
NATA: Major Policy Issues

In 2018, Congress must develop another FAA reauthorization bill. FAA bills are typically of multi-year duration and are the means by which Congress establishes aviation policy, makes FAA programs - including airport funding - eligible for federal funding (appropriations), and determines the levels of air transportation taxation. Historically, this bill provides the aviation business community the means to advance a common-sense, pro-aviation business agenda. It also poses potential risks to our community as other stakeholders advance their own agendas.

As a result of the many positive developments from the 2012 and 2016 reauthorization bills, NATA member companies have the certainty they need to confidently proceed with their own investment plans. NATA believes that confidence to invest would be undermined by a protracted reauthorization process.

FAA Structure/ Funding

The upcoming FAA bill will ensure the FAA operates more effectively and efficiently. A long-term reauthorization is always needed to ensure stability for the FAA, related agencies, and the aviation industry.

On April 27, 2018, the House [passed](#) H.R. 4, the FAA Reauthorization Act of 2018, by a vote of 393-13 to reauthorize the FAA for six years and provide long-term funding and stability for the agency. The legislation contains many NATA-supported provisions that will improve safety and address the needs of aviation businesses across the country, including efforts to streamline certification and flight standards processes; improve the consistency of FAA regulatory interpretations; study the current state of, barriers of entry into, and options to increase the future supply of individuals in the aviation workforce; and provide better access to the National Driver Register.

In the Senate, consideration of companion FAA reauthorization legislation, S. 1405 – [The FAA Reauthorization Act of 2017](#), is underway. Timeline for floor consideration of the bill is still up in the air, but amendments are trickling in. Similar to the House bill, the Senate FAA bill contains many NATA-sought provisions, including regulatory consistency, better tracking of Part 135 accident and incident data, inclusion of the Forward-Looking Investment in General Aviation, Hangars and Tarmacs (FLIGHT) Act, and language to direct the FAA to report on its efforts to combat illegal charter. We are also monitoring whether language related to air ambulance operations, non-citizen trusts, and ride sharing will be submitted for inclusion in the form of amendments, and will work with personal and committee offices to ensure they understand the ramifications of these issues on the general aviation community and do not receive support.

Regulatory Consistency

Implement Section 313 ARC Recommendations

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. NATA co-chaired this ARC and produced a series of recommendations. It is important the panel’s final recommendation, the creation of a Master Source Guidance System, be implemented as quickly as possible. Such an electronic guidance library should include a process to review and eliminate outdated or conflicting material on both a current and on-going basis.

Expand the Certificate Management Office (CMO) Construct to Include Repair Stations

The FAA uses certificate management units (CMUs) and certificate management offices (CMOs) to provide a comprehensive certificate management structure for monitoring airline operations. In order to enhance regulatory certainty and maximize the use of FAA resources, NATA believes Congress should encourage the FAA to establish policy defining the criteria under which this concept will apply to repair stations and other certificate holders.

Continue the Expansion of FAA Delegation

It is not possible for FAA employees to personally oversee every facet of aviation, so public law allows FAA to delegate certain functions, to private individuals or organizations. The Flight Standards Service has been slow to expand its use of delegation resulting in a concerning backlog of approvals and services for the general aviation industry. Aviation Safety Inspectors must rightly focus on higher priority risks which takes their attention away from general aviation aircraft owners. NATA supports requiring the Flight Standards Service to establish metrics to ensure progress is made in achieving full utilization of FAA delegation and designation authorities.

Assistance for Small Business

Improving Air Carrier Certification for Small Business

For pilots who wish to offer their services to the public, NATA strongly supports streamlining existing FAA policies and procedures used for the certification of so-called Single Pilot Part 135 Air Carriers. Holders of these certificates are limited in the size and scope of operations that are authorized, to include having smaller aircraft and only a single pilot. Due to their size, these carriers are not required to comply with the same regulatory requirements for manuals, training programs, and management positions as larger operators. Importantly, these operations are required to meet the same safety standards.

FAA staffing and allocation of resources has led to a backlog of applicants and regional variability in availability of FAA to manage or even accept new applications. NATA supports a

thorough assessment of the current certification process for these small carrier applicants, the number of persons currently seeking certification and the average time from initial application to certification. In addition, NATA requests FAA provide recommendations to Congress to streamline the process and more effectively allocate resources (e.g. not by geography) that will lead to shorter certification times without compromising safety standards.

Part 135 Industry Trends

The 2012 FAA reauthorization required the FAA to conduct a study of operators regulated under Part 135 to include size and type of aircraft, the equipment and hours flown and utilization, safety record, sales revenue and the number of airports and passengers served. A similar study was required in the 2000 AIR-21 legislation. The study provides information that will be useful on a continuing basis to industry and government and will save resources within both the agency and other federal departments/agencies that would otherwise be directed to create similar information. NATA believes the report should be once again included in the 2017 FAA reauthorization, with a one-year deadline and a biannual requirement for such a report thereafter.

Safety

Permissible Sharing of Flight Expenses

NATA strongly opposes retention of language added to the 2016 House reauthorization bill that purportedly was designed to clarify that pilots could communicate via the internet and expand the ability of private pilots to fly passengers that are willing to “share expenses.” Proponents are attempting to create “flying Uber” websites (examples: Flytenow, AirPooler, and others) that deliberately bypass the FAA’s safety net of required pilot training and aircraft maintenance for commercial pilots. For example, private pilots with as little as 35 hours of flight time, who have no requirement for minimum liability insurance, and are not required to hold ratings permitting flight in poor weather, could carry passengers for hire.

