



**COMMENTS OF THE
TRANSPORTATION TRADES DEPARTMENT, AFL-CIO**

**BEFORE THE
TRANSPORTATION SECURITY ADMINISTRATION
DEPARTMENT OF HOMELAND SECURITY
REQUEST FOR COMMENTS
AIRCRAFT REPAIR STATION SECURITY
Docket No. TSA-2004-17131**

February 19, 2010

On behalf of the Transportation Trades Department, AFL-CIO (TTD), we are pleased to submit the following comments on the Transportation Security Administration's (TSA) Notice of Proposed Rulemaking (NPRM) that would establish general security requirements for aircraft repair stations. TTD represents 32 affiliated transportation unions¹, including, the International Association of Machinists and Aerospace Workers (IAM), the Transport Workers Union of America (TWU), and the International Federation of Professional and Technical Engineers (IFPTE) that represent mechanics and aviation engineers. In addition, the Professional Aviation Safety Specialists (PASS), a TTD member union, represents Federal Aviation Administration (FAA) employees who conduct safety inspections of repair stations. Our aviation unions also represent airline pilots, flight attendants, air traffic controllers, FAA technicians, airline customer service representatives, and airport workers who depend on a safe and secure aviation system.

TTD has actively participated in the debate over aircraft repair station security and has long sought to bring one level of security to contract maintenance operations, especially those facilities located in foreign countries. As we have advocated for legislation and regulation governing the security of contract repair stations, our concerns have only grown in the aftermath of the September 11, 2001 terrorist attacks and the corresponding rise the outsourcing of heavy airframe maintenance work to foreign repair stations.

We want to thank TSA for issuing this proposal and for moving to address the long ignored issue of aircraft repair station security. As you know, Congress first moved to impose security standards in the FAA Reauthorization Bill of 2003 — Vision 100 (P.L. 108-176). Specifically, Section 611(b) of this bill required TSA, in consultation with the FAA, to complete a final rule imposing security standards on foreign and domestic aircraft repair stations by August 2004 and to subsequently conduct security inspections of foreign stations. Additionally, Section 611 (a) required the FAA (within 90 days) to submit a plan to strengthen the oversight of both domestic and foreign repair stations and to ensure that foreign stations, certified by the FAA, are subject to an equivalent level of safety, oversight and quality control as U.S. stations.

¹ TTD is the transportation labor umbrella organization of the AFL-CIO. A complete list of TTD affiliated unions is attached.

Transportation Trades Department, AFL-CIO

888 16th Street, NW • Suite 650 • Washington, DC 20006 • tel: 202.628.9262 • fax: 202.628.0391 • www.ttd.org
Edward Wytkind, President • Patricia Friend, Secretary-Treasurer

The previous Administration ignored this Congressional mandate to issue these rules for over five years and failed to take any steps to conduct security inspections of foreign stations. While aspects of this proposal need to be improved (which we outline in these comments), we appreciate the fact that this new Administration has identified repair station security as an issue that needs to be addressed. This proposal correctly notes that as “TSA tightens security in other areas of aviation, repair stations increasingly may become attractive targets for terrorist organizations attempting to evade aviation security protections currently in place.”² We would also note that the December incident on board Northwest Flight 253 is the most recent example of a terrorist organization accessing our aviation system from outside the security protections in place in the United States.

There are a number of improvements that must be made to this proposal to ensure the security of contract repair stations. The proposed repair station security program itself fails to ensure that one level of security is maintained throughout the entire network of certified repair stations. Without more detail as to the oversight, inspection, and enforcement of the proposed security requirements in this rule, TSA has no way of consistently knowing whether repair stations are in compliance with the standards the agency is putting forth. We hope that before a final rule is issued, TSA will address these concerns in order to make real and lasting improvements to aviation security.

Repair Station Standard Security Program

Proposed Section 1554.101(a) would require each certified repair station to adopt and carry-out a security program to safeguard aircraft, components and the work done at the station itself. Proposed Section 1554.103 provides specific areas that must be included and addressed in each security program. As we understand the proposed rule, however, the specific steps that each repair station will have to take to meet the standards set-forth in Section 1554.103 are not articulated and will change based on the security risk of each station. Specifically, the preamble to the proposed rule confirms that TSA “believes that repair stations should have some flexibility regarding the particular equipment, facilities and measurers that would be listed in the standard security program and used to comply with the proposed regulations.”³

While we understand that repair stations vary widely in size and the type of work performed, we are concerned that TSA not create different levels of security that put certain stations and work done at those stations at risk. This concern is amplified by the fact that risk assessments of individual stations will be based on a brief profile provided by each station itself. There needs to be a base line of standards and rules that all repair stations should follow and TSA should more fully articulate those base-line standards in proposed Section 1554.103. TSA must also create a

² Aircraft Repair Station Security, 74 *Fed. Reg.* 59874, 59878 (November 18, 2009)

³ *Id.* at 59878

reliable process to verify the information provided by regulated repair stations and sanction stations that provide misleading or incomplete profiles. We would also ask TSA to review the criteria cited in the proposal to ensure that it adequately represents the most accurate method to determine risk. We would note, for example, that certified repair stations working on U.S. commercial aircraft and components would constitute a higher degree of risk but that factor is not cited or discussed.

We are also concerned that the security program of each repair station will not be approved or even filed with TSA and will simply be available for review by the agency when an inspection occurs or at the request of TSA. Given the ambiguities associated with what will be in each security program, TSA must review and approve each security program to ensure that it complies with the regulations it is now proposing. If the agency fails to take this step, it will not be able to verify the plans each station will adopt to meet its security obligation in a timely manner. Without adequate oversight, TSA will leave too much discretion for individual aircraft repair stations, including those located overseas.

