
Statement For The Record
“FAA Reauthorization: Aviation Safety and General Aviation”
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Chair Ayotte, Ranking Member Cantwell, members of the Aviation Subcommittee, thank you for the opportunity to submit comments on the Subcommittee’s review of aviation safety and general aviation. My name is Thomas L. Hendricks and I serve as President and CEO of the National Air Transportation Association (NATA).

NATA represents the interests of the general aviation business community before the Congress as well as federal, state and local government agencies. Representing nearly 2,300 aviation businesses, NATA’s member companies provide a broad range of services to general aviation, the airlines and the military. Our members range in size from large companies with international presence to smaller, single-location operators that depend exclusively on general aviation for their livelihood. Smaller companies account for the majority of NATA’s membership and most of our members have fewer than 40 employees and are designated as small businesses by the U.S. Small Business Administration.

As a result of the last FAA reauthorization bill, NATA member companies have been able to confidently proceed with their own investment plans, but that confidence to invest will be undermined by a protracted reauthorization process.

FAA Structure/Funding

We understand the major reauthorization issue the Subcommittee will consider this year is whether and how we might alter the FAA’s organization and funding stream. This is certainly an appropriate discussion to have in light of the recent sequesters, government shutdown and criticisms of the FAA’s modernization plans.

NATA urges lawmakers to build on its work that began in the last reauthorization and continue to assist the agency toward a more efficient operating structure. However, changes in the relationship between the agency’s air traffic control operation and its safety regulatory component should be carefully viewed in terms of the problem to be

addressed, and whether the solution will continue to maintain a stable, safe and efficient system that protects access for all users of our system.

While NATA supports the injection of more private sector practices into the FAA, there is no safer air traffic control system in the world or more efficient means of general aviation taxation than that already in place. As Administrator Huerta has observed, we need to ensure there are no unintended consequences from moving too quickly. NATA cannot support any de facto “leap of faith” proposals that would put general aviation’s fate in the hands of undefined management structures or leave unresolved its contribution to the system.

Consistency of regulatory interpretation

NATA appreciates the Subcommittee’s review last week of certification issues and hopes its reauthorization legislation will also consider the impacts to aviation businesses created by the inconsistent interpretation of FAA regulations. Aviation businesses are constantly confronted by the varying requirements of eight FAA regions, 10 aircraft certification offices, and 80 flight standards district offices, each of which issues individual approvals for a wide range of maintenance and operational requests. When the FAA grants approval for a certificate or process to one aircraft operator or maintenance facility without giving the same approval to a similar business in another area of the country, it directly affects the competitiveness of companies. The 2012 FAA reauthorization created an FAA/Industry Committee, the “Consistency of Regulatory Interpretation Aviation Rulemaking Committee (CRI ARC)” to address this issue. It is important the panel’s recommendations, particularly the creation of a Master Source Guidance System, be implemented as quickly as possible.

Maximizing use of existing FAA resources in support of aviation business

Regardless of the resolution of the debate about the FAA’s current organizational structure and funding discussed above, it is unlikely the regulatory functions of the agency can expect to see dramatic increase to its funding. As a result, the agency must maximize the use of its existing resources.

For example, the FAA uses Certificate Management Units (CMUs) and Certificate Management Offices (CMOs) to provide a comprehensive certificate management structure for monitoring airline operations. The FAA should establish policy defining the criteria under which this concept will apply to repair stations and other certificate holders. In addition, Part 135 on-demand air carriers now face difficulty in securing FAA inspectors to certify pilots. Expanded use of delegation authority would better meet the needs of aviation businesses and free up resources. Realigning the Flight Standards Service regional offices to specialized areas of aviation safety oversight and technical expertise, similar to the Aircraft Certification Service, would be better aligned with the policy organizations in Washington D.C., and provide for a more direct, streamlined flow of communication regarding policy implementation.

Pro-Aviation Business Tax Policy

Finally, while not strictly within the Committee's direct purview, there are issues of tax policy that also impact aviation businesses that we offer for your consideration.

Clarify the Status of Aircraft Management Services – In March of 2012, an IRS Chief Counsel opinion concluded that aircraft owners employing aircraft management services that allow the use of the aircraft for occasional charter operations should be assessing the 7.5 percent commercial ticket tax on amounts paid for those management services. Aircraft management services typically include hiring, training, and scheduling pilots and other personnel; fueling the aircraft; conducting weather and flight planning; and overseeing key safety standards. The IRS interpretation is unprecedented as all aviation taxes are movement based. If an owner is using an aircraft for personal reasons, the fuel tax is assessed. The same aircraft, used by a management company for charter services, assesses the commercial ticket tax (i.e. federal excise tax (FET)) on the charter customer.

After a significant number of operators successfully appealed audit findings assessing the FET to aircraft management services, in May of 2013 the IRS suspended assessment collections based on that opinion. Since then NATA has been in constructive dialogue with Treasury and IRS and the issue has been placed on the agency's priority guidance list for a second consecutive year. However, the Treasury/IRS is not committing itself to a timeline for resolution and though the IRS has put audit assessments on hold, these small businesses are still vulnerable to potentially enormous assessments. Last Congress, Senators Brown and Portman and Representative Tiberi introduced legislation to address the issue and will reintroduce the legislation later this year. We urge Subcommittee members to join Senators Brown and Portman's efforts by becoming original cosponsors of this important legislation.

Cease Aviation Trust Fund Diversions

Since 2005, the tax rate applied to nearly all jet fuel sales is at the highway fuel tax rate of 24.4c per gallon and all collected funds are deposited into the Highway Trust Fund instead of the Airport and Airway Trust Fund (AATF). The change was based on a suspicion of fraud due to a slightly lower aviation fuel tax rate compared to the highway tax and a belief that jet fuel could be used in diesel trucks. This policy has increased Highway Trust Fund revenues at the expense of those in the Airport and Airway Trust Fund.

The IRS provides no avenue for a noncommercial general aviation end-user to apply for the refund. A fuel vendor may apply for refunds, but only after completing an arduous IRS registration process and then managing the substantial administrative burden to maintain records for the IRS. There is no requirement for fuel vendors to register with the IRS; it is purely voluntary and most fuel vendors are not participating due to the

additional workload. Thus the AATF receives no revenue from the majority of non-airline jet fuel sales because noncommercial end users are not permitted to apply for the refund themselves. NATA believes the premises that led to enactment of this provision should be reviewed as a precursor to its repeal.

Investment Policy – NATA recently provided Senate Finance Committee Chairman Orrin Hatch (R-UT) and Ranking Member Ron Wyden (D-OR) with [views](#) on how to best stimulate aviation business investment. We urge lawmakers to develop legislation that includes the full and immediate expensing of capital investments.

NATA is one of the leading supporters of permanently extending bonus depreciation and Section 179 expensing for small businesses at a level of \$500,000 and supports the ongoing efforts of the House of Representatives to make these two pro-growth provisions permanent. However, comprehensive tax reform legislation provides the opportunity to go even farther. Many economists support NATA's belief that while accelerated depreciation is helpful to investment and the overall economy, the ultimate goal should be to fully write-off business investment expenses immediately.

Thank you for your consideration of our views. While maintaining the status quo risks our nation's supremacy in aviation, it is equally true that radical change to the FAA's management structure and funding poses equal risks, including to the safe and stable nature of the world's best air traffic control system. We look forward to working with the Subcommittee and agency toward continuing to operate the world's safest and most efficient aviation system.