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### **ARSA Holds FAA's Feet to the Fire over RFA Compliance**

**ALEXANDRIA, VIRGINIA, May. 11, 2011** – On May 9, the Aeronautical Repair Station Association (ARSA) again pushed the Federal Aviation Administration (FAA) to abide by the requirements of the Regulatory Flexibility Act (RFA). The association's action comes in [comments](#) to the “[supplemental regulatory flexibility determination](#)” issued by the FAA and published in the March 8, 2011 *Federal Register*. The supplemental determination is the FAA's attempt to analyze its drug and alcohol rules under the RFA.

The comments hold the FAA's feet to the fire while ensuring the agency does not indefinitely neglect its duties. ARSA points out that the law does not provide for a supplemental determination and, in any event, the FAA's “analysis” does not meet RFA requirements.

“It is shameful that in this era of attention to the negative effects of regulation, the FAA continues to neglect the basic regulatory protections established by the RFA,” said ARSA Executive Director Sarah MacLeod. “The agency's disregard for its legal responsibilities in the rulemaking process highlights the challenges that lie ahead in promoting equitable and efficient federal oversight.”

The negative economic consequences of the agency's failure to properly analyze the 2006 rule have already driven small business away from aviation services. ARSA's action attempts to give teeth to the RFA's protections and establish a precedent of accountability for neglecting regulatory protections.

The association's comments are the latest in a [lengthy battle between ARSA and the FAA](#) over the agency's 2006 anti-drug and alcohol rule change. In a [2007 decision](#), the United States Court of Appeals for the District of Columbia Circuit ordered the FAA to perform an analysis of its rule, as required by the RFA. The FAA ignored the Court's mandate for over three years.

In February 2011, ARSA filed a [petition](#) to compel FAA's compliance with the Court's mandate. Siding with ARSA, the Court issued an [order](#) on March 1, 2011 directing the agency to respond to the petition. In its reply, the FAA apologized for the delay and rationalized its inaction by pointing to the existence of the supplemental notice. In essence, that notice was hastily drafted in the FAA's continued effort to shirk its legal responsibilities under the RFA.

The FAA's latest position is that the 2006 rule change does not pose a significant economic impact, even though it affects a substantial number of small entities. As a result, the FAA decided that a full RFA analysis is not required. However, in making that claim, the FAA failed to use reliable data and did not fully account for costs to the industry. ARSA drew attention to the fact that the FAA lacked an accurate and factual basis for its decision, and stated that the FAA must perform both an initial and final analysis to meet RFA requirements. Additionally, until the proper analysis is completed, the FAA has not satisfied the Court's mandate.

ARSA is an Alexandria, Virginia-based trade association that represents aviation maintenance and manufacturing companies. Founded in 1984, the association has a distinguished record of advocating for repair stations, providing regulatory compliance assistance to the industry, and representing repair stations on Capitol Hill and in the media. More information about ARSA is available at <http://www.arsa.org>.

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