



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

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
REPAIR STATIONS; PROPOSED RULE
Docket No. FAA-2006-26408**

April 16, 2007

On behalf of the Transportation Trades Department, AFL-CIO (TTD)¹, we are pleased to submit the following comments on the Federal Aviation Administration's (FAA) Notice of Proposed Rulemaking (NPRM) that would make certain changes to rules governing aircraft repair stations certified under FAR 145. TTD represents 32 affiliated transportation unions, 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 Airways Systems Specialists (PASS), a TTD member union, represents FAA employees who inspect repair stations. Our aviation unions also represent airline pilots, flight attendants, air traffic controllers, FAA technicians, airline customer service representatives, and airport workers.

Since our affiliated unions and their members are dependant on a safe and secure aviation system, we have been active participants in the debate over aircraft repair station certification and have long sought to bring one level of safety and security to contract maintenance operations, especially those facilities located in foreign countries. Our concerns have only grown in the aftermath of the September 11, 2001 terrorist attacks as we have advocated for legislation and regulation governing the security of contract repair stations.

While we appreciate the fact that this NPRM focuses on revising the system of ratings and requiring repair stations to adopt a quality program (and makes some other modifications), we are disappointed that this proposal does not address core safety and security issues that we have raised for almost 20 years. In particular, the NPRM does nothing to deal with the proliferation of FAA-certified foreign repair stations that are in business to take advantage of low wages and lax regulations and to siphon work from U.S. mechanics. The proposal also misses an opportunity to finally close the loophole

¹TTD, which consists of 32 affiliated unions, is the transportation labor umbrella of the AFL-CIO. A complete list of TTD affiliated unions is attached at 1.

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 • Michael A. Ingrao, Secretary-Treasurer

that allows foreign repair stations to become certified by the FAA without meeting the same standards imposed by our government in the U.S. Finally, we are extremely concerned that FAA oversight and enforcement of regulations already on the books suffers from lack of inspectors and not enough resources devoted to this critical safety function. We hope that before a final rule is issued, the FAA will address these concerns in order to make real and lasting improvements to aviation safety and security.

Certification of Foreign Repair Stations

TTD has long made the point that foreign repair stations should only be certified to work on U.S. aircraft that are engaged in international travel. There are currently over 690 foreign repair stations certified by the FAA – an increase of 345 percent since the FAR 145 rules were amended in 1988.² Current practice allows a foreign repair station to become certified if it can simply demonstrate that it will serve one U.S. aircraft or component. If the FAA wants to manage the safety and security risk of foreign repair stations, the regulations should be altered to limit the number of foreign repair stations to those that are actually needed to meet international aviation requirements.

Requiring One Level of Safety

All repair facilities, whether they are located in-house, at domestic repair stations or overseas should meet the same level of safety. Unfortunately, this is still not the case. For example, the FAA still authorizes foreign stations to work on U.S. aircraft without subjecting any of its employees to drug and alcohol testing requirements. Policy makers in this country have made a determination that it is important from a safety perspective to impose a drug and alcohol testing regime on U.S. mechanics (as well as other transportation workers). Yet the FAA continues to give-away certifications to foreign stations without imposing these requirements. We are not saying, as some have claimed through hollow rhetoric, that foreign countries must change their laws to institute widespread testing. But we are saying that in the interest of achieving one level of safety, if foreign stations want to display the FAA seal of approval and thus obtain the right to work on U.S. registered aircraft that operate in **this** country, then those stations should meet the same standards that are imposed by our government on U.S. domestic stations. We predict that the flying public would be alarmed to know that such common-sense requirements are not currently imposed by the FAA.

In fact the FAA itself has recently affirmed that it has the authority and responsibility to subject all workers who perform safety-sensitive maintenance function to drug and alcohol testing. In a NPRM on Anti-drug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities, the FAA stated the following:

[T]he FAA believes that it has the statutory authority and, in the interest of aviation safety, the responsibility to require that individuals who actually perform safety-sensitive duties are subject to drug and alcohol testing. The purpose of this

²According to the FAA, there were approximately 200 foreign aircraft repair stations certified in November, 1988. *See*, 53 Fed. Reg. 47362, 47369 (November 22, 1988).

rulemaking is to make it clear that all persons who perform safety-sensitive maintenance or preventive maintenance functions are actually tested....Whenever maintenance is being performed, it potentially affects the safety of the aircraft. Thus, the FAA believes it is important that all people who perform any type of safety-sensitive maintenance function be subject to testing ...³

Based on the FAA's own rationale, we do not understand how or why drug and alcohol testing is not extended to the personnel of foreign repair stations as a condition of working on U.S. aircraft under FAA rules. As the FAA points out, whenever, and we would argue wherever, maintenance is performed it affects the safety of the aircraft. As such, in the interest of achieving one level of safety, this loophole must be closed in the final rule.

