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11.63(a)(1) to: <http://www.regulations.gov>

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: Petition for Rulemaking to Amend 14 CFR part [120](#)

To Whom It May Concern:

The undersigned parties respectfully submit this petition for rulemaking pursuant to Title 14, part [11](#)¹ of the Code of Federal Regulations (CFR).²

(1) Contact Information³

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

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(2) Explanation and Purpose of Proposed Action⁴

Petitioners propose to amend 14 CFR part [120](#) to facilitate efficient implementation of the congressionally mandated Federal Aviation Administration (FAA) drug & alcohol (D&A) requirements for foreign repair stations published on Dec. 18, 2024.⁵ Petitioners represent regulated entities directly impacted by the rulemaking.

Pursuant to the Convention on International Civil Aviation, an aircraft's state of registry is responsible for overseeing its airworthiness,⁶ including its maintenance. Only persons 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, FAA certificated repair

¹ See sec. 11.61([a](#)).

² All regulatory references are to 14 CFR unless otherwise indicated.

³ See sec. 11.71(a)([1](#)).

⁴ See sec. 11.71(a)([2](#)).

⁵ *Id.*

⁶ See Convention on International Civil Aviation, Article [31](#).

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stations outside the United States provide essential services to U.S. commercial and general aviation operators. Without foreign repair stations to keep the U.S. fleet airworthy, global operations would be virtually impossible.

The new rule adopted by the FAA in December 2024 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.

Petitioners have identified multiple requirements in part [120](#) and 49 CFR part [40](#) that are impracticable for foreign repair stations. To facilitate compliance, oversight, and enforcement, this petition therefore proposes 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](#) aircraft⁷ 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.
- 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.

⁷ See, sec. 1.1 which defines [aircraft](#) as "a device that is used or intended to be used for flight in the air."

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- j) Various sections of part 120 to improve clarity by using “foreign repair station” more consistently throughout the part.

These proposed changes 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) Language of Proposed Amended Rule⁸

Petitioners propose to amend part 120 as indicated below by removing words that are ~~stricken~~ and adding underlined words.

Subpart A - General

Sec.120.1 Applicability

...

(d) Beginning December 20, 2027, all part 145 certificate holders outside the territory of the United States who perform safety-sensitive maintenance functions on part 121 air carrier aircraft during heavy maintenance as defined at 49 U.S.C. sec. 44733(j)(2) (herein referred to as foreign repair stations), except that section 120.5 and subparts E and F of this part do not apply to ~~part 145 certificate holders outside the territory of the United States who perform safety-sensitive functions on part 121 air carrier aircraft~~ foreign repair stations that have obtained recognition pursuant to § 120.10.

...

Sec. 120.5 Procedures.

Each employer having a drug and alcohol testing program under this part must ensure that all drug and alcohol testing conducted pursuant to this part complies with the procedures set forth in 49 CFR part 40, ~~and any exemptions issued to that employer by the Department of Transportation in accordance with 49 CFR 40.7, and any waivers issued by the Administrator.~~

...

Sec. 120.9 Waivers for Part 145 certificate holders outside the territory of the United States.

(a) A foreign repair station ~~part 145 certificate holder whose employees perform safety-sensitive maintenance functions on part 121 air carrier aircraft outside the territory of the United States~~ may request a waiver from the Administrator from any requirements under 14 CFR part 120, ~~subpart E or F~~, if specific requirements of ~~subpart E or F~~ are inconsistent

⁸ See sec. 11.71(a)(3).

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with the laws of the country where the repair station is located. The Administrator may grant a single waiver pursuant to this section to a foreign repair station applicable to multiple certificates, facilities, and non-certificated subcontractors controlled or contracted by that foreign repair station to perform safety sensitive work.

...

Sec. 120.10 Waiver based on recognition of a foreign government's existing requirements or an existing testing program of a Part 145 certificate holder outside the territory of the United States.

(a) General.

(1) A foreign government on behalf of its ~~part 145 certificate holders~~ foreign repair stations, or a foreign repair station ~~part 145 certificate holder whose employees perform safety sensitive maintenance functions on part 121 air carrier aircraft outside the territory of the United States (herein referred to as a foreign repair station)~~, may request a waiver from the Administrator from the requirements of this part in recognition of the foreign government's existing requirements, or the foreign repair station's existing testing program developed consistent with the laws of its home country, as a compatible alternative to the requirements of this part. The Administrator may grant a single waiver pursuant to this section to a foreign repair station applicable to multiple certificates, facilities, and non-certificated subcontractors controlled or contracted by that foreign repair station to perform safety sensitive work.

