



The Update Report

The Aviation Suppliers Association

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INDUSTRY UPDATE

OEM Loses Bid to Control Aftermarket

Can you imagine a legal theory in which any independent repair of a component was a legal violation? One OEM was able to imagine it!

Bell Helicopter sued a repair station, claiming that the repair station's DER-approved repairs were all trademark infringements. This is a suit that should be important to anyone that repairs *or sells* used aircraft parts.

The Claim

Bell claimed that when someone repairs a part, it makes a change in the part. If that repair has not been pre-approved by Bell, then that change is 'unauthorized.' Bell claimed that leaving the Bell part number on these components after the 'unauthorized' repair was a trademark violation. Bell also claimed that people in the industry were confused about the source of parts that had been repaired (apparently ignoring the information printed on the 8130-3 tag).

The Industry Impact

Bell's theory was that the *failure* to remove Bell trademarks from repaired parts was a trademark violation – this means that they would have had to have been removed to satisfy Bell.

Obviously, removing an OEM's part numbers from repaired components is

not practical in the aviation industry. Because part markings are meant to be permanent, it is often difficult to remove the markings. In some cases, such removal could damage the parts. Even if the removal did not damage the part, the part would likely no longer meet the relevant type design (which generally includes the part number marking) so it would be ineligible for installation without at least a separate proof of airworthiness – an action so substantial in many cases that it is simply not reasonable to perform on a repaired part. With the OEM markings removed, such parts would likely be considered suspected unapproved parts (SUPs). In addition, passing off such parts as if they did not come from the OEM (as if it originated at the repair station) could represent a violation of trademark laws, called reverse palming-off.

Bell's theory could have had a tremendous impact on the industry. Because of the long list of problems inherent in removing OEM markings, Bell's theory would have meant that many independent repair stations would be permitted to only perform repairs already published by the OEM but would not be permitted to diverge from those published in the repair manual. This would mean that the OEMs would be better able to prevent the repair and reuse of parts – by removing a popular repair from the repair manual, the OEM could force the

(Continued on page 91)

Inside this Issue:

Congress Signs Aviation Reauthorization Act87
 Overtime Law89
 US-EU Trade Disputes.....90
 Hazmat Civil Penalties Increased..93
 Swiss SUPs Notification95
 ASA Workshop Schedule91

Congratulations to the following companies:

Global Aviation Resources, Inc.
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BARON International Aviation, Inc.
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North Star Aerospace, Inc.
 Auburn, WA

For their re-accreditation to the ASA-100 standard in accordance with the FAA's AC 00-56A Voluntary Industry Distributor Accreditation Program.



A Message from ASA's President

I am very pleased to announce the results of our recent Election for the Board of Directors.

As you all know, there were four Board seats up for election this year. Seven potential directors competed for these four slots in a very close election.

Three of those seats were held by incumbents who were running for re-election. The three incumbents, Terry Bond of M&M Aerospace, Mike Molli of Scandanavian Airlines System, and Roy Resto of Tracer Corporation, all were successful in their bids for election

The fourth Board seat was vacated by Amy Cochis of Pratt & Whitney. Amy Cochis, has served with distinction as a Director of the Association since 1999—her absence from the Board will be felt by all. She also served on the ASA Quality Assurance Committee before being elected to the Board. Cochis did not run for re-election this term because her job responsibilities have changed and she felt it was no longer appropriate for her to remain on ASA's Board. Her exodus left one open seat available on the Board.

ASA is pleased to welcome the winner of the recent election, Karen Odegard, to Board of Directors. Many in the ASA family may remember her as Karen Borgnes. Odegard previously served on the Board of Directors, and took a hiatus from the Board for professional reasons. Even during the recent years off the Board, though, Odegard has continued to serve as the Association's Treasurer (a statutory office subject to election by the Board of Directors).

ASA Director Jay Rosenberg, of the International Airline Support Group has been working with the Association to develop better ways of finding articles about important topics in back-issues of the Update Report. He has worked closely with Jason Dickstein to develop a

index of articles, that can now be accessed on the internet (Thanks, Jay!).

