



*A bold voice for transportation workers*

November 19, 2012

The Honorable Michael P. Huerta  
Acting Administrator  
Federal Aviation Administration  
800 Independence Avenue, SW  
Washington, DC 20591

**RE: Repair Stations  
Docket No. FAA-2006-26408  
Notice No. 12-03**

Dear Acting Administrator Huerta:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am happy to comment on the Federal Aviation Administration's (FAA) Notice of Proposed Rulemaking (NPRM) on Repair Stations that would make certain changes to rules regulating aircraft repair stations certified under FAR 145. TTD and our affiliated unions have a vested interest in this rulemaking and in particular the International Association of Machinists and Aerospace Workers (IAM), the Transportation Workers Union of America (TWU) and the Professional Aviation Safety Specialists (PASS) have been leaders in seeking to improve the safety, security and oversight of contract repair stations.<sup>1</sup>

We agree with the FAA, as articulated in the NPRM, that regulations governing aircraft repair stations need to be updated to ensure the highest level of safety. In fact, we have long argued that current regulations and policies allow contract repair stations located in foreign countries to be certified by the FAA to work on U.S. aircraft without meeting the same standards required for work done in this country.<sup>2</sup> For example, U.S. aviation mechanics are subject to strict drug and alcohol testing requirements yet mechanics working on U.S. aircraft at foreign stations are exempt from this requirement. We have also been concerned about the growing use of non-certified repair facilities located both in this country and abroad to perform safety-sensitive work and the ability of the FAA to properly inspect those facilities.

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<sup>1</sup> TTD represents 31 affiliated unions in all modes of transportation. A complete list of our unions is attached at 1.

<sup>2</sup> Attached at 2 is a policy statement, An Epidemic of Aircraft Maintenance Outsourcing, adopted by TTD's Executive Committee in March, 2012 that reiterates our concern with current regulations.

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There is no question that this country has seen an epidemic of aircraft repair outsourcing with carriers seeking lower wages and regulatory costs with work often going to overseas stations. According to a review conducted by the Department of Transportation Inspector General, U.S. air carriers outsource 71 percent of heavy maintenance work with 27 percent of that work going to foreign stations. There are now over 700 foreign repair stations certified by the FAA to work on U.S. aircraft – a 250 percent increase since the FAA changed its rules in 1988 to allow U.S. carriers to outsource work to foreign stations even when the aircraft or components in question operated exclusively in the U.S. According to the IG, in 1996 major air carriers spent \$1.5 billion, or 37% of their total maintenance costs, on outsourced repairs.<sup>3</sup> By 2008, this total had ballooned to approximately \$4.25 billion, or 64% of their total maintenance costs, representing an increase of nearly \$3 billion in spending on outsourced aircraft repair work over 13 years.<sup>4</sup>

As noted above, we appreciate the FAA recognizing that improvements to FAR 145 need to be implemented. And there are aspects of this rulemaking that we specifically support and we detail in these comments. However, we are disappointed that the NPRM does not go far enough in a number of key safety areas and leaves regulatory loopholes in place that need to be closed.

Specifically, the NPRM fails to require foreign repair station employees to undergo drug and alcohol testing as called for by section 308(d) of the recently enacted FAA Modernization and Reform Act of 2012 (P.L. 112-95). Section 308(d) requires the FAA to issue a proposed rule within one year to require “all part 145 repair station employees responsible for safety-sensitive maintenance functions on part 121 air carrier aircraft” to undergo drug and alcohol testing. That mandate will come due in less than three months and we do not understand why the FAA did not seek to advance that regulatory requirement in this proceeding. While not perfect, section 308(d) is a crucial step toward removing the current double-standard and improving the safety of contract maintenance work. It is illogical to continue to allow workers overseas to be exempt from these requirements when they make the same repairs on the same U.S. aircraft as American workers. If foreign stations want the privilege of working on U.S. aircraft, then their workers must be held to the same standard as American workers. The current double-standard can no longer stand as the status quo.