We are also concerned that the NPRM perpetuates the already different and inconsistent requirements for inspection personnel at foreign and domestic stations. Section 145.151 would require all repair stations to designate a chief inspector. But in establishing the qualifications for this position in Section 145.155, the FAA requires chief inspectors at U.S. stations to be certified under part 65 and have three years experience. But for foreign stations, the requirement to be a part 65 mechanic simply does not apply.

Section 611 of Vision 100 – Century of Aviation Reauthorization Act (P.L. 108-176) – did require 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. Unfortunately, the plan released by the FAA focuses solely on oversight issues and ignores the Congressional mandate to ensure an “equivalent level of safety” between foreign and domestic stations. In fact, the FAA report correctly notes that regulatory differences between foreign and domestic stations remain in several areas including drug and alcohol testing and personnel certification. Despite these admitted discrepancies, the plan does nothing to address these loopholes – neither does this NPRM.

Expansion of Contract Repair Stations

These concerns are heightened by the fact that U.S. airlines are relying more and more on contract repair stations, including those located overseas, to maintain and oversee aircraft. This point was highlighted by the 2003 Department of Transportation Inspector General (IG) report on air carriers' use of aircraft repair stations.⁴ Specifically, the IG found that “the use of repair stations to complete aircraft maintenance is becoming as fundamental to air carriers' maintenance programs as their own internal maintenance facilities.”⁵ According to the IG, in 1996 major air carriers spent \$1.5 billion (37 percent of their total maintenance costs) for outsourced aircraft repair work. By 2002, that number had

³ Anti-drug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities, 60 Fed. Reg. 27,980, 27, 982 (May 17, 2004).

⁴Office of Inspector General, Department of Transportation, *Review of Air Carriers' Use of Aircraft Repair Stations*, Rpt. Number AV-2003-047 (July 8, 2003).

⁵*Id.* at ii.

ballooned to \$2.5 billion - 47 percent of their total maintenance costs. There is little doubt, given the ongoing pressure to contain costs that the amount and percentage of outsourced work has only increased since 2002. In fact, the 2005 Inspector General report on non-certificated repair facilities noted that major air carriers now spend up to 4.9 billion annually for aircraft maintenance, that “currently over 50 percent of this maintenance is performed by external repair stations,”⁶ and that “non-certificated repair facilities are now performing more significant work than anyone realized.”⁷ Indeed, the IG report conceded that the industry’s trend towards contracting out more and more repair work has largely been driven by airline managements’ drive to secure cost savings.

Oversight of Repair Stations Lacking

We remain concerned that the FAA lacks the ability and will to adequately oversee contract repair stations located both in this country and abroad. This is especially a problem with the expansion of non-certificated repair stations.

These concerns were highlighted in the 2005 IG report on air carriers’ use of non-certificated repair facilities. Among the problems the IG found was that contracts between air carriers and non-certificated repair facilities did not limit the scope of work these facilities could perform.⁸ This is a growing problem and there does not appear to be any practical nor enforceable limits on the work that non-certificated repair stations can perform. Even with this new proposed rule, it would still be feasible for a repair station to outsource a job multiple times, with each outsourcing further distancing the work being done from the oversight and inspection of the FAA.

