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**14 CFR Parts 135 and 145
Foreign Repair Station Rules; Final Rule**

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 135 and 145**

[Docket No. 25454; Amdt. Nos. 135-29 and 145-21]

RIN 2120-AC50 *See correction***Foreign Repair Station Rules****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: The purpose of these amendments is to revise the regulations to accommodate the increasing demand for maintenance and alteration of U.S.-registered aircraft operated worldwide. These amendments modify the requirements for U.S. certification of a foreign repair station. In addition, a foreign or domestic manufacturer of a product for which it holds a U.S. type certificate and that is certificated by the FAA as a repair station will be allowed to return to service a component maintained or altered by a noncertificated source, subject to specified conditions. Lastly, to be consistent with the air carrier operating rules, the air taxi/commercial operator rules are amended to permit the airworthiness release to be signed by a person authorized by a U.S.-certificated foreign repair station. This action is part of a general project underway to review and update all Federal Aviation Regulations (FAR) governing repair stations.

EFFECTIVE DATE: December 22, 1988.**FOR FURTHER INFORMATION CONTACT:**

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SUPPLEMENTARY INFORMATION:**Background**

Subpart C, Part 145 of the FAR, Foreign Repair Stations, has its origin in Civil Air Regulations (CAR) Part 52 by an amendment adopted in 1949 as § 52.38 (14 FR 623; February 11, 1949). The purpose of the amendment was to provide for the issuance of foreign repair station certificates for facilities located outside the United States where the Administrator found that " * * * such agencies are needed for the maintenance, alteration, and repair of United States aircraft operated outside the United States."

The lack of repair agencies authorized to perform work on U.S.-registered aircraft in certain areas outside the

United States at that time resulted in considerable inconvenience to aircraft owners, pilots, and operators conducting international flight operations. It was recognized that certification of foreign agencies, even those not staffed with holders of U.S. airman certificates, would expedite the maintenance, repair, and return to service of U.S. aircraft in those areas where certificated repair stations were not available. Consistent with the concept that the maintenance was to be performed on U.S.-registered aircraft in areas outside the United States, the scope of a certificated foreign repair station's authority provided for in § 52.38 was limited to "performance of work on aircraft which are used in operations conducted in whole or in part outside the United States * * *."

CAR Part 52 was revised in 1952 (17 FR 2981; April 5, 1952) with § 52.38 becoming § 52.50. When the Civil Air Regulations were recodified in 1962, CAR Part 52 became FAR Part 145, and CAR section 52.50 became FAR sections 145.71 and 145.73 (27 FR 6662; July 13, 1962).

On July 1, 1986, the FAA prepared two draft internal action notices which were later revised on October 3, 1986. The first addressed foreign repair station privileges and responsibilities under Part 145 and the eligibility of replacement parts for return to service on U.S.-registered aircraft. The second draft action notice addressed air carrier privileges and responsibilities under Parts 121 and 135 when using noncertificated sources for parts. The draft action notices did not represent new FAA policy.

Although it is not regular or required practice for the FAA to solicit comments on internal guidance material, such as action notices, the original notices were broadly circulated to be consistent with the FAA's practice of seeking constructive input and promoting international cooperation. The FAA received comments from 34 different entities, including several foreign civil aviation authorities. Several of the commenters were of the opinion that existing rules and practices required substantive change, and that, to be in accordance with the Administrative Procedure Act, a rulemaking proceeding was appropriate.

In addition, the FAA received petitions from the Air Transport Association of America (ATA) (Docket No. 25169) and the Regional Airline Association (RAA) (Docket Nos. 25162 and 25163). These petitions request changes to the FAR to clarify the rules and expand the availability of foreign repair stations and foreign aircraft manufacturers for the maintenance and

alteration of U.S.-registered aircraft and components, whether or not such aircraft are used wholly or partly outside the United States. Related parts of these petitions have been considered in the preparation of this rule and are considered a part hereof. Issues in the petitions not within the scope of the Notice will be acted upon separately.

The civil aviation environment has changed significantly since the foreign repair station regulations were first adopted in 1949. More foreign-manufactured aircraft are being flown by U.S. operators, and the need for increased maintenance capability for U.S.-registered aircraft from both foreign manufacturers and U.S.-certificated foreign repair stations has dramatically increased in the past 39 years. This need is reflected by exemptions that have been granted in recent years related to maintenance and alterations performed by foreign repair stations. Exemptions to §§ 145.71 and 145.73 have authorized certain U.S.-certificated foreign repair stations to perform work on foreign-manufactured products to be used on U.S.-registered aircraft that may not be operated outside the United States. Over 100 exemptions from the operating rules have also been issued to air carriers to permit them to use other than U.S.-certificated airmen (i.e., to use foreign manufacturers and foreign U.S.-certificated repair stations) to repair and return to service U.S.-registered aircraft and components under the provisions of the air carrier operating rules.

Many U.S. air carriers currently use foreign-manufactured aircraft and other aeronautical products. This use is partly a result of multinational consortiums and cooperative agreements to manufacture and market domestic and foreign products between U.S. and foreign manufacturers. In recent years, the type and number of aircraft and aircraft parts manufactured in foreign countries and used by U.S. operators in the United States have increased rapidly.

Many U.S. air carriers use foreign-manufactured aircraft and products as the prime elements of their fleets. United States commuter airlines are heavily dependent upon foreign-manufactured aircraft. Due to the unavailability of modern U.S.-manufactured passenger aircraft in the 20-50 seat range, almost all of the aircraft with passenger capacities exceeding 19 seats used by U.S. commuter airlines are foreign manufactured. Larger foreign-manufactured aircraft, such as the Airbus, as well as foreign-manufactured engines, are being used increasingly by U.S. air carriers.

In addition, many U.S. aircraft manufacturers rely on foreign subcontractors for many component parts of their aircraft. Under current regulatory limitations, however, foreign manufacturers (with or without a U.S. foreign repair station certificate) have been unable in many situations to repair their products, even to the extent that warranty work has been curtailed.

United States operators have expressed a need for expanded access to U.S.-certificated foreign repair stations for maintenance, alteration, and preventive maintenance of their aircraft, aircraft engines, propellers, appliances, and component parts because of the increased worldwide demand for maintenance and the increasing amount of foreign-manufactured equipment being used by U.S. operators. This expanded access can be accomplished by changes to Subpart C, Part 145, that would modify the restrictions on who may apply for U.S. certification as a foreign repair station and the limitations on work that such a repair station can perform.

Accordingly, on November 24, 1987, the FAA issued Notice of Proposed Rulemaking (NPRM) No. 87-12 (52 FR 45124; November 24, 1987). The notice proposed to amend Part 145 for certificating foreign repair stations by modifying the requirements for determination of need before a foreign repair station may be considered for U.S. certification. The notice also proposed modifying the limitation on the scope of work that a foreign repair station may perform on U.S.-registered aircraft and on aircraft engines, propellers, appliances, and component parts for use on U.S.-registered aircraft. Subject to specified conditions, the notice provided that a repair station that is also a U.S. type certificate holder may use a noncertificated facility for maintenance. The notice also proposed amending Part 135 to permit the airworthiness release to be signed by a person authorized by a U.S.-certificated foreign repair station. Comments on the notice were requested from the public to be received on or before January 25, 1988.

Subsequent to the opening of the docket on this notice, on December 21, 1987, Congress, in Amendment No. 45 to the Conference Report on the Continuing Resolution H.J. Res. 395 making continuing appropriations for the fiscal year 1988, stated that the proposed rulemaking on foreign repair stations raised significant policy, economic, and safety issues that should be carefully reviewed by the appropriate authorizing committees, and that the FAA should

defer final action on the notice of proposed rulemaking until October 1, 1988. (133 Cong. Rec. H12799 daily ed. Dec. 21, 1987).

The FAA received 3,894 comments on this notice. These comments have been reviewed and considered by the FAA in the promulgation of this rule. Of the 3,894 comments reviewed, 3,808 oppose NPRM No. 87-12 and 79 commenters are in support. No comments specifically oppose the proposed amendment to Part 135 to permit the airworthiness release to be signed by a person authorized by a U.S.-certificated foreign repair station, and this amendment is adopted herein as proposed. Seven commenters did not express a position on the notice.

Of the 3,894 comments received and reviewed by FAA, 1,116 comments regarding foreign repair stations were received by the FAA prior to the issuance of the notice in the *Federal Register* on November 24, 1987. The 1,116 pre-docket comments have been reviewed and generally oppose the substance of the notice and parallel the comments received in opposition to the notice after the docket opened.

A considerable number of comments on the notice were received after the docket was closed. As of May 16, 1988, all of these late comments were reviewed to ensure that all of the issues raised by those comments have been addressed in this rulemaking.

Of the comments opposing the notice, most of the commenters are either individual mechanics employed, or persons who have family members employed, by a domestic repair station or airline. The labor unions representing mechanics, the Air Line Pilots Association (ALPA) and the Association of Flight Attendants (AFA), unanimously oppose the proposal. Other union groups and organizations, such as the American National Association of Letter Carriers, the Moving Picture Machine Operators, the United Food and Commercial Workers, and the Aeronautical Repair Station Association (ARSA) also oppose the Notice. American Airlines opposes the proposal as it applies to all foreign repair stations, but supports expanding the scope of the present regulations to permit foreign manufacturers to support their own products.

The Office of the Secretary of State for the State of Oklahoma forwarded a Resolution, adopted by the House of Representatives of the Second Session of the 41st Oklahoma Legislature, requesting the FAA to withdraw the proposed rule. By House Resolution No. 139, on February 24, 1988, the House of Representatives of the Eighty-fourth

General Assembly, Second Regular Session, of the State of Missouri resolved that the Missouri House of Representatives encourage each member of the Missouri Congressional Delegation to contact the United States Department of Transportation and any other appropriate Federal Agency regarding the potential impact on Missouri's economy with any expansion of maintenance authority granted under Part 145 and that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly transcribed copies of the resolution for the Governor of Missouri, the Missouri Department of Economic Development and for each member of the Missouri Congressional Delegation for their information and possible action. The Attorney General for the State of Minnesota urged the withdrawal of the proposed relaxation of the FAA's rules regarding the use of foreign repair stations.

