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

Office of the Chief Counsel
800 Independence Ave., SW.
Washington, DC 20591

SEP 30 2014

Keystone Turbine Services, LLC
Mr. John Fraser
General Manager
885 Fox Chase
Suite 111
Coatesville, PA 19320

Re: Request for Legal Interpretation of 14 C.F.R. § 145.203(b) Concerning Meaning of "Temporarily Transport Material, Equipment, and Personnel" in the Context of Work Performed at Another Location on a Recurring Basis

Dear Mr. Fraser:

This responds to issues you raised to your local Flight Standards District Office (FSDO) on May 9, 2013, wherein you requested authorization to perform work away from your fixed repair station location. After the FSDO denied your request, you asked, on September 4, 2013, the FSDO for a legal interpretation of the regulation at issue (14 C.F.R § 145.203), as it relates to the circumstances outlined in your authorization request. The FSDO framed the issues in a memorandum to the FAA's Eastern Region Technical Branch, and that office asked the FAA's Eastern Region legal office for an interpretation of the regulation. We received the request on or about June 2, 2014. The issues involve the propriety of Keystone Turbine Services, LLC (Keystone), an FAA-certificated repair station, performing work away from its fixed location under the provisions of § 145.203(b). Under the facts and circumstances described in your request, Keystone may perform the requested maintenance at its customers' various locations and not violate § 145.203.

The factual circumstances you presented are as follows: Keystone, in its May 9 letter to its FSDO, requested FAA authorization to perform "AOG" (aircraft on ground) maintenance and approval for return to service on its customers' aircraft at various geographic locations away from Keystone's main facility (fixed location). This work would be performed by Field Service Representatives who have relevant product experience. Keystone requires that these representatives either hold an FAA-issued Airframe and Powerplant (A&P) mechanic certificate or be eligible for certification as a repairman under part 65. You provided the following facts:

- All work will be performed at the customer's location, not at a site maintained by the Sales and Field Service Representative.

- Field Service Representatives will not maintain any spare parts or specialized/calibrated tools and equipment; all parts, tools (except basic hand tools), and equipment needed will be shipped to the customer's location.

- Field Service Representatives have access to the RS&QCM (repair station manuals) and will use the same technical data (Rolls-Royce CDs and E-Pubs) as other personnel at the repair station.

- Field Service Representatives will undergo the same qualification requirements (needs assessment and training) as personnel who are based at the repair station.

- Field Service Representatives will remain knowledgeable of repair station procedures as they return to Coatesville [fixed location] at least three times a year.

On July 16, 2013, the FSDO denied Keystone's request, concluding that Keystone's proposed operations would be "regarded as 'continuous uninterrupted maintenance' that would be performed at another location and is not authorized by 14 CFR § 145." The Technical Branch's request for a legal interpretation supported the FSDO's denial, noting that Keystone "wishes to use employees based at other locations who do not return to the repair station in accordance with the rule."

Current § 145.203 provides:

> **§ 145.203 Work performed at another location.**
>
> A certificated repair station may temporarily transport material, equipment, and personnel needed to perform maintenance, preventive maintenance, alterations, or certain specialized services on an article for which it is rated to a place other than the repair station's fixed location if the following requirements are met:
>
> (a) The work is necessary due to a special circumstance, as determined by the FAA; or
>
> (b) It is necessary to perform such work on a recurring basis, and the repair station's manual includes the procedures for accomplishing maintenance, preventive maintenance, alterations, or specialized services at a place other than the repair station's fixed location.

The FSDO's denial appears to be based on its reading of paragraph (b) of Operations Specifications D100, which states" "The certificate holder **may not** perform **continuous** operation at a facility other than the station's Fixed Location listed in paragraph A101 if issued." The FSDO's reasoning appears to ignore the specific limitation in the paragraph, *i.e.*, that of continuous operation at *a* facility. Paragraph (b) of Operations Specifications D100 appears to address the improper establishment of a *satellite repair station*—a separate facility that may be established and certificated only under § 145.107. Based on the facts presented, it appears that

Keystone would be operating under the provisions of § 145.203(b)—performing work on a recurring basis. In fact, paragraph (d) of Operations Specifications D100 provides: "Work may be due to a special circumstance or on a recurring basis. If on a recurring bases, the repair station must have procedures in its manual." You stated that the requisite procedures are contained in Section 1.6 of Keystone's Repair Station & Quality Control Manual.

