

# The UPDATE Report



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## Can the Export Express Program Help Your Business?

Does your small exporting business need money to support market penetration strategies, or to fund a trade mission overseas? If your company has been in business (though not necessarily in the exporting business) for at least twelve months, and meets the requirements for a Small Business Association (SBA) business loan guaranty, you may be in luck.

The SBA's Export Express Pilot program, first implemented in 1998, has been extended until December 31, 2009. The Export Express program makes loans available to applicants who demonstrate that the loan proceeds will enable them to enter a new export market or expand an existing export market. The SBA guaranty level in this program is up to 85%. This guaranty encourages lenders to make loans to small business exporters that they might not make otherwise. The Export Express program is designed to assist current and prospective small exporters, especially those who need revolving lines of credit.

Currently, the maximum loan amount available under the Export Express program is \$250,000. Interest rates on the loan are negotiated between the borrower and the lender, and may be either fixed or variable. The loan is flexible, allowing your company to use the loan proceeds for most business purposes, including equipment purchases, expansion, inventory, working capital, or real estate acquisitions. The maturity of a loan in the program is usually five to ten years for working capital, ten to fifteen years for machinery

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## MESSAGE FROM ASA'S PRESIDENT

Dear Colleagues,

What a whirlwind in economic and political news. Obvious congratulations to President-Elect Obama and Vice President-Elect Biden and their team. ASA eagerly waits to hear who will be the new aviation leadership and looks forward to working with them. Exactly what change they will bring to distributors is unclear but at minimum there are several projects at the FAA that are on hold until a new FAA Administrator or Department of Transportation Secretary is in place. We are keenly aware of the financial impact the economic crisis has on ASA's members, of which 70+% have fewer than 20 employees, and plan to provide comments on any financial stimulus package in hope of making sure that there is effective small business relief. We also recognize the importance of the financial health of the large manufacturers and air operators and will voice our opinion in regard to economic assistance for all corporations.

ASA has seen a trend in the member questions we receive via phone or email. The most asked topic category is export questions, regarding can I export this part, what is the ECCN code, is the country barred, do I need a license and more. In response to the increase in questions and the complexity of the many laws regarding export, the ASA Board of Directors has asked Jason Dickstein to change the yearly workshop series to include a series of seminars dedicated only to export issues. The agenda and schedule are currently being finalized and will be announced this month. ASA previous workshop topics will also be discussed through a combination of live seminars and on-line training. We have changed our calendar schedule due to attendee comments regarding difficulty attending workshops around the holidays and will be starting the workshops in January.

The Board of Directors will be holding their 4th quarter meeting this month, which includes strategic planning. Contact information for the Directors is included below. If you have comments, issues or concerns you want addressed by the Board, please communicate them this week to any of the Directors. This is your Association and we welcome any feedback.

Take care, Michele

### THE UPDATE REPORT

is the newsletter of the Aviation Suppliers Association.

### OUR COMMITMENT

ASA is committed to providing timely information to help members and other aviation professionals stay abreast of the changes within the aviation supplier industry.

The **UPDATE Report** is just one of the many benefits that ASA offers members. To learn more about our valuable educational programs, please contact ASA.

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## REGULATORY UPDATE

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and equipment, and up to twenty-five years for real estate. The maturity for revolving lines of credit may not exceed five years.

The Export Express program also provides technical assistance for companies receiving loans as part of the program. The assistance is provided by the SBA's U.S. Export Assistance Centers. A representative from one of the Assistance Centers contacts the borrower upon approval for the loan to offer assistance and training, including training through the SBA's Export Trade Assistance Partnership, the SBDC International Trade Center, SCORE, the District Export Council, or the Export Legal Assistance Network.

The Export Express program comes at a time when the number of small business exporters has grown dramatically. In fact, the value of small business exports grew from \$300 billion in 2002 to \$477 billion in 2007. The Export Express program is designed to aid these new and expanding small business exporters. If this is a category your company falls into, you may want to look into applying for an Export Express loan.

