



Welcome to the 15<sup>th</sup> issue of the NATA Safety 1<sup>st</sup> *Flitebag*, our quarterly online safety newsletter, supporting the NATA Safety 1<sup>st</sup> Management System (SMS) for Air Operators.

This quarterly newsletter will highlight known and emerging trends, environmental and geographical matters, as well as advances in operational efficiency and safety. Subsequent issues include a section with a roundup of real-time incidents and events, along with lessons learned. Flight and ground safety have been enhanced and many accidents prevented because of shared experiences.



## THE ANATOMY OF AVIATION INSURANCE: UNINSURED INDEPENDENT CONTRACTORS & SERVICE PROVIDERS

By: **Jim Gardner**

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Many corporate operators have a single Director of Maintenance (DOM), Crew Chief, or mechanic that oversees the maintenance of their aircraft. They perform most of the day to day maintenance requirements. When they have a large inspection or alteration, they typically have that work performed by a repair station or other Major Repair Organization (MRO).

However, many times the small to medium sized jobs like troubleshooting and minor maintenance up to small inspections such as "A" checks that are well within their scope of capabilities and facilities require more than one mechanic to get the job done efficiently. It is common practice to hire one or more local A&P's as contractors to assist. Typically they are friends or acquaintances of the DOM/Crew Chief/mechanic who work for another corporation or repair station full time and moonlight on days off to get some extra money or are simply doing a favor. For many operators this is a workable, cost effective solution that gets the job completed on time. However, one particular operator correctly raised the concern that these contractors often did not have liability or worker's compensation insurance.

This scenario touches on three basic insurance questions.

1. How does the use of an independent contractor or professional service organization affect the liability provisions of the aircraft policy as it relates to the owner?
2. What recourse does an injured party have against the contractor/ service organization for premises, products and/or completed operations?
3. Workers Compensation Liability: Is it required and who should carry it?

### **First, the Workers Comp Insurance issue is straight forward.**

An aircraft owner or operator should carry workers comp on all its employees, full or part time. A smart owner will require every other service provider to be insured under the provisions of workers compensation. Regardless of whether state law requires it, if an independent contractor or professional service provider cannot produce a certificate of insurance as proof of workers comp insurance, then the aircraft owner should include him on his own workers comp policy. It is critical to understand that, in the case of the moonlighter, any workers compensation he may have through his primary employer is not applicable to the aircraft owner even if the work performed for both is identical.

#### In This Issue:

Uninsured Independent Contractors & Service Providers .....	1
FAA News: Standardization, Flying in Icing & SMS InFO .....	3
Legislative Update .....	9
Industry News .....	11
NTSB News .....	16
Information for Operators (InFOs) .....	20
Safety Alert for Operators (SAFOs) .....	21



This can't be repeated enough: Everyone that works in, on, or around the owner's aircraft should be insured for Workers Compensation for the work being performed, period. The downside to the aircraft owner for liability to an injured worker is too ugly to consider when such a simple and economical solution is so readily available. Except under rare cases of negligence or fraud, this provides the employee (or their estate) with the sole recourse for recovery from injury arising from the performance of his duties assigned by his employer (as defined by the workers compensation statutes of each state).

### **Does the use of an independent contractor or professional service organization affect the liability provisions of the aircraft policy?**

The short answer is, no—as long as the maintenance performed falls within regulatory requirements of the FAA. Whether the aircraft owner uses mechanics that are employees, independent contractors, or a fixed base or mobile maintenance service organization, it should not affect the aircraft liability coverage.

Typical language found in the Insuring Agreement section of a policy will say something to the effect that the insurance company is obligated "...to pay on the behalf of the **Insured** all sums which the **Insured** shall become legally obligated to pay as damages ...caused by an occurrence arising out of the ownership, use, or maintenance of the aircraft..." This insuring agreement section will define coverage and exclusions for bodily injury, property damage, and damage to the aircraft itself.

The concern of this particular operator has more to do with recourse against the service provider by the policyholder/aircraft owner, the insurance company, and/or a third party to recoup losses in the event of an occurrence attributed to the parts provide by, or work done by the independent contractor or service organization.

### **That brings up the question, "how does an aircraft owner's policy treat an Independent Contractor or Service Provider?"**

First, it is important to understand the definition of an **Insured**. To paraphrase additional policy language, an "**Insured**" means the owner of the policy (the **Named Insured**) or any person using the aircraft with the permission of the **Named Insured**.

However, the policy does not apply to "...any person or organization, or agent or employee thereof, (other than the employee of the **Named Insured**) engaged in the manufacture, maintenance, repair, or sale of aircraft, aircraft engines, components, or accessories, or in the operation of any airport, hangar, flying school, flight service, or aircraft or piloting service with respect to any occurrence arising out of such activity...."

What this means is that the insurance company is obligated to indemnify and defend an "**Insured**" from third party claims. This includes all employees of the **Named Insured**. Any independent contractor, or aviation service provider/organization, whether maintenance services or pilot services, can be sued by the insurance company, an injured third party, and even the policyholder/aircraft owner, for damages caused by the contractor or service provider.

### **What recourse does an injured party have against the contractor/service organization for premises, products and/or completed operations?**

As stated before, an employee of the **Named Insured** whether part time or full time, is insured under the provision of the aircraft policy. The insurance company will indemnify and or defend them against the claims of a third party to the limits of the policy. It is important to note that the insurance company will NOT usually defend or indemnify one employee against another unless the policy is specifically endorsed.



An independent contractor or service provider is exposed to potential law suits from the insurance company through the subrogation clause in the policy, a third party independently, and in rare cases the aircraft owner themselves. Anyone in the business of providing professional aviation services should carry their own insurance which addresses the services they provide. For instance, a maintenance service provider should have an aviation general liability policy that insures his premises (whether mobile or fixed), products and completed operations, and hangarkeepers legal liability. As a prerequisite to hiring, it would be prudent for the aircraft owner to have the service provider furnish a certificate of insurance showing proper coverage and adequate limits.

As a practical matter, the small local mechanic or A&P who performs work as a hobby or on weekends to pick up some extra cash, at the direction of and under the supervision of the **Named Insured's** mechanic or DOM, isn't usually a target for law suits. It follows the old saying, "you can't squeeze blood out of a turnip."

However, an AI who is performing inspection duties and signing logbooks has a much larger exposure and could be in real danger of a judgment that could put him in a financial hole from which he could never recover.

Likewise the independent contractor who moonlights after hours from working for a major corporation as a mechanic or pilot may be exposing himself or even his employer to at least a lawsuit if not a judgment from a plaintiff looking for additional moneys or deeper pockets.

These are all complicated and involved issues which cannot be fully addressed in a few paragraphs. Every case is different. Each aviation operator should involve their aviation insurance specialty broker into their normal aviation decision making process in order to develop solutions applicable to their specific situation and circumstances.

