



## Chapter 736 Newsletter for December 2018



### **Senators urge FAA to implement contract tower program**

35 senators are urging the Federal Aviation Administration to implement a provision in this year's FAA spending bill that would allow airports that utilize the contract tower program to become eligible for Airport Improvement Program grants from the small airport fund.

In a bipartisan letter to FAA Acting Administrator Daniel K. Ewells, Merkley, Wyden and 33 other senators stressed that this provision will enhance air traffic safety at small, rural airports.

Not only do these contract towers provide an important safety service, but they do it in a very cost-effective manner," the senators wrote. "It is Congress's clear intent that tower construction, improvement, and related equipment should be given priority when deciding which projects should receive grants from the small airport fund.

The full letter follows.

Dear Acting Administrator Elwell:

As you begin implementing the Federal Aviation Administration (FAA) Reauthorization Act of 2018, we would like to draw your attention to section 152 of that Act. Section 152 authorizes you to make AIP grants from the small airport fund to an airport participating

in the contract tower program for the purpose of constructing or improving its air traffic control tower and for the acquisition and installation of related equipment.

The contract tower program has been in place for over 30 years. Now there are 256 airports in 46 states that participate in this program. The program consistently receives high marks for customer service from aviation users (pilots, airlines, FBOs, flight schools and corporate flight departments). Without it, people living and traveling to our small communities and rural areas would be without the important safety benefits that air traffic control provides.

Not only do these contract towers provide an important safety service, but they do it in a very cost-effective manner. This is demonstrated by the fact that contract towers handle approximately 29 percent of all U.S. air traffic control tower operations, but account for just 11 percent of FAA's overall budget allotted to such operations. This means that the contract tower program saves the FAA and tax payers approximately \$200 million per year and \$2 billion over 10 years.

In addition to the safety and financial benefits, the contract tower program plays a key role in connecting rural communities to the national air transportation system, helps airports retain and develop commercial air service, promotes economic development and job creation, provides significant support for military readiness and training as well as for disaster relief, homeland security, and law enforcement operations.

For all these reasons, the contract tower program enjoys widespread support in the Congress. That is why Congress included section 152, as well as other provisions to boost the contract tower program, in the FAA Reauthorization Act. It is important to note that this provision authorizing small airport funds for tower construction and improvement was placed in subsection (d) of section 47116 of the United States Code. Subsection (d) is entitled "Priority Consideration for Certain Projects." This provision could have been placed in section 47124 but it was placed in subsection 47116(d) instead precisely because Congress wanted air traffic control tower construction and improvement projects to receive priority consideration for grants from the small airport fund. It is therefore Congress's clear intent that tower construction, improvement, and related equipment should be given priority when deciding which projects should receive grants from the small airport fund. Priority consideration for these projects is fully justified in light of the safety, financial, and other benefits that these towers provide at small airports and in rural areas.

We expect FAA to follow congressional intent in implementing this important provision that will enhance air traffic safety at smaller and rural airports throughout the country, including utilizing the benefit/cost ratios for new airport applicants/candidates that FAA submitted to Congress in April, 2018.

In this connection, we would like you to explain to us how the FAA will revise its National Priority Ranking and related order to ensure that funding for air traffic control tower construction, improvements, and related equipment receive the priority intended in the law. In addition, we request that, after the end of this fiscal year, you provide us with a list of the airports that requested money from the small airport fund for tower construction, improvement, or related equipment, a list of those airports that received such funds for that purpose, and a statement explaining why airports did not receive such funding even though they requested it.

We appreciate your timely attention to this matter and look forward to continuing to work with you in a constructive manner on this important issue.

## **ADS-B: AIRLINES, MILITARY FACE THE MANDATE**

### **SOLUTIONS ARE BECOMING AVAILABLE, AND THEY ARE PRICEY**

It's now less than two years until January 2, 2020—when the FAA has mandated installation of Automatic Dependent Surveillance-Broadcast (ADS-B) Out to fly in airspace where a transponder is required today. ADS-B uses satellites instead of ground-based radar to determine aircraft location, and is a key technology behind the FAA's Next Generation Air Transportation System.

According to FAA data, as of December 1, 2017, 46,968 U.S.-registered aircraft had equipped with ADS-B Out. Of that total, 34,400 are certificated fixed-wing general aviation aircraft, and another 1,542 are registered to U.S. air carriers.

