

directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; fax 516-794-5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE-170, Engine and Propeller Directorate, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

#### (I) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Emergency Airworthiness Directive CF-2014-19, dated June 20, 2014, for related information. You may examine the MCAI on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2014-0490.

(2) Service information identified in this AD that is not incorporated by reference may be obtained at the addresses specified in paragraphs (m)(3) and (m)(4) of this AD.

#### (m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Bombardier Alert Service Bulletin A600-0769, Revision 01, dated June 26, 2014.

(ii) Canadair Temporary Revision 600/29, dated June 20, 2014, to the Canadair CL-600-1A11 Airplane Flight Manual.

(iii) Canadair Temporary Revision 600/30, dated June 6, 2014, to the Canadair CL-600-1A11 Airplane Flight Manual.

(iv) Canadair Temporary Revision 600-1/24, dated June 20, 2014, to the Canadair CL-600-1A11 Airplane Flight Manual (Winglets) including Erratum, Publication No. PSP 600-1AFM (US), TR No. 600-1/24, June 20, 2014.

(v) Canadair Temporary Revision 600-1/26, dated June 6, 2014, to the Canadair CL-600-1A11 Airplane Flight Manual (Winglets).

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514-855-5000; fax 514-855-7401; email [thd.crj@aero.bombardier.com](mailto:thd.crj@ aero.bombardier.com); Internet <http://www.bombardier.com>.

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Renton, Washington, on August 4, 2014.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 145

[Docket No.: FAA-2006-26408; Amdt. No. 145-30]

RIN 2120-AJ61

#### Repair Stations

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the FAA's repair station regulations to allow the FAA to deny an application for a new repair station certificate if the applicant or certain associated key individuals had materially contributed to the circumstances that caused a previous repair station certificate revocation action. The rule also adds a new section prohibiting fraudulent or intentionally false entries or omissions of material facts in any application, record, or report made under the repair station rules, and provides that making the fraudulent or intentionally false entry or omitting or concealing the material fact is grounds for imposing a civil penalty and for suspending or revoking any certificate, approval, or authorization issued by the FAA to the person who made or caused the entry or omission. These changes are necessary because the repair station rules do not presently provide these safeguards as do other parts of the FAA's regulations. Both of these changes will enhance safety by reducing the number of individuals in the repair station industry who commit intentional and serious violations of the regulations or who demonstrate they are otherwise unqualified to hold repair station certificates.

**DATES:** Effective November 10, 2014.

**ADDRESSES:** For information on where to obtain copies of rulemaking documents and other information related to this final rule, see "How To Obtain

Additional Information" in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this action, contact Susan Traugott, Repair Station Branch (AFS-340), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (214) 277-8534; email [Susan.M.Traugott@faa.gov](mailto:Susan.M.Traugott@faa.gov). For legal questions concerning this action, contact Edmund Averman, Office of the Chief Counsel (AGC-210), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3147; email [Ed.Averman@faa.gov](mailto:Ed.Averman@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in title 49, subtitle VII, part A, subpart III, section 44701, General requirements, and section 44707, Examining and rating air agencies. Under section 44701, the FAA may prescribe regulations and standards in the interest of safety for inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances. The FAA may also prescribe equipment and facilities for, and the timing and manner of, inspecting, servicing, and overhauling these items. Under section 44707, the FAA may examine and rate repair stations.

This regulation is within the scope of section 44707 since it specifies instances when the FAA may deny the issuance of a repair station certificate, especially when a previously held certificate has been revoked.

#### I. Background

##### A. NTSB Recommendations

As a result of a fatal accident, the National Transportation Safety Board (NTSB) recommended<sup>1</sup> that an applicant's past performance should be a consideration in determining whether a new certificate should be issued. The NTSB was concerned that the FAA had no mechanism for preventing individuals who have been associated with a previously revoked repair station certificate from continuing to operate through a new repair station certificate.

<sup>1</sup> NTSB Recommendation No. A-04-01, February 9, 2004.

The NTSB pointed out that the FAA has addressed this issue in the context of air carriers and other commercial operators. Specifically, 14 CFR 119.39(b) allows the FAA to deny an application for a part 121 or 135 air carrier or operating certificate if the applicant has previously held a certificate that was revoked or if a person who exercised control over (or held a key management position in) an operator with a revoked certificate will be exercising control over (or holding a key management position in) the new operator.