More information about the Export Express Pilot Program can be found on the SBA's website, <http://www.sba.gov>, under "Special Purpose Loans". 

## New TSA Large Aircraft Rules Are Sneaking In New Requirements for Approved Auditors

TSA has proposed a new rule that would impose on large aircraft operators a requirement to have a TSA-approved security program, just like the air carriers must have security programs. A large aircraft is any aircraft with a maximum take-off weight of 12,500 lbs.

The real effect of this element of the rule is to extend TSA's requirements for security programs to general aviation, but to provide a carve-out for smaller general aviation aircraft.

But the reach of the new rule is far broader than merely adding large general aviation aircraft to the scope of TSA's oversight. TSA will require that security program auditors be approved by TSA. As proposed, the licensing provisions only apply to auditors providing oversight to large general aviation aircraft, but it is likely that TSA will propose in the future that either (1) the auditor licensing provisions be applied to anyone auditing a security program (including programs implemented by airports and air carriers) or (2) the security program

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For additional information, call John Howard at **847-229-1500** or by email **John@silvereagleagency.com**. For a free, no obligation quote, visit our Web site at **www.silvereagleagency.com**.

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auditors for airport and air carriers must meet standards substantially equivalent to those being applied to TSA-approved security auditors.


Approved auditors will have to meet the TSA regulatory standards:

- Successfully undergo a TSA security threat assessment.
- Currently hold or be able to obtain a certification or accreditation from an organization recognized by TSA.
- Have sufficient knowledge and skills to conduct a security audit of an aircraft operator.
- Receive initial and biennial training.
- Conduct independent and impartial audits, submit audit reports to TSA, and retain audit reports for 36 months.
- Identify, handle, and protect Sensitive Security Information and keep confidential other information provided by TSA and large aircraft operators.
- Submit to inspection by TSA.

The proposed rule describes the approval process that would apply to auditors. TSA would be able to 'withdraw approval' from any auditor practically at any time by claiming that the withdrawal was in the interest of security. While auditors would be able to seek reconsideration of the withdrawal of approval to conduct audits, the legal cost of such an appeal would probably preclude most private licensed auditors from seeking review.

It is likely that the TSA-approved auditor program will reflect a functional equivalent to the designee program used by the FAA, with the difference that the FAA has statutory authority from Congress to establish the designee program, whereas TSA has no such statutory authority for this licensing program.

ASA members should make sure that their customers understand the impact of this rule, and comment on it appropriately. General aviation operators (including business jet operators) will need to meet the new security program standards and the entire operator community should be aware of the new TSA-approved auditor provisions.

Comments on the proposed rule are due by December 29, 2008. The rule itself is available online at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2008\\_register&docid=fr30oc08-23.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2008_register&docid=fr30oc08-23.pdf). 

## 8130-3 Tags From Canada?

One of our members recently asked about an 8103-3 tag that they had received from a Canadian Approved Maintenance Organization (AMO). AMOs are the Canadian corollary to a U.S. Part 145 repair station, and when they maintain aircraft parts, they usually use the Transport Canada form 24-0078 as their approval for return to service document. Because they were used to seeing the form 24-0078 from Canada, the completion of an 8130-3 tag caught the ASA member by surprise.

The ASA member turned to the Association for advice. Their question was whether this represented an 'unapproved part,' or otherwise violated U.S. law by virtue of the paperwork.

The short answer to the question was that there did not seem to be anything facially illegal (under U.S. law) about the document, but it did represent a non-standard usage of the 8130-3 tag that might not be commercially acceptable to many customers.

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Of course, this short answer represents only a summary of the analysis. The longer answer to the question follows:


A Canadian AMO is permitted to perform work on a U.S. aeronautical product (like an aircraft part) under 14 C.F.R. § 43.17.

