



*A bold voice for transportation workers*

February 11, 2013

Ms. Patricia K. Williams  
Aircraft Maintenance Division  
Air Carrier Maintenance Branch, AFS-330  
Federal Aviation Administration  
800 Independence Avenue, SW  
Washington, DC 20591

**RE: Air Carrier Contract Maintenance Requirements  
Docket No. FAA-2011-1136; Notice No. 12-07  
RIN 2120-AJ33**

Dear Ms. Williams:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to comment on the Federal Aviation Administration's (FAA) Notice of Proposed Rulemaking (NPRM) on Air Carrier Contract Maintenance Requirements. By way of background, TTD consists of 31 affiliated unions, including the Professional Aviation Safety Specialists (PASS) which represents FAA inspectors, and the International Association of Machinists and Aerospace Workers (IAM) and the Transport Workers Union of America (TWU) who both represent aviation mechanics.<sup>1</sup> We therefore have a vested interest in this rulemaking.

TTD and our affiliates have long argued that the growing trend of outsourcing maintenance necessitates improved oversight and safety standards at repair stations. We are pleased that the NPRM acknowledges this principle throughout the preamble and we specifically agree with the FAA's statement that changes are needed "because contract maintenance has increased to 70 percent of all air carrier maintenance, and numerous investigations have shown deficiencies in maintenance performed by contract maintenance providers."

With regards to this rulemaking, we support the efforts to increase the oversight and safety standards governing outsourced maintenance. The NPRM would implement section 319 of the FAA Modernization and Reform Act of 2012 (P.L. 112-95) and address some of the recommendations offered by the Department of Transportation Inspector General (IG) in its multi-year evaluation and critique of contract maintenance in the aviation sector. In doing so, the FAA proposes to modify 14 CFR parts 121 and 135 to ensure that, among other

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<sup>1</sup> Attached is a list of TTD's affiliated unions.

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Edward Wytkind, President / Larry I. Willis, Secretary-Treasurer



requirements, air carriers must be “directly in charge” of all “covered work” performed by a maintenance provider; all covered work must be done in accordance with the air carriers maintenance manual; and covered work must be performed under the “supervision and control” of an air carrier. In addition, the proposed rule would require each air carrier that contracts any of its maintenance to provide the FAA, and keep updated, a list of its maintenance providers.

We note that the covered work requirements were applied in the statute to non-certificated facilities only. Under section 121.368(a)(1) of this rulemaking, the FAA correctly chooses to extend these and the NPRM’s other standards universally, regardless of whether the contract maintenance provider is FAA-certified. We support this inclusion.

While we understand this rulemaking increases safety and oversight at non-certificated facilities, we continue to believe that outsourced maintenance work, especially “covered work,” should be performed at an air carrier or a part 145 repair station. Many of the measures instituted by Congress and the FAA that improve safety and oversight at certificated stations leave non-certificated facilities outside of their purview. For example, Congress chose to apply drug and alcohol testing regulations, as well as repair station security requirements, to part 145 repair stations. It would be unfortunate if maintenance providers could avoid new safety and oversight standards by choosing to be non-certified, while still performing important maintenance work.

As mentioned above, we support this rulemaking though we believe the NPRM has several areas that should be improved. We discuss those issues below.

The improvements made by this rulemaking to the safety and oversight of maintenance providers could be further strengthened by properly defining “supervision and control.” By the definition in section 121.368(a)(4), air carriers would need to physically observe the maintenance work only to the “extent necessary” to make sure the work is done properly. Similarly, section 121.368(a)(3) considers an air carrier to be “directly in charge” of maintenance work even if it’s not there to observe the work as it’s performed. We believe these two sections are insufficient. To ensure the maintenance work being performed on their aircrafts meets FAA safety regulations, air carriers must be physically present to observe the work as its being performed. Any latitude in this responsibility undermines the FAA’s own efforts to increase oversight.

Additionally, we support the definition of “covered work” in section 121.368(a)(2) which identifies three distinct forms of maintenance needs, including “essential maintenance,” and mirrors the statutory definition under P.L. 112-95. We wish to note that a discrepancy exists between the statutory meaning of “essential maintenance” under P.L. 112-95 (which is maintained in this rulemaking) and the meaning given in the FAA’s November 2009 Notice 8900.102. We ask that the FAA update its 2009 Notice to reflect the statute and the rule so that any confusion about the term’s meaning is eliminated. Further, we are concerned that under the regulation, a “required inspection item” is considered covered work only if it’s physically on the aircraft. This requirement is not present in the statute, and we urge the FAA to reconcile the difference by adopting the statute’s language.