We are particularly concerned that Section 1554.103(a)(6) requires security programs to include measures that would only “verify background information through confirmation of prior employment and any other means, as appropriate to validate employee information.” The preamble explains that security programs would include measures by which the repair stations verify employment and conduct background checks, to the extent permitted by the laws where the repair station is located.⁴ As TSA is well-aware, mechanics working for air carriers in this country must undergo an extensive criminal background check and will be denied employment in the industry if certain felonies were committed within the past 10 years. Furthermore, TSA conducts a threat assessment of each worker including a check of relevant terrorist watch lists. TSA’s proposed rule, conversely, would only require limited employment verifications. There is nothing in the proposed rule that requires stations to determine if workers are security risks, neither a criminal records search nor a terrorist watch list check. Given the extensive steps that TSA takes to determine risk for carrier employees, we do not understand why it would create this additional security loophole for work done at contract repair stations.

We would further note that all certified airmen, including those mechanics certified under 14 CFR part 65, are subject to having their certificate revoked or rejected if TSA determines that person is a security risk. While this would apply to mechanics working in-house at air carriers and at third party stations, since certified mechanics are not required at foreign stations, these stations would further escape scrutiny of its workforce under TSA’s proposal.

Oversight and Security Inspections

We are concerned that TSA is not adequately prepared to conduct the type of inspections and oversight of aircraft repair stations that is required by the law and its proposal. The preamble of TSA’s proposal explains that TSA’s inspection authority extends to all repair stations and TSA will initiate foreign repair station inspections by giving priority to those foreign repair stations that pose the greatest risk to aviation security as required by Vision 100. The Department of

⁴ *Id.* At 59881

Transportation Inspector General (IG) recently determined that 71 percent of heavy airframe maintenance work is now outsourced with about 27 percent going to foreign stations. The number of FAA-certified foreign repair facilities now numbers near 700. Security plans of repair stations across the globe will need to comply with this proposal, TSA will need to verify the effectiveness of those stations security plans, and TSA must ensure that the security at a domestic repair station meets the same requirements as a repair station based in Germany or Singapore. But TSA does not explain how or who will conduct these inspections. Given that the law requires that stations be inspected 30 calendar days after final rules are published or after FAA certification and the need for follow-up and continued oversight it is incumbent on the agency to identify the resources and personnel necessary to meet this charge.

We are also concerned with an apparent inconsistency of whether surprise inspections of repair stations will be permitted. Section 1554.5 of the proposed rule clearly states that “each repair station must allow TSA and other authorized DHS officials, at any time and in a reasonable manner, without advance notice, to enter.” However, the preamble of TSA’s proposal states that the established protocols and procedures on conducting inspections outside the United States through its Foreign Airport and Foreign Air Carrier Assessment Programs require advance notice to the facility to be inspected and coordination with the U.S. Department of State and the appropriate foreign government authorities. TSA must clarify this point and ensure that it can and will conduct unannounced inspections of all covered repair stations and not allow another inconsistency between foreign and domestic repair stations to be created.

As TSA develops and implements its security inspection workforce, the agency should consider the challenges the DOT IG identified with current FAA safety inspections of aircraft repair stations.⁵ The IG found that while foreign stations were widely used by U.S. carriers, some FAA-certified foreign repair stations are not inspected at all by FAA inspectors because civil aviation authorities review these facilities on FAA’s behalf. TTD has, in the context of FAR 145 enforcement, long argued that it is irresponsible to turn over safety inspection responsibilities to foreign countries. The IG determined that foreign inspectors do not provide the FAA with sufficient information to determine what was inspected, what problems existed and how they were addressed. The IG reported that one foreign authority representative explained that “they did not feel it was necessary to review FAA-specific requirements when conducting repair inspections.”⁶ We hope that TSA will not make the same mistakes while increasing oversight of repair station security because security inspections conducted by a foreign government are not a replacement for direct TSA oversight.

Drug and Alcohol Testing

TTD has long argued the safety and security imperative of applying drug and alcohol testing to employees at foreign repair stations working on U.S. aircraft. We are disappointed that this issue is not addressed in this proposal and instead TSA states as fact that the FAA has “instituted drug

⁵ Office of Inspector General, Department of Transportation, *Review of Air Carriers’ Use of Aircraft Repair Stations*, Rpt. Number AV-2003-047 (July 8, 2003).

⁶ *Id.* at v

and alcohol testing as part of its safety regulations.”⁷ While that is true for domestic repair stations (and in-house facilities), the FAA has not extended this requirement to foreign repair stations certified by the FAA to work on U.S. aircraft.

TTD strongly encourages TSA to work with the FAA in ensuring that the agency requires one level of safety and security at all aircraft repair stations that work on U.S. aircraft. Establishing comparable drug testing standards between domestic and foreign aircraft maintenance and repair facilities is an integral part of achieving this goal.

This rulemaking presents TSA with an excellent opportunity to strengthen the security at both domestic and foreign repair stations and to ensure that all stations certified by the FAA are subject to an equivalent level of security oversight as U.S. stations. TTD and our affiliated unions hope you modify the proposal to incorporate our comments and address our concerns to ensure the security at all aircraft repair stations.

Respectfully Submitted,



Edward Wytkind, President
Transportation Trades Department, AFL-CIO
888 16th Street, NW, Suite 650
Washington, D.C. 20006
202/628-9262

⁷ Aircraft Repair Station Security, 74 *Fed. Reg.* 59878 (November 18, 2009)

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 Federation of Professional and Technical Engineers (IFPTE)
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)