No. 14-10356

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

WILLIAM HUGH WEYGANDT,

Defendant-Appellant.

On Appeal from the United States District Court
for the Eastern District of California
No. 2:11-cr-429-JAM
Hon. John A. Mendez, United States District Judge

BRIEF OF AMICUS CURIAE AERONAUTICAL REPAIR STATION ASSOCIATION IN SUPPORT OF PETITION FOR REHEARING OR REHEARING EN BANC

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STATEMENT REGARDING CONSENT TO FILE, AUTHORSHIP, AND MONETARY CONTRIBUTIONS

Pursuant to Federal Rule of Appellate Procedure 29(b)(2) and Circuit Rule 29-2(a), amicus curiae certifies that all parties in this case have consented to the filing of this brief.

Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E), amicus curiae certifies that no party or party's counsel authored this brief in whole or in part, that no party or party's counsel provided any money that was intended to fund the preparation or submission of this brief, and that no party or person—other than the amicus curiae, its members, or its counsel—contributed money that was intended to fund the preparation or submission of this brief.

Date: July 17, 2017

/s/ Ryan M. Poteet
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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, the Aeronautical Repair Station Association certifies that it is a non-profit corporation with no parent corporation or publicly traded stock.

Date: July 17, 2017

/s/ Ryan M. Poteet
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IDENTITY AND INTEREST OF AMICUS CURIAE

The Aeronautical Repair Station Association ("ARSA" or "Association") is a non-profit trade association that represents the interests of more than 400 member companies in every sector of the global civil aviation industry. ARSA's membership includes independent repair stations, authorized maintenance organizations, aircraft operators, manufacturers, and other companies related to, or having an interest in, the maintenance, preventive maintenance, or alteration of civil aviation products. Since the Association's founding in 1984, ARSA has promoted aviation safety by emphasizing the importance of the aviation maintenance industry and representing the interests of its members before regulatory authorities, legislative bodies, and the courts.

The instant case is of particular interest to ARSA because it has the potential to set a precedent for imposing unlimited criminal liability upon certain repair station personnel simply by virtue of the positions they hold within the organization. Indeed, the underlying decision at trial, and the subsequent affirmance by a panel of this Court, threatens to upend the carefully crafted regulatory scheme implemented by the Federal Aviation Administration and other Civil Aviation Authorities around the world. For this reason, ARSA submits this brief to illuminate the regulatory complexities involved in this case, as well as the prejudicial effects of the errors made at trial.

INTRODUCTION

Defendant William Weygandt was the president of WECO Aerospace Systems Inc., an FAA certificated repair station which, among other things, maintained (i.e., repaired and overhauled) aviation components. As is common practice in the industry, Mr. Weygandt delegated day-to-day responsibility for ensuring the corporate entity complied with FAA regulations to qualified personnel – namely, WECO's Director of Quality Assurance, the Director of Operations, and its chief inspectors.

The certificated entity is required to ensure that this group of personnel is qualified through their knowledge and capabilities, including their technical skills and experience with regulatory compliance. Unbeknownst to Mr. Weygandt, during his tenure as the accountable manager of WECO's Burbank facility, technicians and chief inspectors were fraudulently approving the work on components for return to service by issuing FAA Form 8130-3s.[1]

When it was discovered that WECO employees were issuing FAA Form 8130-3s, certifying that tests required by the manufacturer's component

[1] FAA Form 8130-3 is an Authorized Release Certificate and is used to return articles (parts and components) to service after maintenance has been completed. The person completing the form describes the type of work performed and certifies that it was completed in accordance with the performance standards provided in 14 C.F.R. Part 43.

maintenance manual ("CMM") were completed, the employees asserted that they did not have the necessary test equipment. (Appellant's Pet. Reh'g 2.) Importantly, however, and consistent with the regulatory obligations of an accountable manager, Mr. Weygandt relied on annual surveillance audits conducted by the FAA and numerous external audits from the certificate holder's customers to ensure that WECO was complying with aviation regulations. (Appellant's Pet. Reh'g 2, Appellant's Substitute Opening Br. 12.) None of these audits revealed problems with WECO's tools or equipment and most were "satisfactory," giving WECO "high marks." (Appellant's Substitute Opening Br. 12.)

Likewise, none of the WECO employees testified that Mr. Weygandt had first-hand knowledge of the need for the equipment, that the issuance of FAA Form 8130-3s was fraudulent, or that WECO employees were encouraged to make fraudulent representations. (Appellant's Pet. Reh'g 2, 6-7.) Nevertheless, Mr. Weygandt was convicted of conspiracy involving aircraft parts in violation of 18 U.S.C. § 38(a) primarily because of the trial court's misapprehension of the extent and nature of an accountable manager's duties and responsibilities under the aviation safety regulations.

Mr. Weygandt's conviction is based on fundamental misunderstandings of the FAA's regulatory framework, of the importance this framework places on senior management's reliance on qualified technical personnel to assess and

determine compliance issues, and of the accountable manager's role within the certificated organization. Furthermore, and perhaps most troubling, the prosecution improperly transformed Mr. Weygandt's responsibility under FAA regulations for WECO's regulatory compliance into criminal liability. The trial court erred in denying the appellant's request for a jury instruction clarifying the fact that the "accountable manager" designation does not, in and of itself, generate criminal liability for the conduct of other repair station employees. Therefore, this case warrants rehearing or rehearing en banc.

REGULATORY AUTHORITIES

All relevant regulatory authority appears in the Addendum to this brief.

REASONS FOR GRANTING REHEARING

I. THERE WAS A FUNDAMENTAL MISUNDERSTANDING OF FAA REGULATIONS AT TRIAL.

A. The FAA's Regulatory Framework.

A repair station is a maintenance facility that has been certificated by the Federal Aviation Administration ("FAA") under Title 14 of the Code of Federal Regulations ("14 C.F.R.") Part 145 and is engaged in the maintenance, preventive maintenance, and alteration of aircraft, aircraft engines, propellers, or components thereof. Unlike other transportation-related maintenance providers, the type of work these certificated entities perform is so highly regulated that each facility

must specialize in both the type of maintenance functions it intends to complete and the type of articles it will maintain. This specialization is referred to as a "rating." 14 C.F.R. §§ 145.59, 145.61.[2] The FAA further limits, or defines, a repair station's operations by issuing operations specifications. 14 C.F.R. §145(a)(1). These specifications detail the specific manner in which the certificate holder may exercise the privileges of its certificate. 14 C.F.R. §§ 145.5(a), 145.53(a); *see also* FAA Order 8900.1, Flight Standards Information System, vol. 3, ch. 18, § 1 (explaining the issuance of operations specifications).

The FAA's regulatory framework forces repair stations to strictly define their operations because the performance rules in 14 C.F.R. Part 43 require certificate holders to complete functions in accordance with the manufacturer's maintenance information or other methods, techniques, and practices acceptable to the FAA (collectively referred to as "maintenance data"). 14 C.F.R. § 43.13(a).

[2] Ratings may be issued to maintain a class of articles such as airframes or power plants of a particular design. Limited ratings may be issued for maintaining a particular make and model of an article or performing a specialized service not ordinarily performed by other repair stations.

Repair stations are therefore required to have on file the data necessary to maintain the articles for which they are rated.[3] 14 C.F.R. §145.109(d).

The performance standard further mandates that certificate holders use the tools, materials, and equipment necessary to return the article to at least its original or properly altered (i.e., airworthy) condition with respect to the work performed. 14 C.F.R. 43.13(b). Before a repair station certificate can be issued, the applicant must show the FAA the necessary housing, facilities, equipment, materials and personnel to perform the type of work for the ratings and limitations provided. 14 C.F.R. §§ 145.103 (a), 145.109.

Part 43 is the backbone of the aviation maintenance industry and a marvel of regulatory drafting. It is truly a performance-based rule that takes into account the entire lifecycle of an article, from design and production all the way through its operation and maintenance. The flexibility built into the rule accounts for the strengths of the FAA's certification system and enables advancements in technology, without requiring attendant rulemakings specifying new maintenance standards. While the bedrock principles in Part 43 remain the same, how maintenance is accomplished is continually changing. For that reason, a repair

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[3] Examples of technical data repair stations must have on hand include airworthiness directives, instructions for continued airworthiness, standard practice manuals, and service bulletins.

station's technical workforce is the sinew binding the performance rule and a repair station's operations together.