About the author

*Jim Gardner is a retired U. S. Air Force officer, a former commercial pilot, and an aviation insurance specialty broker with JSL Aviation, a division of J Smith Lanier & Co., one of the largest privately owned agencies in America, insuring people and business since 1868. © Copyright 2009. Jim Gardner. All Rights Reserved*



## ENCOURAGE YOUR MEMBER OF CONGRESS TO CONTACT THE FAA REGARDING THE LACK OF STANDARDIZATION OF REGULATIONS

### **What's at Issue**

One of the biggest burdens confronting the general aviation industry is the varying interpretation of Federal Aviation Administration (FAA) regulations by the agency's Regional, Aircraft Certification (ACOs) and Flight Standards District Offices (FSDOs). Currently, there are 9 FAA regions, 10 ACOs and more than 80 FSDOs that each issue approvals on a wide range of maintenance and operational requests made by regulated entities. These regulated entities include Part 135 on-demand charter operators, Part 145 repair stations, and Part 161 and 41 flight training facilities.

### **Why it's Important**

Affected regulated entities continue to be challenged by regulatory interpretations that regularly vary from one inspector within one FSDO or ACO, to another. These varying interpretations of how to achieve or demonstrate compliance with



FAA regulations (FARs) are estimated to cost general aviation businesses hundreds of millions of dollars annually when previously approved actions are subject to "re-interpretation."

For example, a Part 135 on-demand air charter operator contacted NATA stating that he had to spend approximately \$25,000 to secure FAA approval to move an aircraft on his air carrier certificate from one FAA region to another. First, the operator demonstrated compliance with FAA officials from the region where the aircraft was based. The operator then had to work with FAA officials in the region to where the aircraft was being moved as its new base location. The new FAA office would not accept the determination of compliance from the original FAA office and insisted that the operator again demonstrate that the aircraft was in compliance with the FARs. The aircraft was out of service and unavailable for customer use for more than five weeks, at a cost of more than \$200,000 in lost revenue to the operator.

As another example, an NATA member Part 145 repair station was informed by the FAA that the region with responsibility for oversight of the repair station would be changing. The NATA member company endured a lengthy, costly process as the new region with jurisdiction decided to re-approve the repair station's manual, used to prescribe performance of maintenance functions, and identified more than 75 "deficiencies." The manual had been deemed to be fully compliant with all FAR requirements and approved by the first FAA region, but the new region insisted that revisions be made according to *its* interpretation of the regulations. This drawn out process cost the repair station countless hours of employee time and hundreds of thousands of dollars in lost revenue while the repair station implemented the new region's revisions.

Inconsistent and varying interpretations of FAA regulations are not only costly for the industry, they also demonstrate a shortcoming in the FAA's ability to coordinate its workforce and ensure that the decision-making abilities vested in inspectors are respected across all divisions of the agency, impairing efforts to achieve a uniform safety standard nationwide.

#### ***What to do***

To eliminate the unnecessary and costly regulatory re-interpretation process that currently exists between FAA field offices, NATA recommends the following action:

[Contact your Members of Congress by visiting NATA's Legislative Action Center](http://www.congressweb.com/cweb4/index.cfm?orgcode=nata&issue=18)

(<http://www.congressweb.com/cweb4/index.cfm?orgcode=nata&issue=18>) and request they contact the FAA on your behalf to highlight specific examples of how inconsistent regulatory interpretations are affecting your aviation business and, if possible, the financial implications.

[To view the form letters provided by NATA, please click here](http://www.nata.aero/data/files/g&i/affairs/0209standardizationacformltr.doc) or go to [http://www.nata.aero/data/files/g & i affairs/0209standardizationacformltr.doc](http://www.nata.aero/data/files/g&i/affairs/0209standardizationacformltr.doc).

#### ***NATA Position***

NATA believes that it is vital that this issue be addressed and, most importantly, would like to see NATA members educate their Members of Congress about how this issue is affecting aviation businesses in their districts.



## For Immediate Release

February 13, 2009  
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## Flying in Icing Conditions

The FAA has taken short-and long-term safety actions over the past 15 years to improve safety of aircraft that encounter icing conditions on the ground and in flight.

### Background

Since 1994, the FAA has issued more than 100 airworthiness directives to address icing safety issues on more than 50 specific aircraft types. These orders cover safety issues ranging from crew operating procedures in the icing environment to direct design changes. We also have changed airplane flight manuals and other operating documents to address icing safety, and issued bulletins and alerts to operators emphasizing icing safety issues.

In addition to many short-term initiatives, the FAA has issued one final rule, has another in final executive coordination, and two proposed rules under development that address the NTSB recommendations.

### FAA Actions

The following FAA actions have reduced icing-related accidents:

In **1996**, the FAA mandated (AD 96-09-25) an Airplane Flight Manual (AFM) revision to limit or prohibit the use of various flight control devices and provide flight crews with recognition queues and procedures for exiting from severe icing conditions.

In **1999**, the FAA issued an Airworthiness Directive (AD 99-19-18) that mandated revisions to AFM to advise flight crews to activate airframe pneumatic de-icing boots at the first sign of ice accumulation.

The FAA has issued ADs on aircraft such as the Mitsubishi MU-2 and the Cessna 208, given their history of icing-related accidents and incidents.

On **March 29, 2006**, the FAA issued Safety Alert for Operators (SAFO 06002) on ground deicing practices for turbine airplanes in nonscheduled Part 135 and Part 91 service.

On **October 6, 2006**, the FAA issued a Safety Alert for Operators (SAFO 06014) to warn against the hazards posed by polished frost.

On **November 11, 2006**, the FAA issued a Safety Alert for Operators (SAFO 06016) to increase awareness of in-flight icing dangers for pilots flying turbo-propeller powered airplanes.

On **April 26, 2007**, the FAA proposed a rule to require an effective way to detect ice buildup or let pilots know that icing conditions exist, and produce timely activation of the ice-protection system. It would help avoid accidents and incidents where pilots are either completely unaware of ice accumulation or think the icing is not significant enough to warrant turning on their ice-protection equipment. This rule would mandate that future airplane designs use one of three methods to detect icing and activation the ice-protection system:

- An ice-detection system that automatically activates or alerts pilots to activate the ice-protection system
- A definition of visual signs of ice buildup on a specified surface (e.g., windshield wiper post or wings) combined with an advisory system that alerts the pilots to activate the ice-protection system
- Identification of temperature and moisture conditions conducive to airframe icing that would be used as a cue by pilots to activate the ice-protection system.



The rule would further require that after initial activation of the ice-protection system, the system must operate continuously, automatically turn on and off, or there must be an alert to tell pilots when the system is to be cycled. The comment period closed July 25, 2007. The rule is currently in the final stages of executive review.

On **August 8, 2007**, an FAA final rule introduced new airworthiness standards for the performance and handling characteristics of transport airplanes in icing conditions. The new improves the level of safety for new airplane designs when operating in icing conditions, and will harmonize the U.S. and European airworthiness standards for flight in icing conditions.

The rule adds a comprehensive set of airworthiness requirements that manufacturers must meet to receive approval for flight in icing conditions, including specific performance and handling qualities requirements, and the ice accretion (size, shape, location, and texture of ice) that must be considered for each phase of flight. These revisions will ensure that minimum operating speeds determined during the certification of all future transport airplanes will provide adequate maneuvering capability in icing conditions for all phases of flight.

On **November 30, 2007**, the FAA issued Safety Alert for Operators (SAFO 07009) to inform owners, operators, and FAA entities of training requirements for pilots of CE-208 (Cessna Caravan 1) and CE-208B (Cessna Grand Caravan) airplanes for flight into icing conditions.