Of the 79 comments received by FAA on NPRM No. 87-12 supporting the proposals contained therein, the majority of the comments are from corporate or foreign government entities. Seven foreign civil aviation authorities support the notice, as do several foreign airlines, foreign manufacturers, and foreign repair stations, as well as their representative associations. Several U.S. airlines support the notice, as do their associations. Several U.S. manufacturers and associations support the proposal, including Pratt & Whitney, General Electric, Fokker Aircraft of USA, Incorporated, MBB of America, Inc., Aerospace Industries Association (AIA), and General Aviation Manufacturers Association (GAMA).

Discussion of Comments

The comments on this notice received by the FAA address 15 separate issues. These are discussed below.

Use of a Noncertificated Facility Subject to Specified Conditions

A number of commenters express concern and some misunderstanding with the proposed amendment to § 145.47 by adding a new paragraph (§ 145.47(c)). The new paragraph would permit a domestic or foreign manufacturer holding a U.S. type certificate and a U.S. repair station certificate to have maintenance and alteration work performed on certain components by a noncertificated source under certain specified conditions.

In proposing the change to § 145.47, it was the FAA's intent to permit a type certificate holder holding the U.S. type certificate for a product it manufactures

or manufactured to contract for maintenance and alterations of a component of that product with a noncertificated original component manufacturer (or licensee), provided such type certificate holder is also a U.S.-certificated repair station. This change would permit the original component manufacturer (or licensee) to perform maintenance on or alteration of a component of the original type certificated product it manufactures for the type certificate holder.

The type certificated product (i.e., aircraft, aircraft engine, propeller, or appliance) has been determined by the FAA to be of proper design, material, specification, construction, and performance for safe operations, and to have met minimum FAA standards, rules, and regulations. Permitting the type certificate holder, that is also a U.S.-certificated repair station, to maintain the component or to contract for its maintenance or alteration, will permit that foreign or domestic type certificate holder to support its product (including warranty work), regardless of where the component was manufactured. To use a noncertificated facility for maintenance, a type certificate holder must not only hold the type certificate for the product, including components thereof, but must also be a functioning U.S.-certificated repair station. Under all circumstances, the type certificate holder's repair station must be under its control. Further, the noncertificated subcontractor must have produced the original component under the type certificate.

Before a noncertificated source (original component manufacturer or licensee) may be used by the type certificate holder to repair the component, the type certificate holder must show the FAA that the original component manufacturer or its licensee has all of the necessary data, facilities, materials, and qualified personnel to accomplish the work. In addition, the component would be returned to service by the type certificate holder in accordance with a quality control system for maintenance that (1) Recognizes the credit given to the quality control system that the manufacturer has in place for the type certificated product as well as the necessary differences between the manufacturing and maintenance processes; (2) is approved by the FAA; and (3) is included in the operations specifications and inspection procedures manual of the type certificate holder's repair station.

The type certificate holder, that is also a certificated repair station, is

responsible for the airworthiness of the repaired component: (1) By ensuring that the maintenance quality control system established for the component was followed in accordance with the procedures in its repair station's inspection procedures manual; and (2) by ensuring that the maintenance or repair of the component was properly documented. This procedure for using noncertificated sources is different from that permitted under current rules (§ 145.47(b)), though under both § 145.47(b) and the new § 145.47(c) the repair station must have the system capability to determine the airworthiness of certain articles or processes. The difference between the two paragraphs is that the quality control system and procedures of the type certificate holder to control a newly manufactured component from the component manufacturer can be modified by the type certificate holder's repair station to a quality control system for maintenance. After a component is repaired by the component manufacturer, the component will go through the type certificate holder's repair station maintenance quality control system. The type certificate holder's repair station will inspect such a component in accordance with its inspection procedures manual to ensure that, before the component is placed in stock for use in an aircraft or part thereof, it is in a good state of preservation and is free from apparent defects or malfunctions.

Under the existing rules (§ 145.47(b)), a repair station, if authorized by the FAA, can only contract those functions asterisked in Appendix A to Part 145. The amendment to § 145.47(c) will permit the type certificate holder to contract for the repair of a component under its repair station certificate using the quality control system inspection as set forth in its inspection procedures manual. Under this amendment, any maintenance functions that are included in the inspection procedures manual of the type certificate holder's repair station may be accomplished under the quality control system approved for the repair station.

In proposing this concept, the FAA recognized the process established and approved for type certification and manufacture of new products, and established a parallel system to include maintenance requirements for a product and to provide an additional means for a repair station to contract out certain components to a noncertificated facility for maintenance. This process is intended to ensure that the repaired component, like the original

manufactured component, is airworthy and meets all requirements for installation on the type certificated product. This process also recognizes that the original component manufacturer is a viable source for engineering data, technical expertise, and service information. In addition, the repair of the component would be accomplished under the auspices of a U.S.-certificated repair station (the type certificate holder), which has met the requirements under Part 145 for such a facility, and is inspected and approved by the FAA.

Twenty-seven commenters supporting the notice recommend that the FAA permit a non-type certificated original component manufacturer to carry out maintenance and repair on its products as a "noncertificated source" under very broad conditions. The commenters recommend that the noncertificated component manufacturer be permitted to approve a product's return to service without quality verification by a type certificate holder and have the authority for direct shipment of parts.

Commenters also recommend that the United States accept direct shipment from the component manufacturer if the manufacturer is approved and authorized to maintain the product by a national (foreign) airworthiness authority.

These recommendations are beyond the intent and purpose of rulemaking as contained in the notice and will not be considered. However, with respect to the authority contained in the new § 145.47(c), when the FAA certifies a foreign manufacturer (that is a holder of a U.S. type certificate) as a foreign repair station, any relevant approvals given by foreign airworthiness authorities will continue to be considered. If the noncertificated component manufacturer desires to direct ship a repaired component to a user, bypassing the type certificate holder, this amendment provides for a component manufacturer to become a U.S.-certificated repair station with an appropriate rating and, thus, be accorded such privileges.

Other commenters contend that by adding a new paragraph to § 145.47 as proposed, a conflict would arise with the existing § 145.47(b) in that the proposal would limit the use of outside vendors to essentially the original equipment manufacturers and their subcontractors. The commenters also point out that the proposed new paragraph to be added to § 145.47 is in conflict with § 145.1(c), which specifies that regulations regarding maintenance performed by manufacturers are

covered under Part 145, Subpart D, and that §§ 145.11 through 145.79 do not apply to manufacturers. Accordingly, the commenters contend that any rules intended to apply to manufacturers should be addressed only in Subpart D, rather than in Subpart B, as proposed.

The FAA sees no conflict in § 145.47 between existing paragraph (b) and the paragraph proposed for inclusion in that section as new paragraph (c). Furthermore, a manufacturer with a limited rating under Part 145, Subpart D, cannot contract for repair of a component to a noncertificated facility and must perform its maintenance and preventive maintenance operations in accordance with Part 43. Presently, § 145.47(b) provides that a repair station, after obtaining approval from the FAA, may contract certain limited functions of repair to another facility without having, in house, the required equipment and materials for the function. Those job functions that can be so contracted to an outside agency are set forth in Appendix A to Part 145. In such an arrangement, the repair station must determine the airworthiness of the article involved before it is returned to service, unless the contractor is an appropriately rated repair station, in which case the part would be returned to service in accordance with the procedures as authorized in the repair station's inspection procedures manual. To determine the airworthiness of the article involved, the repair station must not only be appropriately rated to perform the contracted function, but must have the appropriate data, qualified personnel, and inspection capabilities to ensure the airworthiness of the article involved.

The new paragraph (§ 145.47(c)) would permit a type certificate holder that is a certificated repair station to subcontract any repair of a component of a type certificated product to the noncertificated component manufacturer. Such a type certificate holder would be responsible for the airworthiness of the article involved, as required in current § 145.47(b). However, as long as the component is returned to service in accordance with the FAA-approved quality control system of the type certificate holder's repair station, the airworthiness of the article involved is effectively ensured. This process and the scope of permitted maintenance are the basic differences between existing § 145.47(b) and new § 145.47(c).

The FAA also disagrees that the amendment to § 145.47 is in conflict with § 145.1(c). Section 145.1(c) provides that a manufacturer may obtain a repair station certificate with a limited rating

issued under Subpart D of Part 145 to exercise the privileges of that rating as a "manufacturer's maintenance facility" (MMF) without having to meet the basic requirements for a repair station as set forth in Subpart B of Part 145. The amendment, however, requires the type certificate holder to obtain a rating as a repair station and to meet all of the requirements for a certificated repair station as set forth in Subpart B or C of Part 145.

A commenter also recommends that the proposal to add a new paragraph (c) to § 145.47 be withdrawn and that the FAA amend § 43.3(i) relating to persons authorized to perform maintenance, preventive maintenance, rebuilding, and alterations. The commenter recommends that the word "maintain" be added to that paragraph to allow a manufacturer holding a type certificate and its subcontractors to perform maintenance, in addition to rebuilding and alterations.

The FAA disagrees with this recommendation. Such an amendment would not establish a parallel maintenance quality control system—as would be accomplished by adding a new paragraph to § 145.47—but would permit a manufacturer's maintenance facility to perform maintenance on a component without showing maintenance capabilities required under Subpart B of Part 145. Further, as foreign manufacturers do not hold production approvals, this suggestion would exclude such foreign manufacturers.

