



121 North Henry Street
Alexandria, VA 22314-2903
T: 703 739 9543 F: 703 739 9488
arsa@arsa.org www.arsa.org

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Carol E. Giles
Manager
Aircraft Maintenance Division
Federal Aviation Administration
950 L'Enfant Plaza, S.W.
5th Floor
Washington, D.C. 20024-2123

RE: Notice 8900.88 – Letter Certifying HAZMAT Training for Employees of Part 145
Repair Stations

Dear Carol,

The Aeronautical Repair Station Association (ARSA) respectfully asks that Federal Aviation Administration (FAA) Notice 8900.88 be corrected and reissued. For the reasons stated below, the Notice goes beyond the scope of FAA's existing authority under Title 14, Code of Federal Regulations (14 CFR) part 145.

Specifically, the regulations require that a repair station, whether foreign or domestic, certify to the FAA in writing that its hazmat employees¹ and contractors or subcontractors are trained in accordance with Department of Transportation (DOT) hazardous material training requirements² or the most current International Civil Aviation Organization (ICAO) regulation.³ This written certification is only required before a repair station's initial certification,⁴ or when it amends its certificate or changes a rating.⁵

In contrast, Notice 8900.88 requires that all repair stations certificated before November 7, 2005 certify, in writing, compliance with hazmat training regulations.⁶ That retroactive requirement does not exist in current rules; further, it is not helpful to the agency or the

¹ The term "hazmat employee" is defined in 49 CFR §171.8.

² 49 CFR part 172, subpart H

³ See, 14 CFR § 145.53(c) and (d).

⁴ Id.

⁵ 14 CFR § 145.57(a)

⁶ FAA Notice 8900.88 states that for a repair station certificated before November 7, 2005:

The FAA principal maintenance inspector (PMI) or principal avionics inspector (PAI) must obtain a letter... certifying training of their employees or employees of their contractors and subcontractors... (*Emphasis added*)

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industry. Although the Notice purports to establish a “baseline” of repair station compliance, that information has no particular value; it is merely a burden since the repair station must certify each time it amends its certificate or changes its rating.

Of course, a repair station certificated before November 7, 2005, that meets the definition of a hazmat employer must comply with hazmat training regulations; even if it has not amended its certificate or changed a rating after that date.⁷ As such, the retroactive requirement of Notice 8900.88 does not serve any regulatory or practical purpose.

We propose that the existing Notice be revised as suggested in the attachment to this letter, which accurately reflects the existing rules.

Sincerely,



Craig L. Fabian
VP Regulatory Affairs and Assistant General Counsel

Enclosure Notice 8900.88 dated July 9, 2010

cc: Magdy El-Sibaie, Ph.D.

⁷ See, for example, 14 CFR §§ 145.163 and 145.206

NOTICE

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

N 8900.88

National Policy

Effective Date:
July 9, 2010

Cancellation Date:
July 9, 2011

SUBJ: Written HAZMAT Training Certification Requirement for Repair Stations

1. Purpose of this Notice. This notice clarifies policy regarding the Hazardous Material (hazmat) requirements of Title 14 of the Code of Federal Regulations (14 CFR), part 145, §§ 145.53(c) and (d) and 145.57. Specifically, this notice provides guidance for when a repair station must certify to the FAA, in writing, that it complies with hazmat training regulations; it also explains hazmat training certification requirements for repair stations certificated prior to November 7, 2005.

2. Audience. The primary audience for this notice is Flight Standards District Office (FSDO) and International Field Office (IFO) aviation safety inspectors (ASI). The secondary audience includes Flight Standards branches and divisions in the regions and in headquarters.

3. Where You Can Find This Notice. Inspectors can access this notice through the Flight Standards Information Management System (FSIMS) at <http://fsims.avs.faa.gov>. Operators may find this information on the Federal Aviation Administration (FAA) Web site at <http://fsims.faa.gov/>.

4. Background. Amendment No. 145-24 became effective November 7, 2005, it introduced the requirement that a repair station must provide the FAA with a letter certifying that its “hazmat employees” as well as the hazmat employees of its contractors or subcontractors are appropriately trained before the ASI can issue or amend a certificate. The training must comply with Title 49 CFR part 172 subpart H for domestic repair stations or, for repair stations located outside the United States, the most current edition of the International Civil Aviation Organization (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air.

5. Clarification of Existing Policy.

a. Hazmat Certification Requirements. Amendment 145-24 did not alter a repair station’s obligations to comply with hazmat regulations. Instead, it required that all repair stations, domestic and foreign, provide written certification of compliance to the FAA before initial certification, or when amending the repair station certificate. The written certification is only required if the repair station is a hazardous material employer with hazmat employees and:

(1) A repair station applies for initial certification (both foreign and domestic)

OR

- (2) The repair station is required to amend an existing repair station certificate; an amendment is necessary when:
- i. The repair station changes location, or
 - ii. The repair station requests to add or amend a rating, or
 - iii. The repair station sells or transfers its assets (in this instance, the new owner must provide written certification).

If the repair station is not a hazmat employer and does not have hazmat employees, it may be prudent to have it provide a written certification of that status. Although the requirement to certify training only applies to repair stations with hazmat employees, that status can be documented in a letter certifying that the repair station is not a hazmat employer with hazmat employees at the time the certificate is issued or amended.

b. Repair Stations Certificated Before November 7, 2005. Amendment 145-24 did not add retroactive requirements for written certification. As such, repair stations that were issued a certificate prior to the effective date are only required to provide the written certification when it amends its existing certificate, as discussed in paragraph 5(a)(2), above.

6. Actions.

a. Applicant Notification. The certification project manager (CPM), at the time of application for a new or amended certificate, will notify the repair station applicant that the repair station must meet the applicable requirement of § 145.53. The CPM should review the written certification to assure the applicant has met the requirements of § 145.53 and 145.57. The FAA must have the certifying letter on file.

b. Deadline. For all repair stations, the FAA must receive the certifying letter before the initial certification or amended certificate is issued.

c. Surveillance. The burden of surveillance and qualifications of hazmat requirements falls on other organizations within and outside the FAA; for example, the FAA Office of Security and Hazardous Material (ASH) and/or the U.S. Department of Transportation (DOT).

d. FAA Acceptance. All FSDOs and IFOs will accept, without further showing, the letter certifying that the appropriate employees are trained.

7. Disposition. We will permanently incorporate the information in this notice into FSIMS before the notice expires. Direct questions regarding this change in policy to AFS-340, at (803) 451-2658.

ORIGINAL SIGNED by
Chester D. Dalbey for

John M. Allen
Director, Flight Standards Service