### **Denying Application for Certification; Acceptance of Voluntarily Surrender of Certificate**

We support the proposed sections that would allow the FAA to deny repair station certification to repeat offenders, and prohibit individuals from surrendering their certificates to avoid punishment.

As a way to ensure the safety of maintenance performed at repair stations, those who have demonstrated a lack of responsibility and proven their inability to properly run a repair station must not be allowed to operate other facilities. In proposed section 145.1051(e), the FAA correctly asserts its authority to deny part 145 certificates to applicants whose previous certificate was revoked, and to individuals who materially contributed to the revocation of a facility’s certificate. Granting such

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<sup>3</sup> Office of Inspector General, Department of Transportation, *Actions Needed to Improve Safety Oversight and Security at Aircraft Repair Stations*, CC-2010-005 (November 18, 2009) at 2.

<sup>4</sup> *Id.*

individuals the authority to operate new facilities provides them with the opportunity to employ the same bad practices that caused the original certificate to be revoked. Air carriers and commercial operators already operate under similar denial standards, and we believe it is appropriate to apply them to repair station applicants as well.

In a similar vein, when the FAA pursues an enforcement investigation to review the questionable operation of a repair facility, certificate holders must not be able to avoid the investigative process and any appropriate punishment that may follow. Allowing certificate holders to do so does not hold them accountable for the responsibility they assume when obtaining the authority to operate a facility. Accordingly, we are pleased that the FAA proposes to amend language in section 145.1055 that would keep a surrendered certificate active for enforcement and administrative purposes unless the FAA accepts the surrendered certificate for cancellation. We support the addition of this condition as a way to increase safety and ensure that certificate holders live up to the responsibility of properly running and operating a repair station.

### **Changes to Housing Requirements; Line Maintenance; Ratings Scheme**

We support proposed section 145.1103 which would provide relief to repair stations that hold airframe ratings with limitations. Currently, such facilities are required to have housing big enough to enclose the largest aircraft they are qualified to service, even when their limitation permits the stations to work on only a small section of the aircraft. We believe it is appropriate to allow facilities with limited airframe ratings to operate on an aircraft that is not completely enclosed if the sections being worked on and the mechanics performing the work are protected from the elements.

We also support the FAA's decision to make changes to the current provisions regarding line maintenance by defining it as work "performed at the ramp, parking area, or gate, and typically will not exceed 24 continuous hours per aircraft" in proposed section 145.1003(e). We believe the new reference better defines this type of maintenance work.

Moreover, we support the FAA's efforts to modernize the current system of ratings. We believe that its plan to update the radio, instrument and accessory ratings by reorganizing them into the new "Component rating" in proposed section 145.1059(d) is appropriate given today's technological advancements.

### **Updates to Training Requirements**

We support proposed section 145.1163 which would implement new training program requirements. Repair stations must employ strong training programs so that their workers are highly skilled and knowledgeable about the work they perform. We approve of the FAA's efforts to ensure workers performing maintenance, preventative maintenance, alterations or inspection functions, can perform their tasks and are trained in human factors, the FAR with regards to part 145, as well as facility "manuals, quality control program, procedures, and forms." These requirements will help empower workers with a more expansive understanding of their roles while helping to ensure that they are trained properly.

## **Certification of Foreign Repair Supervisors and Personnel Authorized to Approve Return to Service**

We are disappointed by proposed sections 145.1153(b)(2) and 145.1157(c) which fail to eliminate the discrepancy of certification requirements among foreign and domestic repair station supervisors and personnel authorized to approve articles for return to service. While such workers operating in domestic facilities are required to be part 65 certified, those working overseas are not. We appreciate that the FAA uses this NPRM to identify the inconsistency, but it does not close this regulatory loophole.

The proposed sections attempt at closing this qualification gap by presenting two paths toward increasing the requirements of foreign station employees: one that requires certification under part 65 and a second that requires meeting repairman eligibility requirements under sections 65.101(a)(1),(2),(3), and (5). We recognize that supervisors and return to service workers operating overseas have never been required to be part 65 certified. By virtue of adding certification as one of two options for qualification is a move toward increasing foreign repair station safety. However, with certification comes a certain level of accountability – one’s certificate can be suspended or revoked – that mere eligibility does not match. Certification demonstrates that one has the knowledge and ability needed to perform the task; eligibility does not carry the same weight, is not easily definable, and is difficult to track.

