July 17, 2014

Docket Operations, M-30
Department of Transportation
1200 New Jersey Avenue, SE
Room W 12-140
West Building Ground Floor
Washington, D.C. 20590-0001

Submitted Electronically to: www.regulations.gov

RE: Federal Register Vol. 79, No. 51 (Monday, March 17, 2014 FR Doc. 2014-05653)
Docket No. FAA-2012-1058; Notice No. 14-02
Advanced Notice of Proposed Rulemaking; Drug and Alcohol Testing of Certain Maintenance Provider Employees Located Outside of the United States

To Whom It May Concern:

The undersigned associations, representing a broad cross-section of the worldwide aviation industry, including maintenance providers, commercial air carriers, all-cargo air carriers, manufacturers, suppliers, and workers, submit these comments to the Federal Aviation Administration's (FAA) advanced notice of proposed rulemaking (ANPRM) referenced above.

Given the global nature of the aviation sector and the broad reach of our industry groups, the companies and interests we represent would be directly affected by a rulemaking that imposes drug and alcohol (D&A) testing on non-U.S. based maintenance workers.

Many of our respective organizations have submitted comments to the ANPRM individually; however, we urge the FAA to consider the following principles if it decides to move forward with the rulemaking process.

I. The agency must adhere to congressional intent and respect national sovereignty.

Attempts to mandate D&A testing of foreign FAA-certificated part 145 maintenance providers have been proposed in Congress numerous times; however, the FAA Modernization & Reform Act of 2012 (49 U.S.C. 44733) outlines a narrowly tailored, carefully crafted compromise that respects national sovereignty. Specifically, Sec. 308(d)(2) of the legislation mandates:

> Not later than 1 year after the date of enactment of this section, the Administrator shall promulgate a proposed rule requiring that all part 145 repair station employees responsible for safety sensitive maintenance functions on part 121 air carrier aircraft are subject to an alcohol and controlled substances testing program determined acceptable by the Administrator and *consistent with the applicable laws of the country in which the repair station is located*. (*emphasis added*)

This phrase clearly reflects Congress' strong desire that any regulation promulgated by the FAA does not conflict with the United States government's obligation under international agreements and that sovereign nations' laws and regulations are respected.

Furthermore, Sec. 308(d)(1) of the FAA Modernization & Reform Act requires the U.S. Secretaries of State and Transportation to encourage the International Civil Aviation

Organization (ICAO) to address D&A testing of foreign maintenance providers. Specifically, it mandates:

> The Secretary of State and the Secretary of Transportation, acting jointly, shall request the governments of foreign countries that are members of the International Civil Aviation Organization to establish international standards for alcohol and controlled substances testing of persons that perform safety-sensitive maintenance functions on commercial air carrier aircraft.

Our organizations strongly believe ICAO is in the best position to address international issues such as drug and alcohol testing.

II. The agency must consider current bilateral aviation safety agreements.

Bilateral aviation safety agreements (BASA) are integral to the efficient operation of the global aviation industry. These government-to-government arrangements allow cooperation between aviation safety regulators in areas such as design, production, flight operations, environmental certification, and maintenance.

BASAs dramatically reduce regulatory compliance costs for the aviation industry, make government oversight more efficient, help domestic companies be more profitable, and ensure the continued global competitiveness of the U.S. aerospace industry. Unfortunately, government overreach can threaten these important accords.

In all stages of the regulatory process, the FAA must ensure it does not violate current international agreements, so the U.S. can strengthen aviation alliances with our key trading partners to enhance safety and efficiency.

III. Any rulemaking must consider the economic impact on small business.

While the face of the aviation sector tends to be large companies, the backbone of the global industry is a network of small-to-medium sized enterprises, working together with larger businesses, to ensure aviation safety.

Unfortunately, when smaller entities are involved, the repercussions from government action are even greater. These businesses are incapable of absorbing the costs associated with implementing an expensive D&A testing program that provides no benefit to flight safety. The FAA must thoroughly assess the economic impact of its mandates and ensure its actions comply with the Regulatory Flexibility Act (RFA)[1] (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA))[2]. The FAA must ensure costs do not outweigh

[1] 5 U.S.C. § 601 et seq.
[2] Pub. L.104-121, Title II, Il0 Stat. 857 (1996) (codified in various sections of 5 U.S.C. § 601 et. seq.).

the benefits of any agency action and that small-to-medium sized aerospace companies aren't detrimentally impacted by a final rule.

IV. Conclusion

As representatives of the aviation industry, our members are committed to ensuring aviation safety; however this rule will produce no measurable gains in safety but has the potential for widespread negative ramifications for the global aviation sector. We look forward to working with the agency to ensure congressional intent is followed, BASAs are respected, and the industry's businesses, both large and small, are not detrimentally impacted by a final rule.

Sincerely,

ARSA Aeronautical Repair Station Association

GAMA General Aviation Manufacturers Association

AIA Aerospace Industries Association

IATA

Airlines for America® We Connect the World

NACA

The Cargo Airline Association The Voice of the Air Cargo Industry

RAA Regional Airline Association