The current index of articles goes back to the beginning of the Association in 1993, but only volumes 6 through 11 are currently on the internet. With Rosenberg's help, we soon plan to have *ALL* issues of the Update Report on the internet, all the way back to volume one.

The index of Update Report Articles can currently be found at:

<http://www.aviationsuppliers.org/library/tur.htm>, or

<http://www.washingtonaviation.com/tur/index.htm>

Finally, don't forget to sign up for the ASA Regulatory Workshops in October, November and December.

Best regards,

Michele Dickstein

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The Update Report

provides timely information to help Association members and readers keep abreast of the changes within the aviation supply industry.

The Update Report

is just one of the many benefits that the Aviation Suppliers Association offers members. For information on ASA-100, the ASA Accreditation Program, Conferences, Workshops, FAA guidance like Advisory Circulars, Industry Memos, or services and benefits, contact the Association.

The Update Report

For information on special package rates for advertising, contact the Association at (202) 347-6899.

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Congress Signs Vision 100 Legislation for Aviation

On the eve of departing for the August recess, the House and Senate reached an agreement on the contents of H.R. 2115, now renamed "Vision 100 – Century of Aviation Reauthorization Act." A conference committee of House and Senate members hammered out a compromise version of the bill, resolving some significant differences between the original House and Senate versions. The conference version is essentially the bill in its final form before being sent to the president for signature.

Vision 100 provides a record \$59 billion in funding for the FAA over the next four years. The bill is the successor to the landmark "Air-21" reauthorization law enacted in 2000, and continues many of that law's protections of federal aviation funding. Like any FAA reauthorization measure, the bill provides funds for all aspects of FAA operations, from air traffic management to research and development. Unlike many such bills, Vision 100 contains a number of provisions that will have a significant effect on ASA members.

The May issue of the Update Report analyzed a number of the most interesting provisions in detail. Some of those provisions survived the conference process, and will become law. Others did not. Here is an update:

PROVISIONS IN THE FINAL BILL

Civil Penalty Increases

The Senate version of the bill included a provision that would have increased civil penalties to \$25,000, and increased the limit for the administrative imposition of civil penalties to \$1 million. The conference version of the bill adopted this provision, though with amendments that exempt

individuals and small business concerns (as defined in the Small Business Act) from the increase. The administrative imposition of civil penalties for individuals and small businesses would be limited to \$400,000.

Design Organization Certificates

Both the House and the Senate versions of the bill contained provisions calling on the FAA to develop and implement a plan for certifying design organizations. These organizations would certify compliance with the requirements and minimum standards set forth in the Federal Aviation Regulations, much as Designated Airworthiness Representatives (DARs) and Designated Engineering Representatives (DERs) do today. Once this system is implemented and these Certificated Design Organizations start offering services, they may come to be an excellent resource for distributors that need to obtain 8130-3 forms for parts in their inventories.

This system offers a number of potential advantages over the current state of affairs. As certificated organizations, CDOs would enjoy a measure of security that designees currently do not have from the perspective potential revocation of their authorities and privileges. Designees can be terminated or "non-renewed" at virtually any time for any reason the Administrator finds appropriate, leading some designees to be reluctant to "make waves" by, for example, questioning the regulatory interpretations of their supervising FAA officials. The FAA could only take certificate action against a CDO for just cause and after a proper hearing. CDOs would therefore be in a better position to challenge local regulatory interpretations that varied from those in other parts of the country. In the end, this could lead to greater uniformity in regulatory interpretations nationwide.

The conference committee adopted the timeline proposed in the House version of the bill, calling on the FAA to come up with a plan for certifying design organizations within four years of the law's enactment, and begin issuing certificates within seven years. A provision from the Senate version emphasizing that the FAA retains the right to revoke certificates was also included in the compromise bill.

Type Certificate Protection

The conference adopted the House provision that requires anyone building a new aircraft based on a type certificate to have the written permission of the holder of that type certificate. This grants type certificates the same legal protection that supplemental type certificates have so far enjoyed.