A Canadian AMO that does work on a U.S. aeronautical product is required to approve the product for return to service. 14 C.F.R. § 43.17(e). The standards for completing an approval for return to service are found in 14 C.F.R. § 43.9. This section does not require a specific form be used to accomplish approval for return to service; in fact, the Paperwork Reduction Act (44 U.S.C. § 3501 et seq.) forbids the FAA from requiring a specific form unless there is OMB approval of that form and even then the FAA can mandate a form only to the extent of the specific usage for which the form has been approved by the OMB.

Thus, there appears to be no violation of U.S. law when a Canadian AMO performs work under section 43.17 and then chooses to use a FAA form 8130-3 for approval for return to service of a U.S. aeronautical product (ASA offers no opinion as to whether this is permissible under Canadian law).

This is not the end of our analysis, however, commercial standards – not regulatory standards – have always been the primary influence on traceability standards in the aviation industry. FAA Order 8130.21F technically has no legal effect on the public, but it nonetheless is taken by the industry as important guidance on the creation and use of 8130-3 tags. While FAA orders constitute internal agency guidance rather than legal doctrine, Order 8130.21F is widely circulated, and much trusted in the aviation industry.

The language of section 3-1 of FAA Order 8130.21F suggests that Form 8130-3 may only be used as an approval for return to service document by repair stations certificated under 14 C.F.R. part 145, air carriers operating under 14 C.F.R. part 121 or part 135, and manufacturers following rebuilding or alteration of their own products. An AMO would not fall within this scope. This suggests (without having legal authority to support the suggestion) that an AMO would not be permitted to complete an 8130-3 tag to document completion of the maintenance tasks.

While there is no regulatory support for the limitations found in the order, the FAA order nonetheless carries a great deal of credibility with people in the industry. Customers may therefore be reluctant to accept an 8130-3 from a Canadian AMO as valid. Thus, ASA's commercial advice would be that ASA members should be concerned about their commercial ability to sell a part bearing a Form 8130-3 as the approval for return to service from a Canadian AMO. It does not have to be rejected, but it should be examined carefully with commercial practices and practical ability to satisfy the eventual customer in mind. 



# Proposed Rule Modifies Hazmat Security Plan Requirements

The Pipeline and Hazardous Materials Safety Administration (PHMSA), in consultation with the Transportation Safety Administration (TSA), has issued a Notice of Proposed Rulemaking which would modify the Hazardous Materials Regulations' (HMR) current security plan requirements governing the commercial transportation of hazardous materials by air, rail, vessel, and highway.

Currently, the HMR require a security plan for shipments of certain hazardous materials in stated quantities. A security plan must include an assessment of possible transportation security risks and appropriate measures to address these risks. The specific measures implemented under the plan may vary based on the level of threat at that particular time. However, at a minimum, a security plan must address personnel security (including measures to confirm information provided by job applicants for positions involving access to and handling of the hazardous materials), unauthorized access (including measures to address the risk of unauthorized persons gaining access to materials or transport conveyances being prepared for transportation), and en route security (including the security of shipments stored temporarily en route).

Using the United Nations Model Regulations on the Transport of Dangerous Goods' (UN Recommendations) list of high consequence dangerous goods as guidance, PHMSA has made risk-based adjustments to security plan requirements in the HMR. The UN Recommendations define high consequence dangerous goods as materials with the "potential for mis-use in a terrorist incident and which may, as a result, produce serious consequences such as mass casualties or mass destruction". With this definition in mind, PHMSA proposes to delete the security plan requirements for certain classes of materials while adding security plan requirements for other classes.

For example, the proposed amendment to the HMR would continue to require security plans for shipments of any quantity of Division 1.1, 1.2, or 1.3 explosives. However, a security plan would only be required for select Division 1.4 explosives (listed in the rule) that are difficult to produce, are key components in IEDs, and can be used as initiators for other explosives. Additionally, the HMR would begin to require a security plan for all shipments of Division 1.5 explosives in any quantity, not just placarded shipments, while no longer requiring a security plan on any Division 1.6 explosives shipments. This change would be important for ASA members handling squibs, because most aircraft squibs are division 1.6. These are just a few of the changes the proposed rule makes, using risk analysis to determine for each category of hazardous material whether a security plan is required, and if so, starting at what quantity.

