

The UPDATE Report



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FAA Reauthorization Options Before Congress

While Congressional reauthorization of FAA funding has prompted intense debate within the industry over user fees, renewal of the agency's funding and authority will likely spell no major changes for distributors.

In September, the House of Representatives passed the "FAA Reauthorization Act of 2007," however as of early October, the Senate has yet to discuss its version of the FAA funding bill. The expiration for the FAA's current authorization passed on September 30, and lawmakers approved an extension of current funding provisions until mid November.

The House version fell short of the user fee-based structure that the FAA and airlines have called for to help fund the development of a next generation air traffic system. Instead of charging aircraft operators based on their use of airports, navigation facilities and distance traveled on airways, the legislation relies on a kerosene and aviation gasoline tax increase, an increase in the passenger facility charge imposed on commercial travelers and other measures to collect funds.

While the House bill brings no major changes to the manner in which the FAA obtains funding, it does require the agency to create new rules regarding aircraft maintenance. Under the legislation, the FAA would have three years to require that repair stations certificated under part 145 are the only independent maintenance facilities that may perform "substantial, regularly-scheduled, or required inspection item" maintenance work on aircraft used by part 121 carriers. This provision comes less than three months after the DOT's inspector general expressed alarm on the

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MESSAGE FROM ASA'S PRESIDENT

THE UPDATE Report

is the monthly 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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Dear Members,

ASA is preparing for the upcoming Quality Assurance Committee Meeting and the Dallas Workshop. We will be announcing the dates and locations for other workshops shortly. Several people commented last year that it would be better if we did not hold workshops in December due to end of year and the holidays. We are working towards accommodating that request. Jason has also incorporated some of the requested changes to the workshop, and the content is different from previous years. ASA tries to hold the workshop in areas of the U.S. where there is a concentration of members. We also regularly hold the workshop in Europe.

The QA Committee Meeting is scheduled for November 2-3, 2007. The meeting is open to all members, but you advanced registration is required. The agenda will focus on quality and operational improvements. ASA has been developing guidance tools regarding self-audits and employee testing. The group will be reviewing this work product and other issues. If you are interested in attending, please contact Stephanie Brown prior to October 19th.

This month's newsletter focuses on congressional issues that will impact aviation, businesses and individuals. Sending a comment to your congressional representative is easy and can be done online. Remember someone needs to keep them in line.

Take care,
Michele

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amount of aircraft maintenance performed by non-certificated “repair stations” (businesses using a team of certificated A&P mechanics).

The House bill also addresses another call by the inspector general to improve oversight of aircraft repairs, specifically the current lack of required drug and alcohol testing at foreign facilities. Within one year of enactment of the authorization, the FAA must require that overseas repair stations test individuals performing a safety-sensitive function for use of alcohol or any controlled substance to earn certification under part 145.

The major focus and debate over the current bill still pertains to costs incurred by operators. A number of airlines have pushed for a system based on user fees, citing the proliferation of corporate aircraft operators that pay comparatively lower amounts to use the same services as commercial flights. The general aviation community and a number of other groups have been opposed to such a plan, however, arguing that it will place an unmanageable and unfair burden on certain sectors of the industry.

The Senate version of the reauthorization bill embraces elements of the user fee proposal, requiring the FAA to impose a \$25 per-flight surcharge on most flights to be used to modernize the air traffic system. The Senate bill also requires airport agencies to report on their passenger facility charge program and does not authorize the blanket increase passed in the House bill. That legislation does not include the same House bill provisions pertaining to non-certificated maintenance and foreign repair stations, however.

For now, it remains unclear which provisions of the two bills will be retained in the version submitted to President Bush. The Bush Administration has indicated that it may veto a bill that does not mandate some sort of user fee system. The White House may also veto legislation that reopens contract negotiations between the FAA and air traffic controllers – a provision currently written into the bill passed by the House. Perhaps the one thing the aviation industry can be sure of until the FAA's reauthorization arrives on the President's desk is the continued heated debate over a potential move to user fees.

Congress Mulls Tax Reform

Congress is likely to consider tax legislation in October or November to reform or repeal the Alternative Minimum Tax (AMT) -- a tax originally intended to apply to only a handful of wealthy taxpayers but which will reach more than 20 million mostly middle-class Americans this year if Congress does not act.