Counterfeit or Fraudulently Represented Parts Violations

The conference version of the bill clarifies the legislative language by which the FAA denies a certificate to any person whose certificate was previously revoked for involvement in an activity relating to counterfeit or fraudulent aviation parts. This is in addition to the existing clear law that prohibits the FAA from issuing a certificate to a person convicted in a court of law of a violation of federal law relating to the installation, production, repair, or sale of a counterfeit or fraudulently-represented aviation part or material, or to any entity subject to a controlling or ownership interest of an individual convicted of such a violation. It is aimed specifically at preventing individuals convicted of parts fraud from being reissued any FAA certificate.

(Continued on page 92)

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Difficulties in Overtime Law MAY be Remedied

Washington has been working overtime to revamp the overtime laws - this has led to some serious infighting over the solution to some old problems.

The Fair Labor Standards Act (FLSA) of 1938 is the federal labor law establishing standards for minimum wage, overtime pay, employment record retention and child labor. The law also established an exemption from the Act's overtime provisions for employees in certain professional, executive, administrative and outside sales employees ("exempt employees").

FLSA was last substantively revised over 50 years ago. The salary levels associated with the law haven't changed since 1975. FLSA defines the terms "executive", "administrative", "professional", and "outside sales" employee, but vagueness in these definitions has led to substantial litigation in the past - according to the National Association of Manufacturers, FLSA class actions are now more prevalent in federal courts than civil rights actions. Many consider the law to be outdated, vague and to give employers unclear guidance on who is entitled to overtime - the outdated nature of the law makes it difficult for employers to determine who is entitled to overtime and who is not.

In answer to these criticisms, the Department of Labor has undertaken a significant rulemaking process to revamp the regulations.

Both chambers of Congress have debated the wisdom of these proposed changes. Although Congress rarely acts to block regulations, it does have the power to do so and it occasionally uses this power. Agency regulations are meant to interpret Congressional

laws, and this is why Congress has the power to block such regulations when they do not follow Congressional intent. After considering whether to use the power earlier this summer, the House voted to permit the Labor Department to continue on its updating process, but the Senate has voted to prevent the Department of Labor from updating FLS regulations. Both chambers need to agree to block the regulation before Congress can affect it, so the Senate must convince the House to accept the Senate language in order to block the Labor regulations.

FLSA regulation updates have their supporters and detractors. Large employer organizations favor the updates because they provide employers with greater clarity to make compliance easier.

"Everyone knows that revolutionary changes have occurred in the workplace since overtime regulations were written in the middle of the last century," said NAM Human Resources Policy Vice President Sandy Boyd. "Never mind that the rules were created exclusively for a male, industrialized workforce and are full of outdated terms like 'straw boss,' 'leg man' and 'gang leader.' Labor unions and their allies have lashed out at the Bush administration's modernization effort with misleading scare tactics, telling workers they will 'lose their overtime' when that's simply not the case."

The Department of Labor regulations are intended to remove outdated language, and more clearly define what is meant by the terms "executive," "administrative" and "professional" all of which are used in determining whether an employee is subject to the overtime laws, and all of which have been the subject of many lawsuits. In

discussing these lawsuits, Boyd said "These cases rarely include the lower-paid workers for whom the original 1938 Fair Labor Standards Act was designed, but they have succeeded in making a lot of lawyers very wealthy."

Opponents of the changes claim that the revisions would not be fair. They particularly oppose some changes in the way that the new definitions are phrased. For example, while the term "professional" would be more clearly defined, some people do not like the new Labor Department definition. To be excluded from overtime pay protections as a professional now, a worker generally has to have an advanced degree in a science or other area of learning where advanced degrees are a prerequisite: medicine, law, engineering, and so on. The proposed law recognizes that a worker may gain the equivalent of formal education through a combination of job experience, military training, attending a technical school or attending community college.