Several commenters express the concern that, as proposed, § 145.47(c) would require a component manufacturer's noncertificated facility that repairs a component for a type certificate holder to send the repaired component part "through" the type certificate holder for quality verification. The commenters point out that such a physical transfer of the repaired component back to the type certificate holder's repair station would be pointless, cause delay, and increase expense. The commenters further maintain that only the manufacturers of the component have the specialized test equipment for a full specification check.

The FAA disagrees that it would be unnecessarily burdensome for components repaired by a noncertificated contractor, as defined in new § 145.47(c), to be routed physically through the type certificate holder's repair station facility. This inspection is essential if such a component manufacturer remains noncertificated. If the component manufacturer were certificated by the United States as a repair station, the requirement to route the component through the type

certificate holder would not be necessary, or even appropriate assuming the component manufacturer is properly rated, and the component manufacturer could direct ship a repaired component. Important safety objectives can only be satisfied if the individual components are returned to service by a certificated repair station in accordance with the quality control system of the type certificate holder's repair station, as approved by the Administrator and set forth in the operations specifications and inspection procedures manual of the type certificate holder's repair station. The FAA, in adopting the concept as proposed in § 145.47 for a new paragraph (c), has clarified this intent in the wording of the final rule.

Other commenters referring to the proposed new paragraph, § 145.47(c)(1), express concern that there may be a potential ambiguity concerning whether or not the type certificate holder can use the privileges granted by this section if the product is no longer in production. They also suggest that § 145.47(c)(1) be changed to "the product" as opposed to "a product."

The FAA agrees with both of these suggestions and in § 145.47(c)(1), as adopted, has eliminated any question as to whether or not a certificate holder that still holds the type certificate for the product can use the privilege granted if the product is no longer in production.

Other commenters express concern that the new authority in § 145.47(c) for holders of repair station certificates, that are also holders of U.S. type certificates, might affect the current authority of all Subpart B and Subpart C repair stations to contract with noncertificated agencies as currently set forth in Appendix A to Part 145.

As stated above, it is the FAA's intent that the authority in new paragraph § 145.47(c) is in addition to the existing contracting authority in § 145.47(b), and § 145.47(b) authority is not affected by this amendment.

A commenter questions whether or not the proposed amendment to § 145.47 benefiting original equipment manufacturers is justified. In the commenter's opinion, the proposed change to § 145.47 would extend the ability to use noncertificated sources beyond warranty work revisions without an apparent safety justification. The commenter contends that the proposed amendment may be based on an FAA assumption that the manufacturing process and the repair process involve basically the same engineering concepts, whereas the manufacturing process and the repair process utilize different analyses.

The FAA agrees that the processes of manufacturing a single product line and of repairing the product do not necessarily involve the same knowledge or perspective. A manufacturer's quality control system and a maintenance quality control system may not be the same, but similarities between these two processes do exist and can be recognized. The amendment takes advantage of the process already established and approved for type certification and manufacture of new products and establishes a parallel maintenance concept. This maintenance process for the repair station of the type certificate holder would explicitly be set forth in its repair station's operations specifications and inspection procedures manual as approved by the Administrator. A component of the type certificated product repaired by the component manufacturer would only be returned to service if the type certificate holder's repair station ensures that the component has been returned to service in accordance with the repair station's maintenance procedures and approved quality control system.

Concern is also expressed that the proposal to add a new paragraph (c) to § 145.47 would permit and encourage a "paper transaction" between the type certificate holder and an associated repair station to create a minimal corporate relationship with a type certificate holder. Under the proposal, the work done by the repair station of the manufacturer type certificate holder would be under the quality control system of the type certificate holder. This will be covered in each repair station's operations specifications and inspections procedures manual for each type certificate holder's repair station that undertakes to exercise the authority under new § 145.47(c).

Commenters contend that there is no assurance that the noncertificated licensee of a noncertificated component manufacturer would have any repair competence, as no requirements are set forth that the licensee establish any corporate relationship or have any repair insight into the component manufacturer's design concept.

The FAA's intent is to permit a licensee of a component manufacturer that actually manufactures the component to also do repair work, if that licensee is approved in the same manner as the original component manufacturer in accordance with the FAA-approved operations specifications and inspection procedures manual of the type certificate holder's repair station.

The proposal for amendment of § 145.47 as contained in the notice has

been modified in accordance with the discussion above.

"Need" for Foreign Repair Stations

Those commenters opposing modification of the foreign repair station rules in Part 145, Subpart C, would retain the existing wording in § 145.71 that a foreign repair station certificate would be issued only if the Administrator finds that the station is necessary for maintaining or altering U.S.-registered aircraft outside of the United States. The notice proposed deletion of the restriction that such U.S. aircraft be "outside of the United States." Of those commenters supporting the Notice in general, the majority favored deleting this restriction. The commenters point out that the current regulation is a very restrictive approach to foreign maintenance and repairs and is based on factors increasingly out of touch with the international character of modern aviation. They emphasize that the current regulation, which was written for an aircraft fleet that was all U.S. manufactured and only occasionally operated overseas, is inappropriate in today's multinational aviation markets and industries.

Twenty-one commenters supporting the notice recommend that the required statement of need be eliminated from § 145.71 or, if retained, the word "necessary" be defined more precisely. These commenters suggest that the "need" clause would lend itself to an interpretation whereby the FAA, on grounds unrelated to safety, could determine which repair stations could be used by U.S.-registered aircraft owners. As pointed out in the notice, the FAA does not intend to implement the "need" clause in such an inappropriate manner.

In developing the proposals contained in the notice, the FAA desired to retain a requirement for need when certifying foreign repair stations. The FAA has stated that U.S. foreign repair station certification should not be used in a manner that has no relationship to the support of U.S.-registered aircraft or U.S. operators. Further, it is necessary to retain a provision which requires a showing of need to avoid situations that could develop where certification is requested where no reasonable need to support U.S.-registered aircraft could be expected to develop. This provision will ensure that foreign repair stations that would not support U.S.-registered aircraft would not burden U.S. resources for FAA certification or recertification. As to the recommendation to explain the word "necessary" in a more precise manner, the use of this word in existing

§ 145.71 has not led to the difficulties in administration of the regulation that some commenters suggest. The word "necessary" as retained in § 145.71 will not be used to deny the issuance of foreign repair station certificates to otherwise qualified applicants provided such stations will work on U.S.-registered aircraft.

Scope of Work of Foreign Repair Stations

Those commenters opposing modification of the foreign repair station rules in Part 145, Subpart C, would retain the existing wording in § 145.73 that a foreign repair station can work on U.S.-registered aircraft and on aircraft engines, propellers, appliances, and component parts for use on U.S.-registered aircraft only if such aircraft are used in operations conducted wholly or partly outside of the United States. The notice proposed deleting this geographical restriction. All commenters supporting the notice agree with this deletion. These commenters contend that the geographic limitation in the scope of work of authorized foreign repair stations in today's environment creates an unrealistic regulatory situation. For example, if a foreign repair station performed identical maintenance on the identical components of two identical aircraft of a U.S. air carrier, one aircraft of which operated outside of the United States and the other operated solely domestically, a literal interpretation of existing § 145.73 would result in a determination that the aircraft operating internationally was legally maintained while the aircraft operating domestically was not. The FAA recognized this anomaly in the notice by pointing out that if properly qualified and certificated by the FAA, a foreign repair station operating in accordance with FAA requirements and surveillance can provide proper and safe maintenance and alteration of U.S.-registered aircraft and their components. This capability does not depend on the aircraft's physical location at the time maintenance or alteration is required and accomplished. The amended rule deletes this geographical restriction.

Return of Warranted Parts to the Type Certificate Holder

RAA and several U.S. commuter air carriers commenting in support of the notice emphasize the necessity that such operators be given the flexibility to return warranted aircraft components or unusually troublesome components back to the manufacturer, that holds the type

certificate, for maintenance. RAA indicates that the commuter industry in the United States currently operates approximately 780 foreign-built aircraft representing about 41 percent of the total estimated commuter aircraft in operation in 1987. Of the 18 most commonly flown types of passenger aircraft in regional airline service in 1987, 12 were foreign manufactured. Those foreign aircraft together constituted over 65 percent of the total seating capacity of the regional passenger industry in 1987.

Several commuter/regional airlines state that the proposed amendments in the notice would greatly facilitate maintenance support of their foreign-built aircraft by providing more flexibility through increased resources by permitting operators to reduce inventories of high-value replacement components. They also point out that certificated repair stations in the United States have long had the opportunity to acquire the tooling, equipment, and training to support foreign-manufactured aircraft system components and have largely failed to do so.

One operator states that it has been operating the German Dornier DO-228 aircraft for over 3 years, and during this time has been directly involved in an attempt to broaden the scope of domestic capabilities for the maintenance of foreign-built components on its aircraft. This commenter contends that due to the small Dornier fleet size in the United States, there has been resistance by domestic repair stations to purchase the necessary test equipment, special tools, repair parts, inventory, and documentation from the respective foreign manufacturer.

Commenters opposing the notice disagree with the views of the commuter/regional airline industry on this issue. These commenters question the role and place of commuter/regional airlines in the airline industry as a whole, and suggest that the views of these airlines be discounted. The commuter/regional airlines are those carriers that provide regularly scheduled passenger and/or cargo service with aircraft seating less than 60 passengers and cargo payload capacity of 18,000 pounds or less. These airlines operate pursuant to schedules published in widely used airline schedule guides. The commuter/regional airline industry has shown dramatic growth during the years since the Airline Deregulation Act of 1978 and has been recognized as representing a distinct class of air carriers. Today these airlines are an

integral part of the nation's air transportation system.