(2) The Administrator may, on the Administrator's own volition, grant a waiver to a foreign government applicable to its foreign repair stations upon the Administrator's determination that the foreign government's existing requirements are a compatible alternative to the requirements of this part...

Subpart E—Drug Testing Program Requirements

Sec. 120.103 General

...

(b) DOT procedures. (1) Each employer shall ensure that drug testing programs conducted pursuant to 14 CFR parts 65, 91, 121, and 135 comply with the requirements of this subpart, ~~and the "Procedures for Transportation Workplace Drug Testing Programs" published by the Department of Transportation (DOT) (49 CFR part 40), any waivers issued by the Administrator, and any exemptions granted by DOT.~~

(2) Except for a foreign repair station, an employer may not use or contract with any drug testing laboratory that is not certified by the Department of Health and Human Services (HHS) under the National Laboratory Certification Program. A foreign repair station may use or contract with a drug testing laboratory certified or accredited pursuant to a similar recognized national or international standard.

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(c) Employer responsibility. As an employer, you are responsible for all actions of your officials, representatives, and service agents in carrying out the requirements of this subpart and 49 CFR part 40 consistent with any waivers issued by the Administrator and exemptions granted by DOT.

Sec. 120.109 Types of drug testing required.

Each employer shall conduct the types of testing described in this section in accordance with the procedures set forth in this subpart and the DOT “Procedures for Transportation Workplace Drug Testing Programs” (49 CFR part 40), any waivers issued by the Administrator, and any exemptions granted by DOT.

Sec. 120.113 Medical Review Officer, Substance Abuse Professional, and Employer Responsibilities.

(a) Except for a foreign repair station, an employer shall designate or appoint a Medical Review Officer (MRO) who shall be qualified in accordance with 49 CFR part 40 and shall perform the functions set forth in 49 CFR part 40 and this subpart. If the employer does not have a qualified individual on staff to serve as MRO, the employer may contract for the provision of MRO services as part of its drug testing program. A foreign repair station shall designate or appoint an MRO who shall be a licensed physician in the country in which the repair station is located.

(b) Medical Review Officer (MRO). The MRO must perform the functions set forth in subpart G of 49 CFR part 40, and subpart E of this part consistent with any waivers issued by the Administrator and any exemptions granted by DOT. The MRO shall not delay verification of the primary test result following a request for a split specimen test unless such delay is based on reasons other than the fact that the split specimen test result is pending. If the primary test result is verified as positive, actions required under this rule (e.g., notification to the Federal Air Surgeon, removal from safety-sensitive position) are not stayed during the 72-hour request period or pending receipt of the split specimen test result.

(c) Substance Abuse Professional (SAP). The SAP must perform the functions set forth in 49 CFR part 40, subpart O. A foreign repair station may use or contract with an SAP qualified under the laws in which the repair station is located.

Sec. 120.117 Implementing a drug testing program.

(a) Each company must meet the requirements of this subpart. Use the following chart to determine whether your company must obtain an Antidrug and Alcohol Misuse Prevention Program Operations Specification, Letter of Authorization, or Drug and Alcohol Testing Program Registration from the FAA:

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If you are . . .	You must . . .
(6) A foreign repair station part 145 certificate holder located outside the territory of the United States who performs whose employees perform safety-sensitive heavy maintenance functions on part 121 air carrier aircraft, unless you have received recognition pursuant to § 120. 10	Obtain an Antidrug and Alcohol Misuse Prevention Program Operations Specification by contacting your Principal Maintenance Inspector.

...

(c) If you are an individual or company that intends to provide safety-sensitive services by contract to a part [119](#) certificate holder with authority to operate under part [121](#) and/or part [135](#) of this chapter, an operation as defined in § 91.[147](#) of this chapter, or an air traffic control facility not operated by the FAA or by or under contract to the U.S. military, use the following chart to determine what you must do if you opt to have your own drug testing program.

...