This new definition represents a double-edged sword. Some organizations, like the Professional Aviation Maintenance Association, have lobbied for a more expansive definition of the term "professional" because it gives their members a justification for demanding a higher base pay. On the other hand, there is a fear that *all* people with "job experience, military training, technical school or community college experience" will be considered professionals and would therefore be excluded from overtime payments (unless an employee manual or labor contract otherwise guarantees overtime payments to these professionals).

The proposed changes to overtime

(Continued on page 94)

Tax Law Proposals To Resolve US-EU Trade Dispute

The Congress continues to work on legislation designed to resolve a dispute that has complicated trade relations between the United States and the European Union for decades. Under an informal agreement with the European Commission, the United States has until the end of the year to pass legislation that will abolish the Foreign Sales Corporation / Extraterritorial Income tax (FSC/ETI) program, or face \$4 billion in annual EU trade sanctions approved by the World Trade Organization.

ASA members and the rest of the aviation industry were able to breathe a huge sigh of relief earlier this year when the European Commission removed aircraft and aircraft parts from a revised list of U.S. products potentially subject to sanctions. The dispute remains important to the overall U.S. economy, however, because the changes made to U.S. tax laws will be likely to affect all U.S. exporters, regardless of whether their particular products are involved in the dispute with the EU. Some of the measures being proposed, moreover, would have far-reaching effects on all U.S. businesses.

The task of changing U.S. tax laws fell to the Congress as the result of a string of decisions by the WTO's Dispute Settlement Body that ruled that the FSC/ETI program, a series of tax incentives for U.S. exporters, constituted unfair trade subsidies because the benefit was contingent on exportation of the product. After a spirited defense, the United States exhausted the last of its appeals in 2002, clearing the way for the EU to impose retaliatory tariffs on a broad range of U.S. products. The European Commission agreed, however, to refrain from actually imposing sanctions until 2004 in order to give the United States time to eliminate the offending

tax program.

So far, two House committees have proposed very different approaches to the problem. Rep. Don Manzullo (R-IL), Chairman of the House Small Business Committee, together with Reps. Phil Crane (R-IL), Charles Rangel (D-NY), and Sander Levin (D-MI), have introduced H.R. 1769, the Job Protection Act of 2003. The bill would repeal the existing FSC/ETI program and in its place introduce tax incentives to encourage U.S. corporations to keep jobs in the United States. H.R. 1769 would provide to corporations and patrons of cooperatives an exclusion from income for a portion of the income at-

Two Competing Tax Bills Would Each Propose How to Remedy the Existing US Tax Practices that were Decried by the Europeans as Export Violations

tributable to certain production activity in the U.S. The amount of the exclusion would apply for regular and alternative minimum tax purposes and apply without regard to whether the property produced was exported or not. Under the bill, a manufacturer's 35% corporate income tax rate would effectively drop to 31.5% if its products were produced solely in the United States. Other companies would receive a sliding-scale tax rate reduction based on the proportion of their production of eligible products that takes place in the U.S. as opposed to overseas.

An alternative bill, the American Jobs Creation Act of 2003 (H.R. 2896),

has been introduced by Rep. Bill Thomas (R-CA), Chairman of the House Ways and Means Committee. In addition to repealing the FSC/ETI program, H.R. 2896 proposes a wide range of measures designed reform corporate taxation. The bill proposes reducing the top corporate tax rate to 32% for all corporations with less than \$10 million in taxable income (benefiting 99.7% of all U.S. corporations). It would also provide depreciation relief by extending for one year the 50% bonus depreciation and reducing the depreciable lives of manufacturing equipment used in the United States. It further extends the section 179 expensing provision in the Economic Growth and Tax Relief Reconciliation Act (the president's \$1.6 trillion tax cut law) and provides alternative minimum tax relief. Other provisions would encourage U.S. companies to reinvest foreign earnings in the United States, extend foreign tax credit provisions to prevent double taxation of U.S. companies, and phase out the elimination of ETI benefits over three years to soften the blow to affected companies.