In **December 2007**, the FAA issued Advisory Circular (AC 91-74A) on the affect of ice crystals on turbine engines.

On **May 8, 2008**, the FAA proposed a rule to remove language from its regulations that allowed some operators – not commercial airplanes – to operate with polished frost. Unlike commercial airplanes which must have a clean wing, corporate aircraft were permitted to fly with smooth or “polished frost.” That practice has been deemed unsafe. The comment period closed August 6, 2008.

On **May 20, 2008**, the FAA issued Safety Alert for Operators (SAFO 0812) on aircraft taxi operations during snow and ice conditions.

On **February 11, 2009**, the FAA issued Safety Alert for Operators (SAFO 09004) to emphasize preflight and in-flight planning for winter airport operations for taxi, takeoff, and landing. It also elaborates on SAFO 0812.

#### **Rules Under Development**

The FAA is also developing a proposed rule change under which air carrier airplanes are operated that would require either the installation of ice detection equipment or changes to the procedures for activating the ice-protection system to ensure timely activation of the ice-protection system. This proposed rule would apply to all current and future airplanes in service with air carriers whose maximum takeoff weight is less than 60,000 pounds.

The FAA is also developing a proposed rule to address supercooled large drop icing, which is outside the icing envelope considered by the current icing certification requirements. The proposed rule would improve safety by taking into account supercooled large-drop icing conditions for transport category airplanes most affected by these icing conditions, mixed-phase and ice-crystal conditions for all transport category airplanes, and supercooled large drop, mixed phase, and ice-crystal icing conditions for all turbine engines. An economic analysis is currently being prepared.



FAA SAFOs are available at:

[http://www.faa.gov/other\\_visit/aviation\\_industry/airline\\_operators/airline\\_safety/safo/all\\_safos/](http://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/safo/all_safos/)

### Icing Terms Commonly Used in Aviation:

**Clear ice:** See “glaze ice.”

**Freezing rain (FZRA):** Precipitation at the ground level or aloft in the form of liquid water drops. The raindrop diameters are greater than 0.5 mm. Freezing rain exists at air temperatures less than 0degC (supercooled), remains in liquid form, and freezes on contact with objects on the surface or airborne.

**Glaze ice:** Sometimes glaze ice is clear and smooth. Glaze ice usually contains some air pockets that result in a lumpy translucent appearance. Glaze ice results from supercooled drops striking a surface but not freezing rapidly on contact. Glaze ice is denser, harder, and sometimes more transparent than rime ice. Factors, which favor glaze formation, are those that favor slow dissipation of the heat of fusion (i.e., slight supercooling and rapid accretion). With larger accretions, the ice shape typically includes “horns” protruding from unprotected leading edge surfaces. Flight crews are more likely to assess the ice shape, rather than the clarity or color of the ice, accurately from the cockpit. The terms “clear” and “glaze” have been used for essentially the same type of ice accretion. Some reserve “clear ice” for thinner accretions that lack horns and conform to the airfoil.

**Heavy icing:** A descriptor used operationally by flight crews when they report encountered icing intensity to air traffic control. The rate of ice buildup requires maximum use of the ice-protection systems to minimize ice accretions on the airframe. A representative accretion rate for reference purposes is more than 3 inches (7.5 cm) per hour on the outer wing. A pilot encountering such conditions should consider immediate exit from the conditions.

**Ice bridging:** Classic pneumatic deicing boot ice bridging occurs when a thin layer of ice is sufficiently plastic to deform to the shape of the inflated deicing boot. This occurs without the thin ice breaking or shedding during ensuing cycling of the deicing boot. As the deformed ice hardens and accretes more ice, the deicing boot becomes ineffective. Ice bridging may occur when enough supercooled water freezes during the inflated deicing boot dwell period. It will keep that shape after the deicing boot deflates and will form a deformed surface that continues to accrete ice and is unaffected by ensuing cycling of the deicing boot. A deicing boot ice bridge may also form when flying into increasingly colder ambient temperature conditions following a mixed-phase icing encounter at near-freezing temperatures. Ice bridging also refers to the ice “caps” or “bridges” between adjacent component surfaces. For example, unprotected leading edge surfaces of an elevator horn and the horizontal stabilizer.

**Light icing:** A descriptor used operationally by flight crews when they report encountered icing intensity to traffic control. The rate of ice buildup requires occasional cycling of manual deicing systems to minimize ice accretions on the airframe. A representative accretion rate for reference purposes is 1/4 inch to one inch (0.6 to 2.5 cm) per hour on the outer wing. The pilot should consider exiting the condition.

**Mixed ice:** A simultaneous appearance or a combination of rime and glaze ice characteristics. Accurate identification of mixed ice from the cockpit may be difficult since the clarity, color, and shape of the ice will be a mixture of rime and glaze characteristics.

**Moderate icing:** A descriptor used operationally by flight crews to report encountered icing intensity to traffic control. The rate of ice buildup requires frequent cycling of manual deicing systems to minimize ice accretions on the airframe. A representative accretion rate for reference purposes is 1 to 3 inches (2.5 to 7.5 cm) per hour on the outer wing. The pilot should consider exiting the condition as soon as possible.

**Rime ice:** A rough, milky, opaque ice formed by the rapid freezing of supercooled drops after they strike the aircraft. The rapid freezing results in trapped air. The trapped air gives the ice its opaque appearance and makes it porous and brittle. Rime ice typically accretes along the stagnation line of an airfoil and is more regular in shape and conforms more to the



airfoil than glaze ice. Crew are more likely to assess the ice shape, rather than the clarity or color of the ice accurately from the cockpit.

**Runback ice:** Ice that forms from the freezing or refreezing of water leaving protected surfaces and running back to unprotected surfaces.

**Severe icing:** A descriptor used operationally by flight crews reporting encountered icing intensity to traffic control. The rate of ice buildup results in the inability of the ice protection systems to remove the buildup of ice satisfactorily. Also, ice builds up in locations not normally prone to icing, such as areas aft of protected surfaces and any other areas identified by the manufacturer. Immediate exit from the condition is necessary.

## FAA InFO Highlights SMS Concerns

The FAA published an Information for Operators (InFO) document explaining that while international standards require an aggressive approach to the implementation of Safety Management Systems (SMS) the United States is still unable to even offer official recognition of programs to air carriers.

InFO 08053 explains that the International Civil Aviation Organization (ICAO) has established a requirement for member states to impose SMS requirements on operators. The current deadline to complete this step is January 1, 2009, although a delay may still occur. While some states have acted to adopt SMS requirements, the U.S. has not yet established a regulatory requirement for the program.

The FAA has published guidance material in the form of AC 120-92, *Introduction to Safety Management Systems for Operators*, which provides air carriers with information necessary to establish an SMS program.

Because there is no existing SMS mandate, the FAA is now working to file a difference with ICAO. The lack of an SMS regulation and, more importantly, the inability for the FAA to issue a formal approval or acceptance of an air carrier's program could prove quite problematic for air carriers, including Part 135 operators conducting international operations in the future.

Any nation that has an SMS requirement may choose to accept or reject the FAA difference. Acceptance of the difference would allow U.S. carriers to continue to conduct flights to that nation. However, a rejection of the difference could prohibit operations.