The AMT was created as a parallel tax system in 1969. At that time, it was aimed at 155 wealthy people and was meant to prevent them from avoiding taxes. Specifically, the AMT denies deductions such as personal exemptions, property taxes and medical expenses for taxpayers above a certain income level. The AMT was not indexed for inflation, though, so the tax has increasingly affected people with more modest incomes.

Currently the AMT affects about 4 million families. The number of affected taxpayers has been kept small by temporary legislation that has artificially indexed the AMT, but that legislation expires this year so reform is now a priority. Allowing the AMT indexing provisions to expire without relief would extend the AMT to 23 million taxpayers.

Congressional rules require that tax bills must be revenue neutral – meaning that the loss of revenues resulting from a tax cut be made up from other sources. Repealing the AMT is estimated to cost about \$875 billion over 10 years; therefore other taxes would have to be increased by that amount.

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ASA Regulatory Workshop Series

DALLAS, TX.....November 1

Hilton Garden Inn - Addison

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Plus!

Quality Assurance Committee Meeting.....November 2-3

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(972) 243-6151

For more information or to register for these events, please contact us at caroline@aviationsuppliers.org or (202) 347-6898.

Stay Tuned! ASA will announce new workshop dates and locations as they become available!

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House Ways & Means Committee Chairman Charlie Rangel (D-NY) has described his tax agenda as “the mother of all reforms” and has indicated that he would like to not only repeal AMT but expand several other lower-income tax breaks as well, costing an additional \$100 billion (also over ten years). He has been quiet about the specifics of his tax bill, in order to prevent attacks before the bill has even been introduced. But there are some clues out there as to what his tax bill may entail.

Many of the business-friendly provisions of the 2001 and 2003 tax cuts may be threatened as Congress looks for new tax revenue to pay for Chairman Rangel's reform. No specific legislation has yet been introduced. But it appears likely that legislation will be introduced soon.

Revenue-raising ideas that are being discussed today, and that could be included in a tax bill, include:

- A surtax (an additional tax) on higher level incomes:
 - o 4% surtax for Adjusted Gross Income between \$150,000 and \$250,000 for single filers (\$200,000-\$500,000 joint);
 - o 4.6% surtax for Adjusted Gross Income above \$250,000 for single filers (\$500,000 for joint);
 - o These surtaxes would raise the top rate to 39.6% until the end of 2010 and 44.2% thereafter;
- Adjusting the income levels at which each marginal tax rate is triggered, thus increasing effective tax rates without changing the statutory tax rates;
- Some effort to enhance collection of owed taxes from businesses (for example, Congress has already enacted legislation requiring that government agencies withhold 3% of the payments owed to contractors as part of their “tax gap” agenda) – this could include a measure designed to prevent the under-reporting of capital gains income;
- Tax the profits of private equity and hedge fund managers as regular income, instead of permitting this income to benefit from the lower capital gains tax rate.

Since the bill has not yet been introduced, it is unclear which of these might be included, but all have been subjects of active discussion as tax policy initiatives this year.

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In addition to the repeal of the AMT, Some of the items that Rangel is expected to include in the tax bill might be:

- Enhancements to the child tax credit, which is currently \$1000 per child;
- Enhancements to the earned income tax credit for families living near the poverty line;
- Increase in the standard deduction, which is currently \$10,300.

Experts have estimated that these three items would add \$75 billion to \$100 billion to our expenses over the next 10 years.

AMT reform has been anticipated all year in this Congress. "I'm assuming [the patch] will happen, though I assumed it would be patched some time ago," Treasury Secretary Henry M. Paulson Jr. said. "And the fact it's going this late in the year and not being patched is a concern to me. And it's a surprise to me, frankly."

Congressman Richard E. Neal (D-MA) has been reported as pointing out that about 90 million people would benefit from the Rangel proposal that is expected, and a much smaller number of people would shoulder the burden that is being shifted to them. He concludes that there is little political downside to voting with the masses.

A bill that shifts the tax burden from certain sectors of the population to other sectors is likely to meet stiff opposition in the Senate, especially if it includes additional spending. Because Rangel appears likely to repeal some of the tax benefits that President Bush sponsored, it is also likely that the President would veto any repeal of his tax agenda that is presented to the White House before he leaves office in January 2009.