Small businesses fare markedly better under the Thomas bill, which has measures that will benefit companies whether they are currently exporters or not. Many of the provisions extend popular, pro-business tax benefits already part of the Growth Act. The bill recently received the endorsement of CEOs of 35 of the largest companies in the United States, illustrating that larger companies see potential benefits as well. The Crane-Rangel-Manzullo bill has been assailed as too narrowly focused on manufacturers and particular types of products, and doing almost nothing for small businesses. Still, the Crane-Rangel-Manzullo bill has managed to attract some significant support in

(Continued on page 91)

Tax Law Proposals To Resolve US-EU Trade

(Continued from page 90)

Congress, boasting 140 co-sponsors in the House and 44 supporters in the Senate. One reason is that the bill carries a smaller price tag than the Thomas bill, which is estimated to cost \$128 billion over ten years. The Crane-Rangel-Manzullo bill, on the other hand, claims to be “revenue-neutral,” that is, it would cost no more than the savings from repealing the FSC/ETI program. Supporters of the bill note that both the Office of Management and Budget and the Senate Finance Committee have spoken out strongly in favor of revenue-neutral solutions to the problem.

Whichever bill eventually prevails – and it is possible neither of these two will – the main question at the end of the process is whether the resulting law will in fact pass muster with the EU and the WTO as genuinely eliminating the unfair subsidies. If the measure fails to do so, or is deemed to have replaced one subsidy with

another, the United States might find itself facing sanctions anyway until a better solution can be found. Given the political pressures to come up with a legislative solution to the FSC/ETI issue, some law is likely to be passed in the coming year. The likelihood of other types of negotiated solutions with the EU appears small at this point.

ASA supports any measure that will help small businesses to gain tax relief at home and compete more effectively abroad. Of the two bills described above, the Thomas bill offers the most promise for ASA members. ASA will keep its members informed as the bills work their way through the Congress.

Aftermarket Wins

purchase of new parts by a party that would have otherwise sought to have its worn parts repaired.

This would have also impacted distributors of surplus / used parts, because distribution of parts with an infringing trademark is also an offense under the Lanham Act.

The Law

Fortunately for the rest of the industry, Bell was flying in the face of longstanding law. In one 1947 case, the Supreme Court explained that repair of a part is not the sort of activity that invokes the trademark law. When the OEM’s part is so substantially changed that it is a different thing from what the manufacturer originally made, then this DOES represent the sort of change that makes it fundamentally unfair to retain the OEM’s trademark, but otherwise it is acceptable to repair a component and

(Continued on page 94)



Back To School Isn't Just For Students

ASA Continuing Education One-day Workshops

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Dates and Locations:

- Oct. 21—Irving, TX—Marriott Courtyard Dallas DFW Airport
- Oct. 23—Chicago, IL—Hosted by AirLiance Materials
- Nov. 11—Tukwila, WA—Marriott Courtyard South Center Mall
- Nov. 13—Los Angeles, CA—Embassy Suites Arcadia/Pasadena
- Nov. 20—Miramar, FL—Hilton Garden Inn
- Dec. 02—New York/New Jersey—TBA

Previous Topics:

- Introduction to the Regulations
- Suspected Unapproved Parts
- Parts Documentation
- Changes in Laws & Regulations
- Industry Hot Topics

Visit our website at: www.aviationsuppliers.org for updates on specific locations and registration details. Registration is open to non-member companies.

Congressional Update

(Continued from page 87)

Foreign Repair Station Security Requirements

Both the House and Senate versions of the bill included provisions that would require the FAA to ensure that foreign repair stations meet the same security standards applicable to domestic repair stations. The proposed versions would have required the FAA to conduct an audit of foreign repair stations within one year of the law's enactment and take action against repair stations found to have security problems. The Senate version went a step further and would have required foreign repair stations to submit to FAA inspections (in addition to inspections by their own national authorities) and implement drug and alcohol testing programs as well. As a spur to prompt FAA action, the proposed versions would have barred the agency from renewing or issuing new certificates to foreign repair stations if the FAA failed to complete its security audits within the required timeframe.

