



The View from Washington

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The Tools of the Trade

As I travel around and visit with various avionics shops throughout the world it amazes me to see the level of expertise and experience the avionics community possesses. It's always a pleasure to view the artistry at which avionics systems are designed and laid out; the efficiency at which systems are wired and installed; and, when necessary, the precision they are troubleshoot when a discrepancy arises.

To improve the efficiency of the various tasks encompassing the avionics trade, a technician only needs to listen to the conversations about the various systems and to openly discuss the obstacles one finds themselves up against. There are thousands of technicians ready to share their experiences, successes and mistakes with those willing to listen.

But where does the owner or operator of the avionics business go to learn about the efficiencies of business? Where does the owner go to share experiences, successes and failures?

Three of the best sources for a business owner may be your Association's meetings (the AEA Annual Convention and the regional workshops); the owner may participate in the local Chamber of Commerce; or they may tap the enormous resources of the Small Business Administration.

This column usually focuses on regulatory issues: issues that are directly or indirectly linked to the FAA, CAA, Transport Canada or some other Civil Aviation Authority. I try to provide

tools to assist the repair station in their efforts to assure regulatory compliance.

This month, however, I'm going to highlight a different government agency, one that brings vital tools to the aviation business but one that is often overlooked: the Small Business Administration (SBA).

Seldom does a month go by that I don't find myself at a meeting or hearing that is being held by the Small Business Administration (SBA). SBA is the Agency watchdog to make sure the various agencies like the FAA, EPA and OSHA don't run roughshod over small businesses. Most of their work is behind the scenes and seldom do they receive the recognition they deserve, but rest assured: over the past five years or so that I've been working with their staff, many regulations that would have adversely affected aviation small businesses have been amended because of their oversight.

SBA has many other tools that aviation businesses should take advantage of; tools that need to be put in the tool box for use at a later date. And, most importantly, most of these tools are free.

Most business owners should be familiar with the various financial support programs that SBA makes available. This month I'm going to focus on a few of the non-financial programs offered to assist small businesses. You will find a link to the Small Business Administration on the AEA website, members-only section, Resource One.

The Small Business Administration Office of Advocacy is a vital resource for me here in Washington but also for the regulated businesses in the field. Here in Washington, I interact with the Office of Interagency Affairs. This office monitors regulatory and other policy proposals of more than 20 federal agencies to assess their impact on small business to suggest alternatives for consideration. The office provides information to Congress on legislative issues and drafts testimony on public policy issues of concern to small business. They monitor regulatory agencies' compliance with the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act, and report annually to Congress on the agencies' activities.

In the field, businesses work more closely with the Regional Advocate. The Regional Advocate serves as the SBA chief counsel's direct link to local communities. Regional advocates monitor the impact of federal and state regulations and policies on communities within their regions. They also work with state officials to develop policy and legislation that shape an environment in which small companies can prosper and grow.

The SBA's Regional Advocate can act as a mediator to help resolve problems between the business and government agencies, including the FAA.

Concerned with the inability for avionics shops to resolve conflicts with their local FAA inspector, AEA

developed the Dispute Resolution Guide. However, many shops are intimidated by their inspector and share a concern that they fear retaliation. While FAA Headquarters has made it perfectly clear that ANY form of retaliation will not be tolerated, shops still are concerned and rightly so.

However, there is a confidential program to help resolve conflicts: SBA's Small Business & Agriculture Regulatory Enforcement Ombudsman.

The ombudsman receives comments from small businesses about the regulatory enforcement and compliance activities of federal agencies, and refers comments to the appropriate agency's inspector general on a confidential basis. The ombudsman coordinates the efforts of the 10 small business regulatory fairness boards and reports annually to the SBA Administrator and to the heads of the affected agencies on the boards' activities, findings and recommendations.

The SBA ombudsman and the 10 regional fairness boards can be accessed through a toll-free number, 1-888-REG-FAIR or on the web at www.sba.gov/ombudsman.

With the recent decline in the economy, many aviation businesses are looking for business opportunities. SBA offers assistance in understanding the procedures for contracting with the federal government. These programs are delivered through the SBA procurement center representatives at the regional SBA offices.