While the FAA’s proposal to increase the qualification requirements of certain workers employed by foreign repair stations is progress, we believe that one across-the-board requirement – part 65 certification – is needed.

## **Equipment for Certification**

We oppose the changes made in proposed sections 145.1051 and 145.1109 with respect to the equipment and tools required to be onsite during certification and thereafter.

Section 145.1051 would require facilities to have all the tools and equipment required for the certificate and rating on-site during the time of inspection. However, the stations would only have to display the items, not actually own them. Relatedly, section 145.1109 would require stations to have and maintain the equipment and tools needed to perform the work they’re certified to do. However, repair stations could satisfy this requirement, with regards to specialized and rarely used equipment and tools, if they can prove to the FAA that they have arrangements to make these items available when needed.

Both sections are misguided. We believe that the privilege of servicing American aircraft comes with the responsibility of ensuring that the work can be done properly. Doing so requires immediate and unlimited access to the tools needed to complete the job, which a mere contract with another entity cannot provide. Thus, in order to ensure repair stations have the tools they need, they must have and maintain ownership of the tools and equipment during inspection and after.

## **Expansion of Foreign Aviation Authorities' Role**

We have concerns with section 145.1053(b) which would expand the role of foreign aviation authorities in the certification process. Current regulations include a provision permitting the FAA to certify foreign repair stations located in countries that have bilateral aviation safety agreements (BASA) with the U.S., based upon the certification of that country's civil aviation authority that the applicant meets the FAA's standards. But proposed section 145.1053(b) would add "an authority acceptable to the FAA" to the provision, expanding the list of foreign authorities that can facilitate the certification of foreign repair stations.

Section 145.1053(b) inadequately defines the authorities that would be acceptable to the FAA. While the Agency explains that the change is intended to take into consideration the evolving nature of BASAs, we believe the reference to the European Aviation Safety Agency (EASA) is too vague to provide real guidelines by which future authorities would be measured. Until the FAA can assure that such authorities will be held to appropriate standards, we oppose the expansion of certificating authority to other foreign entities.

As a broader matter, we have long argued that facilities that are certified by the FAA should be inspected and certified by the FAA. We do not object if foreign civil aviation authorities want to inspect stations as well, but it should not be a substitute for direct FAA oversight and inspection.

## **Satellite Repair Station Change**

We also have concerns regarding proposed section 145.1107(a) which would remove the existing restriction that prohibits satellite stations from holding a rating not held by the managing certified repair station. Removing this restriction would enable satellite stations to perform maintenance work without proper safety controls, thereby potentially jeopardizing the safety of aircraft repaired at these facilities. Managing stations must be responsible for having the ratings held by its satellite facilities.

## **Contract Maintenance**

We also have concerns with the expanding use of non-certificated repair facilities. As the FAA is aware, Congress sought to address this issue, at least in part, in Section 319 of the FAA Reauthorization Act of 2012, and we understand that the FAA has recently offered a separate NPRM on this matter. In the context of this rulemaking, however, we are concerned that proposed section 145.1217 still allows certified repair stations to subcontract work to non-certified facilities without regard to the new statutory limits provided for in Section 319.

Under Section 319, when "covered work" is outsourced to a non-certificated facility, the work must be performed under the direct charge, control, and supervision of the part 121 air carrier. While we appreciate that this NPRM would require the certified repair station to remain directly in charge of the contracted maintenance, it should be clear that the work must be performed under the "supervision" of the certified station as well. We understand that this proposed rule does not make the distinction between "covered work" and other maintenance; however, all maintenance work performed at non-certified facilities must receive the appropriate level of oversight, regardless of the maintenance type.

The crash of an Air Midwest aircraft in Charlotte, N.C. in 2003 is a somber reminder of the need for appropriate oversight. The air carrier outsourced its maintenance work to a certified repair station, which then outsourced the work to a non-certified facility. Following its investigation of the crash, the National Transportation Safety Board determined that the air carrier's lack of oversight of the maintenance work performed by the non-certified facility was a contributing factor of the crash.