The proposed versions of these requirements – especially the Senate version – posed a wide range of sovereignty issues that could have hurt bilateral relations with a number of countries' civil aviation authorities. The conference committee toned down the proposals considerably. The compromise version lengthened from six months to eight the deadline for TSA to issue regulations outlining the new requirements, and extended the deadline for the FAA to complete security audits from 12 to 18 months. The requirements for foreign repair stations to implement drug and alcohol testing or to submit to FAA inspections were dropped. The provision prohibiting the FAA from renewing foreign repair station certificates if it failed to complete the secu-

rity audits within 18 months was dropped, although the FAA would still be barred from issuing new certificates until audits were completed.

Due Process Improvements

The bill includes a provision from the House version of the legislation that provides a measure of due process protection to U.S. citizens who face certificate revocation under FAA and TSA regulations permitting certificate action against individuals deemed to pose a threat to aviation security or safety. The regulations would have permitted effectively unappealable certificate actions based on mere allegations of a threat. The law will now ensure that U.S. citizens facing certificate revocation are entitled to a hearing before an administrative law judge, the result of which is appealable in federal court. Although a positive step, this due process provision could still prove hard to implement in practice because the regulations and the bill permit actions to be brought on the basis of classified information that the individual involved may not be able to see or properly respond to. Experience will show how effective these protections turn out to be.

A&P Curriculum Updates

Another House initiative adopted by the conference committee concerns a new requirement for the FAA to update the training curriculum for airframe and powerplant mechanics. The bill will require the FAA to publish revised curriculum standards within one year of the law's enactment, and to review the standards every three years to ensure they remain current.

Studies of FAA Inspector Training

The compromise bill incorporates a House proposal that directs the GAO to undertake a study of the training of FAA's safety inspectors. The bill notes the sense of the House that FAA safety inspectors should take the most up-to-date training at a location convenient to the inspector and that the training should have a direct relation to the inspector's job requirements. The bill also directs the FAA to arrange for the National Academy of Sciences to study the staffing standards the FAA uses for its inspector workforce. The ultimate goal of these two studies is to help ensure that the FAA has an adequate number of appropriately trained inspectors to meet its growing obligations in the years ahead.

Made in America

The final bill retained a provision in the House version that will require air carriers to make placards available to every passenger stating where the aircraft was assembled. This curious provision was apparently designed to put subtle pressure on carriers to buy American-built aircraft. In reality, it will probably do more to add to airline's expenses than to bolster Boeing's bottom line.

PROVISIONS THAT WERE ELIMINATED

Small Business Ombudsman

The House version of the bill called for the creation of a Small Business Ombudsman within the FAA, an official who would report directly to the Administrator and represent the interests of small businesses. The idea was strongly supported by ASA and the Aircraft Electronics Association. The Senate version of the bill contained no comparable provision, and

(Continued on page 93)

New FAA Laws

(Continued from page 92)

the conference committee dropped the proposal entirely. The Senate proposal for an ombudsman concerned with small community air service was also eliminated.

Availability of Maintenance Manuals

Despite a tenacious and well organized campaign by the Aeronautical Repair Station Association, the conference committee rejected a provision in the House version that would have required manufacturers of aeronautical products to make maintenance manuals available at reasonable cost to those parties (such as repair stations) required by regulation to make use of them. The measure faced determined opposition from manufacturers. The manufacturers argued that the legislation could force them to compromise valuable proprietary information, and moreover that legislation was unnecessary because FAA regulations already contained a requirement to provide maintenance information (14 CFR 21.50(b)) – although the FAA often does not enforce this regulation.

Conclusion

On the whole, Vision 100 contains a number of provisions that may have a significant effect on distributors and the repair stations with which they do business in the coming years. Although many of these changes will not make themselves felt for several years, the groundwork has been laid for further improvements in the industry.

Hazmat Civil Penalties Increased

The Research and Special Programs Administration has published a rule that increases the civil penalties for knowing violations of the federal hazardous materials transportation law or of RSPA's Hazardous Materials Regulations. The minimum penalty now stands at \$275 per violation, and the maximum at \$32,500. The increases become effective September 30, 2003. The changes were made under the authority of a 1990 law that requires federal agencies to periodically adjust their civil penalty assessments for inflation.

