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U.S. Department of Transportation
Docket Operations
West Building Ground Floor
Room W12-140
1200 New Jersey Avenue, S.E.
Washington, DC 20590-0001

RE: Docket FAA-2025-2498 – Petition for Reconsideration of Denied Petition for Rulemaking to Amend 14 CFR part 120

To Whom It May Concern:

Pursuant to 14 CFR sec. 11.101[1], this a petition for reconsideration of the Federal Aviation Administration's (FAA) Sept. 29, 2025 denial of the petition for rulemaking to amend 14 CFR part 120 submitted Aug. 22, 2025.

(1) Contact Information

Inquiries, requests, notifications, and correspondence in connection with this petition for reconsideration may be directed to:

Christian A. Klein
Executive Vice President
Aeronautical Repair Station Association
121 North Henry Street
Alexandria, VA 22043-2903
M: 703.599.0164
E: christian.klein@arsa.org

(2) Background

The drug and alcohol (D&A) rule published by the FAA on December 18, 2024[2] requires certificated repair stations located outside the territory of the United States whose employees perform safety-sensitive maintenance functions on certain air carrier aircraft to implement a D&A program in a manner acceptable to the FAA and consistent with the laws of the country in which the repair station is located. Impacted repair stations must comply with the new requirements (or have waivers and/or exemptions in place) by Dec. 20, 2027.

Pursuant to the Convention on International Civil Aviation, an aircraft's state of registry is responsible for overseeing its airworthiness, including its maintenance.[3] Only persons

[1] All regulatory references are to 14 CFR unless otherwise indicated.
[2] "Drug and Alcohol Testing of Certificated Repair Station Employees Located Outside of the United States", Federal Aviation Administration, 89 FR 103416 (Dec. 18, 2025).
[3] See Convention on International Civil Aviation, Article 31.

approved by the FAA pursuant to sec. 43.3 may maintain, rebuild, alter, or perform preventive maintenance on an aircraft, airframe, aircraft engine, propeller, appliance, or component part under the FAA's regulatory jurisdiction. Thus, the 1,053 FAA certificated repair stations outside the United States[4] provide essential services to U.S. commercial and general aviation operators. Without foreign repair stations to help keep the U.S. fleet airworthy, global operations would be virtually impossible.[5]

Given the many challenges associated with part 120 and 49 CFR part 40 compliance on a global basis, the FAA and U.S. Department of Transportation will be inundated with waiver requests and exemption petitions as a result of the new rule. As such, on Aug. 22, 2025, petitioners, representing regulated entities directly impacted by the new rule, submitted a petition for rulemaking ("the original petition") to amend 14 CFR part 120 to facilitate efficient implementation of the foreign repair station D&A rules. Petitioners identified multiple requirements in part 120 and 49 CFR part 40 that are impracticable for foreign repair stations. To facilitate compliance, oversight, and enforcement, the petition proposed to amend part 120 as follows:

a) Sec. 120.1(d) to clarify that the D&A requirements only apply to foreign repair stations that perform safety-sensitive maintenance functions on part 121 aircraft[6] during heavy maintenance as defined at 49 U.S.C. sec. 44733(j)(2).
b) Sec. 120.9(a) to clarify that a foreign repair station may request an FAA waiver from any provision in part 120, not just subparts E and F. This will allow the agency to waive the sec. 120.5 requirement that foreign repair stations fully comply with 49 CFR part 40 and any other impracticable 49 CFR part 40 requirement.
c) Sec. 120.10 to allow the FAA to grant a waiver on its own volition (*i.e.*, without a petition) to a foreign government for all its foreign repair stations based on the agency's determination that the foreign government's existing requirements are a compatible alternative to the requirements of part 120.
d) Secs. 120.9 and 120.10 to clarify that a repair station may apply for and obtain a single waiver for multiple facilities under a single certificate or corporate umbrella.
e) Sec. 120.103(b) to allow foreign repair stations to use or contract with drug testing laboratories outside the United States certified or accredited to a national or international standard.
f) Sec. 120.113(a) to allow foreign repair stations to designate or appoint a Medical Review Officer who is a licensed physician in the country in which the repair station is located.