SBA offers assistance in understanding Federal Government Contracting for Prime Contractors. This program increases small business opportunities in the federal acquisition process. This is accomplished through negotiating goals for small business set-asides, identifying new small business sources, counseling small businesses on doing busi-

ness with the federal government, and investigating cases of contract bundling.

They also have a program for subcontractors. This program ensures that small businesses receive the maximum practical opportunity to participate in federal contracts as subcontractors and suppliers.

SBA also has a Certificate of Competency (CoC) program which helps small businesses secure government contracts by providing an appeals process to businesses denied government contracts for a lack of "responsibility" or a perceived inability to perform satisfactorily. This program is intended to help small businesses denied government contracts for perceived lack of ability.

Each regional office has a Small Business Development Center (SBDC). These centers provide management and technical assistance, counseling and training to current and prospective small business owners through SBDCs. Administered by the SBA, the SBDC program is a cooperative effort of the private sector, the educational community, and federal, state and local governments.

For small businesses wanting to set up a drug free workplace program, the SBA offers the Paul D. Coverdell Drug-free Workplace (DFWP) program which provides grants to intermediaries and contracts to SBDCs to assist small businesses in setting up drug-free workplace programs. A DFWP program consists of a written policy, drug and alcohol abuse prevention training, drug testing, an employee assistance program, and continuing education.

Whether you are looking to start a business or are an existing small business, the Service Corps of Retired Executives (SCORE) can help. SCORE offers counseling and training for small business owners who are starting, building or growing their

businesses. Funded by a grant from the SBA, SCORE's services are free of charge.

One of the most widely known SBA programs are the Disaster Assistance Programs, administered by the Office of Disaster Assistance. These programs are primary federally funded, disaster-assistance loan program for funding long-range recovery for private-sector, nonagricultural disaster victims. And while you may be familiar with their Physical Disaster Business Loan program (AEA secured this program for AEA member companies following the September 11, 2001 disaster), you may not be aware that they have a program to cover the economic losses incurred to your business because a military reservist has been recalled to active duty.

The Military Reservist Economic Injury Disaster Loan provides working-capital loans of up to \$1.5 million for businesses that suffer economic injury because an essential employee has been called to active duty as a military reservist. The loans are for small businesses without credit elsewhere. Loan proceeds are to provide working capital needed by a small business until operations return to normal following the release of the essential employee from active military duty.

The Small Business Administration has dozens of additional tools that are there to assist small businesses. These programs apply to the entrepreneur just starting a business to the seasoned veteran looking to expand and grow the business. Your business is vital to the economic growth of the country. Recognizing this, the federal government has provided the tools you need to better work with the various government agencies from your local county, state or regional government to the federal agencies such as the FAA, EPA, IRS or OSHA.

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These tools are there for you to use free of charge; just pick them up and put them in your tool box. The SBA resources can be accessed through AEA's website at www.aea.net.

Regulatory Update: UNITED STATES

FAA Amends Part 65 to include ineligibility for an Airman Certificate based on security grounds.

The Federal Aviation Administration has amended Part 61, 63 and 65 of the Federal Aviation Regulations by making those persons suspected of being a security threat ineligible for an FAA certificate. However, while the FAA has published this rule without public consultation, they have requested comments from the public. Comments must be received by March 25, 2003. The Association encourages the public to review this rule and if appropriate submit comment to the FAA.

This final rule, which became effective on January 24, 2003, expressly makes a person ineligible to hold FAA-issued airman certificates if the Transportation Security Administration notifies the FAA in writing that the person poses a security threat. This action is intended to reduce the opportunity for persons to carry out terrorist acts in the aviation environment.

The Aviation and Transportation Security Act (ATSA), Public Law 107-71 directs the Administrator to make modifications to the system for issuing airman certification to make the system more effective in serving the needs of officials responsible for enforcing laws related to combating acts of terrorism.

The Under Secretary of Transportation for Security receives information from intelligence sources

that identify specific individuals who pose a security risk. In some cases, these individuals hold airman certificates issued by the FAA.