RSPA is also updating the civil penalty guidelines used by RSPA's Office of Hazardous Materials Enforcement (OHME) and the RSPA Office of the Chief Counsel when determining the amount of a proposed civil penalty to assess in a given situation. Publication of these guidelines provides the regulated community and the general public with information concerning the manner in which RSPA generally begins its hazmat penalty assessment process and the information that respondents in enforcement cases should provide to justify reduction of proposed penalties.

Part II of the guidelines contains a List of Frequently Cited Violations. The list, published as Appendix A to Subpart D of 49 CFR Part 107, represents a compilation of the most commonly seen violations, and sets forth

the baseline civil penalty assessments for each. Examples include "failure to register as an offeror or carrier of hazardous material and pay registration fee" (baseline penalty: \$1,000 + \$500 each additional year), and "placing a label on a package that does not contain a hazardous material" (\$800).

It is important to note that the FAA also enforces hazardous materials civil penalties, and that enforcement actions undertaken by the FAA are subject to a different schedule of penalties than are enforcement actions undertaken by RSPA.

RSPA is also amending its policy concerning the way in which prior hazmat violations are considered as aggravating factors in making civil penalty assessments. Under the previous policy, RSPA would increase the proposed civil penalty by 25% for each prior violation resulting in a civil penalty imposed in the previous five years, up to a maximum increase of 100%. Under the new policy, RSPA will assess only a 10% increase for each prior violation, but will "look back" six years.

ASA's hazmat training programs will keep you and your employees informed about significant changes to the hazmat regulations and related laws. Contact ASA for details on getting your employees trained..

The previous version of the hazmat civil penalty guidelines can be found on the Internet at <http://hazmat.dot.gov/hmenforce.htm>, and should be updated soon.

The final rule was published in the RSPA section of the September 8, 2003 edition of the Federal Register, available at: http://www.access.gpo.gov/su_docs/fedreg/frcont03.html.

Overtime Law

(Continued from page 89)

law would also raise the base salary level for those who can be considered exempt workers. The base salary level would rise from \$155 to \$425 per week (people below this level could not be treated as exempt employees, and therefore they could not be denied overtime and other employment benefits described in the Federal Labor Standards Act). This is meant to protect low-income persons from being reclassified out of the protections of FLSA.

According to the Department of Labor, the changes would result in 1.3 million additional low-wage workers in the United States gaining overtime protections (this is mostly based on the increase in the minimum salary level). The Department also claims that updating the definitions for exempt employees will make entitlement to overtime more certain for 10.7 million workers.

Because the House voted to permit

Important Legal Win for Industry

(Continued from page 91)

to retain the manufacturer's markings.

The Court found that the sort of work being done by the repair station in this case was designed to return the parts to a state that was equivalent to their original condition. Since they were intended to be returned to their original use, the Court concluded that the results after repair were not substantially different from the original parts (and that there was no evidence to support the Bell contention of substantial difference).

The Court also found that it was

the Labor Department to continue, and the Senate voted to block the Labor regulations, Congressional action is at present uncertain. The final Congressional policy is expected to be worked out in a rancorous Conference Committee meeting between House and Senate representatives later this Fall.

unlikely that anyone would be confused because of the aviation industry's documentation practices. This element of the decision underscores the importance of good documentation practices like those described in AC 00-56A (and other FAA guidance).

Conclusion

For distributors who sell repaired parts and for the repair stations that repair them, this is a significant case because it recognizes the importance of proper documentation in our industry. It also recognizes that reliance on the industry's now-standard documentation patterns helps to prevent confusion (of the sort that can support a claim of a trademark infringement).

Washington, D.C. attorney Jason Dickstein, was lead counsel in this case. Dickstein's law firm also represents ASA.

