



# The Update Report

The Airline Suppliers Association

Volume 9, Issue 4

April 2001

## INDUSTRY INSIGHT

### Traceability to Part 129 Air Carriers

This is part one of a series of articles devoted to the analysis of foreign air carriers permitted to operate in the United States (also known as "Part 129" air carriers). The purpose of these articles is to provide some background to the nature of Part 129 air carriers, and to analyze the traceability of parts that have been held in the inventory of a foreign air carrier. Most importantly, this series of articles analyzes *why* foreign air carrier trace may be acceptable, and discusses the regulatory and policy guidance issued by the FAA on the subject.

There has been a recent surge in questions about parts that are traceable to foreign air carriers. This first article begins that analysis with a brief look at Part 129, and a cursory examination into FAA oversight of foreign air carriers through Part 129. Over the next several issues, ASA will examine specific traceability issues for various types of parts that may be traceable to a Part 129 foreign air carrier or operator.

#### Background

It is important to remember that the ultimate goal of every installer is airworthiness. Every time a part is installed, the installer is required to meet the performance standards described in 14 C.F.R. § 43.13(a) and 14 C.F.R. § 43.13(b). When an installer

relies traceability to a foreign air carrier, or traceability to a domestic source, the installer is actually using the information to help the installer meet the regulatory performance standards associated with installation of aircraft parts. These regulatory standards are designed to assure that work will meet the minimum standards of safety expected in the industry.

There are two important things to remember about foreign air carriers. Taken together, these two facts help to define the scope of faith that one may place in the quality of parts that come from the inventory of a foreign air carrier. First, there is no law that absolutely requires all foreign air carriers to perform maintenance and maintain inventory in accordance with the standards or policy that are adopted by the FAA for United States domestic maintenance. Second, even though the foreign air carrier is not required to follow United States maintenance standards, most of them do follow maintenance standards that are *equivalent* to the maintenance standards followed by the United States.

#### What is Part 129?

Part 129 is a set of operational rules that apply safety standards to certain foreign operators who fall within the jurisdiction of both the FAA and a

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## A Message from ASA's President

Over the past two months I have attended and spoken at several conferences that were aimed towards the maintenance community. Several topics seem to resurface everywhere I go – and each of these topics threatens our end of the industry because of our reliance on the maintenance community as business partners.

By far the most popular question asked is where is the new Part 145. Senior staff at the FAA stated that the new administration wants to review the proposed changes. The Aeronautical Repair Station Association (ARSA) has written a letter to Secretary Minetta, asking him to refrain from issuing a final rule on Part 145 until the public has another opportunity to comment on the Supplemental Notice of Proposed Rulemaking. If you would like to read in full ARSA's request or support their effort, information can be found at <http://www.arsa.org>.

Another topic often discussed is the shortage of A&P mechanics and lack of appropriate training for mechanics. The Wall Street Journal even wrote an article on this subject. Several factors were mentioned: low salary, hours, lack of training, and more. Several organizations and the government are working towards attracting people towards aviation and keeping the ones already in business. If this issue balloons to the magnitude that the experts predict, then it will have a detrimental impact on all aspects of the industry.

There has also been discussion concerning the inability of some FAA Field Offices to perform the work needed; basically they are not properly staffed. For example, personnel in some offices complain that they aren't truly qualified to issue field approvals, although they are assigned to do it anyway. This issue is compounded by the lack of consistency from one FAA

office to the next, and sometimes even from one cubicle to the next door cubicle.

It sometimes seems that FAA officials have no answers to these issues ... and without clear answers the response we sometimes get is "sorry you're out of luck." This is unacceptable, and FAA Headquarters know it. When the issue of inconsistency among the field offices was raised in Washington, DC, the FAA replied by insisting on consistency among the field offices, and reiterating the norm that only headquarters should be writing enforcement policy for FAA employees. This is the right rhetoric - we just need to make sure this policy is truly implemented.

The FAA has announced a change in Director of Flight Standard Service, replacing Nick Lacey with Nick Sabatini. Maintenance issues fall under his division. Nick Sabatini is a seasoned FAA employee with a reputation for getting things done. Hopefully he will be able to work with his employees and make a positive change and make maintenance issues a priority at the FAA.

Best Regards

Michele Schweitzer

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### The Update Report

is a monthly newsletter of the Airline Suppliers Association. Questions/ comments should be addressed to:

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### The Update Report

provides timely information to help Association members and readers keep abreast of the changes within the aviation supply industry.

