U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

MAR 2 8 2012

Bristow Alaska, Inc.
Rick Rogers, General Manager
1915 Donald Avenue
Fairbanks, AK 99701

Re: Request for Legal Interpretation of 14 C.F.R. § 145.157(a) Concerning the Certification Requirements for Persons Authorized to Approve an Article for Return to Service in Repair Stations Located Inside the United States

Dear Mr. Rogers:

This is in response to your request for a legal interpretation on the certification requirements for persons authorized under 14 C.F.R. § 145.157(a) to approve an article for return to service following maintenance, preventive maintenance, or alteration by an FAA-certificated repair station. You sent your request to Howard Martin, the FAA's Regional Counsel in Alaska, and it was received in his office on July 18, 2011. Because your question involves a fundamental interpretation of a regulation with national implications, Mr. Martin sent your request to the Regulations Division in the FAA's Office of the Chief Counsel in Washington, D.C.

Section 145.157(a), the regulation at issue, states:

> A certificated repair station located inside the United States must ensure each person authorized to approve an article for return to service under the repair station certificate and operations specifications is certificated under part 65.

The issue is whether the phrase "is certificated under part 65" means *appropriately* certificated, *i.e.*, with either a mechanic certificate (airframe and/or powerplant) or repairman certificate, as applicable, for the type of maintenance being performed.

By way of background, you stated that your local Flight Standards District Office (FSDO) advised you that a person employed by a repair station may approve for return to service only items for which the person is certificated under 14 C.F.R. part 65, "as you would if working on your own as an A&P." You expressed your belief that, when a repair station employee

approves an article for return to service following maintenance on it, that person does so using the repair station certificate and not the person's A&P certificate. You asked specifically: "Does an A&P certificated mechanic returning to service an item under the repair station as per FAR 145.157 need a repairman certificate (in addition to an A&P certificate) for any of the following items[1] for which the repair station is qualified to perform in its OPS specs?"

You are correct that, when a repair station performs maintenance on an item and approves it for return to service, both the maintenance and related approval are done by the repair station. The repair station does these under the privileges granted it by 14 C.F.R. parts 43 and 145. Section 43.3 grants the holder of a repair station certificate the authority to perform maintenance, preventive maintenance, and alterations[2] as provided in 14 C.F.R. part 145. Section 145.201 grants a repair station the authority to both perform maintenance and to approve for return to service any article for which it is rated after it has performed the maintenance in accordance with part 43. When a repair station approves an article for return to service, the person signing the approval does not use his or her mechanic or repairman certificate number; rather the approval document references the repair station certificate number. Though the person signing the approval does not do so under his or her own appropriate certificate, under section 145.151(b) the repair station must ensure the person is qualified to do the approval.

Your question, and similar ones, arise because when the FAA amended the repair station rules in 2001 (66 FR 41088, August 6, 2001), the modifier "appropriately" was inadvertently and inexplicably omitted as a qualifier of persons required to be "certificated under part 65." Thus, in addition to the unmodified phrase at issue in § 145.157(a) (discussed above), one of the current qualification requirements for supervisory personnel in domestic repair stations is that the supervisor "be certificated under part 65." (§ 145.153(b)(1).) This, on its face, makes little sense in view of the other unrelated types of certification of airmen available under part 65. For example, in addition to mechanics and repairmen, part 65 covers certification of air traffic control tower operators, aircraft dispatchers, and parachute riggers. The qualification requirements for those persons would seem to have little, if anything, to do with performing maintenance.

It was not the FAA's intention to omit the term "appropriately" as a qualifier in the 2001 amendments. Before the rule was amended, § 145.39, governing *Personnel requirements* for domestic repair stations, provided in paragraph (d) that: "Each person who is directly in charge of the maintenance functions of a repair station must be *appropriately* certificated as a mechanic or repairman under part 65 . . . and must have had at least 18 months of practical experience . . . ." The additional requirement for 18 months of pertinent experience was not carried over into the new rule. The FAA determined that this was not necessary because those qualifications were incumbent in a mechanic's certification under part 65. The agency addressed this in the preamble discussion by stating:

> The final rule requires that personnel authorized to return an article to service be part 65 certificated unless employed by a repair station located outside the

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[1] You listed: Radio class 1; Radio class 2; Radio DME; Radio/Transponders; Pito static, Encoder test and Insp; Instruments; Instruments/Compass and remote indicating compass; and Major repairs and alterations.

[2] For brevity throughout this document, we will refer to "maintenance, preventive maintenance, and alterations" generically as "maintenance," unless the context requires otherwise.

> United States. The final rule requires personnel employed by a repair station outside the United States to have 18 months of practical experience and be thoroughly familiar with the applicable regulations and proficient in the use of the various inspection methods, techniques, practices, aids, equipment, and tools appropriate for the work performed and approved for return to service. Such experience requirements are not necessary for personnel authorized to approve an article for return to service who are employed by a repair station located in the United States, because those personnel hold part 65 certification. (66 FR 41102, August 6, 2001)

While the FAA's intent in 2001 may have been to require persons authorized to approve an article for return to service to be *appropriately* certificated under part 65, the plain language of the regulation does not require it. So, hypothetically, for example, if the only part 65 certificate held by a repair station employee who approved an article for return to service is a parachute rigger certificate, the FAA could probably not sustain a violation of § 145.157(a) against the repair station. However, if the FAA had reason to suspect that the employee was not properly qualified to approve the article for return to service, the agency could conduct a reexamination of the repair station under the authority of 49 U.S.C § 44709 to assess its compliance with §145.151(b), which requires that each repair station must provide qualified personnel to, among other things, approve an article for return to service. To avoid a violation of §145.151(b) under this example, the repair station would have to demonstrate that the employee met the knowledge and experience requirements of a person appropriately certificated under part 65 for the maintenance at issue.

The FAA is planning further amendments to the repair station rules, and expects to propose corrections to address the above-discussed oversight.

This response was prepared by Edmund Averman, an Attorney in the Regulations Division in the Office of the Chief Counsel, and coordinated with the Aircraft Maintenance Division (AFS-300) in the Office of Flight Standards. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Rebecca MacPherson
Assistant Chief Counsel for Regulations
Office of the Chief Counsel