If you are . . .	You must . . .
(2) A foreign repair station part 145 certificate holder located outside the territory of the United States who performs whose employees perform safety-sensitive heavy maintenance functions on part 121 air carrier aircraft, unless you have received recognition pursuant to § 120. 10	(i) Obtain an Antidrug and Alcohol Misuse Prevention Program Operations Specification by contacting your Principal Maintenance Inspector. (ii) Implement a drug testing program acceptable to the Administrator no later than December 20, 2027, and (iii) Meet the requirements of this subpart as if you were an employer in accordance with any applicable waivers or exemptions.

...

(d) *Obtaining an Antidrug and Alcohol Misuse Prevention Program Operations Specification.*

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...

(2) You must certify on your Antidrug and Alcohol Misuse Prevention Program Operations Specification issued by your FAA Principal Operations Inspector or Principal Maintenance Inspector that you will comply with this part and 49 CFR part [40](#), consistent with any waivers issued by the Administrator and any exemptions granted by DOT.

...

(e) *Register your Drug and Alcohol Testing Program by obtaining a Letter of Authorization from the FAA in accordance with § 91.[147](#).*

(1) A drug and alcohol testing program is considered registered when the following information is submitted to the Flight Standards District Office nearest your principal place of business:

...

(vi) A signed statement indicating that your company will comply with this part and 49 CFR part [40](#), consistent with any waivers issued by the Administrator and any exemptions granted by DOT.

...

(f) *Obtaining a Drug and Alcohol Testing Program Registration from the FAA.*

(1) Except as provided in paragraphs (d) and (e) of this section, to obtain a Drug and Alcohol Testing Program Registration from the FAA, you must submit the following information to the Office of Aerospace Medicine, Drug Abatement Division:

...

(vi) A signed statement indicating that: your company will comply with this part and 49 CFR part [40](#), consistent with any waivers issued by the Administrator and any exemptions granted by DOT; and you intend to provide safety-sensitive functions by contract (including subcontract at any tier) to a part [119](#) certificate holder with authority to operate under part [121](#) or part [135](#) of this chapter, an operator as defined in § 91.[147](#) of this chapter, or an air traffic control facility not operated by the FAA or by or under contract to the U.S. military.

...

Sec. [120.119](#) Annual reports.

(a) Annual reports of testing results must be submitted to the FAA by March 15 of the succeeding calendar year for the prior calendar year (January 1 through December 31) in accordance with the following provisions:

...

(2) Each entity conducting a drug testing program under this part, other than a part [424](#) [119](#) certificate holder with authority to operate under part [121](#) or a foreign repair station,

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that has 50 or more employees performing a safety-sensitive function on January 1 of any calendar year shall submit an annual report to the FAA for that calendar year.

...

Subpart [E](#)—Alcohol Testing Program Requirements

Sec. [120.203](#) General.

...

(b) Alcohol testing procedures. Each employer shall ensure that all alcohol testing conducted pursuant to this subpart complies with the procedures set forth in 49 CFR part [40](#), consistent with any waivers issued by the Administrator and exemptions granted by DOT. The provisions of 49 CFR part [40](#) that address alcohol testing are made applicable to employers by this subpart.

...

Sec. [120.217](#) Tests required.

...

(a) *Pre-employment alcohol testing*. As an employer, you may, but are not required to, conduct pre-employment alcohol testing under this subpart. If you choose to conduct pre-employment alcohol testing, you must comply with the following requirements:

...

(4) You must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part [40](#) consistent with any waivers issued by the Administrator and exemptions granted by DOT.

...

(f) *Follow-up alcohol testing*.

...

(3) The employer must direct the employee to undergo testing for drugs in accordance with subpart [E](#) of this part, in addition to alcohol, if the SAP determines that drug testing is necessary for the particular employee. Any such drug testing shall be conducted in accordance with the provisions of 49 CFR part [40](#) consistent with any waivers issued by the Administrator and exemptions granted by DOT.

...

Sec. [120.219](#) Handling of test results, record retention, and confidentiality.

(a) *Retention of records*.

(1) *General requirement*. In addition to the records required to be maintained under 49 CFR part [40](#) and consistent with any waivers issued by the Administrator and exemptions

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granted by DOT, employers must maintain records required by this subpart in a secure location with controlled access.

...

(b) *Annual reports.* (1) Annual reports of alcohol testing program results must be submitted to the FAA by March 15 of the succeeding calendar year for the prior calendar year (January 1 through December 31) in accordance with the provisions of paragraphs (b)(1)(i) through (iii) of this section.

...