### The Update Report

is just one of the many benefits that the Airline Suppliers Association offers members. For information on ASA-100, the ASA Accreditation Program, Conferences, Workshops, FAA guidance like Advisory Circulars, Industry Memos, or services and benefits, contact the Association.

### The Update Report

For information on special package rates for advertising, contact the Association at (202) 730-0270.

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**Keynote Presentation by Congressman John Mica, Invited**

**Government Affairs Update** – Jason Dickstein, ASA

**Smooth Flying or Economic Turbulence** – Robert Agnew, Morten Beyer & Agnew

**The Aviation Industry: A Tempting Target for Criminal Prosecutors** – Marshall Filler, Filler & Weller, PC

Monday Afternoon Workshops (Select 2)

**Take Credit: Getting Paid in Today's Economy** – Don Mosher, NACM North Central

**Aviation Investigations–Current Trends** – Harry Schaefer, US DOT OIG

**Electronic Documentation Forum** – Jason Dickstein, ASA

**What! You're Not Accredited?** – Jason Lewis, ASA

**Quality Clinic Process Charts** – William Herdman, Pratt & Whitney SMMO

**E-Business–How Vulnerable Are You?** – James Finn, Unisys World Wide E-security and Consulting

Tuesday Morning Workshops (Select 2)

**Spare Parts Inventory Streamlining & Management** – Teo Ozdener, Morten Beyer & Agnew

**Audit Disasters and Successes** – Richard Mills, NACA

**FAA Recent Advisory Guidance** – Ken Reilly, FAA & Al Michaels, FAA

**ILSmart.com** - Jim Sdoia, ILS

**Export Management** – Jason Dickstein, ASA and Chad Bierman, Washington Aviation Group

**Root Cause 101** – Amy Cochis, Pratt & Whitney SMMO

Tuesday Afternoon General Session

**Update from the FAA** – Ken Reilly, FAA

**The State of the Aviation Maintenance Industry** – Matt Thurber, Aviation Maintenance Magazine

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*This is a partial agenda. For the full agenda and registration form, see ASA's web site or call and ask the Association to mail/fax the full conference agenda.*

Airline Suppliers Association, 1707 H Street, NW, Suite 701, Washington, DC 20006  
Tel: (202) 730-0270, Fax: (202) 730-0274, E-mail: [conference@airlinesuppliers.com](mailto:conference@airlinesuppliers.com), Website: [www.airlinesuppliers.com](http://www.airlinesuppliers.com)

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Saturday, July 7, 2001	3:00 PM – 6:30 PM	Registration
Sunday, July 8, 2001	6:30 AM – 9:00 PM	Golf, Registration, Welcome Dinner
Monday, July 9, 2001	6:30 AM – 9:30PM	Registration, Breakfast, Exhibits, Conference, AM/PM Break, Lunch, Exhibits, Workshops, Reception & Dinner Banquet
Tuesday, July 10, 2001	7:30 AM – 4:30 PM	Member's Only Breakfast Meeting, Exhibits, Workshops AM/PM Break, Lunch, Exhibits, General Session

(\*\*All events are at The Breakers)

**WORKSHOP SCHEDULE**

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4:00 PM – 5:30 PM

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- (2) Aviation Investigations
- (3) Electronic Documentation Forum
- (4) What! You're not Accredited?
- (5) Quality Clinic Process Charts
- (6) E-Business – How Vulnerable Are You?

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10:45 AM – 12:00 PM

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- (8) Audit Disasters and Successes
- (9) FAA Recent Advisory Guidance
- (10) ILSmart.com
- (11) Export Management
- (12) Root Cause 101

SPOUSE/COMPANIONS? Guest name: \_\_\_\_\_

Sunday and Monday evening social events are included in Spouse/Companion registration fee. (A Spouse/Companion is one who does not work for a company that qualifies for membership in the ASA)

For information on children's activities, contact ASA.

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*CANCELLATION POLICY - All conference cancellations must be received in writing. Cancellations before June 2, 2001 will be charged a \$75.00 service fee. There will be no refund for cancellations received on or after June 2, 2001. There will be no refund for golf tournament cancellations by registrants. If the golf tournament is cancelled by the golf course a percentage of the golf fee will be refunded.*

## Part 129 Air Carrier Background

*(Continued from page 37)*

comparable Civil Aviation Authority (CAA) of another country. Part 129 applies to several different categories of operations:

- o Foreign air carriers with U.S. government permission to operate flights into and out of the United States;
- o Foreign operators of U.S.-registered aircraft who operate their aircraft in common carriage, but operate them entirely outside the United States.