NATA strongly cautions operators not to take the FAA's lack of existing regulation or formal SMS approval process as an indication that these items are not still imminent. The FAA has initiated a process to evaluate rulemaking options, and NATA is working closely with the agency to develop an approval or acceptance mechanism for those air carriers that have already started an SMS program. Regardless of FAA regulatory requirements, international operators will likely need to begin the SMS implementation sooner rather than later.

To avoid future operational restrictions because an SMS is not implemented, NATA encourages all operators to become familiar with the SMS concept and begin action to implement a program. Typically, it takes three to four years to establish a fully implemented SMS program.

More information on SMS programs for air charter operators is available on the NATA Safety 1st Air SMS Webpage.

Download InFO 08053

[http://www.faa.gov/other\\_visit/aviation\\_industry/airline\\_operators/airline\\_safety/info/all\\_infos/media/2008/info08053.pdf](http://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/info/all_infos/media/2008/info08053.pdf).





## FAA Advisory Circular Highlights Newly Released Winter Safety Guidance

On December 9, the FAA published Advisory Circular (AC) 150/5200-30C on Airport Winter Safety and Operations. This AC provides guidance to airport operators in developing a snow and ice control plan and establishing snow removal procedures.

The FAA AC contains guidance on developing plans, methods and procedures for snow and ice removal, materials and equipment. The guidance offered is acceptable to the Administrator in accordance with Title 14, CFR, Part 139, Certification of Airports, Section 139.313, on Snow and Ice Control. Effective immediately, certificated airports are required to follow the requirements of paragraphs 5-6 and 5-7 contained within this AC.

All certificated airports must submit revised Snow and Ice Control Plans to the FAA **no later than April 30, 2009**, for approval. At that time, certificated airports will also be required to comply with the remaining portions of this AC. This AC offers best practices guidance for non-certificated airports.

AC 150/5200-30C may be found at [http://nata.aero/data/files/g%20&%20%20affairs/airport\\_misc/150\\_5200\\_30c.pdf](http://nata.aero/data/files/g%20&%20%20affairs/airport_misc/150_5200_30c.pdf)

## LEGISLATIVE UPDATE

### LASP RAISES SERIOUS CONCERNS FOR AMERICA'S SMALL AVIATION BUSINESSES; ASSOCIATION RECOMMENDS THAT LASP BE WITHDRAWN

**Alexandria, VA, February 26, 2009** -- Today, the National Air Transportation Association (NATA) submitted its comments on the Transportation Security Administration's (TSA) Large Aircraft Security Program (LASP) proposed rule. Unveiled by the TSA in October 2008, the LASP rule would govern operations for all aircraft weighing more than 12,500 pounds and require operators of those aircraft to implement an approved security program. The LASP proposal would, for the first time ever, require security programs for thousands of privately operated general aviation aircraft and ultimately seek to combine a number of security programs currently in place for general aviation, including the Twelve-Five Standard Security Program, into a single, uniform program.

The association's comments focus on the impact that the LASP proposed rule will have on aircraft operators and airports as well as numerous issues the Notice of Proposed Rulemaking (NPRM) raises that lie outside the scope of the proposed rule. Areas of concern addressed by NATA include:

#### Airport Operators

- Weight Threshold Justification
- Implementation
- Liability for Compliance
- Applicability
- CHRCs and STAs
- STA Expiration
- Watch List Service Providers
- Watch List Matching Costs
- Secure Flight
- Watch List Matching on International Flights
- Master Passenger List
- Third Party Audits
- Privacy Notices
- Prohibited Items List

#### Airports

- Applicability
- Airport Security Coordinator
- ASC at Multiple Locations
- Training of Law Enforcement
- Program Development and Implementation

#### Issues Outside the Scope of This Rulemaking

- Positive Pilot Identification
- Aircraft Owners
- Airports



"Overall, this NPRM demonstrates a troubling lack of knowledge and understanding of the general aviation community by the TSA," stated NATA President James K. Coyne.

One of the biggest concerns the association addresses is the economic impact the proposed rule will have on the general aviation industry with little justification by TSA validating its issuance.

NATA commented, "The public should be permitted to review the agency's justification for this rule. The Administration Procedure Act/Regulatory Flexibility Act requires a federal agency to weigh the costs of a proposed regulation against the anticipated benefits. The public has been unable to validate the TSA's pronouncement that the benefits of this proposed rule in fact outweigh the costs because of the agency's unwillingness to share data."

Another significant concern to the association's members is the Prohibited Items List (PIL). The TSA proposed that all LASP operators be subject to compliance with a PIL, similar to what exists with the Twelve-Five Standard Security Program (TFSSP). However, the PIL has been a difficult, if not impossible, requirement for most TFSSP operators since the program's inception. As part of its comment submittal, the association has provided the TSA with a recommended revised list of prohibited items.

Commenting on the PIL, NATA stated, "General aviation aircraft are simply not outfitted with inaccessible baggage areas. NATA recommends the TSA draft a modified PIL for all LASP operators that maintain the level of security needed by the agency while maintaining the utility of general aviation aircraft."

Concluding its comments on the LASP, NATA wrote the following:

"The proposed rule is a very discouraging outcome after years of work at the agency, during which the industry offered assistance to provide an effective, feasible means to address the TSA's concerns. These offers of assistance were repeatedly declined by the TSA, and the resulting proposal reflects the agency's refusal to work with the industry.

"However, NATA and other industry members once again ask the TSA to accept their offer of assistance. The only acceptable action for the agency to take is to withdraw the NPRM and assemble an official rulemaking committee, following the FAA's Aviation Rulemaking

Committee (ARC) model or similar. Alternatively, the TSA should consider industry feedback on this NPRM, draft and issue a SNPRM, and accept public comment one more time. Quite simply, the number of questions and inconsistencies in the NPRM demonstrates that this rulemaking is simply not ready for publication as a final rule."

To view NATA's comments go to <http://www.nata.aero/News.aspx?newsid=105&sectionid=0>.

To view NATA's resource page go to <http://www.nata.aero/Login.aspx?ReturnURL=Issues/Default.aspx?IssueID=76&SectionID=828>

To view NATA's comment tool go to: <http://www.nata.aero/data/files/g%20&%20i%20affairs/lasp/natalaspmembershipcommenttoolfinal.pdf>

###

NATA, the voice of aviation business, is the public policy group representing the interests of aviation businesses before the Congress and federal agencies.

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## **Congress Introduces FAA Reauthorization Act of 2009**

The U.S. House of Representatives Committee on Transportation and Infrastructure introduced a new bill to reauthorize the nation's aviation programs for another four years. H.R. 915, the Federal Aviation Administration (FAA) Reauthorization Act of 2009 authorizes nearly \$70 billion for the FAA for Fiscal Years 2009 through 2012. The bill is nearly identical to H.R. 2881, introduced in 2007, which passed the House but stalled in the Senate. The bill expired in 2008 at the end of the 110th Congress. Although the FAA's previous authorization was set to expire at the end of September 2007, the agency's taxing and operating authority has been preserved through a series of extensions. The current extension expires at the end of March.

