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Delivery via e-mail to: Joel.Schlossberg@faa.gov

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RE: Comments to Draft Advisory Circular (AC) 120-CMP

Dear Joel:

First, let me apologize for not making the July 18, 2010 deadline for comments to the referenced document. However, the importance of ensuring that the AC was in complete compliance with the applicable regulations caused a delay in completing our comments.

Please find attached a Microsoft Word version of the original draft with our tracked changes along with version with all the changes accepted. We hope this will make it easier for the agency to provide a comprehensive review of our suggestions.

The draft document attempts to outline the regulatory requirements that should be contained in contractual provisions between air carriers and persons with whom they arrange to perform maintenance, preventive maintenance and alterations.

As the agency knows, the air carrier is responsible for ensuring that all maintenance, preventive maintenance and alteration for its aircraft is performed in accordance with its program and the applicable portions of its maintenance manuals. If a person with whom the air carrier contracts such work is a certificated repair station under part 145, that entity is responsible for the actual performance of the work. While the air carrier has an oversight responsibility, it is not actually performing the work. If the work is performed improperly, it can be held accountable for operating an unairworthy aircraft, failure to provide proper oversight of its maintenance provider and failure to follow its procedures and other provisions of 14 Code of Federal Regulations. However, it cannot be held accountable for the actual performance of the maintenance, preventive maintenance or alteration if it did not issue the approval for return to service for the work. This extremely important nuance was not made clear by the draft document.

The Aeronautical Repair Station Association (ARSA) attempted to rewrite the draft AC to conform to the regulatory requirements for air carriers and certificated maintenance providers. Specifically it:

- Reorganized the entire document to follow the general and then specific requirements that may be covered in a contractual relationship.

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- Ensured that all the applicable provisions of parts 121 and 135 were included in all the paragraphs.
- Removed the language pertaining to section 119.59 since that section deals with the requirements for the certificate holder to have records made available and does not extend to inspection by the agency of any and all maintenance providers no matter the “tier” in the contractual relationship.
- Removed the language pertaining to the air carrier’s perceived need to “approve” or validate the sub-contractors of the maintenance provider. If the air carrier contracts with a certificated repair station that entity must ensure its contractors are either appropriately rated to perform the work scope or must verify by test or inspection that the work is performed properly.<sup>1</sup> If the air carrier contracts with any other person to perform maintenance, the work must be approved for return to service by the air carrier, therefore, it must be either directly in charge of or supervise the work.<sup>2</sup>
- Ensured that the provisions of sections 121.709 and 135.443 were appropriately covered. The draft incorrectly indicated that appropriately certificated and authorized domestic repair station personnel could not complete a logbook entry or airworthiness release.<sup>3</sup>

The association made other less substantive changes to ensure that appropriate information was provided to the public on this issue.

We appreciate the opportunity to provide our comments on this important issue. We are hopeful that the agency will consult its legal department before a final document is issued to ensure the proper balance between regulatory compliance and business relationships is maintained.

Your Servant,



Sarah MacLeod  
Executive Director

cc: Ken Kerzner  
Steve Douglas

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Attachments: Microsoft document DraftAC120-CMP-ARSATrackedChanges-20100722.docx  
Microsoft document DraftAC120-CMP-ARSAAccepted-20100722.docx

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<sup>1</sup> See, section 145.217.

<sup>2</sup> See, sections 43.3 and 43.7.

<sup>3</sup> See, January 5, 2009 legal interpretation.