(ii) Each entity conducting an alcohol testing program under this part, other than a part [119-124](#) certificate holder with authority to operate under part [121](#) or a foreign repair station, that has 50 or more employees performing a safety-sensitive function on January 1 of any calendar year shall submit an annual report to the FAA for that calendar year.

...

Sec. [120.223](#) Alcohol misuse information, training, and substance abuse professionals.

...

(c) *Substance abuse professional (SAP) duties.* The SAP must perform the functions set forth in 49 CFR part [40](#), subpart O, and this subpart consistent with any waivers issued by the Administrator and exemptions granted by DOT

...

Sec. [120.225](#) How to implement an alcohol testing program.

(a) Each company must meet the requirements of this subpart. Use the following chart to determine whether your company must obtain an Antidrug and Alcohol Misuse Prevention Program Operations Specification, Letter of Authorization, or Drug and Alcohol Testing Program Registration from the FAA:

...

If you are . . .	You must . . .
(6) A <u>foreign repair station</u> part 145 certificate holder located outside the territory of the United States who performs whose employees perform safety-sensitive <u>heavy</u> maintenance functions on part 121 air carrier aircraft, unless you have received recognition pursuant to § 120. 10	Obtain an Antidrug and Alcohol Misuse Prevention Program Operations Specification by contacting your Principal Maintenance Inspector.

...

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(c) If you are an individual or company that intends to provide safety-sensitive services by contract to a part [119](#) certificate holder with authority to operate under part [121](#) and/or part [135](#) of this chapter, or an operator as defined in § 91.[147](#) of this chapter, use the following chart to determine what you must do if you opt to have your own drug testing program.

...

<p>(2) A foreign repair station part 145 certificate holder located outside the territory of the United States who performs whose employees perform safety-sensitive heavy maintenance functions on part 121 air carrier aircraft, unless you have received recognition pursuant to § 120.10</p>	<p>(i) Obtain an Antidrug and Alcohol Misuse Prevention Program Operations Specification by contacting your Principal Maintenance Inspector.</p> <p>(ii) Implement an alcohol testing program acceptable to the Administrator no later than December 20, 2027, and</p> <p>(iii) Meet the requirements of this subpart as if you were an employer in accordance with any applicable waivers or exemptions.</p>
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...

(d) To obtain an antidrug and alcohol misuse prevention program operations specification:

...

(2) You must certify on your Antidrug and Alcohol Misuse Prevention Program Operations Specification, issued by your FAA Principal Operations Inspector or Principal Maintenance Inspector, that you will comply with this part and 49 CFR part [40](#) consistent with any waivers issued by the Administrator and any exemptions granted by DOT.

...

(f) *Obtaining a Drug and Alcohol Testing Program Registration from the FAA.* (1) Except as provided in paragraphs (d) and (e) of this section, to obtain a Drug and Alcohol Testing Program Registration from the FAA you must submit the following information to the Office of Aerospace Medicine, Drug Abatement Division:

(1) Except as provided in paragraphs ([d](#)) and ([e](#)) of this section, to obtain a Drug and Alcohol Testing Program Registration from the FAA you must submit the following information to the Office of Aerospace Medicine, Drug Abatement Division:

...

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(vi) A signed statement indicating that: your company will comply with this part and 49 CFR part [40](#) consistent with any waivers issued by the Administrator and any exemptions granted by DOT and you intend to provide safety-sensitive functions by contract (including subcontract at any tier) to a part [119](#) certificate holder with authority to operate under part [121](#) or part [135](#) of this chapter, an operator as defined in § 91.[147](#) of this chapter, or an air traffic control facility not operated by the FAA or by or under contract to the U.S. military.

...

(4) Why the Proposed Action is in the Public Interest⁹

The proposed amendments to part [120](#)'s foreign repair station D&A requirements will serve the public interest as follows:

(A) Enhanced Compliance and Enforcement Efficiency

According to the FAA's Repair Station Facility Dashboard,¹⁰ as of Aug. 5, 2025, there are 1,063 FAA certificated repair stations outside the United States potentially subject to the new D&A requirements. Given the many challenges associated with part [120](#) and 49 CFR part [40](#) compliance on a global basis, without the amendments proposed herein, each of those facilities will be required to apply individually for waivers and exemptions. This, in turn, will inundate the FAA and DOT and divert considerable personnel resources.