It's hard to say how many more must equip by 2020, because nobody knows how many aircraft require ADS-B capability. The FAA and Aircraft Electronics Association have talked about equipage requirements of 120,000 to 160,000 aircraft, but those forecasts are based on aircraft with transponders. The actual number on January 2, 2020, will be much lower—maybe 70,000 or 80,000.

Why? Not all GA aircraft have to equip. If you don't fly in Class A airspace; in and above the 30-nautical-mile Mode C veils surrounding Class B; in and above Class C; or Class E airspace at and above 10,000 feet msl, excluding airspace at and below 2,500 feet agl—or at and above 3,000 feet msl over the Gulf of Mexico, within 12 nm of the U.S. coastline—ADS-B is not required.

But the airlines can't choose not to equip, or delay installations until 2020. Their turbine aircraft can't fly efficiently below 10,000 feet msl, and few can avoid Class B and Class C airspace.

You may have heard about an exemption for the airlines. They do have a five-year grace period, but it applies only to upgrading GPS position sources to fully comply with ADS-B rules—airliners still have to equip with ADS-B Out by January 2020.

Why aren't the airlines further along? Some have made significant strides—United Parcel Service's fleet is 99 percent equipped, FedEx is at about 37 percent, and United and JetBlue both are at about 35 percent.

Southwest Airlines currently operates 700 Boeing 737s. Only its 14 newest jets, 737 MAXs, are ADS-B Out-equipped. "The airlines can only buy things that are for sale. Until three months ago, there was nothing for us to buy," explained David Bunin, a Southwest avionics engineer. There were no certified ADS-B transponders or rule-compliant GPS receivers. Like many GA aircraft, airliners are not WAAS GPS-equipped—with multisensor flight management computers that combine inertial navigation, DME, GPS, and other position sources, WAAS wasn't needed.

Changes to DO-260, the RTCA specification for Mode S Extended Squitter/ADS-B transponders, partially caused the delay in hardware availability. Europe's ADS-B rules use the DO-260A standard, and the FAA mandated DO-260B while DO-260C was being discussed. "There were so many changes, the industry wasn't confident there wouldn't be another change," Bunin said.

As a result, Air Transport hardware providers such as Boeing, Collins, and Honeywell didn't have solutions. "Not only did they have to develop the transponder, but they had to develop a WAAS GPS—which they'd never done before—and get it certified." That's the primary reason behind the airlines' ADS-B position source exemption, he added.

Now there's a 1090ES transponder for Southwest's fleet, but the company is waiting for a service bulletin authorizing its installation. "What we've been doing is installing the wiring. We've been working on that for the last year," Bunin said. "Once we get the authorization and get the physical parts, we'll be doing the upgrades aggressively. We don't object to the mandate—we want to comply."

Beginning this summer, Southwest will have 18 months to install nearly 1,400 new transponders (each jet carries two). With the wiring in place, that can be accomplished during an overnight layover, said Bunin, who is confident the airline will meet the 2020 deadline. The total cost to the company will be in the hundreds of millions of dollars. "I fly a Cessna 172—it's a Hawk XP," he said. "The first transponder on the jet, alone, costs more than my whole airplane. And there's two of them."

## **709 Rides**

The FAA often responds to accidents and incidents by requesting a Reexamination under [49 U.S.C. § 44709](#), also known as a "709 ride."

Section 44709 gives the FAA broad authority to reexamine, among other things, any airman holding an airman certificate. Pilots involved in accidents or incidents often find it difficult to challenge the request because the FAA is only required to show a "reasonable basis" for the reexamination.

While the bar to request a 709 ride may be low, the scope of the reexamination should be tailored to those areas in which the FAA believes a lack of competency may have played a role in the event. The FAA's letter should indicate what certificate is being reexamined and which tasks will be evaluated during the reexamination. For example, if you ground-looped your tailwheel aircraft, the reexamination will focus on takeoffs and landings rather than less relevant areas such as cross-country planning or navigation. By contrast, a 709 ride following a fuel exhaustion event is likely to focus heavily on flight planning and may be a tabletop-only exercise with no actual flying.

Although you may have previously passed your checkride with ease, it's important that you take the 709 ride seriously. Take time with an instructor to review and practice the required maneuvers or knowledge items in preparation for the reexamination. While the FAA often provides a second chance to pass the reexamination, they will typically request that you put your certificate on deposit in exchange for a temporary certificate that does not allow passenger carriage. Continued failure to perform to the standards of your certificate will result in revocation.

Fortunately, once you finish your training and successfully pass the reexamination, your case will be closed and the action will be removed from your airman record within 90 days.

**Happy Holidays**