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A B/E Aerospace Company 

The following is a Swiss SUPs Notification that was republished by the FAA. It is republished here for our members' information. ASA has no facts about this Notification—queries should be directed to the FAA SUPs Office or the Swiss Authorities

**Bundesamt für Zivilluftfahrt (BAZL)
Office federal de ('aviation civile (OFAC) Ufficio federale dell'aviazione civile (UFAC)
Federal Office for Civil Aviation (FOCA)**

Process Aerotechnical Organisations

Your reference

Your communication

CH-8058 Zurich, June 23, 2003

Register 251.00

Our reference Claude Frei

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Federal Aviation Administration
Suspected Unapproved Parts (AVR-20)
13873 Park Center Road, Suite 165
Herndon, VA 20171 USA

Suspected Unapproved Parts Notification

During an audit of a maintenance organisation the presence of parts that are suspected to have been manufactured and released using procedures that are not in conformity with the approved standards were detected by the Swiss Federal Office for Civil Aviation (FOCA).

The parts listed below are not eligible for installation in an aircraft.

Part Number: 301.40.3000

Serial Numbers: 11972/1 up to and including 11972/6

Description: Bubble window

Eligibility: AS350 Ecureuil

Manufacturer: Mecaplex; Approval Ref. Number 049 JAA Form One

Certificate Ref. Number: 1575

If any of these parts have been installed in an aircraft, they must be replaced immediately with airworthy parts. If any of these parts are discovered in stock, they are not to be used on aircraft before it has been ascertained that they conform to the aircraft type design.

Please report back to this office of any actions taken.

Yours sincerely,
Federal Office for Civil Aviation Process
Aerotechnical Organisations

Claude Frei, Inspector

Enclosures: JAA Form One No. 1575

Copies:

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c/o Helicargo Trading Inc.

Attn: Mr Luis

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Issues of the Update Report Are Now Online!

Are you reading a borrowed copy of the Update Report? Subscriptions to the Update Report are now FREE to persons in the aviation industry or the government. To receive your free subscription, send your name, title, company, address, phone number, fax number and email address to ASA. Our email address is info@aviationsuppliers.org and our fax number is (202) 347-6894.

Back issues of the Update Report are now on-line! Missing a prior issue? Issues of the Update Report are being added to the ASA web site shortly after they are published.

UPCOMING EVENTS * = Look for ASA on the speaking program or on the Trade Floor

2003

- Sept. 21-23** * **MARPA Conference**, Phoenix, AZ. Call (480) 994-3353 for details.
Sept. 22-24 **Speednews Aviation Industry Suppliers Conf in Europe**, Toulouse, France. Call (310) 203-9603.
Oct. 7-9 * **NBAA**, Orlando, FL. See <http://www.nbaa.org> for details.
Oct. 21 * **ASA Regulatory Workshop**, Marriott Courtyard Dallas DFW Airport, Irving, TX.
Visit www.aviationsuppliers.org for registration details.
Oct. 23 * **ASA Regulatory Workshop**, Chicago, IL— Hosted by AirLiance Materials.
Visit www.aviationsuppliers.org for registration details.
Nov. 2-4 **Speednews Reg'l & Corp. Aviation Industry Suppliers Conf.**, Rancho Mirage, CA. (310) 203-9603.
Nov. 11 * **ASA Regulatory Workshop**, Marriott Courtyard South Center Mall, Tukwila, WA.
Visit www.aviationsuppliers.org for registration details.
Nov. 13 * **ASA Regulatory Workshop**, Embassy Suites Arcadia, Arcadia CA.
Visit www.aviationsuppliers.org for registration details
Nov. 20 * **ASA Regulatory Workshop**, Hilton Garden Inn, Miramar, FL. Call (202) 347-6899
Visit www.aviationsuppliers.org for registration details.
Dec. 2 * **ASA Regulatory Workshop**, NY/NJ/DE Area. Keep checking our website at www.aviationsuppliers.org for updates on specific location details.

Don't forget to register for the ASA Regulatory Workshop. This year's workshop will address all of the new, hot issues that are affecting distributors and their customers, and it meets the ASA-100 training requirements.

Aviation Suppliers Association
734 15th Street, NW, Suite 620
Washington, DC 20005
Telephone: (202) 347-6899
Facsimile: (202) 347-6894

August 2003