For the purposes of this series of articles, all Part 129 operators shall be considered to be a single class of entities.

### *Quality Systems*

A non-U.S. air carrier with no intention to fly in U.S. air commerce, and that does not use any U.S.-registered aircraft, has no requirement to comply with the requirements of Part 129, or of any other operational provision of the federal aviation regulations, because that air carrier is not considered to fall within the jurisdiction of the

United States government. Part 129 applies only to those parties described in the bullet points above.

Many of the foreign air carriers with which United States companies transact business are regulated under Part 129, because they conduct business that is considered to fall within the scope of United States' air commerce. For those operators subject to the rules of Part 129, the regulations require that the foreign operator maintain its U.S.-registered aircraft according to a system that is approved by the FAA. This is a prerequisite for acquiring permission to operate under a Part 129 certificate.

To be approved by the FAA, the maintenance program does not need to conform to the United States regulations concerning maintenance. Instead, the United States uses the ICAO standards as a basis for approving the air carrier's system.

The International Civil Aviation Organization, or ICAO, publishes harmonized standards on a variety of subjects. Unless a country signs off on the standards as part of a treaty,

these standards usually do not have the force of law, but they are nonetheless often used as models for the laws promulgated in each individual country. This permits nations to develop regulatory structures that are sufficiently similar to permit safe flight throughout the world, as well as facilitating cooperation and interaction among the governments.

ICAO has published maintenance standards that provide a framework for a progressive maintenance scheme in an air carrier's facility. It also publishes standards that apply to government oversight. The United States will generally approve a foreign air carrier's maintenance program if the air carrier and its government both meet the applicable ICAO standards.

Next month's issue shall discuss some basic distinctions between 1) an ICAO maintenance program and 2) a maintenance program that complies with the United States regulations. The article shall use this discussion to begin the traceability analysis associated with parts acquired from or through a foreign air carrier.



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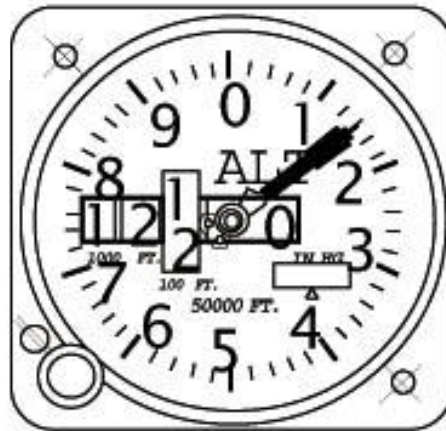
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## Protecting Consignments Under New Loan And Collateral Laws

Are bankruptcies of major companies in the aviation industry making you nervous? Do you place inventories of parts on consignment with third parties? If one of your major customers stopped paying their bills or filed bankruptcy without paying for the parts they've purchased, then could this have an adverse affect on your bottom line?

If you answered "yes" to any of these questions, then you should consider using the law of secured transactions to protect your financial interests. If you are considering the use of security interests in your business, then you need to understand what a security interest is, and you need to understand the changes that are being made right now in the laws affecting security interests.

Over the course of this year, most

states will be introducing some far-reaching changes into the laws that govern commercial transactions involving loans and collateral, commonly known as "secured transactions." As part of these reforms, it will become easier for businesses placing goods on consignment with another merchant to protect their interest in those goods if the merchant holding the consigned goods declares bankruptcy or otherwise defaults on payment.

Starting this month, the **Update Report** will examine some of the ways in which secured transactions laws are changing, and what that means for consignment transactions or for anyone who buys or sells goods on credit. In this issue, we will present a very basic overview of secured transactions and discuss how the new rules coming into effect later this year may


help protect interests in consigned goods. Next month, we will look at some of the specifics on how businesses can protect their rights in consigned goods or collateral, such as the new rules on filing security documents.

### Changes in the Law

Commercial law is generally promulgated by individual states. To avoid confusing conflicts of law in transactions that involve more than one state, states have adopted commercial laws that are based on the Uniform Commercial Code (UCC). First adopted by Pennsylvania in 1953, the UCC represents a standardized body of law that imposes uniform standards on all commerce within the United States.


One of the subjects covered by the

*(Continued on page 44)*



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August 22 & 23, 2001	Seattle, WA	Hosted by Avolo!
September 13 & 14, 2001	Chicago, IL	Hosted by AirLiance!

HazMat instruction also offered in other cities. See the Upcoming Events listing in this issue for additional dates. Can't make it to a scheduled site? Instruction can also be provided on-site at your facility (call us for details).

