

NOTICE

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

N 8900.113

National Policy

Effective Date:
3/22/10

Cancellation Date:
3/22/11

SUBJ: Foreign FAA 14 CFR Part 145 Repair Station Perceived Need Document
Clarification

1. Purpose of This Notice. This notice provides instructions, guidance, and information based on a legal interpretation of Title 14 of the Code of Federal Regulations (14 CFR) part 145, §§ 145.51(c) and 145.55(b) and changes to the guidance in Federal Aviation Administration (FAA) Order 8900.1, volume 2, chapter 11, section 3. This affects all impending new certification and renewal or surveillance of foreign part 145 air agencies under the management of International Field Offices (IFO) with part 145 certificate responsibilities. The FAA intends that the revisions to this guidance ensure that FAA-certificated repair stations located outside of the United States continue to show a need for the renewal of an FAA part 145 certification to perform maintenance on U.S.-registered articles.

2. Audience. The primary audience for this notice is FAA aviation safety inspectors (ASI) located in IFOs with oversight responsibilities for foreign part 145 repair stations. The secondary audience includes Flight Standards branches and divisions in the regions and in headquarters.

3. Where You Can Find This Notice. You can find this order on the MyFAA employee Web site at https://employees.faa.gov/tool_resources/orders_notices. Inspectors can access this notice through the Flight Standards Information Management System (FSIMS) at <http://fsims.avs.faa.gov>. Operators may find this information on the Federal Aviation Administration's (FAA) Web site at <http://fsims.faa.gov>.

4. Background. During review of an IFO's foreign repair station files, reviewers discovered that perceived need documents were not included in the files. As a result, neither internal nor external auditors could determine if a foreign repair station met the requirements of §§ 145.51(c) and 145.55(b).

a. Legal Interpretation. The Assistant Chief Counsel for Regulations (AGC-200) provided the manager of the IFO with a legal interpretation of §§ 145.51(c) and 145.55(b), concerning the showing of need by a foreign repair station. Although the requirement for a foreign repair station to "show that the repair station certificate and/or rating is necessary for maintaining or altering" U.S.-registered aircraft and articles has not changed, it is apparent that the guidance for showing continuing need requires updating.

b. Clarification. The legal interpretation included the following statements:

Note: “The regulatory history makes clear the FAA’s rationale for requiring a showing of need as a qualification for issuing a certificate to a repair station located outside the United States. [...]his history emphasized the importance of not burdening the FAA’s resources in certifying and recertifying such repair stations if they are not going to be supporting U.S.-registered aircraft and products. Implicit is the concern over expending those FAA resources in surveiling [sic] such repair stations. For the reasons discussed above, some flexibility is necessary in implementing this policy, and it must not be applied arbitrarily. As a matter of law, however, we believe the showing of need requirement is a continuing obligation.”

Note: The full text of the memorandum, dated December 9, 2008, is available at http://www.faa.gov/about/office_org/headquarters_offices/agc/pol_adjudication/agc200/interpretations/data/interps/2008/San%20Francisco.pdf.

5. Procedures. For *initial* and *renewal* certification, the certification report *must include* a copy of the statement/document of need showing the necessity for the certificate. This statement/document will show proof of the continuing need of the repair station seeking certification to perform maintenance on U.S.-registered articles.

a. Documents Establishing Need. The applicant or certified repair station can substantiate the perceived need by including a statement from an operator of U.S.-registered aircraft or a company that maintains or alters items for installation on U.S.-registered aircraft indicating that the repair station’s services are required. The perceived need may also be established with documentation from a leasing company or a supplier/distributor showing that the applicant’s services are needed. The applicant can confirm in writing that the leasing company or supplier/distributor is doing business with operators of U.S.-registered aircraft.

b. Adding Additional Items. Adding a component, appliance, or part thereof to an existing capabilities list (CL) does not require a repair station to show a need for the additional items. However, adding a new aircraft make/model, aircraft engine make/model, or propeller make/model (type-certificated (TC) product) requires the repair station to retain a copy of the customer’s document to show a need for the additional items and make that document available to the FAA for inspection.

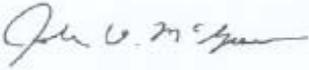
Note: For facilities renewed under a Bilateral Aviation Safety Agreement (BASA)/ Maintenance Implementation Procedures (MIP), the evidence of need document is retained at the National Aviation Authority (NAA) office in the Approved Maintenance Organization (AMO) file and made available to the FAA during sampling inspections and/or independent FAA inspections.

c. Continuing Need Requirement. If the foreign repair station is unable to establish the continuing need requirement, the FAA will renew the certificate based on its previous continuing need statement. However, the FAA will advise the foreign repair station in writing that if it is still unable to show a continuing need at the time of its next renewal, the FAA may not renew the

certificate. A copy of this letter must be included in the renewal certification report in place of the evidence of need document.

Note: It is essential that, starting from the date of this notice, *all* initial and renewal certification reports must include a copy of the statement/document of need showing the necessity for the certificate.

6. Disposition. We will permanently incorporate the guidance in this notice into FSIMS before the notice expires. Direct questions concerning this notice to the Repair Station Branch (AFS-340), at (202) 385-6400.



for

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