Because the Airline Deregulation Act of 1978 (and subsequent Civil Aeronautics Board action) permitted commuter/regional airlines to operate aircraft with up to 60 seats and a payload capacity of up to 18,000 pounds, these carriers were able to operate more efficiently. This development, which allowed carriers to match the most economical airplanes to their market requirements, spurred a worldwide revolution in new aircraft development. Today, a series of new generation light transport aircraft, most of them foreign manufactured, are being put into service by the commuter/regional airlines. According to RAA, in 1986 the 179 commuter/regional airlines carried 28.4 million passengers and the average number of passengers per airline enplaned in 1986 was 158,400. RAA states that regional airline industry revenue passenger miles grew to 4.47 billion in 1986.

The FAA recognizes this need as expressed by the regional airline industry and others for operators to be able to return warranted parts to a type certificate holder for maintenance, not only by the adoption of the rules relating to Part 145 regarding foreign repair stations, but by the amendment to § 135.443 as well.

Impact on Air Safety

Two thousand and seventeen commenters express concern with an anticipated negative impact of the proposal on air safety. Several state that they had firsthand experience with poor quality work performed overseas. Some specifics relating to safety include the lack of quality control in foreign shops, work permitted to be done by unqualified people, and the lack of tools and facilities necessary to maintain aircraft effectively. Many commenters express an opinion that the standards of foreign repair stations are considerably and routinely lower than the standards of U.S. domestic repair stations. The overriding concern expressed by such commenters is that work is being done in foreign repair stations by non-U.S.-licensed mechanics. Many commenters are concerned about work being done and approved by noncertificated supervisory and inspection personnel as well. Because of these points, the commenters conclude that a rash of "bogus parts" would appear, and unauthorized replacement parts for use on U.S.-registered aircraft would result from the change under the proposal.

These commenters also contend that air safety would be compromised, because translation difficulties are

currently being encountered when maintenance records are obtained on aircraft and components repaired and operated outside of the United States. In particular, the commenters point to difficulty in obtaining adequate translations of repair records since "some languages do not have technical terms which can be translated into English." These commenters conclude that changing the foreign repair station regulations without a uniform language requirement for maintenance records would increase the likelihood of inadequate records and compromise the FAA's ability to regulate and enforce its own requirements. They also state that the Notice should be withdrawn, because the proposals in the Notice do not include assurances that the quality of aircraft maintenance performed by foreign repair stations is equal to that performed by domestic repair stations.

No substantive information or examples were submitted by these commenters in support of their allegations that if the proposed changes were adopted there would be a negative impact on air safety.

The FAA has stated that if the proposals in the Notice are adopted, an equivalent level of air safety will be retained. The FAA has concluded that these changes will not derogate safety. Foreign repair stations, which have been found properly qualified and certificated by the FAA and have been operating in accordance with FAA requirements and surveillance, have been providing safe and proper maintenance and alteration on U.S.-registered aircraft and their components for almost 40 years. No substantial evidence to the contrary has been presented by any commenter. The FAA intends that this safe maintenance will continue and that safety will not be adversely affected by the adoption of this rule. Each foreign repair station must prove to the FAA that it fully complies with all of the requirements to be an authorized U.S.-certificated repair station before the FAA will issue it a certificate to work on U.S.-registered aircraft. These requirements are similar to U.S. domestic repair stations except that foreign repair stations do not require U.S.-certificated airmen in inspection and supervisory positions. However, the FAA does review the qualifications of these airmen, even if they are certificated by the country in which the station is located, to ensure that they are able to perform, supervise, and inspect the work for which the repair station is rated. The foreign repair station or rating must be renewed every 12 or 24 months in accordance with § 145.17. If at any time the repair station

fails to comply with the FAA requirements, its certificate can be suspended and/or revoked as has been the case in the past. The FAA has the power of emergency suspension if the situation warrants.

When the Administrator issues a foreign repair station certificate, a finding is made that the holder is competent to perform safely the repairs for which it is rated. Prior to the issuance of such a certificate, a representative of the Administrator reviews the detailed application which is required to be submitted, analyzes the station's proposed inspection procedures and quality control system, examines the physical facilities of the repair station, scrutinizes the organization and the personnel who are to perform these functions, and assesses the outside sources that the station intends to utilize. Only after this safety review does FAA consider issuance of a foreign repair station certificate.

Thus, the certification process for a foreign repair station is substantially the same as the process the FAA uses for domestic repair facilities and involves the same standards. If a foreign repair station has been found to be competent to repair a U.S.-registered aircraft operating wholly or partly outside of the United States, as permitted under the current rules, then it should be equally competent to make those same repairs for aircraft operating within the United States. When found properly qualified and certificated by the FAA, a foreign repair station, in accordance with FAA requirements and surveillance, can provide proper and safe maintenance and alteration on U.S.-registered aircraft and their components. This amendment does not change that fact.

Under current regulations for domestic repair stations, only an individual in a supervisory or inspection category need be certificated as an airman; consequently, a person performing routine maintenance need not be an FAA-certificated airman. However, as to supervisory and inspection personnel, both the Civil Aeronautics Act of 1938 and its successor, the Federal Aviation Act of 1958, as amended, specifically provide that individuals employed outside the United States in charge of the inspection, maintenance, overhaul, or repair of aircraft, aircraft engines, propellers, or appliances may, to the extent that the Administrator may provide, be excepted from the requirement to hold an appropriate U.S. airman certificate. This statutory mandate was recognized in the adoption of the foreign repair station regulations

in 1949. This exception, authorized by Congress, is being carried out by the FAA.

As to the contention that inadequate maintenance records are obtained from foreign repair stations because some languages do not have technical terms which can be translated into English, the *Lexicon of Terms Used in Connection with International Civil Aviation* of the International Civil Aviation Organization (ICAO) provides for uniform use of such technical terms. Also, the ICAO Standards and Recommended Practices require adequate recordkeeping, regardless of the language.

In a letter to the FAA, the National Safety Council (NSC) recommends that the FAA not amend §§ 145.71 and 145.73. NSC is of the view that foreign repair stations should not provide modification, major repair, or overhaul work without inspection by U.S.-licensed personnel, unless the aircraft are operated wholly outside of the United States. NSC also refers to a contact with the U.S. Air Force Inspection and Safety Center (AFISC) who is familiar with foreign standards. According to the AFISC contact (as related by the NSC), no AFISC personnel would agree that foreign regulatory standards are equivalent to U.S. standards, and " * * if foreign nationals are doing our maintenance work, we could be in trouble." AFISC personnel, as well as NSC, are apparently of the opinion that the proposals as contained in the Notice are solely for monetary purposes and that the FAA did not consider the actual safety impact. On the other hand, the FAA is advised that the U.S. Air Force has relied heavily on foreign sources to repair its deployed assets for many years. Such reliance involving airframes, engines, and exchangeables increases Air Force readiness and sustainability by retaining these assets close to the operating locations where they would be used during conflict. Moreover, the Air Force has advised that " * * we have found the reliability for foreign work to be comparable to U.S. work."

FAA Surveillance

Six hundred and fifty-eight commenters contend that if the proposals in the notice are adopted, the FAA would be unable to monitor foreign repair stations effectively, due to limited inspector personnel, and compliance monitoring and enforcement would be impossible. Among such commenters are the Transport Workers Union (TWU) and the Aeronautical Repair Station Association (ARSA). According to TWU, the ratio of FAA inspectors to

air carrier operators has significantly decreased since deregulation. ARSA contends that there is a serious inadequacy in the FAA's inspection and enforcement system which has a direct bearing on these proposals. ARSA further states that its members have reported that the average interval between FAA physical plant inspections and document reviews ranges from 6 to over 36 months with the typical interval being 18 months. Many commenters express belief that the FAA is already stretched beyond its limits without incurring additional responsibilities.

The cost to the FAA for additional inspectors is addressed by many commenters. Although Part 187 permits a charge for certification, these commenters contend that the costs of inspector hiring, training, etc., cannot be recovered.

Two aeronautical authorities, from the United Kingdom and the Federal Republic of Germany, state that they do not believe there would be any increase in applications for FAA foreign repair station certificates if the proposals in the notice are adopted because, during the past 18 months of debate on the foreign repair station issue, there has been little or no increase in the number of organizations (repair stations that are not U.S.-certificated) expressing an interest to either government for certification.

A large domestic repair station, generally supporting the notice, contends that it is reasonable to project a reduction in the approximately 200 existing foreign repair station certificates by the end of 1988. This commenter bases this contention on several factors: (1) The FAA appears to have implemented a general policy of reissuing Part 145 certificates for 12 months rather than 24 months so as to reduce the number of existing certificates; (2) it is fair to assume that the FAA will review foreign repair station certificate applications more rigorously in the future; (3) there will be no surge in the number of foreign repair station certificates granted to organizations located in less-developed countries with low labor costs since the FAA will exercise more scrutiny of a foreign repair station certificate application from a less-developed country; (4) if there are any cost advantages in terms of lower wages, those labor advantages are being offset by the change in the relative value of the foreign country's currency with the dollar; and (5) an air carrier will carefully assess a number of factors prior to committing to a foreign repair station, including the continued

availability of that facility as a source of maintenance.

This commenter further contends that the certification and surveillance system conducted by the FAA is critical to the integrity of foreign and domestic repair stations, as well as all entities regulated by the FAA. If there is any shortfall between the cost incurred by the FAA in surveillance and certification of foreign repair stations and the charges assessed for those services, immediate amendment of Part 187 to recover those costs should be initiated.

Several U.S. air carriers state that they do not believe any increase in the number of foreign repair stations servicing airline aircraft would approach the magnitude suggested by the FAA. The 50 to 100 percent increase mentioned in the notice was intended only as an example. Those numbers were used to demonstrate that even for a very large percentage increase, the effects would be minimal. These commenters state that those foreign repair agencies with a capability and capacity to service U.S.-registered airline aircraft have already become certificated within the past 39 years, and that resources available to the FAA from the fees assessed foreign repair station applicants are sufficient to fund the necessary personnel to provide the required inspections.