By way of background, paragraph (b) of § 145.203, authorizing work away from station on a recurring basis, had not been proposed in the 1999 Notice of Proposed Rulemaking (NPRM) for the 2001 Final Rule (64 FR 33142, June 21, 1999). The proposal (proposed as § 145.103(c)) was similar to current paragraph (a) of § 145.203(a), in that it would have permitted a repair station to temporarily transport material, equipment, and personnel to an aircraft at a place other than the repair station's fixed location if the work was necessary due to a special circumstance as determined by the FAA.

In the 2001 Final Rule, the FAA added paragraph (b) in response to comments received on the proposal. Some commenters stated that the proposal was too restrictive in requiring the special circumstance currently found in paragraph (a). They suggested that the then existing rule (§ 145.51(d)) should be retained. That section provided that a repair station could work at other locations if—(1) The function would be performed in the same manner as when performed at the repair station; (2) All necessary personnel, equipment, material, and technical data were available at the place where the work was to be done; and (3) The inspection procedures manual set forth approved procedures governing the work to be performed. Another commenter stated that the rule should allow scheduled maintenance away from the repair station's location.

The FAA accommodated the concerns of the commenters by adding current paragraph (b) to § 145.203. This allows a repair station to temporarily transport material, equipment, and personnel to another location if it is necessary to perform such work on a *recurring* basis and the repair station's manual includes the procedures for accomplishing that work. By way of explanation, the FAA's discussion in the preamble to the 2001 Final Rule stated in response to comments: "The rule also permits work away from a repair station's fixed location when it is necessary to perform such work on a recurring basis, if the repair station's manual contains procedures for accomplishing maintenance, . . . at a place other than the repair station's fixed location." The FAA also stated that this later provision (paragraph (b)) "will allow work away from a repair station's fixed location as part of everyday business practices rather than under special circumstances only."

In addition to the preamble explanation noted above, various FAA guidance materials consistently support this position. For example, FAA Order 8900.1, Volume 2, Chapter 11, Section 1, Paragraph 2-1182 (F)(3), states:

> As stated in § 145.203(b), a repair station may perform maintenance away from its fixed location on a recurring basis when necessary, such as to perform mobile field services. This will allow maintenance away from the repair station's fixed location as a part of everyday business rather than under special circumstances only. (OpSpec D100 is required.)

In addition, FAA Advisory Circular 145-9 addresses this issue in Chapter 4, Paragraph 4-5(c), which states in pertinent part:

> If the repair station is performing maintenance away from the fixed location on a recurring basis (part of everyday business rather than under special circumstances) there must be procedures in the manual for accomplishing the maintenance, . . . and how the repair station controls the work away from location (see, 14 CFR § 145.209(f)). . . . This business practice will provide flexibility and mobility to meet industry needs and not be restricted "only" to special circumstances.

The Technical Branch's concern that Keystone "wishes to use employees based at other locations who do not return to the repair station in accordance with the rule," is not dispositive either. The phrase "temporarily transport" (especially as it relates to paragraph (b) of the rule) is not defined or explained in the regulation or in the preambles. An unspecified return-to-base frequency cannot be read into the current rule, especially in reference to paragraph (b), which permits this work on a recurring basis. According to the FAA's intent articulated in the rule's preamble, such work may be done as part of everyday business practices rather than under special circumstance. Keystone has stated that its qualified but remotely located Field Service Representatives would perform maintenance at various locations where its customers have an aircraft on ground situation. We see nothing in the rule or its preamble discussion that would require Keystone's remotely located Field Service Representatives to make frequent return trips to Keystone's fixed location. While the three return trips per year as stated by Keystone may be commendable, this is not a limitation required by regulation. However, if Keystone placed this requirement as a procedure in its FAA-accepted manual, the company would be required to follow that procedure.

We have discussed this interpretation with the Aircraft Maintenance Division of the FAA's Office of Flight Standards. That office advised us that it will be revising its published guidance to clarify how the agency will apply § 145.203(b) moving forward.

This response was prepared by Edmund Averman, Attorney, International Law, Legislation and Regulations Division of the Office of the Chief Counsel, and coordinated with the Aircraft Maintenance Division of the Flight Standards Service.

Sincerely,

Mark W. Bury
Assistant Chief Counsel for International Law,
Legislation and Regulations