Unfortunately, section 145.1217 does not require the "supervision" of contracted-out maintenance work, and misses the opportunity to increase oversight of this work.

### **Repair Station Security**

We understand that this rulemaking is intended to address the safety issues related to repair stations and not the equally important issue of security. However, in the FAA Reauthorization Bill of 2003 – Vision 100 (P.L. 108-176), Congress mandated that the Transportation Security Administration (TSA), in consultation with the FAA, promulgate a rulemaking to impose security standards on foreign and domestic repair stations by August 2004. This rulemaking remains unfinished.

We understand that TSA is the primary agency charged with issuing the security rulemaking, but the FAA has statutory responsibility as well. The two agencies must work to increase the security of our aviation system by issuing a final rule that strengthens the security at both domestic and foreign repair stations and ensures that all stations certified by the FAA are subject to an equivalent level of security. Ensuring the security of repair stations servicing American aircraft must be a priority, and we urge the timely completion of the final rule.

This NPRM provides the FAA with the opportunity to strengthen the oversight and safety of domestic and foreign repair stations. While we do support a number of the proposal offered by the FAA, we believe it does not go far enough to achieve one level of safety and security for all FAA-certified stations. We hope you will incorporate the suggested changes we have offered to improve the safety of contract repair stations.

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)*

**AN EPIDEMIC OF AIRCRAFT MAINTENANCE OUTSOURCING**

Recently, President Barack Obama – in a public event praising the company Master Lock for bringing jobs home from China – made a commitment to new policies that slow the pace of outsourcing in America. This shift in policy is exactly what America needs if we are serious about rebuilding a middle class that for generations has been the foundation of our economy. Today, just like the employees at Master Lock and in thousands of manufacturing and other workplaces across America, U.S. aircraft mechanics are seeing their jobs disappear as work is sent abroad in the midst of the airline industry’s 25-year epidemic of outsourcing.

The rampant outsourcing of aircraft maintenance work – especially to foreign facilities that are not always held to the same oversight and safety standards as U.S. stations – has decimated a high-skilled U.S. aviation workforce and created perverse incentives for U.S. air carriers to forum shop for low maintenance costs. That is why, for example, JetBlue performs much of its aircraft maintenance in Costa Rica and why most major air carriers send their aircraft for overhaul to repair facilities that dot the globe. This situation has created an un-level playing field for U.S. workers as federal policy has not ensured that foreign stations are adequately inspected and held to the same high safety and security standards we demand in this country.

Just last month, we saw the latest example of this outsourcing wave when American Airlines, using the one-sided tools of federal bankruptcy law, proposed to cut thousands of maintenance jobs from its ranks. For decades, these jobs have provided workers and their families a chance at the middle class and formed the economic bedrock for the communities in which they live and work. In the last decade, the American Airlines workforce has dedicated itself to remaking and modernizing the carrier’s maintenance operations. In fact, these workers even helped implement an aggressive “in-sourcing” program that created a new revenue stream for the company years before the recent events at Master Lock received the President’s attention and recognition. It now appears that American Airlines wants to send these jobs abroad wherever cheaper labor costs can be found in facilities that manage to obtain Federal Aviation Administration (FAA) certification.

The drive to outsource maintenance work isn’t unique to the situation unfolding at American Airlines. According to the DOT IG, major U.S. air carriers outsource 71 percent of heavy airframe maintenance work with about 27 percent of that work going to foreign stations. In other words, a U.S. traveler has about a one in five chance of flying in a plane that had maintenance work performed overseas. And to make matters worse, it was government policy 25 years ago that opened the floodgates to this outsourcing binge.

In 1988, the FAA inexplicably changed its longstanding rules and allowed U.S. carriers to outsource work to foreign stations even when the aircraft or components in question operated exclusively in this country. Before this rule, aircraft engaged in international travel could receive needed and emergency work abroad, but heavy overall work and scheduled maintenance was left to U.S. facilities that operated under the rigid rules enforced by the FAA.