Additionally, § 119.39(b) allows the FAA to deny certification to an applicant who is substantially owned by (or who intends to fill a key management position with) an individual who had a similar interest in a certificate holder whose certificate was (or is being) revoked when that individual materially contributed to the circumstances causing revocation. The FAA agrees with the NTSB that part 145 should have the same safeguards as § 119.39(b).

The NTSB also took issue with the practice of an individual whose repair station was being investigated for serious violations of the regulations surrendering the certificate to stop the investigation process. Accordingly, the NTSB recommended that the “FAA should complete the investigation to the extent necessary to document all available facts relating to the fitness of the involved individuals; . . . .”<sup>2</sup>

The FAA is publishing this final rule in part to address these recommendations from the NTSB.

### B. Summary of NPRM

On May 21, 2012, the FAA published a notice of proposed rulemaking (NPRM) titled “Repair Stations” (77 FR 30054). In the NPRM, the FAA proposed to amend the regulations for repair stations by revising the system of ratings, the repair station certification requirements, and the regulations applicable to repair stations providing maintenance for air carriers. The proposal also addressed the NTSB recommendation (discussed previously) by proposing amendments that would permit the FAA to deny certain applicants new certificates based on their enforcement history. The FAA believed these changes were necessary because many portions of the existing repair station regulations do not reflect current repair station aircraft maintenance and business practices, and the existing regulations have not kept pace with advances in aircraft

technology. The agency proposed the changes to modernize the regulations to keep pace with current industry standards and practices.

The comment period was scheduled to close on August 20, 2012. However, the FAA received a request from the Aeronautical Repair Station Association (ARSA) and other organizations to extend the comment period. In a notice published on August, 17, 2012 (77 FR 49740), the FAA granted a 90-day comment period extension to November 19, 2012.

The NPRM proposed to amend part 145 by:

- Significantly revising the system of ratings to eliminate class, radio, instrument, and accessory ratings;
- Requiring each repair station choosing to use a capability list to audit the list for currentness at least every two years;
- Requiring new applicants for a repair station certificate to include a letter of compliance as part of their application;
- Requiring repair stations to provide permanent housing for their facilities, equipment, materials, and personnel;
- Identifying specific reasons that the issuance of a repair station certificate could be denied;
- Prohibiting fraudulent or intentionally false entries in an application, record, or report made under the repair station rules; and
- Accommodating revisions made to 14 CFR parts 91 and 43 providing for the change in rating system and standardization of language.

### C. Summary of Comments

The FAA received more than 230 public comments to the NPRM. The majority of the commenters, including Aircraft Electronics Association (AEA), Aerospace Industries Association (AIA), Aircraft Owners & Pilots Association (AOPA), Aeronautical Repair Station Association (ARSA), Aviation Suppliers Association (ASA), Experimental Aircraft Association (EAA), General Aviation Manufacturers Association (GAMA), Helicopter Association International (HAI), Modification and Replacement Parts Association (MARPA), National Air Transportation Association (NATA), the Small Business Administration (SBA) Office of Advocacy, Coordinating Agency for Supplier Evaluation (CASE) and several individual commenters had serious concerns with the proposed changes, and many suggested withdrawing the entire proposal.

Although commenters recognized that the system of ratings is outdated, there was general dissatisfaction with the

proposed new system of ratings and the transition process. Commenters also expressed concerns on the proposals for a capability list, recurring audit, letter of compliance, permanent housing, facilities and equipment, and the FAA’s proposed authority to deny a repair station application.

### D. Differences Between the NPRM and the Final Rule

In the NPRM, the FAA proposed significant changes to the system of ratings, the repair station certification requirements, and the rules for repair stations providing maintenance for air carriers.

The FAA is withdrawing most of the changes proposed in the NPRM because of the issues raised by commenters. Many commenters argued that the proposed ratings system would not be satisfactory for current and future repair stations. Also, many expressed concern that the FAA does not have sufficient resources to perform recertification of all currently certificated repair stations while continuing to certificate new repair stations in the course of the proposed 24-month transition. This concern is exacerbated by the possible influx of hundreds of repair station applicants resulting from the finalization of the Transportation Security Administration foreign repair station rule, which allows for the certification of new repair stations outside the United States for the first time since 2004.