The Senate has already discussed extending the temporary measure that is currently in place. In response to Senate plans, though, Chairman Rangel has said that, "a one-year patch is not on the radar screen at all."

Even if the tax bill is not successful, it is likely to set the stage for future debates over tax policy as well as establishing political fodder for both parties to use in the 2008 election cycle.

Who is a hazmat shipper?

ASA members are now more aware than ever of the hidden hazmats found in aircraft parts, and of the need to comply with the hazmat shipping regulations when these items are shipped. ASA members have recently asked how far the U.S. hazmat laws extend – who is required to comply with the hazmat shipping rules?

This question is complicated by the terminology used in the IATA Dangerous Good Regulations, which state that a shipper must comply fully with the regulations when offering a consignment of dangerous goods (hazmat). The rules go on to say that the name and address of the shipper which appears on the Shipper's Declaration for Dangerous Goods form may differ from that on the Air Waybill – thus implying that there may be more than one person who is designated as "the shipper." This has raised a question among some ASA members as to which "shipper" would be subject to penalties in the event of a misshipment.

The short answer is that the U.S. Hazmat shipping regulations are written very broadly, so that multiple parties may be found in violation of the regulations.

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Under U.S. law, parties are authorized under 49 CFR 171.11 to rely on the ICAO Technical Instructions (which are reproduced as the IATA Dangerous Goods regulations). But this authority is limited only to certain functions directly related to preparing the dangerous goods package for transportation. The ultimate source of dangerous goods liability information for the United States remains the U.S. Code of Federal Regulations – particularly the hazardous materials regulations found in Chapter One of Title 49.

ASA members have asked about the definition of the word shipper, insofar as that term applies to a regulated party. In doing so, they often point out that the “shipper” may be defined as two separate persons on two separate documents (the Shipper’s Declaration and the Air Waybill), and ask who is liable when two or more persons appear to be identified as the shipper of the goods. The problem with this inquiry is that the scope of liability is not limited only to the person who is deemed “the shipper” on the shipping papers.

When we use the word “shipper” in common speech in reference to the dangerous goods regulations, we really are using this term as an abbreviation for a regulated party. The term “shipper” is a shorthand way of referring to the person who bears regulatory responsibility for the shipment of the material in question. The U.S. regulations use quite a bit of text in order to cast a wide net of liability.

Under the United States regulations, a regulated shipper of dangerous goods may be thought of as any person who offers (or causes to be transported) a dangerous good for transportation in commerce. This will include parties responsible for performing pre-transportation functions.

A pre-transportation function should be thought of as any regulated function that is necessary to the safe transportation of a dangerous good. Pre-transportation functions include, but are not limited to, the following:

- (1) Determining the hazard class of a hazardous material.
- (2) Selecting a hazardous materials packaging.
- (3) Filling a hazardous materials packaging, including a bulk packaging.
- (4) Securing a closure on a filled or partially filled hazardous materials package or container or on a package or container containing a residue of a hazardous material.
- (5) Marking a package to indicate that it contains a hazardous material.
- (6) Labeling a package to indicate that it contains a hazardous material.
- (7) Preparing a shipping paper.
- (8) Providing and maintaining emergency response information.
- (9) Reviewing a shipping paper to verify compliance with the HMR or international equivalents.

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REGULATORY UPDATE

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- (10) For each person importing a hazardous material into the United States, providing the shipper with timely and complete information as to the HMR requirements that will apply to the transportation of the material within the United States.
- (11) Certifying that a hazardous material is in proper condition for transportation in conformance with the requirements of the HMR.
- (12) Loading, blocking, and bracing a hazardous materials package in a freight container or transport vehicle.
- (13) Segregating a hazardous materials package in a freight container or transport vehicle from incompatible cargo.
- (14) Selecting, providing, or affixing placards for a freight container or transport vehicle to indicate that it contains a hazardous material.

When you break it down like this, it is easy to imagine scenarios where more than one person participates in pre-transportation functions for a single shipment. Each of those persons is potentially liable for regulatory violations associated with his/her activities. So hazmat shippers should not be looking for only one person who is liable – instead they should be discerning all of the parties who are liable.