Moreover, we believe the FAA fails to address an important recommendation made by the IG, which the agency itself notes in the preamble. In 2005, the IG recommended the agency to “determine whether air carriers evaluate the background, experience and qualifications of the temporary maintenance personnel” to ensure their work is in accordance with FAA and air carrier requirements. Although the agency correctly notes this recommendation in the preamble, the FAA fails to address the issue in this rulemaking. We believe this is a mistake. The FAA should act on the recommendation by including the requirement that air carriers evaluate maintenance personnel in section 121.368(f).

Additionally, the FAA notes that the IG identified several factors undermining the assurance that contract maintenance providers are performing maintenance in accordance with air carrier manuals. Among the factors is the "lack of guidance and training for the maintenance providers...." We recognize that the FAA is addressing this issue in a separate rulemaking, but we note that that NPRM would apply to part 145 repair stations only while the rulemaking at hand applies to both certificated and non-certificated stations. This emphasizes the point made earlier that covered work should be performed at an air carrier or a part 145 repair station, otherwise, the FAA exacerbates the difference in oversight requirements by not acting to address the IG’s finding in this rulemaking.

Lastly, the preamble notes that the IG found air carriers are reluctant to share proprietary information. The FAA states that air carrier maintenance manuals may contain such material, contributing to the issue that contract maintenance providers don’t always have the information they need to perform maintenance properly. We appreciate the sensitivity of this data and air carriers’ wanting to share only what’s needed. Further, we recognize that the FAA is attempting to resolve this issue under section 121.368(e). Still, we wish to underscore the importance of contract maintenance providers having all the information they need to perform maintenance. We believe contract maintenance providers should have access to air carrier manuals and the information they contain to ensure the work is completed properly.

This rulemaking makes important changes to increase the level of oversight of contract maintenance providers. While we support the FAA’s efforts, we also believe that improvements should be made to further improve the safety of contract maintenance providers. We appreciate the opportunity to comment, and hope you will take our suggestions into consideration.

Sincerely,



Edward Wytkind  
President

# **TTD MEMBER UNIONS**

*The following labor organizations are members of and represented by the TTD:*

*Air Line Pilots Association (ALPA)*  
*Amalgamated Transit Union (ATU)*  
*American Federation of State, County and Municipal Employees (AFSCME)*  
*American Federation of Teachers (AFT)*  
*Association of Flight Attendants-CWA (AFA-CWA)*  
*American Train Dispatchers Association (ATDA)*  
*Brotherhood of Railroad Signalmen (BRS)*  
*Communications Workers of America (CWA)*  
*International Association of Fire Fighters (IAFF)*  
*International Association of Machinists and Aerospace Workers (IAM)*  
*International Brotherhood of Boilermakers, Blacksmiths, Forgers and Helpers (IBB)*  
*International Brotherhood of Electrical Workers (IBEW)*  
*International Longshoremen's Association (ILA)*  
*International Longshore and Warehouse Union (ILWU)*  
*International Organization of Masters, Mates & Pilots, ILA (MM&P)*  
*International Union of Operating Engineers (IUOE)*  
*Laborers' International Union of North America (LIUNA)*  
*Marine Engineers' Beneficial Association (MEBA)*  
*National Air Traffic Controllers Association (NATCA)*  
*National Association of Letter Carriers (NALC)*  
*National Conference of Firemen and Oilers, SEIU (NCFO, SEIU)*  
*National Federation of Public and Private Employees (NFOPAPE)*  
*Office and Professional Employees International Union (OPEIU)*  
*Professional Aviation Safety Specialists (PASS)*  
*Sailors' Union of the Pacific (SUP)*  
*Sheet Metal Workers International Association (SMWIA)*  
*Transportation · Communications International Union (TCU)*  
*Transport Workers Union of America (TWU)*  
*United Mine Workers of America (UMWA)*  
*United Steel, Paper and Forestry, Rubber, Manufacturing, Energy,  
Allied Industrial and Service Workers International Union (USW)*  
*United Transportation Union (UTU)*