The proposed amendments to part [120](#) would make implementation more efficient and reduce waiver requests by clearly defining a limited group of foreign repair stations that must comply, exempting foreign repair stations from the most impracticable part [120](#) and 49 CFR part [40](#) requirements, confirming the FAA's ability to waive 49 CFR part [40](#) requirements for foreign repair stations to prevent duplicative exemption petitions to DOT, allowing for the consolidation of waivers, and allowing the FAA to grant waivers to foreign governments *sua sponte*.

(B) Global Maintenance Access for U.S. Operators.

As described in Sec. 2 above, the 1,063 FAA certificated repair stations outside the United States provide essential services to U.S. commercial and general aviation operators. These global operations would be impossible without foreign repair stations to keep the U.S. fleet airworthy. However, the new part 120 requirements will increase compliance costs and complexity, create a disincentive to seek and/or maintain an FAA part 145 certificate, and potentially increase maintenance costs.

The proposed amendments will reduce the regulatory burden associated with foreign repair station part [120](#) compliance and make it more likely that these facilities will continue to provide maintenance services for U.S. registered aircraft. This, in turn, benefits every

⁹ See sec. 11.71(a)(4).

¹⁰ <https://www.faa.gov/av-info/facility-dashboard>.

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American who depends on international air transportation for travel, cargo shipments, and mail.

(5) Information and Arguments That Support the Proposed Action¹¹

Petitioners submit the following information and arguments in support of each of the regulatory changes proposed in Sec. 3 above.

A. Sec. 120.1(d) – Clarify that D&A Requirements Only Apply to Foreign Repair Stations that Perform Safety-Sensitive Maintenance Functions on Part [121](#) Air Carrier Aircraft During Heavy Maintenance as Defined at 49 U.S.C. sec. 44733(j)(2)

Amend sec. 120.1(d) to clarify that the foreign repair station D&A requirements apply only to safety-sensitive employees at foreign repair stations that perform heavy maintenance work as defined by 49 U.S.C. sec. 44733(j)(2).

49 U.S.C. sec. 44733(d)(2) directs the FAA to promulgate a proposed rule requiring all part [145](#) repair station employees responsible for safety-sensitive maintenance functions on part [121](#) air carrier aircraft be subject to an alcohol and controlled substances testing program determined acceptable by the Administrator and consistent with the applicable laws of the country in which the repair station is located.

There is nothing in the legislative history to suggest the law was intended to apply to repair stations not rated to work on complete aircraft. This interpretation is consistent with the fact that amendments to 49 U.S.C. sec. [44733](#) made in the 2024 FAA Reauthorization Act focus on foreign repair stations performing “heavy maintenance work”, defined in the law to mean “a C-check, a D-check, or equivalent maintenance operation with respect to the airframe of a transport-category aircraft.”¹²

Clarifying part [120](#)’s applicability as proposed will focus compliance, oversight, and enforcement on facilities working on complete part [121](#) air carrier aircraft as Congress intended, reduce the number of facilities subject to the new rule, and thereby reduce the volume of waiver requests and exemption petitions FAA and DOT must process.

B. Sec. 120.9(a) – Clarify that a Foreign Repair Station May Request an FAA Waiver from any Provision in Part [120](#), Not Just Subparts [E](#) and [F](#)

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.

¹¹ See sec. 11.71(a)(5).

¹² See, Pub. L. 118-[63](#), sec. 302 (“Global Aircraft Maintenance Safety Improvements”), enacted May 16, 2024.

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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 not apply DOT requirements inconsistent with a foreign country's laws, Congress recognized that it was impossible for foreign repair stations to fully comply with 49 CFR part [40](#). 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](#).

The FAA should fully embrace the flexibility and authority given to the agency 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](#) and to grant foreign repair stations waivers from individual sections of the DOT D&A rules. Amending part [120](#) as suggested would reduce the need for duplicative submissions to the FAA and DOT and enhance efficiency for both government and regulated persons.

C. Section 120.[10](#) – Allow the FAA to Grant a Waiver on its own Volition 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](#)

The FAA has limited itself to only issuing country-wide waivers pursuant to 120.[10](#) when requested by a foreign government. The FAA should restore its authority to issue a waiver *sua sponte* if the Administrator determines that a country's requirements are consistent with those stated in 120.[10](#). This could occur, for example, if the agency becomes aware that another country's D&A requirements parallel those of the FAA. Efficiency and flexibility for the agency and regulated persons would be enhanced by potentially reducing the number of unnecessary waiver applications. The power to issue waivers to foreign governments *sua sponte* is fully consistent with the congressional mandate to require a D&A program consistent with the laws of the country in which the facility is located and acceptable to the Administrator.