Despite rejection of the business model as unsafe and illegal by the FAA, the U.S. Court of Appeals, and most recently the United States Supreme Court, proponents are now seeking a legislative fix in Congress. NATA is working with general aviation pilot groups to [educate](#) Members of Congress and their staffs on the rules governing legal and safe flight sharing and how legislation now sought by flight sharing services will undermine safety.

Rooting Out Illegal Charter Operators

NATA routinely receives complaints about persons operating unlicensed charter flights. The competition from these black-market charters is real, as is the danger posed to safety. In 2008, NATA developed a hotline for air charter operators to report suspected illicit operators and provide information to the FAA for investigation. Operation of the hotline was later transferred to the Air Charter Safety Foundation, which continues to operate it. NATA supports requiring the FAA to provide an analysis of reports filed with the agency from the hotline and other sources over the previous ten years. The analysis should include the challenges the FAA faces in identifying illegal operators, what follow-up action the FAA takes when a report is received, how it decides to allocate resources, and recommendations for improving the agency’s efforts to combat illegal carrier operations.

Based on industry and government meetings, and concerns brought to the association by member companies, NATA and its Air Charter Committee formed the Illegal Charter Task Force to bring awareness to the problem. It is overseen by a subcommittee of the Air Charter Committee. It is being implemented by:

- Work with the FAA: NATA and the subcommittee have met with the FAA to discuss the issues and are working with the FAA on a roadmap to achieve the following:
- Work with IRS: NATA staff has met, and will continue to meet, with the IRS to educate them about the fact that when an illegal charter occurs, the 7.5% ticket tax (FET) is not collected and remitted to the IRS. While the tools that the FAA has to curtail illegal charter are limited, the IRS' ability to seize assets (aircraft) and bring criminal action for schemes that defraud the federal government from tax dollars is significant. Based upon the prevalence of illegal charter, the uncollected ticket tax is in the many millions of dollars annually.
- Work with Congress: NATA is working with Congress to review the prevalence of illegal charter, to better equip the FAA in combating this real safety issue, and educating Congress on the fact that a significant amount of tax revenue is not being collected due to illegal charter
- Educate the public: NATA is developing a campaign to educate the public on the importance of flying legally and safely. We will achieve this through communications and announcements shared on our social media channels, website, newsletters and other association communications, as well as by our media and industry partners
- Assist in enforcement: NATA is dedicating staff to work on collecting data and assisting in filing reports with the FAA related to suspected illegal charter operations. NATA is currently developing a porting of its website, www.nata.aero, to help assist in the process. This will include a checklist of information to collect when there is a belief that illegal charter occurred.

Improve the Quality of Part 135 Incident Reporting Data

Currently, neither the FAA nor the NTSB segments Part 135 incident data, making it difficult to accurately measure safety data and trends. Because the data is so non-homogeneous it is impossible to derive clear trends or identify areas for safety emphasis and direct resources to the safety enhancements that will result in the most improvement. NATA requests Congress direct the FAA to collaborate with the NTSB and Part 135 industry stakeholders to determine what additional data points are appropriate to collect and report back to Congress on additional data that will be collected, the timeframe for implementation and any potential obstacles for implementation.

Tax Policy

Clarify Application of Commercial FET

Through [passage](#) of the Tax Cuts and Jobs Act, NATA secured a significant victory as a provision dealing with aircraft management services was included in the legislation. Under the provision, payments by aircraft owners for management services in connection with flights on their own aircraft are not subject to federal excise tax. In 2018, NATA and NBAA submitted a request to the Treasury Department and IRS for additional guidance to help implement the new provision and answer industry questions. While the intent of the legislation is clear, NATA/NBAA requested guidance on a number of areas to assist IRS and industry in

implementing the change. For example, understanding the definition of “aircraft owner” is critical to properly applying the provision. In the guidance request, NATA/NBAA suggest that payments for aircraft management services should be considered as made by the owner when the payments are made by parties related to the owner. This approach would recognize that cash management arrangements among related entities should not determine whether the exemption applies. The guidance request also covers other issues including aircraft that are operated under Part 135 for the owner and various payment arrangements for aircraft management services. In the coming months, NATA will continue meeting with officials from the Treasury Department and IRS as they work through issuing guidance on this provision and many other tax reform changes.

Address Fuel Fraud Diversions

In 2019, NATA will work to reclaim the hundreds of millions of dollars in aviation tax dollars that are annually diverted to the Highway Trust Fund.

In 2005, a change in tax law resulted in the diversion of non-commercial jet fuel taxes into the highway trust fund. While there is a mechanism in place to transfer those funds to the aviation trust fund, the cumbersome process means the money does not transfer over. At NATA’s request, Congress investigated this situation and determined the annual loss to the Aviation Trust Fund is between \$100-\$200 million

In August of 2016, the Government Accountability Office (GAO) released a [report](#) requested by NATA on the impact of diversions of non-commercial jet fuel tax revenues from the Airport and Airway Trust Fund to the Highway Trust Fund. The GAO report concludes the diversion of funds stemming from a 2005 change in tax law has resulted in a loss to the aviation fund of between one and two billion dollars intended for airport improvements and system modernization. The report also casts doubt on the rationale behind the 2005 change in tax law and the provision’s utility going forward. NATA [praised](#) the report, noting that it quantifies the dramatic impact of the revenue diversion that is undermining the viability of the Airport and Airway Trust Fund and supports the repeal of the 2005 tax provision that triggered the diversion.