B. FAA Regulations Emphasize A Repair Station's Reliance On Its Trained And Knowledgeable Employees.

Repair stations are wholly dependent on their workforce to perform functions in accordance with regulatory standards, to ensure compliance with the required quality system, and, ultimately, to approve work on articles for return to service under the repair station's own certificate. Each position at a repair station—except one (the Accountable Manager)—must be filled by a person who is trained and knowledgeable in the performance of aviation maintenance. 14 C.F.R. §§ 43.3, 145.151.

Technicians must be able to discern what data applies to each specific step or function, which tools are necessary for the task, and how to complete the requested work in a way that will return the article to at least its original or properly altered condition. Likewise, the personnel responsible for inspecting completed steps or actions must be trained and proficient in using applicable inspection methods and equipment. 14 C.F.R. § 145.155.

To issue a maintenance release (i.e., FAA Form 8130-3) for the work on articles it maintains, the repair station must have qualified supervisors. 14 C.F.R. § 145.153(a). Supervisors and personnel authorized to approve work on an article (i.e., sign and issue an FAA Form 8130-3) must hold an FAA-issued mechanic or

repairman certificate.[4] 14 C.F.R. §§ 145.155(a), 145.157(a). Each of these positions is vested with the duty and responsibility of knowing what is required by the regulations and following the repair station's internal quality control system. The majority of the duties and responsibilities are vested in middle managers (i.e., supervisors) who are accountable for training and monitoring the work performed by less experienced technicians.

Importantly, however, the only person in the repair station not required to have any specialized training, knowledge, or experience in aviation maintenance is the person at the helm of the certificated entity—the accountable manager. 14 C.F.R. § 145.151(a)(1). This is justified given the accountable manager's primary function in the FAA's regulatory scheme.

C. The Accountable Manager's Purpose And Function: Authority Over Technical Expertise.

1. Background.

Prior to 2001, there was no requirement for repair stations in the U.S. to designate an accountable manager. Until that time, the regulations focused on technical competency, which was placed on middle management (e.g., repair station supervisors and those authorized to sign the FAA Form 8130-3 and approve

[4] Upon satisfying certain knowledge and experienced-based requirements, the FAA will issue a repairman or mechanic certificate under 14 C.F.R. Part 65.

articles for return to service). The recurring problem was that middle management lacked the authority to make the institutional changes or financial expenditures necessary to implement corrective actions to ensure continued compliance. Therefore, in 1999, the FAA initiated the first significant revision to Part 145 since the early 1960s.

The rulemaking endeavored to update the standards and, importantly, "harmoni[ze] the U.S. repair station regulations with those of the [Joint Aviation Authorities]."[5] Part 145 Review: Repair Stations, 64 Fed. Reg. 33,142, 33,143 (proposed June 21, 1999) ("NPRM"). Under the Convention on International Civil Aviation, the United States is obligated to—the maximum extent practicable—comply with the Standards and Recommended Practices ("SARPs") promulgated by the International Civil Aviation Organization ("ICAO").[6] *See* Convention on Civil Aviation, art. 37, Dec. 7, 1944, 61 Stat. 1180, 15 U.N.T.S. 295 (the "Chicago Convention"); *see also* NPRM, 64 Fed. Reg. 33,160. SARPs are published by ICAO as annexes to the Chicago Convention and are used by regulatory authorities

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[5] The Joint Aviation Authorities represented several civil aviation regulatory authorities in Europe. The JAA member states committed to the development and implementation of common regulatory standards. The JAA was the predecessor to the European Union's civil aviation authority, the European Aviation Safety Agency ("EASA").

[6] ICAO is a specialized agency within United Nations. It was established in 1944 as part of the Chicago Convention to develop international civil aviation standards.

to develop comprehensive regulatory codes covering topics ranging from the design and production of aircraft to the way aircraft are operated and maintained. In the United States, those standards are incorporated incrementally into 14 C.F.R.

By the late 1980s, the international community already recognized that organizational deficiencies within the aviation maintenance industry were the causes of many repetitive noncompliance issues. ICAO standards therefore required maintenance organizations to nominate a person "whose responsibilities include[d] ensuring that the maintenance organization is in compliance" with the applicable rules and the conditions of its approval (i.e., ratings and operations specifications). ICAO Annex 6, § 8.7.6.1 (10th ed., July 2016). In order to remove the roadblocks that stymied middle management's compliance efforts, the rules provide that the accountable manager should be vested with the authority to resolve human resource issues, make major financial decisions, direct the facility's operations, and have the final say on safety issues. ICAO Airworthiness Manual, Doc. 9760-AN/967, § 10.2.2 (3rd ed., 2014). Because the accountable manager has final responsibility for the effective and efficient performance of the organization, the position is to be filled by the chief executive officer, the chairperson of the board of directors, a partner, or the proprietor. ICAO Airworthiness Manual § 10.2.1.

ICAO explained that this approach "provides a guarantee to the [Civil Aviation Authorities] that responsibility for corrective action for any deficiencies identified by the CAA is vested at the highest level in the organization's management structure, thus ensuring the necessary executive authority (including finance, where applicable), will be available." ICAO Airworthiness Manual § 10.2.3. ICAO warned that corrective actions may not be implemented if the authority to approve additional expenditures or organizational changes is vested "in the inspection department of an organization only." ICAO Airworthiness Manual § 10.2.3.

Importantly, however, the ICAO standard recognized that simply vesting a position with the authority to make a decision was not enough to ensure regulatory compliance within an organization. The ICAO standard emphasized that the accountable manager should be supported "by a group of identified key personnel who are appropriately qualified and experienced to manage aspects of the activities included in the [maintenance organization's] approval." ICAO Airworthiness Manual § 10.2.3.

The European regulatory system accepted the ICAO recommendation nearly a decade before the FAA's rulemaking by adopting the Joint Aviation Requirements ("JAR"), which elaborated even further on the accountable manager's function and role within the certificated entity. *See* Council Regulation

3922/91, Harmonization of Technical Requirements & Administrative Procedures in the Field of Civil Aviation, 1991 O.J. (L 373) (EC). Approved maintenance organizations[7] in Europe must "appoint an accountable manager who has corporate authority for ensuring that all maintenance required by the customer can be financed and carried out to [regulatory standards]." JAR 145.A.30(a). In keeping with ICAO's recommendation, the accountable manager must be supported by a group of qualified technical personnel to ensure compliance with applicable rules. JAR 145.A.30(b)(1).

This group of middle-managers must be able to "demonstrate relevant knowledge, background and satisfactory experience related to aircraft or component maintenance and demonstrate a working knowledge of [aviation regulations]." JAR 145.A.30(b)(3). From this group of employees, the accountable manger must appoint an employee responsible for overseeing the organization's quality monitoring system. JAR 145.A.30(c). The European system, just as here in the United States, recognizes that the complexity of aviation maintenance forces the accountable manager to rely on middle management to identify specific and correctable regulatory concerns.

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[7] The term "Approved Maintenance Organization" is used to describe maintenance facilities certificated by EASA.

2. The FAA conforms to international standards by requiring appointment of a chief executive as the accountable manager.

In 1999 the FAA announced revisions to 14 C.F.R. Part 145 that would satisfy the United States' ICAO obligations and "provide nearly uniform requirements by the FAA and JAA for maintenance facilities." NPRM, 64 Fed. Reg. 33,160. FAA certificated repair stations would be required to designate a member of senior management to be "responsible for and ha[ve] the authority over all repair station operations." 14 C.F.R. § 145.151(a).

Similar to the JAA requirements, that responsibility included "ensuring repair station operations were conducted in accordance with part 145" and "serv[ing] as the primary contact with the FAA." Repair Stations, 66 Fed. Reg. 41,088, 41,093 ("Final Rule"). The FAA further explained that term accountable manager "is consistent with JAR terminology, and its use is consistent with the FAA's harmonization efforts." Final Rule, 66 Fed. Reg. 41,093.

3. Regulatory responsibility does not equate to personal liability for the certificated entity's noncompliance.

The FAA cautioned that the creation of this position within the FAA's regulatory structure would in no way alter the way in which Part 145 certificate holders have operated in the past or require the hiring of a new employee to fill that position. Final Rule, 66 Fed. Reg. 41,101. The FAA also assuaged concerns that the accountable manager would be held personally liable for a repair station's

regulatory violations. In the preamble to the final rule, the FAA clarified that it "was not the intent of the FAA to impose personal liability for repair station operations on the accountable manager." Final Rule, 66 Fed. Reg. 41,093. This is further evidenced by the FAA's reluctance to specify any qualifications for holding that position, thereby requiring the accountable manager to depend on the knowledge, skill, experience, and training of middle management to ensure compliance with applicable rules and regulations.