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[4] According to the FAA's Repair Station Facility Dashboard, as of Nov. 24, 2025, there are 1,053 FAA certificated repair stations outside the United States (*see*, https://www.faa.gov/av-info/facility-dashboard).
[5] To obtain a foreign repair station certificate the applicant for a new or to renew an existing certificate must show a need for its services, *see*, sec. 145.51(c)(1).
[6] *See*, sec. 1.1 which defines aircraft as "a device that is used or intended to be used for flight in the air."

g) Sec. 120.113(c) to allow a foreign repair station to use or contract with a Substance Abuse Professional (SAP) qualified under the laws of the country in which the repair station is located.
h) Sec. 120.119(a)(2) and 120.219(b)(2) to eliminate the reporting requirement for foreign repair stations.
i) Various sections of part 120 to clarify that compliance with 49 CFR part 40 is required, consistent with waivers issued by the FAA and exemptions granted by the Department of Transportation.
j) Various sections of part 120 to improve clarity by using "foreign repair station" more consistently throughout the part.

Just as significantly (and as discussed in section (4)(c) below), the petitioners urged the FAA to embrace the flexibility and authority provided by Congress in the statute directing the rulemaking.[7] It was never Congress' intent that foreign repair stations would comply fully with part 120 and 49 CFR part 40. Hence, the language in the law requires a foreign repair station D&A program to be consistent with the laws of the country in which it is located and acceptable to the Administrator. These words, for example, give the FAA the authority to waive compliance with those sections of 49 CFR part 40 that are impracticable outside the United States.

The amendments proposed in the petition would reduce the regulation's administrative burden and facilitate compliance through greater clarity while maintaining the high safety standards contemplated in 14 CFR part 120.

(3) The FAA's Rejection of the Original Petition

The agency informed petitioners by letter dated Sept. 29, 2025 that the original petition was denied. The letter restated the sec. 11.73(a) criteria the agency uses to determine whether it is appropriate to initiate a rulemaking based on a petition, *viz.:*

> *(1) The immediacy of the safety or security concerns you raise;*
>
> *(2) The priority of other issues the FAA must deal with; and*
>
> *(3) The resources the FAA has available to address these issues.*

The agency failed to cite any of those three criteria as the specific basis for denying the petition, stating only that:

> *After reviewing your petition based on the considerations found in 14 CFR § 11.73, and the current priorities for the FAA, the FAA has determined that your petition does not meet the criteria to pursue rulemaking at this time. However, your comments and arguments for the proposed rule changes in your petition will be*

[7] *See*, Pub. L. 118-63, sec. 302 ("Global Aircraft Maintenance Safety Improvements"), enacted May 16, 2024.

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placed in a database, which the FAA will examine when the FAA considers future rulemaking.

While it is impossible for petitioners to determine which criterion or criteria were the basis for rejecting the petition and how the agency may have erred in its application, the following is offered for reconsideration.

(A) Immediacy of Safety Concerns

Failing to revise part 120 as petitioned raises immediate safety concerns because foreign repair stations may decide to surrender their certificates rather than comply, reducing the availability of repair stations legally able to service U.S. registered aircraft and related articles outside the United States. Since the original petition was submitted, there are ten fewer foreign repair stations listed in the FAA dataset; while we have no evidence this fact is associated with the new rule, the possibility cannot be ruled out.

Additionally, the inability of the agencies (*i.e.,* the FAA and the Department of Transportation) to process waiver requests and petitions for exemptions in a timely and consistent manner will further strain the aviation maintenance safety assurance system. Considering the complexity of the process, the sophistication needed to understand the FAA's requirements, the myriad national and local laws and regulations in multiple countries, the number of foreign repair stations that must comply, and the limited resources of the U.S. government, it is imperative that safety be honored with the most effective and efficient methods of compliance.

(B) Priority of Other Issues

While the FAA may have determined foreign repair station D&A is a low priority, Congress considers the issue significant, as reflected by multiple reauthorization laws.[8] The FAA prioritized issuance of the final rule; to facilitate efficient implementation, the agency must now similarly prioritize addressing challenges identified since the rule was finalized.

(C) Available FAA Resources

The petition for rulemaking was and is aimed at resolving enforcement and compliance challenges before foreign repair stations attempt to bring themselves into compliance. In evaluating the resources needed to amend part 120, the agency must consider the massive expenditure associated with processing sec. 120.9 and 120.10 waiver applications from more than a thousand foreign repair stations without amending the rule as suggested in the petition.