The new bill provides historic funding levels for the FAA's capital programs, including \$16.2 billion for the



Airport Improvement Program, nearly \$13.4 billion for FAA Facilities and Equipment, and \$1.35 billion for Research, Engineering, and Development. These funding levels will enable the FAA to modernize the nation's air traffic control system and make capacity-enhancing improvements at the nation's airports. In addition, the bill provides \$38.9 billion for FAA Operations over the next four years.

The legislation increases the number of aviation safety inspectors, requires the FAA to inspect all certificated

foreign repair stations twice each year, provides funding for runway incursion reduction programs and runway status light installation. In addition, the bill creates an independent Aviation Safety Whistleblower Investigation Office within the FAA. That office will be charged with receiving safety complaints and information submitted by both FAA employees and employees of certificated entities, investigating them, and then recommending appropriate corrective actions to the FAA.

## INDUSTRY NEWS

### John Winant 1923-2009

John Winant, the first president of the National Business Aircraft Association (as NBAA was known during his tenure), died at his home in Massachusetts January 14. The former Sprague Electric vice president was 85. Winant is remembered as the driving force that took NBAA (now the National Business Aviation Association) from 824 to nearly 3,000 member companies. John was an original board member who became president in 1971 and served in that role until he retired in 1986. Current NBAA President Ed Bolen said of Winant: "His integrity, knowledge, dedication and gentle nature made him an extraordinarily effective advocate for our community." His funeral was January 17 in Williamstown, Massachusetts. John's deep knowledge and passion for GA will be deeply missed by all who enjoyed his frequent visits around the beltway.



## ACSF Announces Availability of New Audit Standard

The Air Charter Safety Foundation (ACSF) has announced the availability of the foundation's highly-anticipated Industry Audit Standard. Beginning today, air charter operators and shared aircraft program managers may commence the process to achieve status as an ACSF Industry Audit Standard registered operator.

The ACSF Industry Audit Standard (IAS) is a revolutionary program built from the ground up to set the standard for the independent evaluation of an air charter operator's and/or shared ownership company's safety and regulatory compliance, and incorporates Safety Management System (SMS) evaluation.

The IAS was developed to bring the various interests - operators, consumers, auditors and even regulators - together to create a measurement tool that applies a consistent, high-quality standard to the industry.

Several industry leading firms have already agreed to accept the ACSF IAS.

The largest purchaser of charter in the United States, NetJets Aviation, Inc., has announced it will accept an IAS registration for its supplemental lift purchases and that it will also schedule an IAS review for its fractional program. "NetJets Aviation, Inc. looks forward to completing the ACSF's Industry Audit Standard," commented James C.



Christiansen, president, NetJets Aviation, Inc. "Our industry needed to coalesce around one comprehensive audit standard and the Air Charter Safety Foundation has provided the community with *the* model standard."

Jim Betlyon, CEO, CharterX Wyvern, stated, "Wyvern shares the vision of the Air Charter Safety Foundation. Safety is more than words, and the ACSF has stepped up to fill an industry requirement. Wyvern is excited to support the ACSF both in providing audit services and the online data systems for the ongoing monitoring of the audited operators."

"I am pleased to see that ACSF has taken the initiative to develop a universal audit standard for charter operators and shared aircraft management companies, similar to what has been in place for years with the scheduled airlines," stated William R. Voss, president & CEO of Flight Safety Foundation. "ICAO and international regulators will be counting on industry codes of practice to help them regulate general aviation around the world. This new standard fills that void for the charter community."

"Jet Solutions is proud to be one of the first operators to demonstrate our commitment to the Air Charter Safety Foundation and the Industry Audit Standard," stated Dennis Keith, president, Jet Solutions, LLC. "Jet Solutions recently had an ACSF IAS team conduct a thorough audit of our operations. I can personally attest to the integrity of the audit and appreciate the thoughtful feedback provided by the audit team."

Customers should look for the ACSF IAS registered logo and encourage their preferred charter provider to participate in the program. Any consumer will be able quickly and easily to validate the status of an operator through the ACSF audit Web site.

Operators wishing to learn more, or who want to initiate the audit process, can obtain the necessary materials at [www.acsf.aero/audit](http://www.acsf.aero/audit).

## Safety Statistics in 2008

The safety statistics for 2008 did not bring good news to most turbine operators. Part 91 operations by owner-pilots saw accidents and fatal accidents more than double. According to safety analyst Robert E. Breiling Associates, owner-flown business aircraft were involved in 29 accidents last year, of which 14 involved fatalities. That contrasts with 2007, when Breiling's statistics show only 15 total accidents of which seven resulted in fatalities. The good news from Breiling's most recent report concerns Part 135 turbine operations. Accidents in that segment totaled only 22 in 2008, compared with 30 for 2007. Meanwhile, jet operators flying Part 135 operations reduced their accident rate by half—with eight mishaps last year compared with 16 in 2007.

## Byer Appointed as GA Representative to Key DHS Aviation Security Advisory Committee

In a letter dated December 23, 2008, U.S. Department of Homeland Security Secretary Michael Chertoff appointed NATA Vice President of Government and Industry Affairs Eric R. Byer as a member of the department's Aviation Security Advisory Committee (ASAC). Byer will serve as a member "representing the viewpoint of Aircraft Tenants and General Aviation."

The ASAC's mission is to examine areas of civil aviation security as tasked by the U.S. Department of Homeland Security's Transportation Security Administration with the aim of developing recommendations for the improvement of civil aviation security methods, equipment and procedures.

[For more information on the ASAC, go to http://www.tsa.gov/research/asac/index.shtm.](http://www.tsa.gov/research/asac/index.shtm)



## Aviation's Effect on the Environment—Did You Know?

### **Fact #1:**

Aviation accounts for only 3 – 4% of the greenhouse gas emissions worldwide based on data from the Intergovernmental Panel on Climate Change (IPCC).

### **Fact #2:**

The European Union has reported that greenhouse gas emissions from aviation have increased by 87% between 1990 and 2006. The EU is considering taxation of air travel in order to bring some control over emissions.

### **Fact #3:**

The Environmental Protection Agency (EPA) recently issued a notice of petition for rulemaking that would limit lead emissions from general aviation aircraft. The petition for rulemaking was issued by the EPA as growing political pressure from environmental groups including The Friends of Earth request that the agency find pursuant to section 231 of the Clean Air Act that lead emissions from general aviation aircraft cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. NATA has responded to this petition by submitting comments that support those written by the Aircraft Owners and Pilots Association that limiting lead emissions raise serious safety and economic concerns.

### **Fact #4:**

The Federal Aviation Administration estimates that greenhouse gas emissions from domestic aircraft will increase by 60% by 2025.

### **Fact #5:**

President Bush announced a new national goal to stop the growth in U.S. greenhouse gas emissions by 2025. According to the White House, this growth "will slow over the next decade, stop by 2025, and begin to reverse thereafter, so long as technology continues to advance." More information: <http://www.whitehouse.gov/news/releases/2008/04/20080416-7.html>.

### **Fact #6:**

The NATA Environmental Committee has developed [best management practices](http://www.nata.aero/web/page/778/sectionid/554/pagelevel/3/tertiary.aspx) at <http://www.nata.aero/web/page/778/sectionid/554/pagelevel/3/tertiary.aspx> for members to utilize free of charge.