For example, the FAA removed the requirement in the final rule for the accountable manager to sign a repair station's capability list because commenters suggested it "plac[ed] an unacceptable level of personal liability on the accountable manager." Final Rule, 66 Fed. Reg. 41,109. Repair stations holding limited ratings may add new types of articles to those they are authorized to work on after performing an evaluation of whether the facility has the requisite housing, facilities, tools, equipment, data, and personnel to complete the work properly. 14 C.F.R. §§ 145.209(d), 145.215(c).

The analysis of whether a repair station is capable of performing work on an article must be done by someone with the training and experience to determine what is needed, and the accountable manager may or may not be able to make such a determination. For similar technical and safety reasons, the FAA removed a requirement in the final rule for the accountable manager to certify that the repair

station quality manual contained procedures necessary to ensure compliance with Part 145. Final Rule, 66 Fed. Reg. 41,095. The FAA removed these provisions because in both instances it would require the accountable manager to personally attest to something that may exceed his/her qualifications.

The rulemaking history and international regulatory framework clearly indicate that the accountable manager may be a chief executive that is merely responsible for ensuring identified compliance issues are resolved. Although the accountable manager is cloaked with the authority to act, the accountable manager is often not a technical expert. Because no specific training or experience is required, the accountable manager properly exercises authority under 14 C.F.R. § 145.151(a) by delegating day-to-day compliance to the repair station's supervisors, technicians and inspectors. The FAA correctly focuses its safety requirements on the positions for which it designates specific knowledge, skills and capabilities.

Once issues are discovered by internal or external audits—and those issues are brought to the accountable manager's attention—he or she must ensure that corrective action is taken in a timely manner. As the FAA explained in the preamble to the final rule, the accountable manager is the agency's primary contact at the repair station. Nothing in the rule was meant to impose personal liability, much less criminal liability, on an individual simply because he or she holds the accountable manager position.

II. REGULATORY RESPONSIBILITY WAS TRANSFORMED INTO CRIMINAL CULPABILITY.

A. The Jury Was Invited To Convict Mr. Weygandt Because Of His Position As WECO's Accountable Manager.

The FAA's regulatory framework was misconstrued at trial and the jury was not provided sufficient context to understand the duties and responsibilities of an accountable manager. As previously discussed, FAA regulations allow a repair station's chief executive to rely—almost exclusively—on trained and qualified staff to identify compliance issues. Once identified, the accountable manager is obligated to take appropriate action and bring the certificate holder back into compliance. That obligation was obfuscated and transformed into something far greater than it is by the testimony of Anthony Zito, the accountable manager from WECO's Lincoln, California facility. Mr. Zito, who previously pled guilty to conspiracy, testified that he committed fraud by "simply being the accountable manager at WECO." (Appellant's Opening Br. 52 (citing ER 896).) While Mr. Zito may feel that way, his testimony directly conflicts with the FAA's interpretation of its regulations not to impose personal liability on the accountable manager for the misconduct of repair station employees. *See* Final Rule, 66 Fed. Reg. 41093. Mr. Zito's personal belief that criminal culpability arose from the accountable manager's responsibility for the repair station's regulatory compliance is irrelevant and a blatant misstatement of the law.

Throughout the trial of this matter, regulatory responsibility was conflated with criminal culpability. Perhaps the most prejudicial instances occurred during the prosecution's closing argument where it relied on certain statements in WECO's repair station manual. (Appellant's Opening Br. 32 (citing ER 1079-80).) Each repair station must have a manual detailing operational procedures, its management structure, the duties and responsibilities of its personnel, and its quality monitoring system. Yet the prosecution turned the contents of this purely regulatory document into a purported basis for criminal liability.

For example, the prosecution asserted in its closing argument that "what the defendant is telling the FAA, what he's telling his employees, who all have access to this manual, is that he is ultimately responsible for what goes on at WECO Lincoln." (Appellant's Opening Br. 32 (citing ER 1079-80)). Although the prosecution admitted that the repair station manual "does say that [Mr. Weygandt] can delegate authority" it cautioned that the manual "does not relieve the [accountable manager] of overall responsibility." (Appellant's Opening Br. 32 (citing ER 1079-80)). This repeated emphasis on Mr. Weygandt's responsibility as WECO's accountable manager, coupled with the testimony of another accountable manager that predicated his own guilt solely on his title, enabled the prosecution to argue—and invited the jury to find—that regulatory responsibility is somehow tantamount to criminal culpability, which is simply not the case.

The trial court therefore erred in denying the appellant's request for a jury instruction clarifying the fact that the "accountable manager" designation does not, in and of itself, generate criminal liability for the conduct of other repair station employees.

B. Knowledge of Aviation Maintenance Requirements Cannot Be Imputed to Mr. Weygandt By Virtue Of Him Being WECO's Accountable Manager.

Given the complexities involved in aviation maintenance, FAA regulations do not require accountable managers to have any technical expertise or knowledge of regulatory compliance. As further detailed above, an accountable manager is required only to timely address previously identified compliance issues.

The Panel's disposition in this case appears to assume that, to the contrary, Mr. Weygandt *should have known* that WECO employees were not complying with the component maintenance manuals because he was a "hands on manager" and was "knowledgeable about technical aspects of the business." (Mem. Disp. at 2; Transcript at 3:00.) Even assuming that Mr. Weygandt, as the accountable manager, knew about the existence of the CMM, knowledge of its contents cannot be imputed. Each component maintained by a repair station has a CMM, which may contain hundreds of pages detailing multiple steps and functions required to complete a repair. In instances where a repair station does not have the manufacturers' instructions (the CMM), it is permitted under Part 43's

performance standard to develop its own methods, techniques, and practices. In both instances, a general knowledge of the technical aspects of the business cannot be used to impute knowledge of every step necessary to complete the work in accordance with a CMM or another accepted standard.

The Panel's disposition has the potential to undermine the FAA's intent *not* to impose personal liability on a certificate holder's accountable manager merely because the accountable manager is bestowed that designation. Indeed, the decision sets a precedent for imposing unlimited criminal liability on a Part 145's senior management team. For example, Delta Airlines operates a Part 145 repair station with 971 employees. *See* FAA Repair Station Profile, Cert. No. DAL2026A. Edward Bastian, the CEO of Delta Airlines, is designated as the repair station's accountable manager. *See id.* Under the Panel's disposition, Mr. Bastian could be held criminally liable for the misconduct of any one of Delta's 917 aviation maintenance technicians, inspectors, and supervisors.

As was the case with Mr. Weygandt, Mr. Bastian may have only general familiarity with the technical operations of a Part 145 certificate. Under the Panel's disposition, however, an accountable manager's general industry knowledge could be used to impute knowledge of specific criminal conduct. This contradicts the express intent of FAA regulations, conflates regulatory responsibility with criminal culpability, and is contrary to fundamental principles of criminal law.

The Court should grant rehearing to evaluate the trial court's refusal to issue a limiting instruction, which in this case had the effect of inviting the jury to convict Mr. Weygandt on the basis of his position as accountable manager. In addition, the Court should grant a rehearing because the Panel's decision would lead other juries to impute to an accountable manager—one with only a general familiarity with some of the technical aspects of the aviation maintenance industry—knowledge of a very specific criminal conspiracy. The regulatory context of repair station operations and the regulatory role of the station's accountable manager were not adequately taken into account at trial or by the Panel's decision. Without a rehearing, the Panel's opinion will set a dangerous precedent that conflates regulatory responsibility with criminal culpability.

CONCLUSION

For the foregoing reasons, the Court should order a panel rehearing or rehearing en banc.

Date: July 17, 2017

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Circuit Rule 29-2(c)(2), I certify that the attached brief contains 4,195 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii), and has been prepared in a proportionately spaced typeface using Times New Roman 14-point font.

Date: July 17, 2017

/s/ Ryan M. Poteet

Counsel for Amicus Curiae
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Date: July 17, 2017

/s/ Ryan M. Poteet

Counsel for Amicus Curiae
Aeronautical Repair Station Association

ADDENDUM

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ADDENDUM

Convention on Civil Aviation, art. 37, Dec. 7, 1944,
61 Stat. 1180, 15 U.N.T.S. 2951

CHAPTER VI

INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES

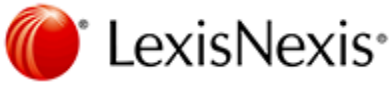
Article 37

Each contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

To this end the International Civil Aviation Organization shall adopt and amend from time to time, as may be necessary, international standards and recommended practices and procedures dealing with:

(a) Communications systems and air navigation aids; including ground marking;
(b) Characteristics of airports and landing areas;
(c) Rules of the air and air traffic control practices;
(d) Licensing of operating and mechanical personnel;
(e) Airworthiness of aircraft;
(f) Registration and identification of aircraft;
(g) Collection and exchange of meteorological information;
(h) Log books;
(i) Aeronautical maps and charts;
(j) Customs and immigration procedures;
(k) Aircraft in distress and investigation of accidents;

and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.