Additionally, companies that are subject to the security plan requirements in subpart I of part 172 are currently required to provide in-depth training concerning their security plan and its implementation. As it is written, this security training requirement appears to apply to all hazmat employees, but PHMSA states that this was not the intention. Rather, the in-depth security training was meant to apply only to hazmat employees who are responsible for implementing the security plan or who perform regulated functions related to the transportation of the materials covered by the security plan. PHMSA's proposed rule would clarify this requirement by specifying its application to those employees directly involved with implementing security plans.


This proposed amendment to HMR would require in-depth security training to be provided to the applicable employees once every three years, or, if the plan is revised, during the recurrent training cycle within 90 days of the implementation of the revised plan. The proposed rule also requires plans to be reviewed at least once a year and updated whenever necessary due to changed circumstances.

The PHMSA states that the reason for the proposed change is the increased experience both the industry

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and the government have gained in evaluating security risks associated with specific hazardous materials and transportation environments in the four years since the original security plan requirements took affect.

Comments are due by November 10, 2008. The proposed rule can be viewed at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2008\\_register&docid=fr09se08-24.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2008_register&docid=fr09se08-24.pdf) 

## Convictions

Recently, after running afoul of FAA regulations, various individuals in the aviation industry have pled guilty to violations carrying penalties from fines to jail time to a lifetime ban on FAA certification. These instances serve as a reminder to everyone in the industry of the potentially serious consequences of failing to comply with FAA regulations, and show that there is legal recourse against those who play fast and loose with the rules.


In one case, a pilot, James Davis, pled guilty in U.S. District Court to making a fraudulent statement on the FAA application for his Airmen Medical Certificate. An investigation by the Department of Transportation (DOT) and the Office of the Inspector General (OIG) revealed that Mr. Davis had provided a false social security number and date of birth on his application, as well as falsely reporting that he had no history of (non-traffic) convictions.

Mr. Davis was sentenced on to sixteen months imprisonment and thirty-six months supervised release. Mr. Davis' plea agreement required him to surrender to the FAA his Private Pilot Certificate and to agree not to apply for any type of FAA certificate for the remainder of his life. With this lifetime ban on certification, the OIG is sending a strong message to applicants that anything less than the full truth and complete disclosure will not be tolerated in applications for Airmen Medical Certificates.

In a second recent case, the former CEO and chief mechanic of B&C Flight Management, William M. Sexton, pled guilty to making a false logbook entry. Mr. Sexton was charged with making a false logbook entry regarding the installation of a static defect correction module in a Gates Learjet 25B in April, 2004. The OIG also discovered that from 1998 until 2004 Mr. Sexton had falsified engine logbooks and other maintenance records by misrepresenting aircraft hours, inspection, and repairs, in order to avoid costly mandatory maintenance. Mr. Sexton's sentencing is scheduled for November 10, 2008.

In a third case from this July, a DOT/OIG investigation revealed that the owner and operator of Engine Air, Inc, Richard Hammond, had illegally repaired general aviation aircraft engines and returned them to service as airworthy. Mr. Hammond's FAA Airframe and Powerplant mechanic certification had been revoked in December, 2004, for falsification of engine repair documents, yet he continued to certify engines as overhauled though he was not certified and thus was not authorized to do so. Additionally, Mr. Hammond admitted to illegally returning to service an engine that was to be used on a FAA commercial air taxi aircraft.

Mr. Hammond pled guilty to falsifying maintenance records for the overhaul of aircraft engines. His sentencing has not yet been scheduled. Mr. Hammond's conviction is bittersweet news for the owners of aircraft engines he falsely returned to service, who will have to undergo the expensive process of having the engines re-inspected and again returned to service.