D. Sec. 120.[9](#) and 120.[10](#) – Allow Repair Stations to Apply for Single Waiver Applicable to Multiple Entities

Part [120](#) does not currently account for the various organizational structures under which foreign repair stations may be certificated. Petitioners therefore propose to amend secs. 120.[9](#) and 120.[10](#) to allow a single organization with multiple foreign repair station

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certificates and/or associated facilities to obtain a single waiver, dramatically reducing the volume of waiver applications and compliance complexity.

The amendment is necessary because a single organization might hold multiple FAA repair station certificates in a single country. Similarly, a single organization could have separate FAA repair station certificates in several countries. Petitioners propose that sec. [120.10](#) be amended to allow the agency to issue a single waiver for all repair station certificates under common control (regardless of the foreign countries in which the facilities are located) if they all comply with a common D&A program deemed acceptable to the agency under 14 CFR sec. [120.10](#) and consistent with the laws of the countries in which the repair stations are located.

Alternatively, an organization might have a single FAA repair station certificate with multiple associated sites (i.e., additional fixed locations) located in different European Union (EU) member states. An organization might also have a single FAA repair station certificate in an EU country and non-certificated subcontractors in different EU countries whose employees perform safety sensitive functions on part [121](#) air carrier aircraft and must therefore be tested. In such cases, there is only one competent authority based on the repair station's primary place of business. However, the facilities and non-certificated subcontractor employees in other countries may be subject to different laws and restrictions preventing a uniform company-wide D&A program from being implemented at all locations. The proposed amendment would therefore allow the agency to waive the requirements of part [120](#) and 49 CFR part [40](#) on a country-by-country basis as appropriate to facilitate compliance by foreign repair stations with multiple facilities.

E. Sec. 120.103(b)(2) – 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

Sec. 120.103(b)(2) requires drug test specimens to be analyzed by a laboratory certified under the U.S. Department of Health and Human Services (HHS) National Lab Certification Program (NLCP). However, there are only two HHS-certified labs outside the United States, both of which are in Canada.¹³

Given the lack of access to HHS-certified labs around the world, petitioners propose that sec. 120.103(b)(2) be amended to clarify that a foreign repair station may use or contract with a drug testing laboratory certified or accredited pursuant to a recognized national or international standard. Because sec. 120.103(b)(2) presents a compliance challenge for all foreign repair stations, amending the existing regulation to allow the use of non-HHS certified labs will significantly reduce the need for waiver requests and exemption petitions.

¹³ Ironically, because Canadian approved maintenance organizations are not issued FAA part [145](#) certificates pursuant to the U.S.-Canada bilateral agreement they are not subject to 14 CFR part [120](#) and therefore do not require access to HHS certified labs for compliance with 14 CFR.

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F. Sec. 120.113(a) – Allow Foreign Repair Stations to Designate or Appoint a Medical Review Officer (MRO) who is a Licensed Physician in the Country in Which the Repair Station is Located

Sec. 120.[113](#) requires MROs to be qualified in accordance with 49 CFR part [40](#). 49 CFR sec. 40.121([a](#)) requires MROs to be licensed physicians in a U.S., Canadian, or Mexican jurisdiction. This requirement is impracticable given that repair stations outside North America will generally not have access to an appropriately licensed physician to verify drug test results. The FAA should amend sec. 120.[113](#) to allow the use of MROs licensed in other than a U.S., Canadian, or Mexican jurisdiction. As with the proposed amendment to sec. 120.103([b](#)), this change will significantly reduce the need for waiver requests and exemption petitions.

G. Sec. 120.113(c) – 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

Sec. 120.113([c](#)) requires the use of a SAP to perform the functions specified in 49 CFR part [40](#), subpart [Q](#). 49 CFR sec. 40.281([a](#)) does not specifically require SAPs to have a U.S., Mexican, or Canadian credential. However, 49 CFR sec. 40.281(c)([2](#)) requires SAPs to pass “an examination administered by a nationally-recognized [i.e., U.S.] professional or training organization.” Given the challenges associated with credentialing SAPs on an international basis, petitioners propose to amend sec. 120.113([c](#)) to allow all foreign repair stations to use locally-qualified SAPs.