The answer to the question “who is the regulated party?” will not necessarily be limited to, or by, the names on the Air Waybill or the Shippers’ Declaration, although these may be good guides for identifying liable parties. Instead, in an enforcement action, whether a party is potentially liable for a dangerous goods-related function (or violation) will depend on the actual functions performed by the party.

What does this mean for distributors who are shipping hazardous materials? First, they have to make sure that anyone performing a pre-transportation function is properly trained. Because the regulations require training for anyone who might affect the safe transportation of hazardous materials, supervisors should be trained as well as those who are directly performing the pre-transportation tasks.

To help its members with their compliance obligations, ASA will be sponsoring affordable hazmat training again in 2008 and expects to publish the 2008 training schedule soon.



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New Electronic Record System for the FAA

The FAA is making major changes to its electronic records systems. This is part of a DOT-wide migration to the electronic records system that is used by the rest of the government.

This means that FAA dockets, which had been available at <http://dms.dot.gov>, will be moving to the Federal Docket Management Systems (FDMS) (<http://www.regulations.gov>) during the month of October.

FDMS is a major component of the President's e-Rulemaking Initiative, which is supposed to provide easy access to the public dockets maintained by Federal agencies, while streamlining and increasing the efficiency of the internal procedures for agencies that did not already have electronic internet-accessible systems. FDMS is designed so that the public has a single point of access to the public dockets across the Federal government. FDMS offers a standard, online procedure for Federal agencies to handle and process documents. The Initiative reduces the government's costs by eliminating duplicative information systems and technical infrastructures.

FDMS is an electronic docket management system that is supposed to provide Federal docket managers with the ability to better manage their rulemakings, adjudications and other docketed program activities.

Although all Federal agencies are required to use FDMS for their rulemaking dockets, FDMS also will handle and process public docket materials for other purposes. DOT will use it for all of the material currently docketed in the current docket management system, such as adjudications, peer review and data quality. DOT also plans to add a docket subcategory for significant guidance documents (like major advisory circulars).

In the future, all regulatory submissions to FAA dockets will be made through FDMS. They will be made through one of four mechanisms. Please note that these are different from the addresses and methods currently found in the Code of Federal Regulations. The change is based on a Federal Register Notice published on September 24, 2007, so it has not yet made its way into the published regulations.

1. Online. You may submit your comments/submissions online to FDMS when a particular docket is open for public submissions. Federal Register notices and adjudicatory and other documents will usually identify whether a docket has been established in FDMS. FDMS also can be searched to determine if a docket has been established. Using <http://www.regulations.gov> to submit comments or other documents will be DOT's preferred method for receiving comments/submissions. There are online instructions to assist in submitting comments.
2. Mail. Documents also may be submitted by mail to Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001. If you use a service that requires a phone number (like FedEx), you will need the Docket Office's phone number, which is (202) 647-5527.
3. Hand-delivery. Documents may be submitted by hand delivery or courier to West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
4. Fax. Faxed submissions are accepted to DOT dockets at (202) 493-2251.

FDMS will offer a listserv so that you can get email notifications when information is added to a specific docket. Anyone who had formerly signed up for a DMS listserv will have to sign up again in FDMS to receive e-mail notifications from FDMS.

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ASA Members: A Reputation for Quality

The ASA Member Logo is known throughout the industry as a symbol of a dedication to quality and safety. All ASA Members are entitled to use the ASA member logo on their Web sites, stationary and other printed materials.

In addition to using the ASA logo, members are also listed on the Member List on ASA's Web site. Both airlines and regulators look to ASA's Member List as a trusted resource for distributors with a commitment to quality.

www.aviationsuppliers.org



Government Representation

ASA provides a unified voice for the aviation supplier industry with regulatory agencies in the U.S. and abroad. Speaking on behalf of suppliers, ASA works to clarify existing regulations and ensure that new regulations foster safety and improved business practices.

News and Information

The UPDATE Report - monthly newsletter providing comprehensive coverage of the regulatory, business and quality issues happening in aviation distribution.

Member Bulletins - monthly bulletins sent exclusively to members providing membership and industry updates.