14 CFR 43.3

This document is current through the July 12, 2017 issue of the Federal Register. Pursuant to 82 FR 8346 ("Regulatory Freeze Pending Review"), certain regulations will be delayed pending further review. See Publisher's Note under affected rules. Title 3 is current through July 7, 2017.

Code of Federal Regulations > TITLE 14 -- AERONAUTICS AND SPACE > CHAPTER I -- FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION > SUBCHAPTER C -- AIRCRAFT > PART 43 -- MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

§ 43.3 Persons authorized to perform maintenance, preventive maintenance, rebuilding, and alterations.

(a) Except as provided in this section and § 43.17, no person may maintain, rebuild, alter, or perform preventive maintenance on an aircraft, airframe, aircraft engine, propeller, appliance, or component part to which this part applies. Those items, the performance of which is a major alteration, a major repair, or preventive maintenance, are listed in Appendix A.

(b) The holder of a mechanic certificate may perform maintenance, preventive maintenance, and alterations as provided in Part 65 of this chapter.

(c) The holder of a repairman certificate may perform maintenance, preventive maintenance, and alterations as provided in part 65 of this chapter.

(d)A person working under the supervision of a holder of a mechanic or repairman certificate may perform the maintenance, preventive maintenance, and alterations that his supervisor is authorized to perform, if the supervisor personally observes the work being done to the extent necessary to ensure that it is being done properly and if the supervisor is readily available, in person, for consultation. However, this paragraph does not authorize the performance of any inspection required by Part 91 or Part 125 of this chapter or any inspection performed after a major repair or alteration.

(e) The holder of a repair station certificate may perform maintenance, preventive maintenance, and alterations as provided in Part 145 of this chapter.

(f) The holder of an air carrier operating certificate or an operating certificate issued under Part 121 or 135, may perform maintenance, preventive maintenance, and alterations as provided in Part 121 or 135.

(g) Except for holders of a sport pilot certificate, the holder of a pilot certificate issued under part 61 may perform preventive maintenance on any aircraft owned or operated by that pilot which is not used under part 121, 129, or 135 of this chapter. The holder of a sport pilot certificate may perform preventive maintenance on an aircraft owned or operated by that pilot and issued a special airworthiness certificate in the light-sport category.

(h) Notwithstanding the provisions of paragraph (g) of this section, the Administrator may approve a certificate holder under Part 135 of this chapter, operating rotorcraft in a remote area, to allow a pilot to perform specific preventive maintenance items provided --

> **(1)**The items of preventive maintenance are a result of a known or suspected mechanical difficulty or malfunction that occurred en route to or in a remote area;
>
> **(2)**The pilot has satisfactorily completed an approved training program and is authorized in writing by the certificate holder for each item of preventive maintenance that the pilot is authorized to perform;
>
> **(3)**There is no certificated mechanic available to perform preventive maintenance;
>
> **(4)**The certificate holder has procedures to evaluate the accomplishment of a preventive maintenance item that requires a decision concerning the airworthiness of the rotorcraft; and
>
> **(5)**The items of preventive maintenance authorized by this section are those listed in paragraph (c) of Appendix A of this part.

(i) Notwithstanding the provisions of paragraph (g) of this section, in accordance with an approval issued to the holder of a certificate issued under part 135 of this chapter, a pilot of an aircraft type-certificated for 9 or fewer passenger seats, excluding any pilot seat, may perform the removal and reinstallation of approved aircraft cabin seats, approved cabin-mounted stretchers, and when no tools are required, approved cabin-mounted medical oxygen bottles, provided --

(1) The pilot has satisfactorily completed an approved training program and is authorized in writing by the certificate holder to perform each task; and

(2) The certificate holder has written procedures available to the pilot to evaluate the accomplishment of the task.

(j)A manufacturer may --

(1) Rebuild or alter any aircraft, aircraft engine, propeller, or appliance manufactured by him under a type or production certificate;

(2) Rebuild or alter any appliance or part of aircraft, aircraft engines, propellers, or appliances manufactured by him under a Technical Standard Order Authorization, an FAA-Parts Manufacturer Approval, or Product and Process Specification issued by the Administrator; and

(3) Perform any inspection required by part 91 or part 125 of this chapter on aircraft it manufactured under a type certificate, or currently manufactures under a production certificate.

(k) Updates of databases in installed avionics meeting the conditions of this paragraph are not considered maintenance and may be performed by pilots provided:

(1) The database upload is:

(i) Initiated from the flight deck;

(ii) Performed without disassembling the avionics unit; and

(iii) Performed without the use of tools and/or special equipment.

(2) The pilot must comply with the certificate holder's procedures or the manufacturer's instructions.

(3) The holder of operating certificates must make available written procedures consistent with manufacturer's instructions to the pilot that describe how to:

(i) Perform the database update; and

(ii) Determine the status of the data upload.

Statutory Authority

ADDENDUM

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

49 U.S.C. 106(f), 106(g), 40113, 44701, 44703, 44705, 44707, 44711, 44713, 44717, 44725.

History

[29 FR 5451, Apr. 23, 1964, as amended by *31 FR 5249,* Apr. 1, 1966; *47 FR 41084,* Sept. 16, 1982; *51 FR 40702,* Nov. 7, 1986; *61 FR 19498, 19501,* May 1, 1996; *66 FR 21065, 21066,* Apr. 27, 2001; *69 FR 44772, 44863,* July 27, 2004; *74 FR 53368,* Oct. 16, 2009, as corrected at *75 FR 9095,* Mar. 1, 2010; *77 FR 71089, 71096,* Nov. 29, 2012]

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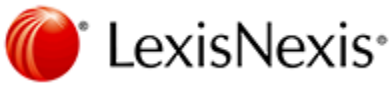


14 CFR 43.13

This document is current through the July 12, 2017 issue of the Federal Register. Pursuant to 82 FR 8346 ("Regulatory Freeze Pending Review"), certain regulations will be delayed pending further review. See Publisher's Note under affected rules. Title 3 is current through July 7, 2017.

Code of Federal Regulations > TITLE 14 -- AERONAUTICS AND SPACE > CHAPTER I -- FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION > SUBCHAPTER C -- AIRCRAFT > PART 43 -- MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

§ 43.13 Performance rules (general).

(a) Each person performing maintenance, alteration, or preventive maintenance on an aircraft, engine, propeller, or appliance shall use the methods, techniques, and practices prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness prepared by its manufacturer, or other methods, techniques, and practices acceptable to the Administrator, except as noted in § 43.16. He shall use the tools, equipment, and test apparatus necessary to assure completion of the work in accordance with accepted industry practices. If special equipment or test apparatus is recommended by the manufacturer involved, he must use that equipment or apparatus or its equivalent acceptable to the Administrator.

(b) Each person maintaining or altering, or performing preventive maintenance, shall do that work in such a manner and use materials of such a quality, that the condition of the aircraft, airframe, aircraft engine, propeller, or appliance worked on will be at least equal to its original or properly altered condition (with regard to aerodynamic function, structural strength, resistance to vibration and deterioration, and other qualities affecting airworthiness).

(c) Special provisions for holders of air carrier operating certificates and operating certificates issued under the provisions of Part 121 or 135 and Part

129 operators holding operations specifications. Unless otherwise notified by the administrator, the methods, techniques, and practices contained in the maintenance manual or the maintenance part of the manual of the holder of an air carrier operating certificate or an operating certificate under Part 121 or 135 and Part 129 operators holding operations specifications (that is required by its operating specifications to provide a continuous airworthiness maintenance and inspection program) constitute acceptable means of compliance with this section.

Statutory Authority

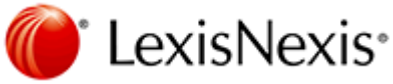
AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

49 U.S.C. 106(f), 106(g), 40113, 44701, 44703, 44705, 44707, 44711, 44713, 44717, 44725.

History

[Doc. No. 1993, *29 FR 5451,* Apr. 23, 1964, as amended by Amdt. 43-20, *45 FR 60182,* Sept. 11, 1980; Amdt. 43-23, *47 FR 41085,* Sept. 16, 1982; Amdt. 43-28, *52 FR 20028,* June 16, 1987; Doc. No. 28154, Amdt. 43-37, *66 FR 21065, 21066,* Apr. 27, 2001]

End of Document



14 CFR 145.53

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Code of Federal Regulations > TITLE 14 -- AERONAUTICS AND SPACE > CHAPTER I -- FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION > SUBCHAPTER H -- SCHOOLS AND OTHER CERTIFICATED AGENCIES > PART 145 -- REPAIR STATIONS > SUBPART B -- CERTIFICATION > SPECIAL FEDERAL AVIATION REGULATION

§ 145.53 Issue of certificate.