ASA members who feel that they have been victims of, or witnesses to criminal activity should remember that the DOT Office of Inspector General remains actively involved in assuring that FAA regulations are enforced appropriately, and they have strong relations with other law enforcement offices. Many issues that ASA members encounter are related to parts-approval issues, and the DOT OIG remains particularly focused on investigating and pursuing unapproved parts cases in order to protect aviation safety. 

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## New Standards to Go Into Effect for Pressurized Engine Static Parts

Effective November 24, 2008, the FAA is amending the aircraft engine type certification standards by adding new standards for pressurized engine static parts. These new standards are equivalent to the standards already used by the European Aviation Safety Agency (EASA).

For distributors, this means that engine parts that are certificated in the future (including PMA parts where the PMA is sought after November 24, 2008, will be held to a higher safety standard.

Examples of pressurized engine static parts include: compressor, combustion, diffuser, and turbine cases; heat exchangers; bleed valve solenoids; starter motors; and fuel, oil and hydraulic system components. This list came from the FAA's Notice of Proposed Rulemaking, and the FAA specifically noted that it was not meant to be an exhaustive list of pressurized engine parts. Rather, it was intended to give the industry some idea of what parts are covered by the new pressurized engine parts regulations. It is then up to the applicant to ensure that all applicable pressurized engine parts are identified and that their application package demonstrates compliance with the new standards. The new standards will also apply to future STCs.

The amendment adds a section to 14 CFR part 33. This section, Section 33.64, is entitled "Pressurized Engine Static Parts" and prescribes tests for pressurized engine parts at maximum working and operating pressures. To avoid inconsistency with testing requirements in other sections, the FAA modified Sections

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## MEMBER Benefits !!

ASA has partnered with ChoicePoint to offer discounted employee background checks to ASA Member companies. It is imperative to check all new employees and recommended to have a system in place to monitor existing employees. This type of monitoring is critical during economic downturns when, unfortunately, statistics show there is an increase in employee theft.

ChoicePoint offers a premier-level screening tool to ASA Members through its ScreenNow Program. ScreenNow is a Web-based service that provides you with the ability to screen both new and existing employees.

ChoicePoint has provided a handy set-up guide that will help you get started on ScreenNow. It outlines the steps and proper procedure involved in ordering a background check from ScreenNow.

Click [here](#) to view the types of background checks offered. ASA Members get 40% off all prices listed!

If you have questions about background checks, including the appropriate screening for different types of employees and screening your existing employees, you can contact ASA's point person for Employee Background Screening, Harry Schaefer or you can ask ChoicePoint.




# REGULATORY UPDATE

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33.71(c) (9) and 33.91(c) by replacing existing testing requirements for pressurized tanks with a reference to meeting the requirements of Section 33.64. The new Section 33.64 contains the same provisions as EASA's standard for pressurized engine static parts, "CS-E 640 Pressure Loads".

An FAA study of U.S. turbine aircraft engine manufacturers indicated that they already meet the European requirements added by the amendment, so for many of the large manufacturers, this will not reflect a real change in the manufacturing standards. Nonetheless, this amended rule is still helpful to the industry. The amendment establishes uniform standards for certification of pressurized static engine parts in the United States and Europe, ensuring that U.S. products are more acceptable when exported to Europe.

Prior to this amendment, engine manufacturers had to demonstrate compliance with both part 33 and with EASA certification standards to market turbine engines in both the United States and Europe. This amendment may lower the cost of developing a new turbine engine, as elimination of the difference between the standards eliminates the need to spend resources validating the differences in the certification requirements (although it would not reduce the validation fees charged by EASA to manufacturers). 

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## ASA Events

July 11-14, 2009 ..... ASA Annual Conference  
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## Other Industry Events

December 3-4, 2008 ..... Aircraft Maintenance Outsourcing EXPO 2008  
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