The IG expressed concern “that air carriers rely on non-certificated facilities to perform scheduled maintenance tasks, such as those required for compliance with an FAA Airworthiness Directive or critical maintenance such as removing and replacing an engine.”⁹ They continued to say “Non-certificated facilities are not required to operate under the same regulatory parameters as FAA certificated repair stations.”¹⁰ Their findings lead them to conclude that:

Non-certificated facilities performing critical maintenance creates a double standard because certificated repair stations are required to have designated supervisors, inspectors, return-to-service personnel, and quality control systems. No such requirements apply to non-certificated facilities. The regulatory disparity between these two groups takes on added importance as non-certificated facilities perform more sophisticated maintenance work and are no longer associated with just on call maintenance.¹¹

⁶ Office of Inspector General, Department of Transportation, *Air Carriers’ Use of Non-Certificated Repair Facilities*, Federal Aviation Administration Rpt. Number AV-2006-031 (December 15, 2005) at 2

⁷ *Id.*

⁸ *Id.* at 5

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 6

As the industry uses more non-certificated and contract repair stations in various geographic locations, the FAA relies less on inspection and more on statistical trends to do its oversight. We see this as a dangerous trend. The same report from 2005 cited that air carrier training and oversight programs at non-certificated facilities are inadequate. While the FAA relies on air carrier training and oversight programs, the IG found significant shortcomings in all six air carrier programs they reviewed. Specifically, the IG found:

Training of mechanics ranged from a 1 hour video to 11 hours of combined video and classroom training. **One U.S. air carrier mailed a workbook to each non-certificated facility and told the mechanics to read the information and fax back a signed form indicating they had completed the carrier’s training.** Conversely, some *foreign* air carriers require mechanics to have 2 months of training before they can work on the carrier’s aircraft ... The training air carriers provided to mechanics at non-certificated facilities before they complete critical repairs was particularly problematic. FAA requires that mechanics performing critical repairs receive specialized training on those repairs. However, we found that mechanics at non-certificated repair facilities were not receiving detailed training on this type of maintenance work. **Typically, air carriers only provided mechanics at non-certificated facilities with telephone briefings to perform this maintenance.**¹² (emphasis added)

Considering this disparity, and in the interest of achieving one level of safety, repair stations that do not hold a FAA certificate should not be allowed to perform critical maintenance on U.S. registered aircraft.

We are also concerned with the increased use and expansion of so-called “satellite repair stations.” The NPRM removes the “restriction that a satellite repair station may not hold a rating held by the certificated repair station with managerial control.” This would now allow contract repair companies greater latitude in moving work between repair stations, while making it more difficult to maintain the same level of oversight.

The FAA must ensure that there are sufficient inspection resources dedicated to enforcing the safety and security regulations and conducting the audits of foreign stations. Even though the aviation industry has been expanding and changing rapidly, the number of inspectors employed by the FAA has changed little over the past several years.¹³

Despite the increased use of repair stations found by the IG (and discussed above), the FAA has continued to concentrate its inspection and oversight resources on air carriers’ in-house maintenance operations. Indeed, the IG found, by way of example, that at one

¹² *Id.* at 6-7

¹³ Howell, William C. and Susan B. Van Hemel, Editors, *Staffing Standards for Aviation Safety*, 2006 National Academic Press at ES-1

carrier, the FAA completed 400 inspections of the carrier's in-house operations while only seven inspections were conducted of the repair stations used by that same carrier. This double-standard in oversight procedures must be corrected, especially as our government embarks upon new regulations aimed at protecting against security breaches at foreign and domestic contract repair stations.

These concerns are not just academic. On January 8, 2003 Air Midwest flight 5481 (doing business as US Airways Express) crashed shortly after take-off at Charlotte-Douglas International Airport killing two crew members and 19 passengers. The National Transportation Safety Board found that a contributing cause of the accident was the lack of oversight, both by the FAA and the carrier, of work being performed at a contract repair facility in Huntington, West Virginia.¹⁴

Oversight and Inspection of Foreign Stations

In relation to foreign aircraft repair stations, the concern over oversight is even greater. 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 inspection responsibilities to foreign countries. If a foreign station wants the authority to display the FAA seal of approval, it should expect to be inspected and held accountable by FAA inspectors. If resources do not exist to hire the needed inspectors, then additional foreign stations should not be certified.

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."¹⁵

Finally, we would note that TTD has long argued that inspection of foreign facilities is jeopardized by the fact that the U.S. government gives foreign countries advance notice when their stations will be inspected. Thus, surprise inspections, so common and crucial in enhancing safety in the U.S., are impossible to conduct at foreign stations.