In addition, these air carriers note that foreign repair stations are not only subject to the same FAA surveillance imposed on domestic repair stations, but, in addition, all work performed for a U.S. airline by any outside repair agency, either domestic or foreign, must be accomplished in accordance with the air carrier's FAA-approved maintenance operations specifications. Furthermore, the records of all work performed by such repair agencies must be made and maintained in accordance with the current Federal Aviation Regulations. Thus, these air carriers contend, not only will the FAA perform its surveillance responsibilities, but the U.S. airlines also will continue to exercise surveillance over any work performed for them by foreign repair stations.

The FAA is dedicated to meeting its responsibilities under the Federal Aviation Act of 1958, as amended, and will continue to do so. It is anticipated that by modifying these restrictions related to a determination of need and to the scope of work to be conducted by foreign repair stations, a number of noncertificated foreign facilities can apply for FAA certification. This could have some impact on FAA certification and surveillance resources. It is difficult to anticipate the increase in foreign repair stations that might result from

this amendment; however, based upon the domestic experience, the resource impact should be minimal. The FAA will respond to any increased workload.

There are approximately 900 FAA inspectors now responsible for domestic repair stations. This translates into approximately 4½ repair stations per inspector. There are now approximately 200 foreign repair stations. If that number increased to 300 or 400, and the number of repair stations per inspector were the same as the domestic case, it would require an increase of 22 to 44 inspectors. Thus, even for an increase of 50 to 100 percent in the number of foreign repair stations, the increase in the number of required inspectors would be less than 5 percent of the current inspector work force. The FAA will continue the surveillance of the existing certificated repair stations, domestic or foreign, and the influx of any new ones. Having experienced the problems associated with deregulation and an expanding industry with a declining FAA inspection work force, the FAA has grown highly sensitive to the need for a safety surveillance work force equal to the work demands. In addition, the certification and surveillance responsibilities of the FAA for foreign repair stations will make full use of information provided by local airworthiness authorities when appropriate, thus enhancing the capabilities of the FAA work force. In any event, there will be no deregulation in safety because of the rule as adopted. Regarding the costs incurred by the FAA in the certification and surveillance of foreign repair stations and the minimal fees currently assessed for those services, future rulemaking will be conducted to review the adequacy of the fees prescribed in Part 187.

FAA Enforcement

Several commenters point out that if the proposals in the notice are adopted, the FAA could not enforce its regulations, because foreign businesses or individuals could not be prosecuted by the U.S. Government. Although the commenters state that the United States cannot levy civil penalties against foreign violators, they do not provide any explanation to support this conclusion.

Under this proposal, the FAA would retain enforcement oversight over U.S.-certificated foreign repair stations through certificate action and civil penalty action. Moreover, Pub. L. 100-223 amended section 901 of the Federal Aviation Act of 1958, as amended, to provide for a two-year civil penalty demonstration program for violations of the Act or any rule or regulation issued

thereunder which occur after December 30, 1987. Under the demonstration program, the Administrator may assess ("order") civil penalties not to exceed \$50,000, after notice and the opportunity for hearing. This will allow FAA to adjudicate those civil penalty actions without referring them to a U.S. attorney for adjudication in a U.S. District Court. In the case of civil penalties in excess of \$50,000, if the parties cannot reach a compromise settlement, the actions will continue to be adjudicated by referring them directly to a U.S. attorney for adjudication in a U.S. District Court.

In those instances where a respondent foreign repair station or foreign mechanic fails to pay a civil penalty (not in excess of \$50,000) assessed under the demonstration program or fails to offer and pay a compromise civil penalty (in excess of \$50,000) acceptable to the Administrator in full settlement of the alleged violations, the FAA may have difficulty in obtaining in personam jurisdiction which is necessary to pursue a collection action in the appropriate U.S. District Court. However, the fact that many foreign repair stations have designated agents for purposes of service in the United States obviates the problem. In any event, where civil penalty actions are unsuccessful, the FAA can take certificate action and this enforcement mechanism will be more than sufficient to ensure that safety is maintained. The FAA has not had substantial difficulty in enforcing violations of the FAR committed by foreign repair stations or a foreign mechanic in the past and does not foresee such difficulties in the future.

Loss of Jobs

Among those opposing the proposal, the majority express concern over loss of jobs in the United States and the general negative impact on the U.S. economy that would result if the proposals are adopted. Twenty-four hundred and twenty-six commenters consider the loss of jobs as the major factor in their opposition to the proposal. The magnitude of concern varies from fear for the individual's job to "several million" jobs lost nationwide, including jobs in related industries. Many commenters express concern with the potential impact on the national economy and on specific cities such as Tulsa, Oklahoma, and Kansas City, Missouri. The Professional Aviation Maintenance Association (PAMA) expresses concern that sufficient consideration was not given by the FAA to the loss of jobs. PAMA questions the statement in the Notice that the need for maintenance service

will increase in the United States; PAMA contends that maintenance jobs will decrease because production of general aviation aircraft has decreased by over 90 percent in the last few years. Some commenters state that the aviation industry is going the way of the steel, electronics, and textile industries: overseas. No data or analyses were included in any comment to support these claims.

In contrast to the contentions of those expressing concern over loss of jobs and negative effects on the economy, the following information has been provided to the FAA. The *U.S. Industrial Outlook 1988—Aerospace*, U.S. Department of Commerce, January 1988 states:

* * * The increasing trend toward international collaboration is fostering an escalation in trade of aircraft engines and aircraft parts, as the world's expanding fleet of civil and military aircraft demands more equipment for maintenance and repair * * * International collaboration in the engine sector is providing a catalyst for trade and is creating an industry which transcends national boundaries * * * The inflation-adjusted value of U.S. aerospace shipments is projected to climb about 3.3 percent in 1988, marking the sixth consecutive year of industry growth. Meanwhile, U.S. aerospace exports and imports will reach record highs of \$22.1-billion and \$8.8-billion, respectively. The rising trend of industrial collaboration between U.S. and foreign manufacturers in the aircraft sector will be the chief reason for this increase in the flow of trade. Total industry employment is forecast to increase almost 3 percent in 1988, to 836,000.

A study by Gellman Research Associates, Inc., Jenkintown, Pennsylvania, which was jointly sponsored by the Air Transport Association of America (ATA) and the International Air Transport Association (IATA), and included in the ATA and IATA comments, also addresses this issue and refutes the allegation that adoption of the proposal will result in the wholesale loss of jobs in the United States. The study contends that U.S. domestic repair stations currently receive more business from foreign customers than U.S.-certificated foreign repair stations receive from U.S. customers, and that the real threat to U.S. jobs would be the establishment of trade barriers that could result in retaliation affecting both domestic repair stations and other aerospace activities. Also, in this regard, one major U.S. manufacturer supporting the notice comments that its business as a U.S. manufacturer of a major product depends in substantial part on foreign-source business, not only for new engine buys but for follow-up repair and overhaul product support. This commenter points out that such reliance

confirms the international and interdependent nature of today's aviation marketplace. If this foreign source business is lost, which may occur if the proposals in the notice are not adopted, this manufacturer is of the opinion that the inevitable result would be not only a probable loss of U.S. jobs at its overhaul and repair facilities, but also a probable job loss on the manufacturing side as well.

Impact on National Economy and Trade Balance

Several commenters express concern that foreign repair stations would have an unfair economic advantage over domestic repair stations. ARSA reports that of the ARSA members responding to its survey, 80 percent stated that they thought they would be adversely affected by having to compete with foreign-owned and subsidized firms. The FAA understands that this association represents approximately 90 of the 4,400 repair stations. The number of repair stations responding to the ARSA survey was not stated in the ARSA comments. ALPA states that the Notice requires foreign repair stations to meet less stringent standards and will therefore put domestic repair stations at an economic disadvantage. Some other commenters state that this would be unfair competition, because some foreign countries subsidize the work of their repair stations. They state that there is, therefore, a potential for a negative trade balance. Many commenters relate this change to other industries that have lost jobs to foreign sources, including the steel, automobile, and electronics industries. One commenter states that the domestic air transport industry employs over 100,000 skilled aircraft mechanics, and even the loss of only 10 percent of repair work in the United States means a loss of \$300 million in direct wages, causing up to \$600 million in net loss of U.S. income. The basis for these estimates is not provided.

Several commenters referred to the FAA view expressed in the notice that the proposed rule changes would be consistent with the terms of several trade agreements to which the United States is a signatory. These commenters, in supporting the proposal, concur and stress that the proposal is in accord with section 1102(a) of the Federal Aviation Act of 1958, as amended, which requires the FAA to exercise and perform its powers and duties consistently with any obligation assumed by the United States in any agreement that may be enforced between the United States and any foreign country or countries. Under section 103 and Title VI of the Federal

Aviation Act of 1958, as amended, Congress mandated that the FAA would perform its functions on the basis of aviation safety considerations. Congress did not delegate to FAA its power to regulate commerce with foreign nations, but rather directed the FAA to perform its duties and functions consistent with international treaties and agreements.

British Airways, as well as several other European commenters, refers to records maintained by the Association of European Airlines (AEA) on its members. It was reported that during 1986, AEA members performed approximately \$34.3 dollar's worth of repair work on U.S.-registered aircraft operated by U.S.-based operators. The \$34.3-million figure and all other data contained in these records were based on information provided by 11 AEA foreign air carrier members who accounted for over 80 percent of the repair facility capacity of AEA members. However, in that same year, it is stated that those same AEA members spent \$80.9 million, more than double the amount of money spent by the U.S. operators, for repair services performed for them by U.S. repair stations. In other words, U.S. repair stations enjoyed better than a two-to-one trade surplus in aircraft repair work. Furthermore, it is pointed out, that for the past 5 years, AEA figures indicate an increasing trend in favor of U.S. repair stations.