(a) Except as provided in § 145.51(e) or paragraph (b), (c), or (d) of this section, a person who meets the requirements of subparts A through E of this part is entitled to a repair station certificate with appropriate ratings prescribing such operations specifications and limitations as are necessary in the interest of safety.

(b) If the person is located in a country with which the United States has a bilateral aviation safety agreement, the FAA may find that the person meets the requirements of this part based on a certification from the civil aviation authority of that country. This certification must be made in accordance with implementation procedures signed by the Administrator or the Administrator's designee.

(c) Before a repair station certificate can be issued for a repair station that is located within the United States, the applicant shall certify in writing that all "hazmat employees" (see *49 CFR 171.8*) for the repair station, its contractors, or subcontractors are trained as required in 49 CFR part 172 subpart H.

(d) Before a repair station certificate can be issued for a repair station that is located outside the United States, the applicant shall certify in writing that all employees for the repair station, its contractors, or subcontractors performing a job function concerning the transport of dangerous goods (hazardous material) are trained as outlined in the most current edition of the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air.

Statutory Authority

ADDENDUM

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

49 U.S.C. 106(g), 40113, 44701-44702, 44707, 44709, 44717.

History

[27 FR 6662, July 13, 1962; *66 FR 41088, 41118,* Aug. 6, 2001; *68 FR 12542,* Mar. 14, 2003, as corrected at *68 FR 17545, 17546,* Apr. 10, 2003; *68 FR 55819*, Sept. 29, 2003; *70 FR 58796, 58831,* Oct. 7, 2005; *79 FR 46971, 46984,* Aug. 12, 2014]

End of Document

14 CFR 145.59

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Code of Federal Regulations *>* ***TITLE 14 -- AERONAUTICS AND SPACE*** *>* ***CHAPTER I -- FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION*** *>* ***SUBCHAPTER H -- SCHOOLS AND OTHER CERTIFICATED AGENCIES*** *>* ***PART 145 -- REPAIR STATIONS*** *>* ***SUBPART B -- CERTIFICATION*** *>* ***SPECIAL FEDERAL AVIATION REGULATION***

§ 145.59 Ratings.

The following ratings are issued under this subpart:

(a) Airframe ratings.

(1) Class 1: Composite construction of small aircraft.

(2) Class 2: Composite construction of large aircraft.

(3) Class 3: All-metal construction of small aircraft.

(4) Class 4: All-metal construction of large aircraft.

(b) Powerplant ratings.

(1) Class 1: Reciprocating engines of 400 horsepower or less.

(2) Class 2: Reciprocating engines of more than 400 horsepower.

(3) Class 3: Turbine engines.

(c) Propeller ratings.

(1) Class 1: Fixed-pitch and ground-adjustable propellers of wood, metal, or composite construction.

(2) Class 2: Other propellers, by make.

(d) Radio ratings.

(1) Class 1: Communication equipment. Radio transmitting and/or receiving equipment used in an aircraft to send or receive communications in flight, regardless of carrier frequency or type of modulation used. This equipment

includes auxiliary and related aircraft interphone systems, amplifier systems, electrical or electronic intercrew signaling devices, and similar equipment. This equipment does not include equipment used for navigating or aiding navigation of aircraft, equipment used for measuring altitude or terrain clearance, other measuring equipment operated on radio or radar principles, or mechanical, electrical, gyroscopic, or electronic instruments that are a part of communications radio equipment.

(2) Class 2: Navigational equipment. A radio system used in an aircraft for en route or approach navigation. This does not include equipment operated on radar or pulsed radio frequency principles, or equipment used for measuring altitude or terrain clearance.

(3) Class 3: Radar equipment. An aircraft electronic system operated on radar or pulsed radio frequency principles.

(e) Instrument ratings.

(1) Class 1: Mechanical. A diaphragm, bourdon tube, aneroid, optical, or mechanically driven centrifugal instrument used on aircraft or to operate aircraft, including tachometers, airspeed indicators, pressure gauges drift sights, magnetic compasses, altimeters, or similar mechanical instruments.

(2) Class 2: Electrical. Self-synchronous and electrical-indicating instruments and systems, including remote indicating instruments, cylinder head temperature gauges, or similar electrical instruments.

(3) Class 3: Gyroscopic. An instrument or system using gyroscopic principles and motivated by air pressure or electrical energy, including automatic pilot control units, turn and bank indicators, directional gyros, and their parts, and flux gate and gyrosyn compasses.

(4) Class 4: Electronic. An instrument whose operation depends on electron tubes, transistors, or similar devices, including capacitance type quantity gauges, system amplifiers, and engine analyzers.

(f) Accessory ratings.

(1) Class 1: A mechanical accessory that depends on friction, hydraulics, mechanical linkage, or pneumatic pressure for operation, including aircraft wheel brakes, mechanically driven pumps, carburetors, aircraft wheel assemblies, shock absorber struts and hydraulic servo units.

(2) Class 2: An electrical accessory that depends on electrical energy for its operation, and a generator, including starters, voltage regulators, electric motors, electrically driven fuel pumps magnetos, or similar electrical accessories.

(3) Class 3: An electronic accessory that depends on the use of an electron tube transistor, or similar device, including supercharger, temperature, air conditioning controls, or similar electronic controls.

Statutory Authority

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

49 U.S.C. 106(g), 40113, 44701-44702, 44707, 44709, 44717.

History

[27 FR 6662, July 13, 1962, as amended by *43 FR 22643,* May 25, 1978; *66 FR 41088, 41119,* Aug. 6, 2001; *68 FR 12542,* Mar. 14, 2003, as corrected at *68 FR 17545, 17546,* Apr. 10, 2003; *68 FR 55819*, Sept. 29, 2003]

End of Document

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14 CFR 145.61

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Code of Federal Regulations > ***TITLE 14 -- AERONAUTICS AND SPACE*** > ***CHAPTER I -- FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION*** > ***SUBCHAPTER H -- SCHOOLS AND OTHER CERTIFICATED AGENCIES*** > ***PART 145 -- REPAIR STATIONS*** > ***SUBPART B -- CERTIFICATION*** > ***SPECIAL FEDERAL AVIATION REGULATION***

§ 145.61 Limited ratings.

(a) The FAA may issue a limited rating to a certificated repair station that maintains or alters only a particular type of airframe, powerplant, propeller, radio, instrument, or accessory, or part thereof, or performs only specialized maintenance requiring equipment and skills not ordinarily performed under other repair station ratings. Such a rating may be limited to a specific model aircraft, engine, or constituent part, or to any number of parts made by a particular manufacturer.

(b) The FAA issues limited ratings for --

(1) Airframes of a particular make and model;

(2) Engines of a particular make and model;

(3) Propellers of a particular make and model;

(4) Instruments of a particular make and model;

(5) Radio equipment of a particular make and model;

(6) Accessories of a particular make and model;

(7) Landing gear components;

(8) Floats, by make;

(9) Nondestructive inspection, testing, and processing;

(10) Emergency equipment;

(11) Rotor blades, by make and model;

(12) Aircraft fabric work; and

(13) Any other purpose for which the FAA finds the applicant's request is appropriate.

(c) For a limited rating for specialized services, the operations specifications of the repair station must contain the specification used to perform the specialized service. The specification may be --

(1)A civil or military specification currently used by industry and approved by the FAA, or

(2)A specification developed by the applicant and approved by the FAA.

Statutory Authority

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

49 U.S.C. 106(g), 40113, 44701-44702, 44707, 44709, 44717.

History

[27 FR 6662, July 13, 1962; *66 FR 41088, 41119,* Aug. 6, 2001; *68 FR 12542,* Mar. 14, 2003, as corrected at *68 FR 17545, 17546,* Apr. 10, 2003; *68 FR 55819,* Sept. 29, 2003; *81 FR 49158, 49163,* July 27, 2016, as confirmed at *81 FR 65874, 65875,* Sept. 26, 2016]

End of Document

14 CFR 145.103

Code of Federal Regulations* > *TITLE 14 -- AERONAUTICS AND SPACE* > *CHAPTER I -- FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION* > *SUBCHAPTER H -- SCHOOLS AND OTHER CERTIFICATED AGENCIES* > *PART 145 -- REPAIR STATIONS* > *SUBPART C -- HOUSING, FACILITIES, EQUIPMENT, MATERIALS, AND DATA* > *SPECIAL FEDERAL AVIATION REGULATION

§ 145.103 Housing and facilities requirements.