By this rulemaking, the TSA has put in place processes for notifying an individual that he or she has been determined to pose a security threat and to advise the FAA of its determination.

One process applies to citizens of the United States, the other to aliens. Under both procedures, the individual is served with an Initial Notification of Threat Assessment when the TSA's Assistant Administrator for Intelligence has concluded that the individual poses a security threat. The individual may respond in writing to this notification and provide any information the individual believes the TSA should consider.

In the case of an alien, if the TSA's Deputy Administrator finds that the person does pose a security threat, he or she issues a Final Notification of Threat Assessment. If the Deputy Administrator does not determine that the individual poses a security threat, he or she issues a Withdrawal of Initial Notification.

In the case of a United States citizen, the Under Secretary will also review the matter before a Final Notification of Threat Assessment is issued. If the Under Secretary determines that the individual poses a security threat, the Under Secretary issues a Final Notification of Threat Assessment. If the Deputy Administrator or Under Secretary does not find that the person poses a threat, the TSA issues a Withdrawal of Initial Notification. At the time the TSA issues its notifications, the FAA is advised of the TSA's determinations with regard to individuals who hold or are applying for an airman certificate.

Once the TSA has determined that a person poses a security threat, that person should not hold an airman cer-

tificate authorizing him or her to be in a position that could be used to take actions that are contrary to civil aviation security and, therefore, safety in air commerce. In any event, persons determined by the TSA to pose a security threat are simply unqualified to hold airman certificates.

The FAA is adding a section to 14 CFR parts 61, 63 and 65 to expressly make individuals who pose a security threat as determined by the TSA ineligible to hold certificates, ratings and authorizations issued under those parts. This ineligibility means that the FAA will not issue a certificate, rating, or authorization to any applicant who the TSA advises the FAA poses a security threat. If the TSA issues an Initial Notification of Threat Assessment to an applicant, the FAA will hold in abeyance the application pending the outcome of the TSA's final threat assessment review. If an individual is issued a Final Notification of Threat Assessment, the FAA will deny an application for any airman certificate, rating or authorization.

With regard to certificates already issued, the FAA will suspend an individual's airman certificates after receiving the Initial Notification of Threat Assessment from the TSA. Suspension is appropriate in this circumstance, because the TSA's initial assessment that an individual poses a security threat is still subject to review by the TSA's Deputy Administrator, and, for U.S. citizens, the Under Secretary, and may be reversed. If a Final Notification of Threat Assessment is issued, the FAA will revoke the certificates; if an Initial Notification is withdrawn, the FAA will withdraw its certificate suspension.

The eligibility standards adopted in this rulemaking rely on the threat assessments made by the TSA. This reliance is based on the broad statuto-

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ry authority and responsibility that the ATSA placed in the Under Secretary with regard to intelligence information and threat assessments.

A copy of the final rule and AEA's comments can be viewed on AEA's website: www.aea.net.

The FAA has published its first draft of an AC for Standardized Procedures for Requesting Field Approvals

The advisory circular (AC 43-FLD) describes a standardized procedure for requesting field approvals for certificated products. The AC also introduces and provides instructions for completing the field approval checklist.

In this document, Field Approval is defined as an approval of a major alteration or repair by an ASI using a completed FAA Form 337, Major Repair and Alteration (Airframe, Powerplant, Propeller or Appliance), or equivalent. In lieu of approved data, a field approval may be granted for an alteration or repair by inspection.

The AC describes the steps needed to obtain approval of technical data in addition to the criteria where a Field Approval may not be granted. The field approval request may be denied due to the following reasons:

(1) The alteration or repair is beyond the scope of a field approval. The inspector will explain why the approval was not given and inform you of your options.

(2) Some major alterations do not qualify for field approvals. The effect of these alterations on a TC'd product may be so extensive that you would have to apply for a new TC, amend the original TC, or apply for an STC. This AC contains information that can help you determine if your proposed alter-

Frequently Asked Questions

TOPIC: Avionics Approvals

QUESTION:

What FAA guidance is available regarding avionics installation using a STC approval?

ANSWER:

For information regarding the supplemental type certificate application process you may find it helpful to review FAA Order 8110.4, "Type Certification," and AC 21-40, "Application Guide for Obtaining a Supplemental Type Certificate."