One large U.S.-certificated foreign repair station provided data showing that its gross revenue from its aircraft engine maintenance work worldwide was approximately \$77 million in 1986 and \$89 million in 1987. However, in 1986 this foreign repair station paid approximately \$32 million, or 42 percent, of its total maintenance revenue to various U.S. businesses retained to perform maintenance services as subcontractors and to provide tools; equipment; spare parts such as turbine blades, vanes, and discs; components; and surplus supplies. The flow of such funds to the United States increased in 1987 to approximately \$39 million. This foreign repair station expects this trend to continue in the future.

One foreign air carrier reports that it purchased \$57 million in U.S. maintenance services in 1986 and performed \$47 million in maintenance services for U.S. customers. Another large foreign air carrier reports that it spent \$11.2 million on contract repair of its aircraft in the United States in 1986 and received just over \$5 million from services performed for U.S. air carriers.

British Airways also points out that it is a matter of public record that since 1986 the value of the U.S. dollar has

significantly declined relative to the value of virtually all of the national currencies of the AEA member airlines. As a result, British Airways believes that, compared to 1986, it would now be significantly more expensive for U.S. carriers to have repair work performed by repair stations operated by AEA members and significantly less expensive for AEA member carriers to utilize the services of U.S. domestic repair stations.

In addition to the comments of ARSA, there were 10 domestic repair stations that commented on the notice. Three of these repair stations support the proposals in the notice. One such commenter states that, because the FAA is authorized to promote the development of civil aeronautics under the Federal Aviation Act, the proposals in the Notice should be promulgated as a final rule.

One commenter, although a member of PAMA, disagrees with PAMA's stated opposition that the proposals would have a negative economic and trade balance impact. The commenter states that protectionism is a delicate art, and protectionism should be practiced by the consumer, not the government, to minimize retaliation. The commenter points out that the balance of payments is of concern to all U.S. citizens, but so is the ability to obtain aircraft maintenance in a timely manner by a qualified repair station in accordance with the Federal Aviation Regulations.

Other commenters supporting the proposals as contained in the Notice provide information specifically on the effect of the proposals on the national economy and the balance of trade, and submit supporting data. The ATA surveyed 14 of the largest ATA member airlines concerning work performed by foreign repair stations for those U.S. airlines, as well as the work performed by those airlines for foreign operators in 1987. Responses from these airlines indicate that approximately 104 million dollars' worth of work was performed by the U.S. air carriers for foreign operators in 1987. In contrast, approximately 89 million dollars' worth of work was performed for these airlines by foreign repair stations during the same period. Moreover, of this \$89 million, approximately \$11 million was not performed under the authority of the foreign repair station certificate, but was performed under the airlines' authority to contract maintenance under § 121.363(b) as well as under §§ 121.371(a) and 121.378(a) exemption authority. ATA also points out that U.S. domestic repair stations enjoy substantial advantages over foreign

repair facilities in competing for repair work from U.S. air carriers in that they are located much closer to the center of the carrier's operations. This is particularly the case when the repair station is owned and operated by the U.S. carrier concerned.

ATA also surveyed 21 large U.S. organizations that work on transport airplanes and components. All of these organizations reported to ATA that they perform work for foreign operators who are operating in the United States. Ten of these organizations reported that 30 percent or more of their work is accomplished for foreign operators. Similarly, the results of a recent survey by IATA of its member airlines show an expenditure of approximately \$184 million in 1987 by 20 foreign airlines for work performed by U.S. repair stations. Charts submitted by ATA and IATA set forth the use of maintenance by foreign operators in the United States and the resultant creation of jobs in this country.

To determine the economic impact of the proposed rulemaking on the domestic airlines, repair stations, aircraft manufacturers, and ultimately U.S. consumers, ATA and IATA jointly commissioned an economic analysis by Gellman Research Associates, Inc. As stated above, a copy of the Gellman analysis is enclosed with both the ATA and IATA comments. ATA is of the opinion that the Gellman analysis demonstrates that (1) The United States would not benefit by restricting international trade in aircraft maintenance; (2) the aircraft maintenance business does not contain the elements (such as economies of scale) required to provide economic benefits to a nation by restricting trade; and (3) even if an economic benefit from restricting trade in aircraft maintenance did accrue to repair stations, such restrictions would result in higher costs to aircraft operators, such as airlines, which could translate into higher rates and fares. The Gellman report concludes that the ultimate impact would be reduced demand for air transportation by consumers and shippers, accompanied by a reduced earnings and employment for airlines.

Foreign commenters also submitted information to indicate that, in their opinion, the proposal in the notice would not have a negative effect on the U.S. national economy or on the U.S. balance of trade. As referred to above, data taken from the records of the Association of European Airlines indicate that U.S. domestic repair stations enjoyed better than a two-to-one trade surplus in aircraft repair work. In the opinion of British Airways, the

AEA figures indicate an increasing trend in favor of U.S. repair stations.

In promulgating the proposals contained in the notice, the FAA expressed the view that the demand for maintenance services would continue to grow in the United States, as well as at foreign locations, and that the effects of the proposals in the Notice on the increase in foreign maintenance and on the existing work performed in the United States must be considered in the context of expected overall growth in the industry. In addition, the FAA stated that, in light of these views, the proposals would not adversely affect either the national economy or the U.S. trade balance. The FAA encouraged commenters to respond and submit supporting economic and trade data for any beneficial or adverse impacts that would be anticipated to occur should the proposed rules be adopted. Though the views expressed by the FAA were generally challenged by those opposing the proposals as a whole, no supportive economic or trade data were submitted by these commenters to indicate that any adverse impact would occur should the proposed rules be adopted. In contrast, as described above, considerable information was submitted that supports the initial FAA views.

The U.S. Department of Commerce, as indicated in its publication, the *U.S. Industrial Outlook For 1988—Aerospace*, expresses the opinion that the rising trend of industrial collaboration between U.S. and foreign manufacturers in the aviation sector will be the chief reason that the increase in the flow of trade may reach record highs in 1988 of \$22 billion for exports and \$8.8 billion for imports. The FAA reiterates its position that the proposals as contained in the notice would not appear to have any adverse impact on the national economy or trade balance.

Impact of War and Terrorism/Sabotage

Over 60 commenters opposing the notice express the view that, with more U.S. jobs lost to foreign facilities by enactment of the proposals, there would be fewer qualified mechanics and maintenance facilities available to the United States in the event of war. They also express concern that U.S. aircraft would be more susceptible to international terrorism or sabotage activity. No supporting data were submitted by the commenters espousing this issue.

As stated above, the FAA has been advised that the U.S. Air Force (USAF) has relied heavily on foreign sources to repair its aircraft for many years so that USAF readiness and sustainability can

be increased by retaining its aircraft close to operating locations where the aircraft would be used during conflict.

In the nearly 40 years since U.S.-registered aircraft have been utilizing foreign repair stations, the threat of war or terrorism/sabotage has not been a problem; there is no reason to believe the amendments adopted in this rule would change that.

Drugs

Several commenters express concern over the use of illegal substances by personnel overseas. The commenters state that drug use is checked in the United States by the growing practice of testing for illegal substances, which may not be the case at foreign repair stations. Testing for drug use in the aviation industry is a matter of growing importance. The FAA has initiated other regulatory actions in this area. Therefore, the commenters' concerns are outside the scope of this rulemaking.

Exemption Process

Over 15 commenters opposing NPRM No. 87-12 point out that the proposed rule is not necessary, because exemptions currently permit certain work to be performed overseas by foreign repair stations.

The FAA has handled over 100 exemption actions from petitions filed by U.S. air carriers for relief from the operating Parts of the regulations (Parts 121 and 135) to permit these carriers to use foreign repair facilities that otherwise would not be available under current regulations. Exemptions were granted to air carriers who operate foreign-manufactured aircraft and/or foreign-manufactured components installed on U.S.-registered aircraft, and have limited access to qualified repair and overhaul facilities in the United States. As an example, one U.S. air carrier commenting on the Notice points out that it uses a foreign-manufactured air compressor, and there is no U.S. domestic repair station authorized or equipped to overhaul and repair such a unit. The FAA has found that allowing such carriers to utilize experienced type certificate holders and U.S.-certificated foreign repair facilities with trained personnel, who are qualified to perform work on original foreign-manufactured component parts, provides a level of safety equal to that provided by the rules from which the exemptions have been sought. While the FAA has granted exemptions to U.S. air carriers in these cases, that mechanism does not provide a solution to all of the problems brought about by the increasingly international character of U.S. air carrier operations. As stated by one U.S. air carrier, the

exemption process not only increases the workload of an already heavily burdened FAA staff, it poses serious problems for carriers requiring prompt maintenance. The unavoidable delay caused by the need to prepare, file, and obtain an exemption can be a serious problem for a carrier that faces unexpected maintenance problems. Furthermore, the exemption process is not only time consuming and burdensome for the petitioner, but is intended to cover only unique problems of a person, rather than classes of problems.

Bogus Parts

Over 75 commenters oppose the proposal contained in the Notice contending that there would be increased use of unauthorized or "bogus" parts and components on U.S.-registered aircraft if the proposals are adopted. The International Association of Machinists (IAM) refers to the large amount of foreign parts not maintained according to FAA specifications that were found during the National Air Transportation Inspections (NATI) and the investigation of the crash of an Arrow Air DC-8. Other than IAM's reference, no supporting documentation was submitted on this issue.

The problems encountered during the NATI program are complex, involving repair station authority and surveillance issues. Some of the problems associated with repair station authority are addressed by this rulemaking in that what are currently considered to be "unauthorized" parts are so, simply because of the existing restrictive scope of work that can be accomplished by foreign repair stations. The problems associated with surveillance have been addressed by the FAA and will continue to be closely monitored.

