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

Office of the Chief Counsel
800 Independence Avenue, S.W.
Washington, D.C. 20591

MAR 20 2014

Randy Romigh
[redacted]

Re: Request for Legal Interpretation on Whether the FAA May Hold a Person Who Performs Maintenance on an Aircraft Responsible for the Proper Performance of that Maintenance Under § 43.13(a) and (b) When that Person Was Not the Person Who Made the Maintenance Record Entry Required by 14 C.F.R. § 43.9

Dear Mr. Romigh,

This letter responds to your October 17, 2013 request for a legal interpretation regarding the application of 14 C.F.R. § 43.9, as well as to your clarification emails dated January 23, 2014 and February 4-5, 2014. Specifically, you ask whether responsibility for improperly performed maintenance falls solely on the "approving" mechanic. For the reasons explained below, the approving mechanic is not solely responsible for improperly performed maintenance; other mechanics who contribute to the maintenance may also be held responsible.

Part 43 of Title 14 governs the maintenance, preventive maintenance, rebuilding, and alteration of aircraft. Section 43.9 concerns records of such work, including the content, form, and disposition of those records. In particular, § 43.9(a) requires "each person" who performs maintenance or alterations to "make an entry in the maintenance record of that equipment . . . ." Furthermore, § 43.9(a) requires these entries to include, among other things, "the name of the person *performing* the work" and "the signature, certificate number, and kind of certificate held by the person *approving* the work." (Emphasis added.) In your letter to the FAA, you requested clarification as to whether the mechanic "approving the work" is solely responsible for improper maintenance, or whether other contributing mechanics may also be held responsible for any improper maintenance they perform.

Any mechanic who improperly performs work subject to the recordkeeping requirements of § 43.9 may be subject to FAA enforcement action—including mechanics who contribute to the work but are not responsible for approval. This is because, under § 43.13(a), "each person" performing maintenance, preventive maintenance, or alterations on an aircraft "shall use the methods, techniques, and practices prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness . . . or other methods, techniques, and practices acceptable to the Administrator . . . ." Furthermore, under § 43.13(b), "[e]ach person"

maintaining or altering an aircraft "shall do that work in such a manner . . . that the condition of the aircraft . . . will be at least equal to its original or properly altered condition." Therefore, by their express terms, §§ 43.13(a) and 43.13(b) make clear that each person (not only those who approve the work) is responsible for the proper performance of maintenance.

This response was prepared by Benjamin Jacobs, an attorney in the International Law, Legislation, and Regulations Division of the Office of the Chief Counsel, and was coordinated with the Aircraft Maintenance Division (AFS-300) of the Flight Standards Service. If you need further assistance, please contact our office at (202) 267-3073.

Sincerely,

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