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

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

SEP 11 2015

Mr. Dean W. Allport
[redacted]

Re: Request for Clarification of January 5, 2009 Legal Interpretation on Whether an FAA-Certificated Repair Station may Issue an Airworthiness Release on Behalf of an Air Carrier Operating under 14 C.F.R. Parts 121 or 135 (§§ 121.709 and 135.443)

Dear Mr. Allport:

This responds to your April 27, 2015 letter requesting a legal interpretation to clarify an interpretation we issued on January 5, 2009.[1] That interpretation attempted to answer the question whether, after an FAA-certificated repair station performed maintenance work on an aircraft for an air carrier, that repair station could, under 14 C.F.R. § 121.709 or § 135.443, ***issue*** an airworthiness release for the work it performed. We answered in the affirmative, reasoning that, under 14 C.F.R. § 1.1, a repair station is considered to be a "person," and the regulations provide that the *person* with whom the air carrier arranges to perform the maintenance could prepare, or cause to be prepared, either an airworthiness release or an appropriate entry in the aircraft log. This clarification distinguishes between *preparing* an airworthiness release or log entry for an air carrier and *issuing* (signing) it. You are correct that the airworthiness release or log entry must be signed by an authorized certificated mechanic or repairman.

While a repair station, as an entity, may prepare an airworthiness release or log entry for the work it performed, a person employed by the repair station who does not hold an FAA-issued mechanic or repairman certificate may not sign the document unless the repair station is located outside the United States.[2] For repair stations located within the United States, a person employed by the repair station may sign the airworthiness release or log entry, but only if that person is authorized by the air carrier to do so, and the person holds an FAA-issued mechanic or repairman certificate. See 14 C.F.R. §§ 121.709(b)(3) and 135.443(b)(3). The person signing

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[1] FAA legal interpretation letter to Ms. Sarah MacLeod, Aeronautical Repair Station Association, from Rebecca L. MacPherson, Assistant Chief Counsel for Regulations, dated January 5, 2009.

[2] Under 14 C.F.R. §§ 121.709(c) and 135.443(c), for a repair station located outside the United States, the airworthiness release or log entry may be signed by a person authorized by the repair station that performed the work.

the document does so for the air carrier, not the repair station or other entity that performed the work for the air carrier.

To the extent our January 5, 2009 interpretation can be read to mean that a domestic repair station may issue the airworthiness release, you enclosed with your letter a copy of a July 2005 FAA response to a "FAQ" [frequently asked questions] and an excerpt from Advisory Circular AC 120-16, each of which, you said, "states the opposite." The advisory circular excerpt you enclosed (from AC 120-16E), which provided guidance to air carriers, correctly states: "Those regulations [§§ 121.709(b) and 135.443(b)] clearly do not authorize a repair station certificated under part 145 or any other entity to make an Airworthiness Release Form or Log Entry on your behalf." The Advisory Circular was superseded on November 15, 2012, by revision F. Current AC 120-16F (Air Carrier Maintenance Programs) clarifies the issue further in a NOTES section under Paragraph 8-10(b):

> NOTE: The Airworthiness Release Form or log entry must be accomplished by an authorized mechanic or repairman on your behalf under your part 121 or 135 certificate authorizations. This is consistent with the requirements and authorizations of § 43.7(c), § 121.379(b), or § 135.437(b), and § 121.709(b)(3) or § 135.443(b)(3).
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> NOTE: Consistent with the regulations, no individual may issue an Airworthiness Release Form or make a maintenance log entry unless you have authorized them.
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> NOTE: Because a part 145 repair station is not an individual, these same regulations preclude accomplishment of your Airworthiness Release Form or log entry by a part 145 CRS [certificated repair station]. With one exception [when the repair station is located outside the United States], the Airworthiness Release Form or log entry must be executed by an authorized, certificated individual as described in § 121.709 or § 135.443 and according to your procedures. The authorized individual may be employed by the repair station, but they are acting on your behalf, not on behalf of the repair station. This is consistent with §§ 119.1(c) and 121.1(b) or § 135.1(a)(2).

The above reasoning is consistent with the general premise that air carriers are primarily responsible for their own maintenance, no matter who performs it. See §§ 121.363, 121.367, 121.368, and 121.379, and §§ 135.413, 135.425, 135.426, and 135.437.[3] We agree with the following statement in the FAA's 2005 FAQ answer you enclosed with your request, which is consistent with and supported by those regulations

> When an air carrier uses a contract maintenance provider, including a certificated repair station, to provide all or part of its airplane maintenance, that maintenance provider's organization, whatever its

[3] Sections 121.368 and 135.426 are new rules governing air carrier contract maintenance requirements. They were published in the Federal Register on March 4, 2015 (80 FR 11537). The effective date of these new rules is March 4, 2016.

> size, becomes, in effect, an extension of the air carrier's maintenance organization. However, the air carrier remains responsible for all of the maintenance performed by the maintenance provider.

In addition, 14 C.F.R. § 145.205(a) directs that when a repair station performs maintenance for an air carrier, the repair station must follow the air carrier's program and the applicable sections of its maintenance manual. Again, this is consistent with an authorized mechanic or repairman signing the Airworthiness Release Form or log entry on behalf of the air carrier that contracted for the maintenance. The repair station, of course, remains responsible along with the air carrier for the work it performs for the air carrier and approves for return to service. The repair station's documentation for approving the work it does under its part 145 certificate is different than the airworthiness release or log entry required by either § 121.709 or § 135.443. Those air carrier documents require, among other things, a certification that no known condition exists that would make the airplane or aircraft unairworthy. That certification is reserved for the air carrier or the qualified individual the air carrier designates to make the certification.

I hope this response clarifies the possible ambiguity you identified in our January 5, 2009 interpretation. 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 FAA's Flight Standards Service. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Lorelei Peter
Acting Assistant Chief Counsel for Regulations