### **Fact #7:**

The U.S. aviation industry has reduced greenhouse gas emissions by 13% since 2000.  
For more information on NATA's

### **Fact #7:**

According to Newsweek Magazine, carbon-based fuels, including coal, natural gas and oil, provide 85% of U.S. energy needs while generating the most greenhouse gas emissions.

### **Fact #8:**

NetJets Inc. last year introduced its "NetJets Climate Initiative," a "comprehensive effort aimed at reducing NetJets' impact on the environment. This initiative represents a significant commitment on our part across a number of different fronts, as well as an opportunity for NetJets Owners to get involved personally by offsetting the emissions from their NetJets flights through an optional carbon offset program." To learn more about NetJets Climate Initiative, please go to: [http://www.netjets.com/About\\_NetJets/NetJets\\_Climate\\_Initiative.asp](http://www.netjets.com/About_NetJets/NetJets_Climate_Initiative.asp).

### **Fact #9:**

A Very Light Jet (VLJ) Footprint Analysis concept paper was previously produced by Dayjet Corporation to ensure that it maximized its operations by using state-of-the art technology.

[The footprint analysis can be reviewed as a part of NATA's Environmental Fact Sheet:](http://www.aopa.org/advocacy/articles/2008/081201epa.html)  
<http://www.aopa.org/advocacy/articles/2008/081201epa.html>.



**Fact #10:**

Recently, the Aircraft Owners and Pilots Association (AOPA) filed comments in response to a U.S. Environmental Protection Agency notice concerning greenhouse gas emissions, pointing out that **piston-powered aircraft account for approximately one-tenth of one percent** of total emissions. [To read AOPA's comments, go to http://www.aopa.org/advocacy/articles/2008/081201epa.html.](http://www.aopa.org/advocacy/articles/2008/081201epa.html)

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For more information on the ASAC, please go to <http://www.tsa.gov/research/asac/index.shtm>.

## Write Your Members Of Congress Today To Stress The Importance Of America's Aviation Businesses

### **What's at Issue**

Late last year, Congress held a series of hearings to determine whether the Big Three auto manufacturers, Ford, General Motors, and Chrysler, warranted federal assistance due to their companies' financial struggles. During one hearing, Members of Congress blasted the three testifying CEOs for using private aircraft to travel to the hearing when asking Congress for billions of dollars in federal assistance. As a result, provisions were included in both the U.S. House of Representatives and the U.S. Senate bills that would have required companies receiving federal funding to divest themselves of corporate aircraft. While the legislation wasn't passed in either chamber, the Bush administration released Troubled Asset Relief Act (TARP) funds from the U.S. Treasury to General Motors and Chrysler. The terms of the loan included provisions prohibiting the purchase or lease of private aircraft.

### **Why It's Important**

The recently passed \$787 billion economic stimulus package, in addition to the \$700 billion Troubled Asset Relief Act of 2008 were passed to aid the ailing economy while sustaining or creating jobs. The decision by lawmakers to sever general aviation industry jobs advertently or inadvertently because the Big Three automakers flew corporate aircraft to Washington, D.C. for committee hearings has become a problem for the industry. Public perception is that general aviation or business aircraft are strictly luxury assets, contrary to the truth which is that general aviation plays a vital role in the state of the American economy. The general aviation industry must band together to educate lawmakers and the public about the role it plays in our economy and remind them that we too are struggling amidst our nation's ailing financial situation.

### **What to Do**

[Contact your Members of Congress by visiting NATA's Legislative Action Center.](#) NATA's Legislative Action Center provides association members with a quick and easy way to email letters directly to Members of Congress in their state. [Click here to view the form letter](#) or use the following talking points when speaking to Members of Congress or their staff:

### **General Aviation Facts:**

- There are approximately 211,500 general aviation aircraft operating in the U.S. These aircraft have access to over 5,000 public-access airports and landing facilities. Only 429 of these airports are served by scheduled airlines.



- In 2007, general aviation flew 27.7 million hours, carrying 166 million passengers annually and contributed \$150 billion to the U.S. economy.
- There are more than 3,200 fixed base operators (FBOs) in the U.S. FBOs provide fuel and other products and services to pilots of general aviation aircraft. Other services include maintenance, aircraft storage, flight training, and on-demand charter services.
- There are 3,000 on-demand air taxi operators in the U.S. operating more than 11,000 aircraft. Ninety percent of these operators are small businesses as defined by the Small Business Administration, owning fewer than 10 aircraft and employing fewer than 25 employees. Air taxi flights include aeromedical services, air cargo operations and air tour operators.
- There are 4,000 FAA-certificated aircraft repair stations in the U.S.
- There are 3,200 U.S.-based flight-training schools. These schools, not the military, are now the primary source for new airline pilots in the U.S.

#### **Benefits of GA:**

- General aviation serves the public by accessing rural areas, providing efficient transportation that the airlines, especially as they cut back on routes, can't provide.
- Chartering an aircraft on a government-licensed on-demand air carrier offers corporations unparalleled speed and access at far lower costs than any form of ownership.

#### **Employment:**

- More than 1.265 million jobs have been created by the general aviation industry, many of which are supported by these small aviation businesses and play a critical role in our American economy. These jobs are placed at significant risk if the federal government bars corporations from using their services.

#### **Aircraft:**

- The General Aviation Manufacturers Association announced that 2008 year-end worldwide shipments of general aviation airplanes decreased for the first time in five years.
- Aircraft shipments declined with 2008 year-end. Worldwide shipments of general aviation airplanes are down 7.1percent, versus 2007's total of 4,272 airplanes.

#### **NATA Position**

NATA strongly believes that its members must be outspoken on the benefits of general aviation. Unfortunate incidents have resulted in our need to speak out not only on the state of the industry during these troubling economic times, but also to describe the impact the industry has on our nation of which the public and even Congress may not be aware.

#### **Status**

Continued efforts should be made to ensure a positive message is being circulated about the general aviation industry. There isn't anyone better to help tackle this task than you!

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Director, Legislative Affairs  
[kmoore@nata.aero](mailto:kmoore@nata.aero)

## **Coyne Pushes Aviation Infrastructure In Letter To Congress; USA Today Article Highlights Coyne's Push**

NATA President James K. Coyne will send a letter this week to all 535 Members of Congress requesting support for aviation infrastructure funding in the next economic stimulus package. The letter continues the association's push to ensure that aviation infrastructure funding be included in the economic stimulus bill being considered by President-elect Obama and Congress.



Coyne stated, "The delay of the FAA Reauthorization Act of 2007 has halted critical infrastructure projects which are essential to our airports' ability to generate economic benefits and essential to safety and security at our nation's airports." According to the FAA, \$600 million in aviation infrastructure projects within the Airport Improvement Program alone would permit essential ready-to-go projects such as taxiway rehabilitation and widening, apron construction and rehabilitation, airport rescue and firefighting equipment and facilities, and public access roads to proceed without further delay.

The impact of inadequate infrastructure could prove more costly than investment in infrastructure. A significant increase in air traffic congestion is one factor felt by most of the traveling public. In 2007, 1.8 million flights were delayed, the highest number reported by the Department of Transportation. If infrastructure improvements aren't made by 2014, flight delays will increase by 62% and cost approximately \$170 billion.