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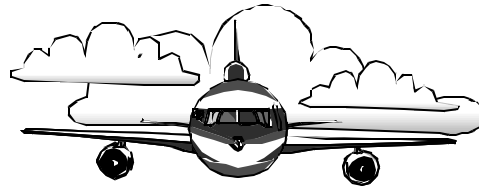
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## *LAWS YOU CAN USE*

### **Protecting Your Consignments Through Secured Transaction Law**

*(Continued from page 43)*

UCC is the law of secured transactions. This is a body of law that explains one way to protect your right to get paid when selling goods. This body of law is contained in Article 9 of the UCC.

Article 9 is undergoing its first major revision since 1972. The revised law is in the process of being enacted throughout the United States. A copy of the UCC text is available on the internet at <http://www.law.upenn.edu/bll/ulc/ucc9/textcomp.htm>. At least 36 states have revised their state codes to reflect the UCC updates so far, and most of the others are expected to do so by the target effective date of July 1, 2001.

#### *What are Secured Transactions?*

Most Americans have some experience with secured transactions, whether they realize it or not. Secured transactions arise when a merchant or a lender extends a purchaser or borrower credit in the form of a loan or other financing for a purchase, but only on the condition that the purchaser or borrower offers some asset as "security" or collateral for the loan. In the case of a home mortgage or other substantial asset loan, the item purchased often serves as the collateral. If the purchaser or borrower should default on the obligation to repay the lender, the lender will have a legally enforceable right (known as a "security interest") to seize and/or sell the asset pledged as collateral in order to satisfy the debt. The contrac-

tual agreement between the parties that guarantees this can go by a variety of names, but is generically known as a "security agreement."

Before placing an inventory on consignment, for example, it is generally a good idea to conclude a security agreement with the party that will warehouse and sell the inventory (the "consignee"). Doing so will create a security interest in the goods that make up the inventory. This security interest will protect the rights of the party placing the inventory on consignment (the "consignor") if the consignee defaults on the obligation to pay the consignor for parts sold from the consignment inventory.

The security agreement, however, is

*(Continued on page 45)*



## Secured Transaction Law

(Continued from page 44)

only part of the story, since it only binds *the parties* to that agreement. In order to have a legally recognized security interest with respect to *third parties*, such as the consignee's creditors, the "secured party" – in this case, the consignor – must "perfect" the security interest. Perfect is the term of art used to describe any sort of process that allows the secured party to enforce his security interest as a priority over the interests of other creditors. The most common way to do this is by filing a "financing statement" with state authorities. Next month's article will discuss the specifics of where and when to file, since the new rules make a number of changes.

The financing statement serves as public notice of the security interest. Most importantly, it establishes the secured party's *priority* relative to the debtor's other creditors. In priority, timing is everything. A security interest that is perfected by filing a financing statement will take priority over another security interest perfected by filing at a later date. Priority can often mean the difference between getting paid and getting elbowed out of the way by other creditors until

there's nothing left to collect.

### *The New Rules*

The new revisions to secured transactions law make it easier to establish a security interest in consigned goods. For a start, the revisions provide a definition of a "consignment." This is a definition that had not existed before, and the lack of a clear definition sometimes led to disputes over what qualified and what didn't. The new rules specifically allow financing statements to be concluded between a "consignor" and "consignee," providing further clarity in case of disputes. They clarify the relative priority of a security interest in consigned goods. On a more general level, they simplify the rules for filing financing statements.

The discussion in this series of articles focus on aspects of the generic model law; individual states may modify it as they see fit when enacting it into their own state codes. As always, be sure to check with competent legal counsel for answers to any specific questions. Next month's article shall begin examining the upcoming changes in detail.

### ASA Annual Meeting

The 2001 Annual Meeting of the Members of the Airline Suppliers Association will be held in conjunction with the ASA Annual Conference. This is the customary practice for the Association.

The Association's annual meeting of the membership will be held at The Breakers Hotel in West Palm Beach, FL on Tuesday, June 10, 2001 at 7:30 a.m. It will be a breakfast meeting.

The Association shall provide the members with a briefing on the Association activities, and the Association also expects to place issues before the membership for a vote.

If you have any other questions, please call ASA at (202) 730-0270.



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## New Unapproved Parts Notices

There are new Unapproved Parts Notices available! The FAA has published four new notices designed to alert the industry to potential problems that may bear special scrutiny.