Dissolution of U.S. Air Carrier Maintenance Operations

Over 45 commenters that oppose NPRM No. 87-12 express concern that airline management, in supporting amendment of Part 145 in regard to foreign repair stations, is looking only at maintenance costs, not quality, and that airline management would be quick to move all of their airline overhaul facilities out of the country. These commenters contend that if the proposals are adopted U.S. air carriers would completely dissolve portions of their maintenance operations and send all component and aircraft work overseas. No substantive data were presented to support the above contention.

The FAA place full maintenance responsibility on the operator. Airline

comments supporting the proposal point out that U.S. carriers have, and will continue to have, the overwhelming portion of all maintenance work performed in the United States. This is borne out by U.S. airline testimony before Congress on the use of foreign repair stations by U.S. airlines (*Hearing Before the Aviation Subcommittee of the House Committee on Public Works and Transportation*, 100th Congress, First Session, July 28, 1987, pages 59, 92, and 362). ATA's comments supporting this notice point out that there is more to consider in the cost of maintenance than the cost of the labor, such as overhead, depreciation of sophisticated equipment, inventory costs, shop capacity, delays in shipment to aircraft or components to foreign shops, and the availability of skilled labor to perform the maintenance. ATA takes the position that the United States is well in the lead in these areas.

RAA, in supporting the proposals in the notice, states that U.S. regional airlines do not, as a rule, operate revenue flights outside of the United States. Thus, regional airlines do not rely heavily on foreign repair stations to do work that could be done in this country. On the other hand, RAA points out that regional airlines are impacted by FAA rules that prevent such air carriers from sending aircraft and components to the original manufacturer for repair or overhaul to ensure that the manufacturer remains accountable for the quality of the product.

Evidence and arguments submitted by the commenters forwarding information support the conclusion that U.S. airlines prefer to maintain their aircraft at domestic locations.

The FAA does not concur with the contention that, if the proposals are adopted, there will be an exodus of U.S. air carrier maintenance operations overseas.

Foreign Retaliation

Several commenters supporting the notice point out that failure of the United States to adopt the proposed amendments may be viewed by foreign governments as an overly protectionist act by the U.S. Government and, under these circumstances, it would be reasonable to assume that if the proposed amendments are not adopted, there would be intense pressures on foreign governments to impose reciprocal restrictions on the use of U.S. repair stations by their national flag carriers. Furthermore, the commenters state that the demand for reciprocal restrictions could easily expand to include other aviation products and

services, such as a product manufactured by both domestic and foreign entities.

Aeronautical authorities of the British and German governments (CAA and LBA) remind the FAA in their comments that their governments permit U.S. domestic repair stations unrestricted access to their aviation industry, subject only to the need for current release documentation and records. Any significant difference between the intent of the final rule and the intent of the notice would be assumed by these governments to be caused by concern for safety standards. They, in turn, would be required to review their own acceptance standards from any foreign source, including U.S. domestic repair stations. The aeronautical authority of the French government (DGAC) states that they are planning to review their regulations related to DGAC

certification of foreign repair stations (e.g., U.S. domestic repair stations) under the same technical requirements as French repair stations except in cases where, due to maintenance arrangements or bilateral agreements between authorities, it will be reciprocally recognized that the approvals given by one authority are considered valid by the other.

Other supporters of the proposals also point out that no major foreign government currently imposes any regulatory restrictions on the use of FAA-certificated U.S. repair facilities by its own airlines. These commenters refer repeatedly to testimony at the Congressional hearing on the use of foreign repair stations by U.S. airlines in July 1987 (Hearing before the Aviation Subcommittee of the House Committee on Public Works and Transportation). Mr. Crawford F. Brubaker, the Deputy Assistant Secretary of Commerce for the United States, testified at this hearing that many foreign governments had informed him that retaining existing geographic restrictions on foreign repair stations is inconsistent with the Agreement on Trade in Civil Aircraft which was negotiated pursuant to the General Agreement on Tariffs and Trade (GATT). In his testimony, Mr. Brubaker stated (page 8):

However, if, in the view of our foreign trading partners this issue is not resolved in a prompt and fair manner, there is a possibility that a dispute action [GATT] might be filed by one or more signatories. Should any trading partner take counteraction, it could be detrimental to both our airlines and to our aircraft industry.

At this same hearing, Pratt & Whitney testimony (page 103) and Boeing Co. testimony (page 101) were to the effect that if foreign governments were to

adopt regulations that narrowed their current foreign repair restrictions, the U.S. aviation maintenance industry would suffer a substantial loss of business. The Aerospace Industries Association of America declared that (pages 98 and 99):

Any regulation that would restrict the free flow of trade in the international airline market would ultimately have a negative impact on the U.S. aerospace industry and the Nation's overall trade balance. Last year, the industry employed 1.3 million people. Loss of competitiveness in the world market could lead to a catastrophic loss of American jobs in this vital manufacturing sector.

* * * Further, the imposition of trade restrictions is clearly not within FAA's purview and should be left to international negotiation. The use of FAA's regulations for protectionism will give rise to reciprocal actions from foreign airworthiness agencies and will undermine the FAA's worldwide credibility in safety.

Commenters raising this issue conclude the foreign retaliation could well result in reduced business by domestic repair stations. These commenters also contend that domestic airframe, engine, electronics, and equipment manufacturers could be targeted for retaliatory measures resulting in higher costs to their businesses, reduced demand for their products, and ultimately reduced earnings and employment.

Paperwork Reduction Act

Information collection requirements in the proposed amendments to § 135.443 have previously been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0039.

Regulatory Evaluation

In promulgating the proposals contained in the notice, the FAA expressed the view that the demand for maintenance services will continue to grow in the United States as well as at foreign locations. The effects of the proposals in the notice on the increase in foreign maintenance and on the existing work performed in the United States must be considered in the context of expected overall growth in the industry. In addition, the FAA stated that the proposals would not adversely affect either the national economy or the U.S. trade balance. The FAA further concluded that there would not be a large shift of jobs from the United States to foreign countries.

In light of the above views, the FAA encouraged commenters to respond and submit supporting factual economic and trade data for any anticipated beneficial

or adverse impacts should the proposed rules be adopted. The FAA also solicited recommendations for better methods to achieve the objectives of the rules and rule changes proposed in the Notice. Though the views by the FAA were strongly challenged by those opposing the proposals as a whole, no supportive factual economic or trade information was submitted by these commenters to indicate how an adverse impact would occur to the national economy or trade balance should the proposed rules be adopted; nor were any recommendations submitted by these commenters for achieving the objectives of the rules. These commenters desire to retain the status quo and maintain the foreign repair station regulations adopted in 1949 as they are now set forth in Part 145.

Those opposed to the proposals contained in the notice express concern that foreign repair stations would have an unfair economic advantage over domestic repair stations. These commenters allege foreign repair stations would have to meet less stringent standards than domestic repair stations and that domestic repair stations would be placed at an economic disadvantage. One unsubstantiated statement alleges that if the proposals are adopted, there would be a net loss in U.S. income of up to \$600 million. The basis for these estimates is not provided. An association of repair stations reported that, of its members responding to a survey sent out by the association, 80 percent stated that they thought they would be adversely affected by having to compete with foreign-owned and subsidized firms. No supporting data were submitted by this association, even as to the number of repair stations the association represented, or the number of repair stations responding to the survey. The FAA understands that this association represents approximately 90 of the 4,400 repair stations.

The primary concern expressed in most of the opposing comments is related to the loss of jobs in the United States and the general negative impact on the U.S. economy that would result if the proposals are adopted. A wide range of estimates for lost jobs is offered; however, there is no explanation of how these estimates were made. In general, no data or analyses were included in any comment to support these claims.

As detailed in the *Discussion of Comments* section, commenters supporting the proposals submitted extensive and factual information indicating that foreign entities currently spend up to twice as much in the United

States for maintenance as U.S. operators spend abroad. These commenters contend that this trend will continue, because there will not be a dramatic increase in the number of new foreign repair stations. Furthermore, there are a limited number of facilities in the world that can meet the FAA's stringent requirements.

The expectation that trade will not be adversely affected is supported by the U.S. Department of Commerce that concludes the rising trend of industrial collaborating between U.S. and foreign manufacturers in the aviation sector will increase the expected flow of trade for 1988 to record highs. The U.S. Department of Commerce cited figures of \$22 billion for exports and \$8.8 billion for imports in the aviation sector. This trend towards international collaboration in aircraft manufacturing will also result in the growth of trade in equipment for maintenance and repair, and consequently reciprocal growth in the trade of repair services. This expected expansion supports the FAA view that overall growth in the aviation industry will offset losses, if any, in maintenance and services.

Supporters of the proposals refute the allegations that the rules would create an exodus of jobs from the United States to foreign countries, contending that the allegations are unsupported. As pointed out by such supporters in the *Discussion of Comments* section, there will not be a wholesale use of foreign repair stations by U.S. operators. Also, the U.S. Department of Commerce points out that the world's expanding fleet of aircraft will demand more equipment for maintenance and repair, and the total industry employment for 1988 in the overall aviation sector is forecast to increase by almost 3 percent.

Additionally, as pointed out in the *Discussion of Comments* section, if the foreign repair station rules are not updated and adopted as proposed, and if the United States retains the status quo and adopts a stance of protectionism, there are sufficient indicators regarding the likelihood of some retaliatory action from some foreign governments to adjust their regulations, making them as restrictive as those currently in effect in Part 145. These actions could very well result in a negative impact on the U.S. economy. This possibility is supported by the fact that the U.S. Department of Commerce has been advised by many foreign governments that, in their opinion, retention of existing geographic restrictions on foreign repair stations by the United States is inconsistent with certain international treaties to which

the United States is a signatory. These foreign governments have further stated that if they were to take counteraction, it could be detrimental to both U.S. airlines and to the U.S. aircraft industry.