The Aeronautical Repair Station Association (ARSA) has met with the agency's Drug Abatement Division, which had aimed to provide industry guidance during the final quarter of 2025. With the federal government's 43-day shutdown, that timeframe is problematic.

[8] See Sec. 2, "Authority for This Rulemaking", Foreign Repair Station D&A Final Rule at 103417.

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To aid the agency in providing guidance to its workforce, the foreign repair station community, and foreign governments, ARSA offered to allow full use and access to the toolkit it developed to facilitate waiver requests and exemption petitions. The collaboration would enable the government to provide information in a timely manner and help ensure consistency in applications for waivers and petitions for exemptions when both are required.

The burden to both the industry and the agency will be reduced significantly by reconsideration of the petition for rulemaking.

(4) Basis of Reconsideration

Sec. 11.101 establishes three criteria for reconsidering the denial of a petition for rulemaking.

(A) Significant Additional Fact and Why It Was Not Present in the Original Petition[9]

ARSA has been involved in supporting compliance with part 120 since its inception, even before it was associated with 49 CFR part 40.

The original petition stated the facts known and available to petitioners at the time of submission. Since that time, the true cost of compliance has become evident. The agency did not address the cost for initial compliance. The FAA incorrectly estimated the annual and continuing burden for a foreign repair station to maintain its antidrug and alcohol misuse operations specification at just 16.2 hours with an estimated annual burden for test data at 5.25 hours.[10]

To ensure compliance with the expansion of the rule to foreign repair stations under the congressional mandate, ARSA has invested more than 100 hours analyzing part 120 and 49 CFR part 40, identifying potential compliance challenges, developing a toolkit for compliance with model waiver and petition templates, and reviewing foreign government D&A mandates. The agency's final rule assumed that for a country to request a waiver for all its repair stations would equate to $2,569,[11] an estimate that is belied by the number of hours it has taken ARSA to draft a waiver for a foreign government with laws and regulations fully compatible with those set forth in part 120.

The FAA's estimate of the compliance burden is low for many reasons. For example, in the preamble to the final rule, the FAA incorrectly expected "the expanded waiver options to reduce the burden on foreign citizens and on FAA and DOT by reducing the number of

[9] *See* sec. 1101(a).
[10] Foreign Repair Station D&A Final Rule at 103466.
[11] "Since the rule provides several pathways for compliance, the FAA estimated low and high-cost cases. The low-cost case assumes all countries with certificated repair stations will submit a request for a waiver based on recognition. The total unadjusted unit cost to the industry and the FAA to submit one request is $2,569." *Ibid* at 103417

waivers and exemptions received." Specifically, the Final Rule's Paperwork Reduction Act analysis states, "FAA assumes that **every** foreign government that regulates part 145 repair stations located outside the territory of the U.S. will submit a request for a waiver based on recognition. There are 65 countries that have part 145 repair stations within their territories so there will be 65 submissions."[12] (Emphasis added.)

The agency exposed itself and the industry to considerable risk by baselessly assuming every foreign government would submit sec. 120.10 waiver petitions to relieve repair stations in those countries of the burden of complying with 14 CFR subparts E and F. Further, the estimate failed to consider the additional time for evaluating the need for and filing petitions for exemption from 49 CFR part 40 requirements.

According to the experts with whom ARSA has been working, many foreign governments are unaware of the requirement or the ability to obtain a waiver on behalf of the repair stations in their jurisdictions. Where awareness exists, the governments are unable to determine the appropriate department, agency, or authority through which the waiver would be requested as the issues involve privacy rights, health and safety laws and regulations, as well as civil aviation authorities.

Additionally, for political reasons, or due to time and resource constraints, governments are disinclined to act or are simply refusing to submit a petition that meets the requirements of sec. 120.10.[13] Thus, it is much more likely that the agencies will be inundated by waivers and petitions from individual facilities, each of which will need to take a minimum of 80 to 100 hours to develop a potentially compliant program with an appropriate waiver and/or exemption request. It will take an equally extensive period for the FAA and DOT to review and process multiple, potentially conflicting applications. Determining compliance will take time and involve multiple federal agencies because there are regulatory requirements (*e.g.*, the use of U.S. Department of Health and Human Services approved laboratories to process drug test specimens[14]) with which no foreign repair station can comply.

Given incorrect assumptions in the agency's burden analysis, the FAA must reconsider opportunities to alleviate the cost on the agency and industry as those proposed in the petition for rulemaking.

