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

Office of the Chief Counsel

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

FEB 25 2016

Mr. Victor M. Sirr
Quality Chief Inspector
Metal Innovations, Inc.
22255 Yellow Gate Lane NE
Aurora, OR 97002

Re: Interpretation of 14 C.F.R. § 145.217: Drug and Alcohol Testing Program Requirements and Inspection Definition

Dear Mr. Sirr:

This is in response to your October 12, 2015 letter requesting clarification with respect to 14 C.F.R. part 145 as it relates to non-certificated persons performing contracted maintenance.

Section 145.217(b) provides that a certificated repair station may contract a maintenance function pertaining to an article to a noncertificated person provided—

(1) The noncertificated person follows a quality control system equivalent to the system followed by the certificated repair station;
(2) The certificated repair station remains directly in charge of the work performed by the noncertificated person; and
(3) The certificated repair station verifies, by test and/or inspection, that the work has been performed satisfactorily by the noncertificated person and that the article is airworthy before approving it for return to service.

Your first question relates to whether the "quality control system equivalent to the system followed by the certificated repair station" referenced in § 145.217(b)(1) includes the FAA Drug and Alcohol testing programs. The answer is no.

Under § 145.201(a)(2), you may arrange for another person to perform the maintenance, preventative maintenance, or alterations of any article for which your certificated repair station is rated. If that person is not certificated under part 145, you, as the certificated repair station, must ensure that the non-certificated person follows a quality control system equivalent to the system followed by you, the certificated repair station.[1]

14 C.F.R. part 120 contains the requirements for the drug and alcohol testing program. The quality control system referenced in part 145 is the system "acceptable to the FAA that ensures the *airworthiness* of the articles on which the repair station or any of its contractors performs

[1] 14 C.F.R. § 145.201(a)(2).

maintenance, preventative maintenance, or alternations."[2] No reference to part 120 is contained in this section.

However, if you or a non-certificated person is performing a safety-sensitive function for an employer,[3] then you and the non-certificated person must be under an FAA-mandated drug and alcohol program.[4] That program may be the program of the employer or the program of the part 145 certificate holder.

Your second question asks for clarification on § 145.217(b)(3), specifically whether the term "inspection" has a formal FAA definition. The FAA does not have a codified definition of inspection pertaining to this subpart. You state that you would interpret inspection to include, but not be limited to, visual inspection of an item which would be supplemented with a review of the non-certificated person's documentation that the process was performed adequately. You then provide the following hypothetical situation and ask if it satisfies the intent of § 145.217(b)(3):

> MII has a repair in work which requires an Anodizing step per MIL-A-8625 and called for in the Aircraft Maintenance or Structural Repair Manual. MII has identified a non-certed person (vendor) who can perform Anodizing to that specification. The vendor has ISO, AS, NADCAP or other approvals in place and can provide certification for the specific process as such. MII performs a QA/QC audit as per Repair Station requirements to confirm those capabilities. Upon receipt of the anodized parts, MII would "verify" by performing visual inspection to the parts and a QA inspection of accompanying paperwork to confirm correct processing per MIL-A-8625.

We note that your quality control manual, as described in § 145.211(c)(1)(vi) and (vii), must include a description of the system and procedures used for qualifying and surveilling non-certificated persons who perform maintenance, preventative maintenance, or alterations for your repair station, and for performing final inspection and return to service of maintained articles. You should follow the procedures in your manual.[5]

Please note that under § 145.201(a)(3), a certificated repair station may approve for return to service any article for which it is rated after it has performed maintenance, preventative maintenance, or an alteration in accordance with part 43. It may not maintain or alter any article for which it is not rated.[6]

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[2] 14 C.F.R. § 145.211(a) (emphasis added).
[3] An employer "is a part 119 certificate holder with authority to operate under parts 121 and/or 135 of this chapter, an operator as defined in § 91.147 of this chapter, or an air traffic control facility not operated by the FAA or by or under contract to the U.S. Military." 14 C.F.R. § 120.7(i).
[4] *See e.g.* 14 C.F.R. § 120.7(i), 14 C.F.R. § 120.105, and 14 C.F.R. § 120.215.
[5] The Advisory Circular ("AC") 145-9, Change 1, *Guide for Developing and Evaluating Repair Station and Quality Control Manuals*, p. 32 (March 19, 2009), *available at* http://www.faa.gov/documentLibrary/media/Advisory_Circular/AC_145-9_CHG_1.pdf states that a procedure that confirms by inspection or test that the work was performed satisfactorily may include a review of the paperwork setting forth the exact steps performed and the inspections and tests performed.
[6] 14 C.F.R. § 145.201(b).

I hope this information has been helpful. This response was prepared by Sarah Sorg, an attorney with the Regulations Division of the Office of Chief Counsel and was coordinated with the Aircraft Maintenance Division (AFS-300). If you have further questions concerning this response, please contact Sarah Sorg on my staff at 202-267-3073.

Sincerely,

Lorelei Peter
Assistant Chief Counsel for Regulations, AGC-200

METAL INNOVATIONS INC.

FAA CERTIFIED REPAIR STATION #KW7R756N

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October 12, 2015

Re; Interpretation, FAR 145.217

To whom it concerns;
Metal Innovations (MII) is requesting clarification in regards to FAR 145.217 as it relates to non-certificated persons performing contracted maintenance. MII is an FAA repair Station (CRS KW7R756N). Please advise on the items detailed below.

1. MII has received varying opinions as to the nature of non-certed persons and their having a "quality control system equivalent to the system followed by the certificated repair station" as stated in para (b)(1). We understand that part 120, not part 145, govern FAA Drug and Alcohol Programs. **We thus interpret that this statement is NOT meant to include drug and alcohol testing programs for an equivalent quality system. Do you concur?**

2. We also ask for clarification on "The certificated repair station verifies, by test and/or inspection...." as stated in para. (b)(3). **Does the term "Inspection" have a formal FAA definition?** MII would interpret Inspection to include, but not limited to, visual inspection of an item which would be supplemented with review of the non-certified person's documentation that the process was performed adequately.

   Examples of such processes could be Anodize, Heat treat, shot peen, etc.....

   To give an exact hypothetical example; MII has a repair in work which requires an Anodizing step per MIL-A-8625 and called for in the Aircraft Maintenance or Structural Repair Manual. MII has identified a non-certed person (vendor) who can perform Anodizing to that specification. The vendor has ISO, AS, NADCAP or other approvals in place and can provide certification for the specific process as such. MII performs a QA/QC audit as per Repair Station requirements to confirm those capabilities. Upon receipt of the anodized parts, MII would "verify" by performing visual inspection to the parts and a QA inspection of accompanying paperwork to confirm correct processing per Mil-A-8625.
   Does this satisfy the intent of para (b)(3)?

Thank you for your attention on this matter. Please feel free to contact me with any questions or comments.

Victor M. Sirr

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