(a) Each certificated repair station must provide--

(1) Housing for the facilities, equipment, materials, and personnel consistent with its ratings and limitations.

(2) Facilities for properly performing the maintenance, preventive maintenance, or alterations of articles or the specialized service for which it is rated. Facilities must include the following:

(i) Sufficient work space and areas for the proper segregation and protection of articles during all maintenance, preventive maintenance, or alterations.

(ii) Segregated work areas enabling environmentally hazardous or sensitive operations such as painting, cleaning, welding, avionics work, electronic work, and machining to be done properly and in a manner that does not adversely affect other maintenance or alteration articles or activities;

(iii) Suitable racks, hoists, trays, stands, and other segregation means for the storage and protection of all articles undergoing maintenance, preventive maintenance, or alterations, and;

(iv) Space sufficient to segregate articles and materials stocked for installation from those articles undergoing maintenance, preventive maintenance, or alterations to the standards required by this part.

(v) Ventilation, lighting, and control of temperature, humidity, and other climatic conditions sufficient to ensure personnel perform maintenance, preventive maintenance, or alterations to the standards required by this part.

(b)A certificated repair station may perform maintenance, preventive maintenance, or alterations on articles outside of its housing if it provides suitable facilities that are acceptable to the FAA and meet the requirements of § 145.103(a) so that the work can be done in accordance with the requirements of part 43 of this chapter.

Statutory Authority

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

49 U.S.C. 106(g), 40113, 44701-44702, 44707, 44709, 44717.

History

[31 FR 4249, Apr. 1, 1966; *66 FR 41088, 41119,* Aug. 6, 2001; *68 FR 12542,* Mar. 14, 2003, as corrected at *68 FR 17545, 17546,* Apr. 10, 2003; *68 FR 55819*, Sept. 29, 2003; *81 FR 49158, 49163,* July 27, 2016, as confirmed at *81 FR 65874, 65875,* Sept. 26, 2016]

End of Document

14 CFR 145.109

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Code of Federal Regulations > TITLE 14 -- AERONAUTICS AND SPACE > CHAPTER I -- FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION > SUBCHAPTER H -- SCHOOLS AND OTHER CERTIFICATED AGENCIES > PART 145 -- REPAIR STATIONS > SUBPART C -- HOUSING, FACILITIES, EQUIPMENT, MATERIALS, AND DATA > SPECIAL FEDERAL AVIATION REGULATION

§ 145.109 Equipment, materials, and data requirements.

(a) Except as otherwise prescribed by the FAA, a certificated repair station must have the equipment, tools, and materials necessary to perform the maintenance, preventive maintenance, or alterations under its repair station certificate and operations specifications in accordance with part 43. The equipment, tools, and material must be located on the premises and under the repair station's control when the work is being done.

(b)A certificated repair station must ensure all test and inspection equipment and tools used to make airworthiness determinations on articles are calibrated to a standard acceptable to the FAA.

(c) The equipment, tools, and material must be those recommended by the manufacturer of the article or must be at least equivalent to those recommended by the manufacturer and acceptable to the FAA.

(d)A certificated repair station must maintain, in a format acceptable to the FAA, the documents and data required for the performance of maintenance, preventive maintenance, or alterations under its repair station certificate and operations specifications in accordance with part 43. The following documents and data must be current and accessible when the relevant work is being done:

(1) Airworthiness directives,

(2) Instructions for continued airworthiness,

(3) Maintenance manuals,

(4) Overhaul manuals,

(5) Standard practice manuals,

(6) Service bulletins, and

(7) Other applicable data acceptable to or approved by the FAA.

Statutory Authority

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

49 U.S.C. 106(g), 40113, 44701-44702, 44707, 44709, 44717.

History

[66 FR 41088, 41120, Aug. 6, 2001; *68 FR 12542,* Mar. 14, 2003, as corrected at *68 FR 17545, 17546,* Apr. 10, 2003; *68 FR 55819*, Sept. 29, 2003]

End of Document

LexisNexis

14 CFR 145.151

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Code of Federal Regulations > TITLE 14 -- AERONAUTICS AND SPACE > CHAPTER I -- FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION > SUBCHAPTER H -- SCHOOLS AND OTHER CERTIFICATED AGENCIES > PART 145 -- REPAIR STATIONS > SUBPART D -- PERSONNEL > SPECIAL FEDERAL AVIATION REGULATION

§ 145.151 Personnel requirements.

Each certificated repair station must --

(a) Designate a repair station employee as the accountable manager;

(b) Provide qualified personnel to plan, supervise, perform, and approve for return to service the maintenance, preventive maintenance, or alterations performed under the repair station certificate and operations specifications;

(c) Ensure it has a sufficient number of employees with the training or knowledge and experience in the performance of maintenance, preventive maintenance, or alterations authorized by the repair station certificate and operations specifications to ensure all work is performed in accordance with part 43; and

(d) Determine the abilities of its noncertificated employees performing maintenance functions based on training, knowledge, experience, or practical tests.

Statutory Authority

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

49 U.S.C. 106(g), 40113, 44701-44702, 44707, 44709, 44717.

History

[66 FR 41088, 41120, Aug. 6, 2001; *68 FR 12542,* Mar. 14, 2003, as corrected at *68 FR 17545, 17546,* Apr. 10, 2003; *68 FR 55819,* Sept. 29, 2003]

End of Document

14 CFR 145.153

This document is current through the July 12, 2017 issue of the Federal Register. Pursuant to 82 FR 8346 ("Regulatory Freeze Pending Review"), certain regulations will be delayed pending further review. See Publisher's Note under affected rules. Title 3 is current through July 7, 2017.

Code of Federal Regulations > TITLE 14 -- AERONAUTICS AND SPACE > CHAPTER I -- FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION > SUBCHAPTER H -- SCHOOLS AND OTHER CERTIFICATED AGENCIES > PART 145 -- REPAIR STATIONS > SUBPART D -- PERSONNEL > SPECIAL FEDERAL AVIATION REGULATION

§ 145.153 Supervisory personnel requirements.

(a) A certificated repair station must ensure it has a sufficient number of supervisors to direct the work performed under the repair station certificate and operations specifications. The supervisors must oversee the work performed by any individuals who are unfamiliar with the methods, techniques, practices, aids, equipment, and tools used to perform the maintenance, preventive maintenance, or alterations.

(b) Each supervisor must --

(1) If employed by a repair station located inside the United States, be appropriately certificated as a mechanic or repairman under part 65 of this chapter for the work being supervised.

(2) If employed by a repair station located outside the United States --

(i) Have a minimum of 18 months of practical experience in the work being performed; or

(ii) Be trained in or thoroughly familiar with the methods, techniques, practices, aids, equipment, and tools used to perform the maintenance, preventive maintenance, or alterations.

(c) A certificated repair station must ensure its supervisors understand, read, and write English.

Statutory Authority

ADDENDUM

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

49 U.S.C. 106(g), 40113, 44701-44702, 44707, 44709, 44717.

History

[66 FR 41088, 41120, Aug. 6, 2001; *68 FR 12542,* Mar. 14, 2003, as corrected at *68 FR 17545, 17546,* Apr. 10, 2003; *68 FR 55819*, Sept. 29, 2003; *79 FR 46971, 46984,* Aug. 12, 2014]

End of Document

ADDENDUM

14 CFR 145.155

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Code of Federal Regulations > TITLE 14 -- AERONAUTICS AND SPACE > CHAPTER I -- FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION > SUBCHAPTER H -- SCHOOLS AND OTHER CERTIFICATED AGENCIES > PART 145 -- REPAIR STATIONS > SUBPART D -- PERSONNEL > SPECIAL FEDERAL AVIATION REGULATION

§ 145.155 Inspection personnel requirements.

(a) A certificated repair station must ensure that persons performing inspections under the repair station certificate and operations specifications are --

(1) Thoroughly familiar with the applicable regulations in this chapter and with the inspection methods, techniques, practices, aids, equipment, and tools used to determine the airworthiness of the article on which maintenance, preventive maintenance, or alterations are being performed; and

(2) Proficient in using the various types of inspection equipment and visual inspection aids appropriate for the article being inspected.

(b) A certificated repair station must ensure its inspectors understand, read, and write English.