H. Sec. 120.119(a)([2](#)) and 120.219(b)([2](#)) – Eliminate the D&A Reporting Requirement for Foreign Repair Stations

D&A reporting by domestic entities subject to part [120](#) and 49 CFR part [40](#) is necessary to allow the FAA to compare data from thousands of U.S. companies complying with the same regulations. However, given the compliance challenges identified in this petition, no foreign repair station will be able to comply with part [120](#) and 49 CFR part [40](#) as written; each will comply pursuant to different waivers and exemptions. As such, the data gleaned from such foreign repair station D&A programs will be of no value to the agency or DOT because program requirements will vary from company to company. The FAA itself recognized this fact in drafting the list of compatibility criteria at sec. 120.10([b](#)), which

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includes no reporting requirement. Foreign repair stations will still maintain D&A records, which are available to the FAA upon request.

Petitioners therefore propose to amend secs. 120.119(a)(2) and 120.219(b)(2) to relieve foreign repair stations and the agency of the data reporting and gathering requirement.

I. Various Sections of part 120, Subparts E and F – Clarify that Compliance with 49 CFR part 40 is Required Consistent with Waivers Issued by the FAA and Exemptions Granted by DOT

To avoid future compliance and enforcement confusion for both regulators and regulated persons, all the following sections of part 120 containing 49 CFR part 40 references applicable to foreign repair stations should include the statement that compliance with 49 CFR part 40 is to be consistent with waivers issued by the Administrator and exemptions granted by DOT:

- Sec. 120.5 - Procedures
- Secs. 120.103(b)(1) and (c) - General.
- Sec. 120.109 - Types of drug testing required.
- Sec. 120.113(b) - Medical Review Officer, Substance Abuse Professional, and Employer Responsibilities.
- Secs. 120.117(d)(2), (e)(1)(vi), and (f)(1)(vi) - Implementing a drug testing program.
- Sec. 120.203(b) - General.
- Secs. 120.217(a)(4) and (f)(3) - Tests required.
- Sec. 120.219(a)(1) - Handling of test results, record retention, and confidentiality.
- Sec. 120.223(c) - Alcohol misuse information, training, and substance abuse professionals.
- Secs. 120.225(d)(2) and (f)(1)(iv) - How to implement an alcohol testing program.

J. Various Sections of Part 120 – Improve Clarity by Using “Foreign Repair Station” More Consistently

Part 120 does not currently introduce the term “foreign repair station” to refer to “a part 145 certificate holder whose employees perform safety-sensitive maintenance functions on part 121 air carrier aircraft outside the territory of the United States” until sec. 120.10 and occasionally uses the longer phrase throughout.

For clarity and brevity petitioners propose to amend the definition of “foreign repair station” in sec. 120.1(d) as described in Sec. 5(a), above and replace the phrase “part 145 certificate holder located outside of the territory of the United States who performs

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maintenance functions on part [121](#) air carrier aircraft” with “foreign repair station” in the following part 120 sections:

- Sec. 120.1([d](#)) – Applicability.
- Sec. 120.9([a](#)) - Waivers for Part [145](#) certificate holders outside the territory of the United States.
- Sec. 120.10([a](#)) - Waiver based on recognition of a foreign government's existing requirements or an existing testing program of a Part 145 certificate holder outside the territory of the United States.
- Secs. 120.117(a)([6](#)) and (c)([2](#)) - Implementing a drug testing program.
- Sec. 120.225(a)([6](#)) and (c)([2](#)) - How to implement an alcohol testing program.

(6) Specific Facts or Circumstances that Support or Demonstrate Need for the Proposed Action¹⁴

The foreign repair station amendments to part [120](#) are the first time the FAA has extended D&A requirements outside the United States. The government and industry are coming to terms with the associated compliance challenges, many of which could not have been considered during the prior rulemakings, 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 members. The proposed changes will ensure the FAA achieves the objective of the congressional mandate in the most efficient manner for FAA, the DOT, foreign repair stations, and the U.S. operators who rely on them.

(7) Conclusion

For the reasons discussed above, the undersigned parties respectfully petition the Administrator to amend part [120](#) as proposed herein.

Sincerely,

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¹⁴ See sec. 11.71(a)([6](#)).

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