NATA's efforts on aviation infrastructure were recently picked up *USA Today*. To view the *USA Today* article go to [http://www.usatoday.com/news/washington/2008-12-28-stimulus\\_N.htm](http://www.usatoday.com/news/washington/2008-12-28-stimulus_N.htm).

The association strongly encourages its members to contact their Members of Congress in support of aviation infrastructure funding. NATA members may review Coyne's Letter and view the Action Call: <http://www.nata.aero/Login.aspx?ReturnURL=News.aspx?newsid=74&sectionid=0>.

## NTSB NEWS

### NTSB CITES POOR DECISIONS, LACK OF SMS IN 2007 NASCAR ACCIDENT

The National Transportation Safety Board (NTSB) last week determined that the July 2007 accident involving a Cessna 310R, part of the fleet operated by the NASCAR corporate aviation division, was caused by a series of poor decisions, both by corporate flight department management and by the pilots who flew the accident aircraft. The two pilots onboard the airplane and three people on the ground were killed, while four others were seriously injured as a result of the accident that occurred in Sanford, FL.

The Cessna 310R crashed into a residential area, destroying two homes, while performing an emergency diversion to the Orlando Sanford International Airport (SFB) after reporting an in-flight fire. In its final report, the NTSB said that the accident was due to: "(1) the NASCAR corporate aviation division's decision to allow the accident airplane to be released for flight with a known and unresolved electrical system problem, and (2) the accident pilots' decision to operate the airplane with full knowledge of the maintenance discrepancy."

The day before the accident, another NASCAR pilot flew the accident aircraft and reported a "burning smell" while in flight. The pilot turned off the weather radar and manually pulled the associated circuit breaker, after which the odor dissipated. He recorded this event in the aircraft's maintenance discrepancy binder and reported it to senior staff in the NASCAR corporate flight department.

Despite being aware of this unresolved issue involving the aircraft's electrical system, the flight department released the aircraft for flight, and the two pilots, one of whom was employed by NASCAR and was aware of the unresolved electrical problem, accepted the aircraft for their planned flight between Daytona Beach and Lakeland. At some point prior to or during the accident flight, it is likely that one of the pilots reset the circuit breaker that had been pulled on the previous flight, re-energizing related components in the electrical system, which likely led to the in-flight fire.

"From the time the plane landed the night before the accident with a known maintenance issue to the time it was airborne the next morning, there were numerous opportunities that should have been taken to stop the chain of events that led to this terrible loss," said NTSB Acting Chairman Mark V. Rosenker.

Additionally, in its findings that the NASCAR flight department had inadequate policies and procedures to prevent an aircraft with a known maintenance issue from being released for flight, the NTSB determined that had a Safety Management System (SMS) been in place, which would have provided a formal system of risk management and internal oversight, the accident might have been avoided. Rosenker remarked that "given how effective SMS would likely have





been in this accident, those corporate flight departments without one should study the lessons of this accident and ask themselves how they can justify operating without the substantial safety improvements such a program provides."

As a result of the investigation, the NTSB issued five recommendations to the FAA. One of those recommendations was for the FAA to "develop a safety alert to encourage all FAR Part 91 business operators to adopt a Safety Management System that includes sound risk management practices."

A synopsis of the NTSB's report, including the probable cause and recommendations, is available on the NTSB Web site at <http://www.nts.gov/Publictn/2009/AAR0901.htm>.

## MARCH 2009 NTSB FAMILY ASSISTANCE COURSE

### *NTSB Advisory*

National Transportation Safety Board  
Washington, DC 20594  
February 23, 2009

### REGISTRATION STILL OPEN FOR MARCH 2009 NTSB FAMILY ASSISTANCE COURSE

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The National Transportation Safety Board is offering a three-day course - Transportation Disaster Response - Family Assistance, at its NTSB Training Center in Ashburn, Virginia (near Washington, D.C.) on March 10-12, 2009.

This course is designed specifically for commercial transportation officials, representatives of federal agencies, staff of non-governmental relief organizations, and emergency managers. The program is instrumental in understanding how professionals can most effectively support the family assistance efforts within their organizations.

The curriculum is appropriate for individuals employed in any mode of transportation (aviation, rail, pipeline, highway or marine). Audio/video materials, case studies, recent accident examples, and panel discussions are employed to illustrate key principles of the unique aspects of supporting families during a transportation disaster.

Some of the key points that will be covered will be:

- Legal aspects of family assistance - specifics of legal protections afforded to family members
- Conducting effective family briefings - communicating with grieving and traumatized families
- Effective on-scene response - a start-to-finish look at family assistance operations
- Successful forensic operations - communicating with families about the forensic response
- Practical resources for family representatives - developing support skills and self care.

Instructors will be from the NTSB's office of Transportation Disaster Assistance.

For a more complete description of the course, the registration process and the cost, please go to: [http://www.nts.gov/TC/CourseInfo/TDA301\\_2009.htm](http://www.nts.gov/TC/CourseInfo/TDA301_2009.htm).

###

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## DITCHING OF US AIRWAYS JETLINER INTO HUDSON RIVER

NTSB ADVISORY \*\*\*\*\*

National Transportation Safety Board  
Washington, DC 20594  
January 21, 2009

### NTSB ISSUES UPDATE ON INVESTIGATION INTO DITCHING OF US AIRWAYS JETLINER INTO HUDSON RIVER

In its continuing investigation of US Airways flight 1549, which ditched into the Hudson River adjacent to Manhattan at approximately 3:30 p.m. on January 15, 2009, the National Transportation Safety Board has developed the following factual information:

The right engine has been externally examined and documented. An examination of the first stage fan blades revealed evidence of soft body impact damage. Three of the variable guide vanes are fractured and two are missing. The engine's electronic control unit is missing and numerous internal components of the engine were significantly damaged.

What appears to be organic material was found in the right engine and on the wings and fuselage. Samples of the material have been provided to the United States Department of Agriculture for a complete DNA analysis. A single feather was found attached to a flap track on the wing. It is being sent to bird identification experts at the Smithsonian.

The left engine has been located in about 50 feet of water near the area of the Hudson River where the aircraft ditched. The NTSB is working with federal, state and local agencies to recover the engine, which is expected to occur sometime on Thursday.

The NTSB has learned that the right engine experienced a surge during a flight on January 13, 2009, and that subsequent maintenance actions included the replacement of a temperature probe. Investigators from the NTSB's Maintenance Records group are researching this report by examining applicable maintenance records and procedures.

The NTSB's Survival Factors group is in the process of interviewing passengers to learn more about the events surrounding the ditching and the emergency evacuation and rescue. The Operations and Human Performance group is interviewing US Airways flight operations training personnel.

The checked and carry-on baggage is in the process of being removed from the aircraft. Representatives from the NTSB's Office of Transportation Disaster Assistance are working to coordinate efforts with US Airways to return these items to the passengers.

The on-scene documentation of the airplane is expected to be completed by the end of the week. Preparations are underway to facilitate movement and more permanent storage of the airplane so that more detailed documentation of the damage can be performed at a later date.

NTSB Media Contact: Peter Knudson  
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NTSB Identification: ERA09IA140

**Scheduled 14 CFR Part 135: Air Taxi & Commuter**

Incident occurred Thursday, January 22, 2009 in Naples, FL

Aircraft: **CESSNA 402C**, registration: N2615G

Injuries: 7 Uninjured.