The NPRM proposed extensive changes to the repair station regulations with accommodating changes to 14 CFR parts 43 and 91. The final rule implements only the denial authority, the falsification penalty, and several minor revisions and corrections. The rule also requires that a certificate surrender is not complete until the FAA accepts the certificate for surrender. The final rule does not change 14 CFR parts 43 and 91 as initially proposed.

## II. Overview of Final Rule

Currently, 14 CFR 145.53 provides that, with certain exceptions, an applicant who meets the requirements of the rule is entitled to a repair station certificate. Section 145.53 does not provide an exception related to a past regulatory non-compliance history. There has been at least one incident where the FAA revoked a repair station certificate for serious maintenance-related safety violations, and a key management official from the repair station shortly thereafter obtained a new repair station certificate under which improper maintenance resulted in a fatal accident.

<sup>2</sup>NTSB Recommendation No. A-04-02, February 9, 2004.

As a result of the fatal accident, the NTSB recommended that an applicant's past performance should be a consideration in determining whether a new certificate should be issued. The FAA agrees that this is an important consideration in assessing an applicant's overall fitness to hold a certificate and is providing a new exception to certificate entitlement in § 145.51(e).

The new exception will apply to:

- An applicant who previously held a repair station certificate that was revoked or is in the process of being revoked;
- An applicant who intends to fill certain key management positions with individuals who had materially contributed to the circumstances that led to a prior repair station certificate revocation, or to an ongoing revocation action against a repair station; and
- An applicant whose repair station will be owned or controlled by an individual or individuals who previously owned or exercised control over a repair station that had its certificate revoked or is in the process of being revoked.

With regard to the exception stated in the second bullet above, the FAA notes that in the NPRM the agency erroneously proposed two nearly identical paragraphs— (§§ 145.1051(e)(2) and 145.1051(e)(3)) pertaining to individuals who would be slated to hold management positions with a new applicant. Proposed paragraph (e)(2) addressed instances where the applicant intended to (or did) fill a management position with an individual who exercised control over or who held the same or a similar position with a repair station that had its certificate previously revoked, and paragraph (e)(3) addressed instances where an individual who would hold a management position in the new repair station previously held a management position with a repair station that had a certificate revoked. The FAA has determined that these two paragraphs are largely redundant and would accomplish essentially the same thing. As discussed below, proposed § 145.51(e) was meant to parallel the similar exceptions found for air carrier operating certificates in 14 CFR 119.39(b), and that section does not contain the text of paragraph (e)(3) discussed above. Therefore, the FAA is withdrawing § 145.51(e)(3) as proposed in the NPRM.

Under this new exception, the FAA may still issue a new certificate, but the applicant will no longer be entitled to a certificate, even if other qualifying criteria are met. Knowledge of the

compliance disposition of key management personnel is an important component of the fitness assessment the FAA makes in determining the overall qualifications of an applicant who will conduct repair station operations.

To implement this new exception, the FAA is adding a two-part question to FAA Form 8310-3, Application for Repair Station Certificate and/or Rating. The question asks: Will any person as described in part 145.51(e) be involved with the management, control, or have substantial ownership of the repair station? If yes, provide a detailed explanation on a separate page. The detailed response to a 'yes' answer will allow the FAA to evaluate the circumstances of the revocation and determine whether the certification will or will not continue.

Also, in response to the NTSB recommendation, the FAA is adding a requirement that a certificate surrender is not complete until the FAA accepts the certificate for surrender. The new surrender requirement codifies existing FAA policy, and will prevent a repair station under investigation from attempting to circumvent a possible enforcement action that could result in a revocation of the repair station certificate by surrendering its certificate to stop the investigation before it is completed.

The other significant amendments in this final rule are:

- The addition of a new § 145.12 that prohibits fraudulent or intentionally false entries or omissions in applications, records, or reports made under the repair station rules. The rule provides that making a prohibited fraudulent or intentionally false entry or knowingly omitting a material fact is grounds for suspending or revoking any certificate, approval, or authorization the FAA issued to the person who made the entry or caused the omission.
- A revision to paragraph (a) of § 145.53 to incorporate the new grounds for denying a certificate under § 145.51(e) (discussed above) as another exception to certificate entitlement even if the other qualification requirements are met.
- A revision to § 145.55 to add that a certificate surrender is not complete until the FAA accepts the certificate for cancellation.

This final rule will also make the following amendments:

- A revision to § 145.55 to add a new paragraph (c)(3) to require that a repair station outside the United States applying for certificate renewal must show the required fee has been paid.
- A revision to § 145.57 to add a requirement in paragraph(a)(1) that a

certificate change is necessary if the repair station certificate holder changes the name of the repair station.