After the 1988 rule change, this limitation was eliminated and stations could and did get certified by the FAA for the sole purpose of using their low-cost structure to lure work away from the U.S. At the same time, foreign facilities were allowed to operate and work on U.S. aircraft without meeting the same safety standards and oversight that are required at U.S. facilities. While Congress has moved at various times to close this safety and security gap, government foot-dragging has left this epidemic of outsourcing unchecked.

We are heartened, however, by new mandates imposed on aircraft repair stations enacted just last month that will provide the Administration with a fresh opportunity and framework to address these issues. Section 308 of the FAA Modernization and Reform Reauthorization Act of 2012 mandates that each foreign repair station certified to work on U.S. aircraft be inspected at least once a year by the FAA. As part of its overall oversight responsibilities, the FAA must establish a safety assessment system for contract repair stations and ensure that foreign stations are subject to appropriate oversight based on risks and consistent with U.S. requirements. The FAA is also required to publish an annual report detailing any improvements to its ability to identify and track where U.S. air carriers perform maintenance work and to provide a staffing model to determine the best placement and number of needed inspectors. We remain extremely concerned with efforts to turn over inspection activities exclusively to foreign civil aviation authorities. It is our hope and expectation that the mandates and requirements included in this section will ensure that FAA inspectors remain responsible for the oversight and safety compliance of FAA-certified repair stations.

The new law also imposes, for the first time, an alcohol and controlled substance testing program for employees of foreign repair stations performing safety-sensitive maintenance functions for U.S. carriers. We have long objected to the double standard whereby U.S. mechanics working in this country are subject to strict testing requirements while foreign mechanics working on the exact same aircraft, supposedly under the same FAA requirements, manage to evade these rules. This provision must be used by the FAA to eliminate this air safety loophole. We urge the agency to swiftly implement this requirement and to ensure that the drug and alcohol testing program adopted by the agency adheres to the same high standards imposed on U.S. maintenance workers.

Finally, the FAA Modernization Act closes down non-certified stations from performing safety-significant work on U.S. carriers. For too long, carriers and repair stations have outsourced work to a web of contractors and subcontractors that are not even certified by the FAA and routinely fall through the cracks of enforcement. The FAA must move aggressively to implement these new rules and ensure that limits on non-certified repair stations are enforced vigorously.

We also call on the Transportation Security Administration (TSA) to fulfill its statutory responsibilities to ensure the security of contract repair stations. After the horrific events of 9/11, Congress required TSA to promulgate security rules for foreign and domestic repair stations that were due by August 2004. After three years of inaction by the Bush Administration, Congress again stepped in and prohibited the FAA from certifying any additional foreign repair stations until the security rules were completed by TSA. This moratorium remains in place today. We are strongly opposed to legislative proposals in this Congress to remove this moratorium until acceptable security rules are in place.

The Obama Administration's TSA did move forward with a proposed rule in 2009 and recognized that as the agency "tightens security on other areas of aviation, repair stations increasingly may become attractive targets for terrorist organizations attempting to evade aviation security protections currently in place." We agree with this observation but believe that TSA's proposed rule does not go far enough to ensure the security of repair stations and must be improved before it is finalized. The proposal fails to impose any threat assessment of employees at contract repair stations, security plans are not subject to review or approval by TSA and the question of unannounced inspections is ambiguous at best.

As air carriers have cut costs to the bone while government policy was silent or accommodating, a generation of aviation mechanic jobs has disappeared. Allowing this trend to continue is irresponsible both from an economic and safety perspective and it must be stopped. As the President continues to speak out against an outsourcing epidemic that plagues our economy, we urge his Administration to take a stand against rampant and irresponsible outsourcing of aircraft maintenance work. The opportunity to do so now exists following enactment of new congressional mandates in the FAA legislation and pending security rules. Now it is time for our government to implement new and existing congressional directives designed to ensure the safety and security of aircraft maintenance work performed abroad.

**Policy Statement No. W12-03  
Adopted March 11, 2012**