This is preliminary information, subject to change, and may contain errors. Any errors in this report will be corrected when the final report has been completed.

On January 22, 2009, about 1848 eastern standard time, a Cessna 402C, N2615G, registered to Hyannis Air Service, Inc., operated by Cape Air as Continental Connection Flight 9399, experienced a total loss of engine power from both engines and was not damaged during a forced landing at Naples Municipal Airport (APF), Naples, Florida. Visual meteorological conditions prevailed at the time and an instrument flight rules (IFR) flight plan was filed for the 14 Code of Federal Regulations (CFR) Part 135 scheduled, domestic passenger flight from Key West International Airport (EYW), Key West, Florida, to Southwest Florida International Airport (RSW), Fort Myers, Florida. The airline transport-certificated pilot and six passengers were not injured. The flight originated about 1800, from EYW.

The incident flight was the pilot's fourth flight that day in the airplane. The previous three flights were uneventful. During the third flight while in cruise, the pilot supplied fuel to both engines from the left fuel tank for approximately 15 to 20 minutes to correct a 50 pound fuel imbalance. At the end of that time, he repositioned the right fuel selector to the right main tank position. After landing following the third flight, no fuel was purchased. Before departure he reported the left and right fuel quantity gauges indicated 300 and 200 pounds, respectively. He briefed the passengers, and checked the magnetos before takeoff. The incident flight departed with each fuel selector positioned (tank to engine), and during the initial climb, he felt the airplane had a right wing heavy tendency. During cruise flight at 6,000 feet, he noted the left and right fuel quantity gauges indicated 280 and 160 pounds, respectively. About half way into the flight he supplied fuel to both engines from the right main tank for approximately 15 minutes. At that time, the left fuel quantity indicator indicated 300 pounds and the right indicated between 100 and 90 pounds. He moved the left fuel selector handle to supply the left engine from the left main tank and the flight continued. When the flight was near Marco Island he noted the left fuel gauge still indicated 300 pounds but the right indicated 50 pounds. He stated he was starting to get concerned and was cleared by air traffic control (ATC) to descend to 4,000 feet. When approaching Naples, the left fuel quantity gauge was still indicating 300 pounds but the left was indicating below 50 pounds. He reported never operating the airplane with less than 100 pounds fuel in each fuel tank and thought it was an indication problem.

The pilot further stated all engine indications were normal and the flight proceeded to the destination airport. When north of Naples flying at 4,000 feet, the right engine began surging first. He looked at the right fuel gauge and it was indicating 0, but the left fuel quantity gauge was indicating 300 or slightly more. He immediately moved the right fuel selector to the left main tank position (crossfeed) which restored engine power. He did not consider this an emergency situation but the left engine then began surging, followed by the right engine. He repositioned the right fuel selector to supply fuel from the right main fuel tank, adjusted power, and visually checked the positions of the fuel selectors, mixture controls, magneto switches, and checked the engine instruments. Unable to maintain altitude he declared an emergency with Fort Myers Approach Control, and turned to proceed towards APF. While flying at 3,000 feet he feathered the propellers, and Fort Myers Approach Control asked him if he had APF in sight. He saw the runway end identifier lights (REILS) and advised Fort Myers Approach Control he did. He proceeded towards the middle of the airport, and the runway lights for runway 14 came into view. He lined up for runway 14, and lowered the landing gear using the gear blow-down bottle after realizing he could make the runway. He landed on runway 14, and rolled to the end of the runway then onto taxiway "B" before stopping the airplane. The passengers were deplaned and the airplane was towed to the ramp then secured in a hangar.

Preliminary inspection of the airplane the following day revealed no damage to the airplane and both propellers were in the feathered position. The left main fuel tank contained 275 pounds of fuel as indicated by the fuel quantity gauge and the right main fuel tank contained approximately 13 gallons of fuel. The flexible fuel lines in each engine compartment contained only trace amounts of fuel, and no water contamination was noted in any of the eight fuel samples taken (four



per wing). The left fuel selector valve was between the left and right main tank positions, while the right fuel selector valve was in the right main tank position. Movement of the left fuel selector handle in the cockpit to the farthest portion of travel for the left main tank position did not position the fuel selector valve in the main tank detent. Testing of the as-found position of the left and right fuel selector valves revealed no flow for the left engine during primer activation, but fuel flow was noted for both engines during primer activation for the right engine.

Operational testing of both engines was performed twice using the fuel contained in the airplane at the time of the incident. Based on the as-found position of the left fuel selector valve (between left and right main tank positions), and both engines operating at cruise power setting, the left engine quit approximately 15 seconds after the emergency crossfeed shutoff valve was activated or placed in the closed position. With adequate fuel supplied to both engines, no engine discrepancies were noted during either engine operational testing. The left fuel selector system components were retained for further examination.



### Information for Operators (InFO)

Each issue of the *NATA Safety 1<sup>st</sup> Flitebag* includes a review of the latest InFOs. [If you have not read previous issues, please review all InFOs by clicking here.](#)

*An InFO contains valuable information for operators that should help them meet certain administrative, regulator or operational requirements with relatively low urgency or impact on safety. InFOs contain information or a combination of information and recommended action to be taken by the respective operators identified in each individual InFO.*

Number	Title
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<a href="#">09002</a> (PDF)	Regulatory Requirements Regarding Accommodation of Child Restraint Systems
09001	Superseded by Info 09002

### 2008 InFOs

<a href="#">08055</a> (PDF)	Flammability of Airline Blankets
<a href="#">08054</a> (PDF)	Towbar and Towbarless (Super Tug) Towing of Aircraft



## Safety Alert for Operators (SAFOs) – Maintain Currency

Each issue of the *NATA Safety 1<sup>st</sup> Flitebag* includes a review of the latest SAFOs. [If you have not read previous issues, please review all SAFOs by clicking here.](#)

### What is a SAFO?

*A SAFO contains important safety information and may include recommended action. SAFO content should be especially valuable to air carriers in meeting their statutory duty to provide service with the highest possible degree of safety in the public interest.*

Number	Title
<a href="#">09006</a> (PDF)	Unapproved Passenger/Crew DC Outlets installed by Eagle Aviation, Inc., Repair Station Certificate No. FEHR859D
<a href="#">09005</a> (PDF)	Dangers of Improperly Inflated Tires
<a href="#">09004</a> (PDF)	Operational Considerations for Airport Winter Operations
<a href="#">09003</a> (PDF)	SAFO 09003, Cellular Phone Usage on the Flight Deck
<a href="#">09002</a> (PDF)	In-flight slippage of pilot and co-pilot seats on Cessna models 303, 336 and 337; and all legacy (pre-1986) single-engine Cessna models 150, 152, 170, 172, 175, 177, 180, 182, 185, 188, 190, 195, 205, 206, 207 and 210
<a href="#">09001</a> (PDF)	Effects of Aircraft Electrical Faults Resulting in Main Battery Depletion

### 2008 SAFOs

[08024](#) (PDF) Review of Flight Data Recorder Data from Non-revenue Flights



The National Air Transportation Association (NATA), The Voice of Aviation Business, is committed to raising the standard on air safety and implemented additional guidance through NATA's Safety 1st Management System (SMS) for Air Operators. The Flitebag provides continuing education in support of the SMS program.



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