- A revision to § 145.57(b), which currently requires that if a repair station's assets are sold the new owner must apply for a certificate. The revision clarifies that a new owner will need to apply for a new certificate only if the new owner chooses to operate as a repair station.

- Revisions to §§ 145.153, 145.157, and 145.213 to add the terms "appropriately" before "certificated" and "as a mechanic or repairman" before "under part 65" in three instances: (1) Supervisory personnel requirements (§ 145.153(b)(1)); (2) Personnel authorized to approve an article for return to service (§ 145.157(a)); and (3) Inspection of maintenance, preventive maintenance, or alterations (§ 145.213(d)). The first two of these revisions were proposed in the NPRM; however, the third was inadvertently omitted, and we are including it here for clarity and consistency. As discussed in the NPRM, the omission of the term "appropriately" in the 2001 final rule was an oversight we proposed to correct with this final rule. This omission technically provides that any individual holding a certificate issued under part 65 (other than mechanics and repairmen—such as air traffic control tower operators and aircraft dispatchers) could fill these positions. Under these amendments, supervisors and persons authorized to inspect and approve an article for return to service would, at a minimum, have to hold a certificate appropriate for the work being performed (*e.g.*, a mechanic or a repairman certificate).

- A revision to § 145.155 to remove the word "and" at the end of paragraph (a)(2). Since no § 145.155(a)(3) currently exists, it is an error for "and" to appear after paragraph (a)(2), and its removal corrects this error.

- A revision to § 145.163 to add the term "and use" after "must have" in paragraph (a). This section requires a repair station to have an approved training program, but does not provide a specific requirement that the program be used. This revision is necessary to clarify the intent of the current rule that repair stations must have and use an employee training program approved by the FAA. This rule also removes the reference to April 6, 2006, (added by the 2001 amendments) as the date by which the FAA required new applicants to submit a training program for approval, and also the starting date from which each existing repair station would be required to submit its training program

for approval based on the specified staggered schedule, *i.e.*, by the last day of the month in which its repair station certificate had been issued. This revision results in the necessary inclusion of the text of paragraph (a)(1) into § 145.163(a) and the consequent deletion of paragraphs (a)(1) and (a)(2).

In addition, we are also making a correction that was not proposed in the NPRM. Specifically, we are correcting § 145.221(a) to remove the erroneous insertion of the word “serious” when addressing the service difficulty reporting requirements from any failure, malfunction, or defect. The word “serious” was removed through notice and comment rulemaking in the 2001 final rule entitled “Repair Stations,” (66 FR 41088, August 6, 2001) that significantly revised part 145. The word “serious” was inadvertently inserted by a separate final rule entitled “Service Difficulty Reports,” (65 FR 56191, September 15, 2000).

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C.) authorizes agencies to dispense with notice and comment procedures for rules when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking. The removal of the term “serious” in § 145.221(a) does not change a standard, nor will there be any effect on regulated entities other than to prevent future misunderstandings that would have been resolved when interested persons contacted the FAA. Accordingly, due to the nature and circumstances of the error explained above, the FAA finds that further notice and comment are unnecessary to effect the correction.

### III. Summary of the Costs and Benefits of the Final Rule

The FAA determined that the expected outcome of the rule will be a minimal impact with positive net benefits. Therefore, a regulatory evaluation was not prepared for this final rule. The FAA has, therefore, determined that this final rule is not a “significant regulatory action” as defined in section 3(f) of Executive Order 12866, and is not “significant” as defined in DOT’s Regulatory Policies and Procedures.

## IV. Discussion of Public Comments and Final Rule

### A. System of Ratings (§§ 145.59 and 145.61)

The NPRM proposed reducing the number of repair station ratings from eight to five, and revising the ratings’ definitions to indicate the type of work that a repair station would be authorized to perform. Approximately 190 commenters, including AEA, AIA, GAMA, and Duncan Aviation, commented specifically on the proposed change to the system of ratings. Generally, these organizations stated that the proposed rule would not modernize the ratings (or that the changes would be regressive), would be cost prohibitive, and would not enhance safety. The following are some examples of the comments received on this proposal.

AEA noted that the proposed changes in the rating system are the basis for the reissuance of the repair station certificates, but that the perceived added benefit of the ratings revision does not justify the extreme cost of reapplication. AEA recommended that the FAA retain the current rating classification system and provide a better description of the maintenance authorized by each rating.