Space in this month's issue did not permit the republication of the current Unapproved Parts Notices [UPNs], but we are able to publish brief descriptions of the scope of each new UPN. In next month's issue, ASA will return to its practice of republishing FAA UPNs (including full text of each of these UPNs described in this article).

If you have any parts meeting these descriptions in your inventory, then you may wish to check whether they are described in the Unapproved Parts Notices:

- O-rings, seals, and gaskets manufactured for military aircraft by L&T Seals, Inc. The FAA claims that their investigation revealed that some of these parts failed during use, and when tested, were found to be manufactured using incorrect material.
- Hamilton Standard propeller hubs that have been subject to repair or alteration by Prop Shop, Inc. (FAA Air Agency Certificate No. T4PR764J), located at 8231 SW Third Street, Oklahoma City, OK 73128 - this repair station is accused of improperly installing Hamilton Standard propeller blades, Model 6915A-7, into Model 2D30 propeller hubs. The FAA claims that Prop Shop used an "unapproved machining process."
- Certain parts that were subject to work by Total Airframe & Turbine Corporation (d/b/a TATCO), located at 3437 W. El Segundo Blvd., Hawthorne, CA 90250 - TATCO is accused of performing certain functions for which they had not been rated [make sure you don't confuse this company with TATSCO in San Antonio, TX].
- Certain parts subject to heat treat by West Coast Aluminum Heat Treat (WCAHT), formerly located at 14365 Macaw St., La Mirada, CA 90638. The FAA states WCAHT was engaged in the business of heat-treating all stages of aluminum parts, many of which were used in a wide variety of military and commercial aircraft applications. The FAA also states in the UPN that WCAHT improperly heat-treated numerous aluminum parts having aviation applications, particularly between the years of 1981 and 1997.

Companies with parts in their inventory that match one of these descriptions, may wish to take steps designed to assure the quality and airworthiness of the parts. The steps taken by any company represent a commercial decision by that company.

Unapproved Parts Notices are FAA "early warnings" to the public. They do not indicate that the FAA has issued any order, nor completed any adjudication of the allegations listed.

Complete text of each UPN can be found on the internet at:

<http://www.faa.gov/avr/upn.htm>

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Back issues of the Update Report are now on-line! Missing a prior issue? Issues of the Update Report are being added to the ASA web site about one month after they are published. Complete sets of volumes six through eight are now on-line!

## UPCOMING EVENTS

\* = *Schweitzer, Lewis or Dickstein will be speaking there*

- May 4** \* **ASA Workshop**, Phoenix, AZ. All the latest legal changes you need to know! Call (202) 730-0270.  
**May 10-11** \* **ASA Hazmat Training**, New Rochelle, NY. Ramada Plaza Hotel. See Page 34 for details.  
**July 8-10** \* **Airline Suppliers Association Annual Conference**, The Breakers, Palm Beach, FL.  
Call ASA at (202) 730-0270 for more information, or send email to conference@airlinesuppliers.com  
**Aug. 16-17** \* **ASA Hazmat Training**, Phoenix, AZ. Phoenix Airport Courtyard by Marriott. See Page 34 for details.  
**Aug. 20-21** \* **ASA Hazmat Training**, Los Angeles, CA. Embassy Suites, Arcadia, CA. See Page 34 for details.  
**Aug. 22-23** \* **ASA Hazmat Training**, Seattle, WA. Hosted by Avolo! See Page 34 for details.  
**Sept. 13-14** \* **ASA Hazmat Training**, Chicago, IL. Hosted by Airliance! See Page 34 for details.  
**Sept. 18-20** **Aviation Indus. Suppliers Conf. (AISCE)**, Hotel Palladia, Toulouse, France. Call (310) 203-9603.  
**October 3-5** **Cargo Facts 2001**, Seattle, WA. Contact Kristy Koch at (206) 587-6537 or e-mail kkoch@cargofacts.com  
**Nov. 7-9** **Regional & Corporate Aviation Indus. Suppliers Conf.**, Rancho Mirage, CA. Call (310) 203-9603.

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- Mar. 18-20** **Commercial Aviation Indus. Suppliers Conf.**, Los Angeles, CA. Call (310) 203-9603.  
**Nov. 3-5** **Regional & Corporate**

*Don't forget to register for the 2001 ASA Annual Conference at the Breakers in Palm Beach, Florida. It will be held July 8-10, 2001. Registration materials are available on the ASA Website, or call (202) 730-0270. Make Hotel Reservations at the Breakers by calling 888-273-2537. The ASA Conference Attendee Room Rate at the Breakers is \$130+tax/night.*

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