Statutory Authority

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

49 U.S.C. 106(g), 40113, 44701-44702, 44707, 44709, 44717.

History

[66 FR 41088, 41120, Aug. 6, 2001; *68 FR 12542,* Mar. 14, 2003, as corrected at *68 FR 17545, 17546,* Apr. 10, 2003; *68 FR 55819,* Sept. 29, 2003; *79 FR 46971, 46985,* Aug. 12, 2014]

End of Document

ADDENDUM

14 CFR 145.157

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Code of Federal Regulations > TITLE 14 -- AERONAUTICS AND SPACE > CHAPTER I -- FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION > SUBCHAPTER H -- SCHOOLS AND OTHER CERTIFICATED AGENCIES > PART 145 -- REPAIR STATIONS > SUBPART D -- PERSONNEL > SPECIAL FEDERAL AVIATION REGULATION

§ 145.157 Personnel authorized to approve an article for return to service.

(a) A certificated repair station located inside the United States must ensure each person authorized to approve an article for return to service under the repair station certificate and operations specifications is appropriately certificated as a mechanic or repairman under part 65.

(b) A certificated repair station located outside the United States must ensure each person authorized to approve an article for return to service under the repair station certificate and operations specifications is --

(1) Trained in or has 18 months practical experience with the methods, techniques, practices, aids, equipment, and tools used to perform the maintenance, preventive maintenance, or alterations; and

(2) Thoroughly familiar with the applicable regulations in this chapter and proficient in the use of the various inspection methods, techniques, practices, aids, equipment, and tools appropriate for the work being performed and approved for return to service.

(c) A certificated repair station must ensure each person authorized to approve an article for return to service understands, reads, and writes English.

ADDENDUM

Statutory Authority

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

49 U.S.C. 106(g), 40113, 44701-44702, 44707, 44709, 44717.

History

[66 FR 41088, 41120, Aug. 6, 2001; *68 FR 12542,* Mar. 14, 2003, as corrected at *68 FR 17545, 17546,* Apr. 10, 2003; *68 FR 55819,* Sept. 29, 2003; *79 FR 46971, 46985,* Aug. 12, 2014]

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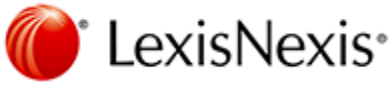
ADDENDUM



14 CFR 145.209

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Code of Federal Regulations > TITLE 14 -- AERONAUTICS AND SPACE > CHAPTER I -- FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION > SUBCHAPTER H -- SCHOOLS AND OTHER CERTIFICATED AGENCIES > PART 145 -- REPAIR STATIONS > SUBPART E -- OPERATING RULES > SPECIAL FEDERAL AVIATION REGULATION

§ 145.209 Repair station manual contents.

A certificated repair station's manual must include the following:

(a) An organizational chart identifying --

(1) Each management position with authority to act on behalf of the repair station,

(2) The area of responsibility assigned to each management position, and

(3) The duties, responsibilities, and authority of each management position;

(b) Procedures for maintaining and revising the rosters required by § 145.161;

(c) A description of the certificated repair station's operations, including the housing, facilities, equipment, and materials as required by subpart C of this part;

(d) Procedures for --

(1) Revising the capability list provided for in § 145.215 and notifying the certificate holding district office of revisions to the list, including

how often the certificate holding district office will be notified of revisions; and

(2) The self-evaluation required under § 145.215(c) for revising the capability list, including methods and frequency of such evaluations, and procedures for reporting the results to the appropriate manager for review and action;

(e) Procedures for revising the training program required by § 145.163 and submitting revisions to the certificate holding district office for approval;

(f) Procedures to govern work performed at another location in accordance with § 145.203;

(g) Procedures for maintenance, preventive maintenance, or alterations performed under § 145.205;

(h)Procedures for --

(1) Maintaining and revising the contract maintenance information required by § 145.217(a)(2)(i), including submitting revisions to the certificate holding district office for approval; and

(2) Maintaining and revising the contract maintenance information required by § 145.217(a)(2)(ii) and notifying the certificate holding district office of revisions to this information, including how often the certificate holding district office will be notified of revisions;

(i)A description of the required records and the recordkeeping system used to obtain, store, and retrieve the required records;

(j) Procedures for revising the repair station's manual and notifying its certificate holding district office of revisions to the manual, including how often the certificate holding district office will be notified of revisions; and

(k)A description of the system used to identify and control sections of the repair station manual.

Statutory Authority

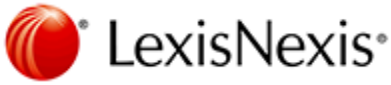
AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

49 U.S.C. 106(g), 40113, 44701-44702, 44707, 44709, 44717.

History

[66 FR 41088, 41122, Aug. 6, 2001; *68 FR 12542,* Mar. 14, 2003, as corrected at *68 FR 17545, 17546,* Apr. 10, 2003; *68 FR 55819,* Sept. 29, 2003]

ADDENDUM



14 CFR 145.215

This document is current through the July 12, 2017 issue of the Federal Register. Pursuant to 82 FR 8346 ("Regulatory Freeze Pending Review"), certain regulations will be delayed pending further review. See Publisher's Note under affected rules. Title 3 is current through July 7, 2017.

Code of Federal Regulations > TITLE 14 -- AERONAUTICS AND SPACE > CHAPTER I -- FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION > SUBCHAPTER H -- SCHOOLS AND OTHER CERTIFICATED AGENCIES > PART 145 -- REPAIR STATIONS > SUBPART E -- OPERATING RULES > SPECIAL FEDERAL AVIATION REGULATION

§ 145.215 Capability list.

(a) A certificated repair station with a limited rating may perform maintenance, preventive maintenance, or alterations on an article if the article is listed on a current capability list acceptable to the FAA or on the repair station's operations specifications.

(b) The capability list must identify each article by make and model or other nomenclature designated by the article's manufacturer and be available in a format acceptable to the FAA.

(c) An article may be listed on the capability list only if the article is within the scope of the ratings of the repair station's certificate, and only after the repair station has performed a self-evaluation in accordance with the procedures under § 145.209(d)(2). The repair station must perform this self-evaluation to determine that the repair station has all of the housing, facilities, equipment, material, technical data, processes, and trained personnel in place to perform the work on the article as required by part 145. The repair station must retain on file documentation of the evaluation.

(d) Upon listing an additional article on its capability list, the repair station must provide its certificate holding district office with a copy of the revised list in accordance with the procedures required in § 145.209(d)(1).

Statutory Authority

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

49 U.S.C. 106(g), 40113, 44701-44702, 44707, 44709, 44717.

History

[66 FR 41088, 41123, Aug. 6, 2001; *68 FR 12542,* Mar. 14, 2003, as corrected at *68 FR 17545, 17546,* Apr. 10, 2003; *68 FR 55819,* Sept. 29, 2003]

End of Document

ADDENDUM

ICAO Annex 6 (10th ed., July 2016)

CHAPTER 8 AERPOPLANE MAINTENANCE

8.7.6 Personnel

8.7.6.1 The maintenance organization shall nominate a person or group of persons whose responsibilities include ensuring that the maintenance organization is in compliance with the requirements of 8.7 for an approved maintenance organization.

8.7.6.2 The maintenance organization shall employ the necessary personnel to plan, perform, supervise, inspect and release the work to be performed.

8.7.6.3 The competence of maintenance personnel shall be established in accordance with a procedure and to a level acceptable to the State granting the approval. The person signing a maintenance release shall be qualified in accordance with Annex 1.

8.7.6.4 The maintenance organization shall ensure that all maintenance personnel receive initial and continuation training appropriate to their assigned tasks and responsibilities. The training programme established by the maintenance organization shall include training in knowledge and skills related to human performance, including coordination with other maintenance personnel and flight crew.

Note.— Guidance material to design training programmes to develop knowledge and skills in human performance can be found in the Human Factors Training Manual *(Doc 9683).*

ADDENDUM

ICAO Airworthiness Manual, Doc. 9760-AN/967 (3rd ed., 2014)

CHAPTER 10

APPROVAL OF THE MAINTENANCE ORGANIZATION

10.2 ISSUE OF APPROVAL

10.2.1 It is strongly recommended that approval be granted to a whole organization headed by the accountable executive. The organization must identify the accountable executive, who must be a single, identifiable person having final responsibility for the effective and efficient performance of the organization. Depending on the size and complexity of the organization, the accountable executive may be:

a) the chief executive officer;

b) the chairperson of the board of directors;

c) a partner; or

d) the proprietor.

10.2.2 The accountable executive's authorities and responsibilities include, but are not limited to:

a) full authority for human resources issues;

b) authority for major financial issues;

c) direct responsibility for the conduct of the organization's affairs;

d) final authority over operations under certificate; and

e) final responsibility for all safety issues.