AIA stated that class ratings are beneficial to industry, and that the FAA’s proposal to eliminate this type of rating would cause additional burdens beyond those set forth in the NPRM. AIA further stated that the transition from class to category will most likely cause significant disruption to existing repair stations with no appreciable safety benefit. Large repair stations would need time and resources to make the transition based on the breadth of their customer base and complexity of their operations. Small repair stations would be faced with an overwhelming burden, with a lack of resources to make the transition to build compliant capability lists or operations specifications systems.

GAMA stated that the FAA’s proposal would allow airframe-rated repair stations to repair and alter radios and instruments without any specific ratings or obvious qualifications. GAMA added that the FAA’s proposed ratings did not provide due consideration to avionics, which are increasingly more complex integrated systems that require greater and unique levels of technical skills to maintain properly.

Duncan Aviation stated that the current outdated rating system was better than the proposed rating system, which added no value to the way a repair station conducts business.

Duncan Aviation suggested that the current system remain in place until a better system is developed with input from industry.

Based on the comments received, and because the ARAC recommendation on which the FAA based the proposed ratings changes is dated, the FAA will retain the current system of ratings until such time it can better understand and learn from all stakeholders what the future of repair station ratings should look like. The comments on the proposed ratings system changes clearly point to differences between those repair stations that are well suited to the current ratings system and those who find the current ratings system outdated and not meaningfully descriptive.

### B. Certification Requirements (§§ 145.51, 145.103, and 145.163)

In the NPRM, the FAA proposed changes to allow for certification denial when certain enforcement history exists. The proposal also clarified existing regulatory language. Approximately 175 commenters, including EAA, AOPA, AIA, ARSA, ASA, CASE, GAMA, NATA, and the SBA Office of Advocacy expressed concerns with several of the proposed changes to the repair station certification requirements.

EAA, GAMA, NATA, and other commenters also expressed concerns with the FAA’s proposed requirement that equipment, tools, test apparatus, materials, and personnel must be in place for inspection at the time of certification, with no provision that the equipment requirement could be met with an acceptable contract for its availability when needed. They proposed that the FAA retain the current language. GAMA further stated that the proposed change would require a financial impact assessment. EAA added that the requirement is unrealistic and noted that many of today’s modern materials are shelf-life limited and would likely expire during the application and approval process, and that it was unrealistic to begin hiring technicians when the repair station certification process could take as long as 24 to 36 months.

As to the proposal to eliminate the option for an applicant to have a contract to make equipment available at the time of certification and any other time when needed when the relevant work is being performed in lieu of actually having the equipment on site, the FAA believes there is uncertainty within the industry on both the current and proposed requirements. This uncertainty is exacerbated by the inconsistent application of the contract clause regarding whether the equipment

or only the contract must be on hand during the certification inspection. Many certificate holders have long argued that it makes no economic sense to own or have on hand expensive, seldom used tools and equipment during certification.

In view of these comments, the FAA is withdrawing the proposal to require that the equipment must be in place for inspection at the time of certification or rating approval by the FAA. The original purpose for permitting applicants to meet the equipment requirement at certification approval by having a contract to make the equipment available when the relevant work is being performed remains. This is because it makes no economic sense to require an applicant to have on site expensive and seldom used equipment that would be costly to locate on site and that might sit unused for extended periods of time. By having a contract acceptable to the FAA, an applicant would be able to demonstrate that the required equipment could be made available when needed. In some cases this “contract” may actually be a letter of intent from an air carrier for which the repair station intends to perform work, or something similar from an equipment supplier. We recognize that the mere existence of a contract at the time of certification does not guarantee equipment availability at some unknown future date—indeed, contracts may be broken and suppliers may go out of business. Nevertheless, the presence of documentation that the repair station has planned for its needs and has at least a present means of meeting those needs provides some assurance to the FAA that it would not be certifying a “paper repair station.”