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[12] *Id.*
[13] It is the association's understanding that the European Union Aviation Safety Agency (EASA) has stated verbally and in writing that it has no plans on submitting a waiver on behalf of any country under its jurisdiction.
[14] *See* sec. 120.103(b)(2).

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(B) The FAA Made an Important Factual Error in Denying the Original Petition[15]

At a minimum, the foregoing discussion demonstrates the factual errors and incorrect assumptions underlying the FAA's estimate of the burden imposed on the industry, individual stakeholders, the FAA and other parts of the federal government by the current rule. Therefore, the petition for rulemaking needs to be reconsidered as a method of alleviating the incorrect assumptions and cost estimates.

(C) The FAA Did Not Correctly Interpret a Law, Regulation, or Precedent[16]

The FAA erred in its interpretation of the statute directing the foreign repair station drug and alcohol requirements by failing to embrace the full authority the FAA has been given to find foreign repair station D&A programs "acceptable to the administrator".

49 U.S.C. sec. 44733(d)(2) directed the FAA to promulgate a proposed rule to ensure certain foreign part 145 repair station employees are subject to an alcohol and controlled substances testing program deemed acceptable by the Administrator and consistent with the applicable laws of the country in which the repair station is located.

Congress recognized that it was impossible for foreign repair stations to fully comply with part 120 and 49 CFR part 40. Therefore, the law does not require foreign repair stations to have D&A programs that fully comply with DOT rules. Indeed, in providing the FAA with discretion to waive DOT requirements inconsistent with a foreign country's laws. And by creating the 14 CFR sec. 120.10 waiver process, the FAA recognized that full compliance with 49 CFR part 40 is not required under the law.

Sec. 120.9 currently only provides for waivers from subparts E and F of part 120; it does not allow a waiver from the requirement at sec. 120.5 that all D&A testing must comply with 49 CFR part 40 and any exemptions issued by DOT. Thus, although a foreign repair station may obtain waivers from subparts E and F of part 120, it is still bound by sec. 120.5 to fully comply with 49 CFR part 40.

As stated in the original petition, the FAA should fully embrace the flexibility and authority given it in the statute. Specifically, the FAA must recognize that it has the authority to waive its own requirement (stated in part 120) that foreign repair stations comply with all of 49 CFR part 40 as well as to grant foreign repair stations waivers from individual sections of the DOT D&A rules.

Amending part 120 as suggested in the petition for rulemaking would reduce the need for duplicative submissions to the FAA and DOT and enhance efficiency for both government and regulated persons.

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[15] *See* sec. 1101(b).
[16] *See* sec. 1101(c).

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(5) Conclusion

The foreign repair station amendments to part 120 are the first time the FAA has extended D&A requirements outside the United States. The U.S. government and global industry are coming to terms with the complex and interwoven compliance challenges, many of which could not have been considered as they have only become apparent since the issuance of the final rule.

The proposed amendments are based on the petitioners' in-depth analysis of part 120 and 49 CFR part 40, knowledge of the global aviation maintenance industry, and suggestions from association members and foreign governments. The proposed changes will ensure the FAA achieves the objective of the congressional mandate in the most efficient manner for FAA, the Department of Transportation, foreign repair stations, and the U.S. operators who rely on them.

For the reasons discussed above, we respectfully petition the Administrator to reconsider the agency's denial of the original petition.

Sincerely,

Christian Klein
Executive Vice President
Aeronautical Repair Station Association
christian.klein@arsa.org

cc:

Michele Dickstein	michele@aviationsuppliers.org
Joe Sambiase	jsambiase@gama.aero
Jason Dickstein	jason@washingtonaviation.com
George Paul	gpaul@naca.aero
Jenny Ann Urban	jurban@nata.aero
Stewart D'Leon	sdleon@nbaa.org
Paul Peterson	ppeterson@uafa.org
Nancy Rodriquez Brown	nancy.rodriguez-brown@faa.gov
Doug Simon	doug.simon@dot.gov
Charles Ducker, Jr.	charles.ducker@dot.gov
Bohdan Baczara	bohdan.baczara@dot.gov
Jennifer Lancaster	jennifer.lancaster@dot.gov
Julia Brady	julia.brady@faa.gov
Latonya Williams	latonya.williams@faa.gov