Member Alerts - periodic notices that provide immediate updates on industry news as it happens.

Training & Education

ASA members receive discounted attendance at ASA educational events.

ASA Annual Conference - With General Sessions and a variety of workshops in Quality, Business Development and Legal/Regulatory issues, the ASA Conference provides comprehensive education for all aviation supplier professionals.

ASA Regulatory Workshop Series - Held in various locations throughout the U.S. and abroad, these one-day training sessions bring aviation professional up to date on all regulatory changes throughout the year.

ASA Hazmat Training - This course, held at various locations throughout the U.S., provides the fundamentals of hazardous materials handling, marking, reporting and transporting.

FAA Online Aircraft Records May Be Unavailable

The Designee Standardization Branch, AFS-640, has announced that the Electronic Data Recovery System (EDRS) II electronic document retrieval system, also known as the Aircraft Records site, has been temporarily shut down during the course of the DOT-wide data migration. This Web site had been made available to Designees by the Aircraft Registration Branch, AFS-750, based on a request made by the Designee Standardization Branch. ASA members who rely on the services of DARs should be aware that this resource may be unavailable to the DAR during October. According to the Designee Standardization Branch, this shut-down was unexpected and will be temporary. The Web site is expected to be back online for designees by November 1, 2007.

The Aircraft Records site is being updated and the FAA expects there to be a small fee for designees requesting records when the site is reactivated. This cost will likely be passed on to distributors when records need to be pulled from this site. All designees enrolled in the Designee Notification System (DNS) will be advised of the new activation date and any other pertinent information.

In the interim, designees who need aircraft records can request them from AFS-750 by calling (405) 954-3116.

NTSB Chief Urges Global Cooperation

Despite benefits from international efforts to improve aircraft accident investigation, NTSB Chairman Mark V. Rosenker said further global collaboration and improvement is needed. Rosenker made the comments at the annual seminar of the International Society of Air Safety Investigators in Singapore last month.

The NTSB Chairman said that safety measures born out of the work of ISASI and other organizations “are not providing the safety benefits we predicted.” He added that increased work on a global level will be needed to ensure that the already diminishing aviation accident rate drops even further.

“What we have to do now is to maintain ... momentum for an ever-increasing level of aviation safety,” Rosenker said, urging investigation officials to share vital accident site data with offices around the world. He added that ICAO must also implement a realistic plan of action to execute safety recommendations.

ASA has historically been on the forefront of global safety efforts and harmonization in the aircraft parts world, having helped standardize the Export Airworthiness Approval Tag 8130-3 form with its European Aviation Safety Agency (EASA) and Transport Canada equivalent document. More recently, ASA has been involved with a number of foreign aviation authorities in harmonizing instructions for airworthiness approval tag forms. The Association also acts as an outside observer and comments on global safety and cooperation issues pertaining to the parts world as they arise.

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Invoice Management*

Provides the opportunity to manage the invoice process by viewing system wide for open sales orders and determining if these can be expedited or consolidated with existing invoices, etc.



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Manages the purchasing process including request routing and approval by dollar amount and employee position. Manages purchasing activity for stock, non-stock and exchange.



Purchase Management*

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Integrated Accounting

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Repair Orders*

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Contact Management

This module provides a tool for sales, service or support centers to record, track, status and assign contact activity. Email list management and broadcasting is also included.



Document Imaging

Provides the ability to attach images or documents against part number, stock line, work order, and company.



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Repair Manual Tracking

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CALENDAR OF EVENTS!

ASA Events

Hazmat Training

Fall, 2007Washington, DC

2007 Workshop Series

November 1.....Dallas, TX - *Hilton Garden Inn*

Other Dates and Locations To Be Announced!

Quality Assurance Committee Meeting

November 2-3.....Dallas, TX - *Brookhaven Country Club*

Other Industry Events

November 4-6.....SpeedNews 12th Annual Regional & Business Aviation
Industry Suppliers Conference, Location TBA

May 7-8 (2008).....Airline Purchasing Expo 2008
Olympia 2 Exhibition Centre, London, UK

December 3-4 (2008).....Aircraft Maintenance Outsourcing Expo 2008
Cobb Galleria Centre, Atlanta, GA