Although expanding access to world markets for aircraft maintenance could result in additional work being done at foreign locations, the FAA must conclude from the information submitted to this docket (Docket No. 25454) that the consequences would not include a major, if any, shift in jobs. Nor, will adoption of these rules have an adverse impact on the national economy or on the U.S. balance of trade. The *Discussion of Comments* section points out that the rules will be beneficial, particularly to U.S. air carriers and to manufacturers (as well as to some domestic repair stations) in their ability to obtain maintenance and repair work on foreign-manufactured aircraft and components. Further, it should also be noted that there are no direct compliance costs to U.S. interests associated with the foreign repair station revisions, because certification as a repair station is strictly voluntary. A loss of some jobs could certainly be possible, if only as a normal effect of any competition; however, the supporting information in the docket does not show that such a major loss would occur.

Though the rule could be restricted solely to foreign manufacturers, this restriction would not fully address many U.S. air carrier problems, particularly in cases where there is no domestic facility capable of performing certain necessary maintenance. Likewise, limiting the scope of work only to warranted items will not cover a situation in which no U.S. domestic repair station is authorized or equipped to overhaul and repair a certain component not covered by warranty.

The airline industry has experienced rapid growth following deregulation resulting in a demand for equipment suitable to the individual operator's requirements. This demand has been increasingly met through international endeavors in the manufacture of aircraft and their components. The demand for qualified maintenance services and facilities has grown as the fleet of foreign-manufactured aircraft has increased, particularly in the regional and commuter airline industry.

Many U.S. operators have not invested the capital required to provide domestic maintenance facilities that are capable of servicing foreign-manufactured aircraft, nor have they been able to attract outside repair facilities to provide the necessary

services. Under the existing regulations, some carriers that operate foreign-manufactured aircraft have obtained exemptions to take advantage of the manufacturer's warranty provisions for the products they operate. Presently, some manufacturers are precluded from repairing their own products, because of their repair station's location or their inability to obtain U.S. certification under §§ 145.71 and 145.73.

While the FAA has granted exemptions to U.S. air carriers to permit them to use foreign repair facilities that would not be otherwise available under current regulations, that mechanism does not provide a solution to all of the problems brought about by the increasingly international character of U.S. air carrier operations. The exemption process is time consuming and by its very nature places a repeated and continued burden on a petitioner. It does not take care of unforeseen maintenance needs and is only intended to cover unique problems of an individual person, rather than classes of problems, such as the matter of foreign repair stations. Also, in light of the lengthy negotiation process associated with formulating and refining bilateral agreements, pursuing additional bilateral agreements for maintenance of U.S.-registered aircraft is not considered advantageous in terms of any short-term benefits for the U.S. aviation community.

The FAA has determined that allowing domestic and foreign manufacturers holding U.S. repair station certificates to contract the repair of components to non-U.S.-certificated repair stations, domestic and foreign, under the specific circumstances set forth in the amended § 145.47(c) will not diminish the quality of the repairs, as the components would be approved for return to service under the repair station's quality control process that has been found acceptable to the FAA. This new process will increase the amount of maintenance resources available to U.S. operators, thereby reducing costs and delays associated with their operations.

The amendment to § 135.443(b), which permits a foreign repair station to return an aircraft or part to service after performance of maintenance, similar to existing § 121.709(b), should not result in any adverse impact. Because the implementation of § 121.709(b) has not created any problems, none are anticipated from the change to Part 135. Further, being able to use a foreign repair station to return their aircraft to service would be a major benefit for Part 135 operators.

International Trade Impact Analysis

As set forth in the *Discussion of Comments* section, the amendments contained herein are consistent with the terms of several trade agreements to which the United States is a signatory, such as the Trade Agreements Act of 1979 (19 U.S.C. 2501 *et seq.*), incorporating the Agreement on Trade in Civil Aircraft (31 U.S.T. 619), and the Agreement on Technical Barriers to Trade (Standards) (19 U.S.C. 2531). Not only do these changes reflect the FAA's desire to eliminate unnecessary barriers to international trade, but such action is consistent with section 1102(a) of the Federal Aviation Act of 1958, as amended, which requires the FAA to exercise and perform its powers and duties consistently with any obligation assumed by the United States in any agreement that may be in force between the United States and any foreign country or countries. The economic trade impacts are discussed in the previous section (*Regulatory Evaluation*).

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules which may have "a significant impact on a substantial number of small entities."

The FAA has determined that these amendments are not expected to have a significant impact on a substantial number of small entities. The provisions of this rule are primarily directed toward the activities of foreign repair stations and, therefore, domestic repair stations are not expected to incur any costs for compliance. Consequently, the domestic repair stations should not incur any significant economic impact under FAA Order 2100.14A, September 16, 1986, Regulatory Flexibility Criteria and Guidance. Furthermore, by deleting barriers in the aviation repair station industry and encouraging potential entrepreneurs to introduce beneficial products and processes to the aviation industry as a whole, the amendments are consistent with the Act (see RFA sec. 2(a)(5)). This is supported by comments received on the notice.

Of the 10 domestic repair stations that commented individually, 5 indicate that they are large repair stations and not small entities; no indication was given as to the size of the other 5 repair stations. The bulk of those commenters opposing the notice are individual employees of large entities, particularly

large airlines. The majority of the 4,400 domestic repair stations are small entities (businesses with less than 200 employees). These small domestic repair stations are primarily concerned with the smaller general aviation U.S.-registered aircraft and components and are not impacted by an increase or decrease in the number of foreign repair stations. Therefore, the FAA has determined that the amendments are not expected to have a significant impact on a substantial number of small entities and has concluded that a regulatory flexibility analysis is not required.

Federalism Implications

The regulations set forth in these amendments are promulgated pursuant to authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt State law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this final rule is not major under Executive Order 12291, and that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposal is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The regulatory evaluation of this final rule, including a Regulatory Flexibility Determination and Trade Impact Analysis, is printed in its entirety in this final rule and has been placed in the regulatory docket. A copy may be obtained by contacting the person identified under "FOR FURTHER INFORMATION CONTACT."

List of Subjects

14 CFR Part 135

Air carriers, Air taxis, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 145

Aircraft, Airworthiness, Aviation safety, Reporting and recordkeeping requirements.

The Rule

In consideration of the foregoing, the Federal Aviation Administration amends Parts 135 and 145 of the Federal Aviation Regulations (14 CFR Parts 135 and 145) as follows:

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

1. The authority citation for Part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. By amending § 135.443(b) by adding a flush paragraph following § 135.443(b)(3) to read as follows:

§ 135.443 Airworthiness release or aircraft maintenance log entry.

(b) * * *

(3) * * *

Notwithstanding paragraph (b)(3) of this section, after maintenance, preventive maintenance, or alterations performed by a repair station certificated under the provisions of Subpart C of Part 145, the airworthiness release or log entry required by paragraph (a) of this section may be signed by a person authorized by that repair station.

PART 145—REPAIR STATIONS

3. The authority citation for Part 145 continues to read as follows:

Authority: Secs. 313, 314, 601, and 607, 72 Stat. 752; 49 U.S.C. 1354(a), 1355, 1421, and 1427, unless otherwise noted.

4. By amending § 145.47 by redesignating paragraph (c) as (d) and adding a new paragraph (c) to read as follows:

§ 145.47 Equipment and materials: Ratings other than limited ratings.

(c) A certificated domestic or foreign repair station may contract maintenance and alteration of components of a type certificated product to a noncertificated source identified in the repair station's inspection procedures manual provided:

- (1) The repair station is the manufacturer who originally manufactured the product for which it holds a U.S. type certificate;
- (2) The contracted component is included as part of the type certificated product;
- (3) The component maintenance is done by the original component manufacturer or its manufacturing licensee; and

(4) Before such a component is returned to service, the repair station ensures that it is being returned to service in accordance with the repair station's quality control system as approved by the Administrator and set forth in the repair station's operations specifications and inspection procedures manual.

* * * * *

5. By revising § 145.71 to read as follows:

§ 145.71 General requirements.

A repair station certificate with appropriate ratings may be issued for a foreign repair station if the Administrator determines that it will be

necessary for maintaining or altering United States registered aircraft and aircraft engines, propellers, appliances, and component parts thereof for use on United States registered aircraft. A foreign repair station must meet the requirements for a domestic repair station certificate, except those in §§ 145.39 through 145.43.

6. By revising § 145.73 to read as follows:

§ 145.73 Scope of work authorized.

(a) A certificated foreign repair station may, with respect to United States registered aircraft, maintain or alter aircraft, airframes, powerplants, propellers, or component parts thereof.

The Administrator may prescribe operations specifications containing limitations that the Administrator determines necessary to comply with the airworthiness requirements of this chapter.

(b) A certificated foreign repair station may perform only the specific services and functions within the ratings and classes that are stated in its operations specifications.

Issued in Washington, DC, on November 16, 1988

T. Allan McArdor,
Administrator.

[FR Doc. 88-26934 Filed 11-17-88; 12:28 pm]

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DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 135 and 145**

[Docket No. 25454; Amdt. Nos. 135-29 and 145-21]

RIN 2120-AC50

Foreign Repair Station Rules*Correction*

In rule document 88-26934 beginning on page 47362 in the issue of Tuesday, November 22, 1988, make the following corrections:

1. On page 47366, in the third column, in the first complete paragraph, in the seventh line from the bottom, "of" should read "on".

2. On page 47368, in the second column, in the second complete paragraph, in the second line from the bottom, "for" should read "of".

3. On page 47369, in the second column, in the first complete paragraph, in the ninth line from the bottom, "deregulation" should read "derogation".

4. On page 47372, in the second column, in the second line from the bottom, "FAA" should read "FAR".

5. On page 47374, in the first column, in the first complete paragraph, in the fifth line, "collaborating" should read "collaboration".

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