



October 8, 2013

The Honorable Anthony Foxx
Secretary
Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

Re: Request to Reopen United States Aircraft Registry

Dear Secretary Foxx:

We are writing to urge the Department to restore the full functioning of the FAA's Aircraft Registration Branch ("U.S. Registry") during the current government shutdown. We were glad to hear of the FAA's announcement yesterday that the agency is recalling 800 employees to bolster aviation safety, but urge in the interest of aviation safety that you also recall adequate numbers of employees to ensure sufficient reopening and staffing of the aircraft registry in Oklahoma City.

We respectfully submit that DOT has authority under the Anti-deficiency Act,¹ to staff the U.S. Registry as it is vital to protection of human life and property, and necessary for the U.S. to fulfill its ongoing international legal obligations under the Chicago Convention and the Convention on International Interests in Mobile Equipment ("Cape Town Convention") relating to the registration of aircraft.

The FAA has long recognized the importance of accurate U.S. Registry information in carrying out its responsibilities in overseeing the safety and operation of aircraft on the U.S. Registry and in fulfilling its obligations under international treaties governing aviation.

For example, the FAA has made clear that accurate and up to date U.S. Registry information is essential to allow the FAA to carry out its safety and oversight duties² – ones that are critical to the protection of human life and property. We have compiled and attached some examples of the FAA's public statements on the public safety, security, and international obligations associated with the U.S. Registry for your reference.

Additionally, the current closure of the U.S. Registry precludes the delivery of aircraft. This encompasses any aircraft that is sold domestically, exported, or imported as these transactions require FAA approval and must receive a certificate of aircraft registration to process financing.

¹ 31 U.S.C. § 1341.

² *Id.*

The U.S. Registry's closure is having profound ramifications on our manufacturers and workforce as our estimates show this may impact up to 130 aircraft by the mid-month that are valued at almost \$1.5 billion.

As you are well aware, certain activities, including emergency circumstances relating to health and safety and functions necessary to discharge the President's constitutional duties and powers, are exempted from the restrictions of the Anti-deficiency Act.³ Again, we commend you for taking actions to bring off furlough other safety-sensitive FAA personnel, but urge you in the strongest possible terms, in the interests of safety, security, and our international obligations, as well as the enormous economic consequences of its closure, to immediately re-open the aircraft registry.

Thank you for your consideration.

Sincerely,



Mark Baker
President and CEO
AOPA



Jack Pelton
Chairman of the Board
EAA



Peter J. Bunce
President and CEO
GAMA



Matthew S. Zuccaro
President
HAI



Thomas L. Hendricks
President and CEO
NATA



Ed Bolen
President and CEO
NBAA

Enclosures: 1

cc: Hon. John D. Porcari
Hon. Michael P. Huerta
Hon. Michael G. Whitaker
Kathryn B. Thomson, DOT General Counsel (Acting)
Marc L. Warren, FAA Chief Counsel (Acting)

³ See OMB Memorandum for the Heads of Executive Departments and Agencies (Sept 17, 2013) and referenced FAQ Documents (Frequently Asked Questions on Contracting, Grant Administration, and Payment Processing during a Lapse in Administration).

Attachment 1

FAA public statements rulemakings, policy clarifications, and other proceedings asserting the U.S. Registry's essential function for public safety, security and compliance with international treaty obligations.

- Users of the [U.S. Registry] “system include persons charged with maintaining safety in air transportation and law enforcement agencies charged with maintaining national security”¹
- The U.S. Registry “serves as a source of information for other Government agencies, including those responsible for homeland security and investigations of aviation accidents and other incidents.”²
- While various levels of law enforcement have used and continue to use registration data for drug and other law enforcement purposes, their efforts now have expanded to include matters of homeland security.³
- The FAA Strategic Operations Security works with the Transportation Security Administration (TSA), which uses the program for aircraft registration status, along with other information, as a basis for granting or denying aircraft access to the national airspace system.⁴
- FAA provides TSA with data on individuals new to the U.S. Registry on a daily basis to perform a onetime, biographic, name-based security threat assessment for each of the 4 million individual FAA airman certificate holders.⁵
- Out-of date registration information may possibly result in loss of property, and if safety related information is not received, could result in personal injury.⁶
- “Law enforcement and security agencies rely upon FAA’s aircraft [registration] records to identify and locate owners of aircraft.”⁷

¹ FAA, Office of Inspector General Audit Report FI-2013-101, “FAA’s Civil Aviation Registry Lacks Information Needed for Aviation Safety and Security Measures” 1 (June 27, 2013).

² FAA, Office of Inspector General Audit Report FI-2013-101, “FAA’s Civil Aviation Registry Lacks Information Needed for Aviation Safety and Security Measures” 1 (June 27, 2013).

³ 73 Fed. Reg. at 10702.

⁴ *Id.* at 10703.

⁵ Gov’t Accountability Office, GAO-12-875, General Aviation Security: Weaknesses Exist in TSA’s Process For Ensuring Foreign Flight Students Do Not Pose a Security Threat 22 (July 2012).

⁶ 73 Fed. Reg at 10703.

⁷ 49 Fed Reg. 41977 (July 20, 2010)

Most recently in its proposed and final policies relating to Registration of Aircraft to U.S. Citizen Trustees in Situations involving Non-U.S. Citizen Trustors and Beneficiaries,⁸ the FAA explained in great detail its international obligations:

- The U.S. Registry is obligated to provide information and ownership of aircraft in its registry when requested by another contracting state;
- The U.S. must require every aircraft on the U.S. Registry, when operated outside of the territory of the US, to comply with the rules and regulations related to flight;
- The U.S. must be able to obtain information about particular aircraft and operations in a timely manner, and in some cases, provide that information to other states;
- Execution of these responsibilities “requires an ongoing exchange of information between the State of Registry and the State of the Operator.”⁹

⁸ Proposed Notice at 77 Fed. Reg. 6694 *et seq* (Feb 9, 2012); Final Notice at 78 Fed. Reg. 36412 *et seq* (June 18, 2013).

⁹ 77 Fed. Reg. 6695.