Security Concerns

After September 11, security concerns inherent in third-party contractor work intensified at the same time U.S. carriers were outsourcing a record amount of work. In fact, in Singapore an employee of SASCO S/T Aerospace, a maintenance contractor that served Northwest Airlines, was arrested (along with 14 others) due to suspicion of having Al-

¹⁴NTSB Aircraft Accident Report, Loss of Pitch Control During Takeoff Air Midwest Flight 5481 Raytheon (Beechcraft) 1900D, N233YV, Charlotte, North Carolina, January 8, 2003 adopted Feb. 26, 2004 at 131.

¹⁵IG Report at v.

Qaeda connections in late 2001.¹⁶ Even though Northwest claimed that this employee did not work on Northwest aircraft, he was suspected of doing reconnaissance of the facility.¹⁷ Despite this, and other security concerns, neither the FAA nor the Transportation Security Administration (TSA) took any steps to address this growing concern. In response we urged the FAA and TSA in 2003 to temporarily close down certain foreign repair stations until the security audits of these facilities could be conducted to identify and fix vulnerabilities. Unfortunately, the Administration rejected our petition and the response, which refused even to consider our arguments, read more like a form letter.

Congress responded by requiring the TSA, in consultation with the FAA, to complete a final rule imposing security standards on foreign and domestic aircraft repair stations by August 2004.¹⁸ The TSA was further required to conduct security audits of foreign stations that were to be completed 18 months after the regulations were finalized. But to date, TSA and the FAA have not even issued a proposed rule, let alone a final rule and the agencies are currently 30 months delinquent in meeting this mandate. While we understand that TSA is the primary agency charged with issuing this, the FAA has statutory responsibility as well that cannot be denied. Furthermore, the clock on conducting the audits will not even start until the security regulations are finalized. The security regulations mandated by Congress must be issued without further delay and the audits should begin on an expedited manner.

Congress has expressed its frustration with the lack of action regarding repair station security. The Senate recently passed the Improving America's Security Act of 2007 (S.4) which, among other things, states that the FAA may not certify any foreign repair stations if security regulations are not issued within 90 days after the enactment of the Act. This bill also reduces the 18 month deadline for security reviews and audits to 6 months.

In the House, Rep. Langevin offered an amendment to the Transportation Security Administration Reorganization Act (H.R. 4439) in March 2006 to give TSA 60 days to issue the security regulations (that were then 19 months late) or issue an order prohibiting the use of foreign aircraft repair stations for the maintenance of U.S. aircraft if this deadline is missed.¹⁹ Beyond legislation, in October of 2006, Rep. Langevin (then Ranking Member), Rep. Peter King (then Chairman) and Rep. Thompson (the current Chairman) of the House Homeland Security Committee requested the Government Accountability Office to assess, among other things, the progress toward securing both

¹⁶ *An accident waiting to happen? Outsourcing raises air-safety concerns*, Consumer Reports, March 2007, available at http://www.consumerreports.org/cro/travel/airline-safety-3-07/overview/0307_air_ov_1.html

¹⁷ *Id.*

¹⁸ Section 611 of the Vision 100, Public Law 108-176, Dec. 12, 2003

¹⁹ The Langevin amendment (which was not adopted) moved the deadline on the security audits up from 18 months to 9 months, required TSA to ensure that there are “comparable security standards” between in-house maintenance and repair work that is sent to third-party contractors, and subjected workers at third-party stations to the same employee background checks as workers employed at in-house facilities.

foreign and domestic repair facilities that work on aircraft registered in the United States.²⁰

At a minimum, the FAA should immediately consult with TSA to review the security vulnerabilities of stations located in countries that represent the most significant risk as determined by U.S. homeland security and intelligence officials. Absent immediate action by the FAA and TSA on this congressionally mandated security initiative, Congress will have to step in again this year and it will be our goal to convince lawmakers to act.

Congress has specifically mandated a plan to strengthen the oversight of both domestic and foreign repair stations and to ensure that all stations certified by the FAA are subject to an equivalent level of safety, oversight and quality control as U.S. stations. This rulemaking is an excellent opportunity to follow through with these actions that are long overdue. TTD and our affiliated unions hope you take our comments into consideration to remove the current double standards and strengthen the oversight, security, and inspection at all aircraft repair stations.