A recently released guide titled: "The FAA and Industry Guide to Avionics Approvals" may also be useful. This guide complements The FAA and Industry Guide to Product Certification which contains a description of the purpose and vision of the improved certification process (CPI). This guide was prepared by a partnership of the Aircraft Electronics Association, Aerospace Industries Association, the General Aviation Manufacturers Association and the FAA. The FAA expects the CPI principles of up-front planning, project management, and documenting the certification process and working relationship are applicable to all projects.

CPI enables a credible and concise avionics approval process that should result in timely and efficient design and production approvals; clearly defined and understood roles, responsibilities and accountability for all stakeholders (including the FAA); timely identification and resolution of the certification basis, potential safety issues and business practices requirements; and optimal delegation using safety management concepts with appropriate controls and oversight.

In essence, The FAA and Industry Guide to Avionics Approvals establishes a business plan for an STC project.

"The FAA and Industry Guide to Avionics Approvals" can be found on AEA's website at www.aea.net.

Note: AEA offers these Frequently Asked Questions (FAQs) in order to foster greater understanding of the rules that govern our industry. AEA strives to make them as accurate as possible at the time they are written, but rules change so you should verify any information you receive from an AEA FAQ before you rely on it. AEA DISCLAIMS ANY WARRANTY FOR THE ACCURACY OF THE INFORMATION PROVIDED. This information is NOT meant to serve as legal advice – if you have particular legal questions, you should contact an attorney.

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ation is eligible for a field approval by the ASI.

The request for a field approval may be denied because the alteration and repair does not require a field approval.

The AC clarifies that some alterations and repairs do not require a field approval, and states that requests for such unnecessary approvals will be denied. The draft AC gives examples

where alterations and repairs do not require a field approval. These are minor alterations and repairs that do not need approved data and, therefore, should not receive field approvals. Alterations and repairs that are supported by sufficient previously approved DER-approved data may not require further approval.

The DER's role in field approvals is

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also clarified. DERs are representatives (designees) of the Administrator who may approve (or in some cases recommend approval) of data that complies with the 14 CFR or CAR. A DER's authority is limited to specific disciplines. A DER can provide you with approved data by using FAA Form 8110-3. FAA Order 8110.45 provides guidance on when the data approved by a DER(s) can be used without further approval. FAA Order 8110.37, as amended, provides guidance on the use of DERs and their limitations.

A copy of the draft AC is available for download on AEA's website: www.aea.net.

AEA and NATA Plan to Hold Regional Part 145 Meetings

In an effort to minimize misinterpretations of the final Advisory Circular (AC) on FAR 145 that is scheduled to be published this spring, the FAA recently approved a proposal offered by AEA and the National Air Transportation Association (NATA) to jointly sponsor regional meetings between FAA headquarters, FAA regional offices, Flight Standards District Offices (FSDOs) and operators of Part 145 certificated repair stations. The purpose of these meetings will be for FAA headquarters to present and explain the contents of the Part 145 AC and to hopefully minimize any misunderstandings or miscommunications between the FAA and the affected repair stations.

The plan proposed by the AEA and NATA includes a series of half-day or full-day meetings that will be held at convenient airport locations in all nine FAA regions. AEA and NATA staff will be meeting soon with the FAA to determine the logistics and locations for these meetings. As the dates and

locations are finalized, a list will be distributed to all repair stations including AEA members.

The following is a list of proposed sites the Associations have recommended:

- New England (ANE) – Boston
- Eastern (AEA) – Teterboro Airport or Washington, D.C.
- Southern (ASO) – Orlando (AEA Convention)
- Southwest (ASW) – Dallas/Fort Worth or Oklahoma City
- Central (ACE) – Kansas City (AEA headquarters is located here)
- Northwest Mountain (ANM) – Seattle or Denver
- Western Pacific (AWP) – Las Vegas (NATA Convention)
- Alaska Region (AAL) – Anchorage

For more information, please contact Ric Peri, AEA's Vice President of Government and Industry Affairs at 202-589-1144 or via email at ricp@aea.net.