ADDENDUM

10.2.3 The accountable executive should be responsible to the CAA of the State of Registry for ensuring compliance with the terms and conditions of the approval. This approach provides a guarantee to the CAA that responsibility for corrective action for any deficiencies identified by the CAA is vested at the highest level in the organization's management structure, thus ensuring that the necessary executive authority (including finance, where applicable) will be available. This might not be the case, for example, if the approval is vested in the inspection department of an organization only. Annex 6 provides that the maintenance organization should nominate a person or group of persons whose responsibilities include ensuring that the maintenance organization is in compliance with the requirements for an approved maintenance organization. To support the accountable executive, there should be a group of identified key personnel who are appropriately qualified and experienced to manage the various aspects of the activities included in the approval.

10.2.4 Annex 8, Part II, Chapter 4, provides that the State of Registry ensures the continuing airworthiness of the aircraft during its service life. The State of Registry is obliged to ensure AMOs are available to facilitate the continuing airworthiness of aircraft on their register. The State of Registry should be actively engaged in the evaluation and approval of the maintenance organization.

10.2.5 Many operators now contract maintenance to a separate organization. There may be cases where a maintenance organization in a State holds more than one State approval and maintains aircraft from different States. When a State approves a maintenance organization in a different State, coordination with the CAA of the different State should occur. The approving CAA should inform its intentions and request any safety information the CAA of a different State will provide. At the conclusion of the certification the approving State should send a copy of the certification and authorizations and request to be kept appraised of any safety concerns the CAA of the different State may have.

ADDENDUM

JOINT AVIATION AUTHORITIES

JOINT AVIATION REQUIREMENTS

PART 145

APPROVED MAINTENANCE ORGANIZATIONS

145.A.30 Personnel requirements

(a) The organisation shall appoint an accountable manager who has corporate authority for ensuring that all maintenance required by the customer can be financed and carried out to the standard required by this Part. The accountable manager shall:

1. ensure that all necessary resources are available to accomplish maintenance in accordance with 145.A.65(b) to support the organisation approval.

2. establish and promote the safety and quality policy specified in 145.A.65(a).

3. demonstrate a basic understanding of this Part.

(b) The organisation shall nominate a person or group of persons, whose responsibilities include ensuring that the organization complies with this Part. Such person(s) shall ultimately be responsible to the accountable manager.

1. The person or persons nominated shall represent the maintenance management structure of the organisation and be responsible for all functions specified in this Part.

2. The person or persons nominated shall be identified and their credentials submitted in a form and manner established by the competent authority.

3. The person or persons nominated shall be able to demonstrate relevant knowledge, background and satisfactory experience related to aircraft or component maintenance and demonstrate a working knowledge of this Part.

Joint Aviation Requirement 145.A.30 Cont.

4. Procedures shall make clear who deputises for any particular person in the case of lengthy absence of the said person.

(c) The accountable manager under paragraph (a) shall appoint a person with responsibility for monitoring the quality system, including the associated feedback system as required by 145.A.65(c). The appointed person shall have direct access to the accountable manager to ensure that the accountable manager is kept properly informed on quality and compliance matters.

(d) The organisation shall have a maintenance man-hour plan showing that the organisation has sufficient staff to plan,perform, supervise, inspect and quality monitor the organisation in accordance with the approval. In addition the organisation shall have a procedure to reassess work intended to be carried out when actual staff availability is less than the planned staffing level for any particular work shift or period.

(e) The organisation shall establish and control the competence of personnel involved in any maintenance, management and/or quality audits in accordance with a procedure and to a standard agreed by the competent authority. In addition to the necessary expertise related to the job function, competence must include an understanding of the application of human factors and human performance issues appropriate to that person's function in the organisation. ‘Human factors’ means principles which apply to aeronautical design, certification, training, operations and maintenance and which seek safe interface between the human and other system components by proper consideration of human performance. ‘Human performance’ means human capabilities and limitations which have an impact on the safety and efficiency of aeronautical operations.

(f) The organisation shall ensure that personnel who carry out and/or control a continued airworthiness non-destructive test of aircraft structures and/or components are appropriately qualified for the particular non-destructive test in accordance with the European or equivalent Standard recognised by the Agency. Personnel who carry out any other specialised task shall be appropriately qualified in accordance with officially recognised Standards. By derogation to this paragraph those personnel specified in paragraphs (g)

Joint Aviation Requirement 145.A.30 Cont.

and (h)(1) and (h)(2), qualified in Part-66 category B1 may carry out and/or control colour contrast dye penetrant tests.

(g) Any organisation maintaining aircraft, except where stated otherwise in paragraph (j), shall in the case of aircraft line maintenance, have appropriate aircraft type rated certifying staff qualified as category B1 and B2 in accordance with Part-66 and 145.A.35.

In addition such organisations may also use appropriately task trained certifying staff qualified as category A in accordance with Part-66 and 145.A.35 to carry out minor scheduled line maintenance and simple defect rectification. The availability of such category A certifying staff shall not replace the need for Part-66 category B1 and B2 certifying staff to support the category A certifying staff. However, such Part-66 category B1 and B2 staff need not always be present at the line station during minor scheduled line maintenance or simple defect rectification.

(h) Any organisation maintaining aircraft, except where stated otherwise in paragraph (j) shall:

1. 1. in the case of base maintenance of large aircraft, have appropriate aircraft type rated certifying staff qualified as category C in accordance with Part-66 and 145.A.35. In addition the organisation shall have sufficient aircraft type rated staff qualified as category B1 and B2 in accordance with Part-66 and 145.A.35 to support the category C certifying staff.

    (i) B1 and B2 support staff shall ensure that all relevant tasks or inspections have been carried out to the required standard before the category C certifying staff issues the certificate of release to service.

    (ii) The organisation shall maintain a register of any such B1 and B2 support staff.

    (iii) The category C certifying staff shall ensure that compliance with paragraph (i) has been met and that all work required by the customer has been accomplished during the particular base

maintenance check or work package, and shall also assess the impact of any work not carried out with a view to either requiring its accomplishment or agreeing with the operator to defer such work to another specified check or time limit.

2. in the case of base maintenance of aircraft other than large aircraft have either:

   (i) appropriate aircraft type rated certifying staff qualified as category B1 and B2 in accordance with Part-66 and 145.A.35 or,

   (ii) appropriate aircraft type rated certifying staff qualified in category C assisted by B1 and B2 support staff as specified in paragraph (1).

(i) Component certifying staff shall comply with Part-66.

(j) By derogation to paragraphs (g) and (h), the organisation may use certifying staff qualified in accordance with the following provisions:

1. For organisation facilities located outside the Community territory certifying staff may be qualified in accordance with the national aviation regulations of the State in which the organisation facility is registered subject to the conditions specified in Appendix IV to this Part.

2. For line maintenance carried out at a line station of an organisation which is located outside the Community territory, the certifying staff may be qualified in accordance with the national aviation regulations of the State in which the line station is based, subject to the conditions specified in Appendix IV to this Part.

3. For a repetitive pre-flight airworthiness directive which specifically states that the flight crew may carry out such airworthiness directive, the organisation may issue a limited certification authorisation to the aircraft commander and/or the flight engineer on the basis of the flight crew licence held. However, the organisation shall ensure that sufficient practical training has been carried out to ensure that such aircraft

Joint Aviation Requirement 145.A.30 Cont.

commander or flight engineer can accomplish the airworthiness directive to the required standard.

4. In the case of aircraft operating away from a supported location the organisation may issue a limited certification authorisation to the commander and/or the flight engineer on the basis of the flight crew licence held subject to being satisfied that sufficient practical training has been carried out to ensure that the commander or flight engineer can accomplish the specified task to the required standard. The provisions of this paragraph shall be detailed in an exposition procedure.

5. In the following unforeseen cases, where an aircraft is grounded at a location other than the main base where no appropriate certifying staff are available, the organisation contracted to provide maintenance support may issue a one-off certification authorisation:

   (i) to one of its employees holding equivalent type authorisations on aircraft of similar technology, construction and systems; or

   (ii) to any person with not less than five years maintenance experience and holding a valid ICAO aircraft maintenance licence rated for the aircraft type requiring certification provided there is no organisation appropriately approved under this Part at that location and the contracted organisation obtains and holds on file evidence of the experience and the licence of that person.

All such cases as specified in this subparagraph shall be reported to the competent authority within seven days of the issuance of such certification authorisation. The organisation issuing the one-off authorisation shall ensure that any such maintenance that could affect flight safety is re-checked by an appropriately approved organisation.