Respectfully Submitted,



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

²⁰ Letter from the Rep. James Langevin to The Honorable David M. Walker, Comptroller General, U.S. Government Accountability Office (Oct. 18, 2006) is attached at 2.

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 Airways Systems 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)

Congress of the United States
Washington, DC 20515

October 18, 2006

The Honorable David M. Walker
Comptroller General
U.S. Government Accountability Office
441 G. Street, N.W.
Washington, D.C. 20548

Dear Mr. Walker:

Passenger airlines and air freight companies in the United States spend billions of dollars every year maintaining and repairing their aircraft. While these carriers once performed much of this maintenance, many now outsource this work to repair stations in the United States and overseas. The Federal Aviation Administration (FAA) oversees the safety of repair stations but not the security of the facilities. To address the security oversight of facilities, Congress passed the Vision 100 – Century of Aviation Reauthorization Act (P.L. 108-176) in December 2003. Vision 100 mandated that the Transportation Security Administration (TSA) issue regulations to ensure the security of foreign and domestic repair stations and, in coordination with FAA, complete a security review and audit of foreign repair stations certified by the FAA.

Currently, there are approximately 665 FAA-approved foreign repair stations. Of these, 93 perform substantial work on airframes, engines or flight control systems. There are also approximately 4,300 domestic repair stations located throughout the United States.

We are principally concerned with the potential vulnerability of foreign repair stations that perform work on U.S. registered aircraft and the potential for terrorist sabotage of such aircraft. To address these concerns, we request that the GAO assess the TSA's progress toward securing both foreign and domestic repair facilities that work on aircraft registered in the United States. We are particularly interested in determining:

- What actions the TSA has taken to determine the threats to foreign and domestic repair stations, relative to other aviation infrastructure and operations?
- What policies and procedures has the TSA established for conducting, documenting, and following-up on the results of TSA audits of foreign and domestic repair stations? To what extent are these policies and procedures risk-based?
- What protocols has the TSA enacted or planned for addressing the security issues identified by the Federal government during audits of foreign and domestic repair stations?

October 18, 2006

Page 2

- What additional federal and private sector efforts for addressing the security of foreign and domestic repair stations are underway or planned?
- How has TSA coordinated its efforts with the FAA, aviation industry, and other key stakeholders?

Thank you for your attention to this matter. If you have any questions regarding this request, please contact Jessica Herrera-Flanigan, Democratic Staff Director and General Counsel of the Committee on Homeland Security, at (202) 226-2616.

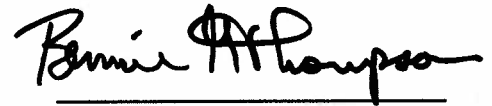
Sincerely,



James R. Langevin
Ranking Member,
Subcommittee on the Prevention
of Nuclear and Biological Threats



Peter T. King
Chairman,
Committee on Homeland
Security



Bennie G. Thompson
Ranking Member,
Committee on Homeland
Security



Loretta Sanchez
Ranking Member,
Subcommittee on Economic
Security, Infrastructure
Protection, & Cybersecurity



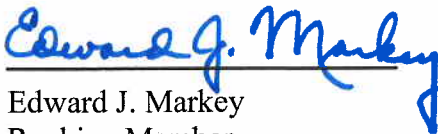
Robert E. Andrews
Ranking Member,
Subcommittee on Employer/
Employee Relations



Peter A. DeFazio
Ranking Member,
Subcommittee on Highways,
Transit and Pipelines



Sheila Jackson Lee
Ranking Member,
Subcommittee on Immigration,
Border Security, and Claims



Edward J. Markey
Ranking Member,
Subcommittee on
Telecommunications
and the Internet




Kendrick B. Meek
Ranking Member,
Subcommittee on Management,
Integration and Oversight

October 18, 2006

Page 3



Norman D. Dicks
Ranking Member,
Subcommittee on Interior
Appropriations



Zoe Lofgren
Ranking Member,
Subcommittee on Intelligence,
Information Sharing, and
Terrorism Risk Assessment



Bill Pascrell, Jr.
Ranking Member,
Subcommittee on Emergency
Preparedness, Science and
Technology



Bob Etheridge
Ranking Member,
Subcommittee on Investigations



Donna M. Christensen
Ranking Member,
Subcommittee on National Parks