True.</p> <p>B—False. The holder of a repairman certificate (experimental aircraft builder) may perform condition inspections on the aircraft constructed by the holder <i>in accordance with the operating limitations of that aircraft</i></p>

<p>Question 3: A citizen of a foreign country who has lawfully been admitted for permanent residence in the United States does not qualify for an experimental aircraft builder repairman certificate.</p>	<p>Question 4: An individual may obtain a repairman certificate for an experimental aircraft if that person is at least 18 years old, the primary builder of the aircraft, and a U.S. citizen or foreign citizen lawfully admitted for permanent residence in the United States</p>
<p>A—True.</p> <p>B—False. An individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States may receive an experimental aircraft builder repairman certificate</p>	<p>A—True.</p> <p>B—False. An individual must also “[s]how to the satisfaction of the Administrator that the individual has the requisite skill to determine whether the aircraft is in a condition for safe operations.”</p>