Because of the potential ambiguity in the existing text of § 145.51(b), however, we are amending the paragraph for clarification. We proposed this clarification in the 2006 NPRM, which was withdrawn in its entirety on May 7, 2009, due to the large number of adverse comments received on many of the other proposals. The ambiguity arose from the text in paragraph (b) that states: “An applicant may meet the equipment requirement of this paragraph if the applicant has a contract acceptable to the FAA with another person to make the equipment available to the applicant *at the time of certification* and at any time that it is necessary when the relevant work is being performed by the repair station.” (§ 145.51(b), emphasis added.) Except that we are no longer including tools and test apparatus in this paragraph as proposed in 2006, our reasoning to clarify this paragraph as

proposed in the 2006 NPRM remains, and is quoted in pertinent part below:

The FAA proposes to clarify the text of § 145.51(b) by removing the ambiguity in the relieving provision concerning the availability of the equipment at the time of certification. This ambiguity results from the phrase specifying that the equipment requirement of the paragraph could be met “if the applicant has a contract acceptable to the FAA with another person to *make the equipment available* to the applicant at the time of certification. \* \* \*” The FAA believes that the phrase lacks clarity and could be subject to arbitrary application in individual cases, i.e., one inspector might require the contract to be executed and all the equipment brought to the premises for a pre-certification inspection, while another inspector might only review the contract for the specified items. In the first example, the equipment could be returned to the supplier the next day, and not be returned to the repair station until the relevant work is being performed, as required by § 145.109(a).

Consistent with the requirement in § 145.109(a), and as noted by some of the commenters to the proposal in Notice No. 99–09, it is important that the equipment be in place when the work is being performed. That is the safety basis for the equipment requirement. If, at the time of initial certification or rating approval, an applicant has a contract acceptable to the FAA to make the equipment available when the relevant work is being performed, the FAA will be able to determine that the repair station has assessed its relevant needs, and that it has the means to obtain the pertinent equipment . . . when necessary. (71 FR 70256, Dec. 1, 2006 (emphasis in original)).

EAA, NATA, and other commenters questioned the legality of the proposed regulatory transition and expressed concern over the FAA’s ability to recertify every repair station in a timely manner during the 24-month transition period. Several commenters stated that the intent of the proposed language was unclear and that the procedural elements lacked safety benefits.

EAA commented that the FAA does not have the necessary resources to reissue approximately 5,000 repair station certificates in 24 months. Another commenter stated that it is currently not uncommon for applicants to experience extended delays in processing new and amended repair station certificates due to the reported lack of availability of FAA staff and resources. NATA stated that the recertification effort is likely to be impossible to achieve given the scope of the other proposed changes in the NPRM. As a result, the proposed rule would be too costly for repair stations and would result in some existing repair stations ceasing operations.

The SBA Office of Advocacy and others expressed concern that the cost estimate associated with re-certification

was understated. Additionally, NATA added that the FAA will likely have far less than 24 months for approving or disapproving applications and foresees a situation of cascading delays. Pratt & Whitney, The Boeing Company, and other commenters suggested a grandfather clause limiting the need for existing repair stations to re-apply.

Based on the negative comments and concerns regarding the FAA’s ability to resource and complete the re-certification of all currently certificated repair stations in 24 months, and because this lengthy transition period was prompted by the proposed new ratings system that the FAA is not adopting in this rule, the FAA is not proceeding with the proposed transition.

With respect to the proposed amendment to § 145.103 that would have required each certificated repair station to provide and maintain suitable permanent housing for its facilities, equipment, materials, and personnel, AEA, GAMA, and other commenters stated that any definition of “maintain” would impose requirements that do not comport with the FAA’s intent to provide flexible requirements that align with current repair station business practices. Additionally, they argued that the proposed language would require a certificate holder to have sole operational control of its housing at all times, and any repair stations that may currently share space within a hangar would no longer be permitted to share space.

Some commenters stated that the FAA failed to provide a definition of “maintain” in the proposed requirement that each repair station “provide and maintain” suitable permanent housing for its facilities, etc., whereas the current rule requires only that the certificate holder “provide” this housing. They also stated that this proposal would have imposed additional costs not reflected in the FAA’s economic impact assessment.

As pointed out by commenters, FAA did not define “maintain” in changing “provide suitable permanent housing” to “provide and maintain suitable permanent housing.” This lack of definition created confusion. The FAA agrees with the commenters and is not amending § 145.103.

EAA, GAMA, and several other commenters questioned the need for the proposal that repair stations provide a description of their training program for approval by the FAA. EAA stated that the FAA had not adequately explained the failure of the current training program requirements and the need to increase the regulatory burden by

requiring a description of the training program for FAA approval. GAMA questioned the purpose of the language when the entire training program, not just a description of the training program, is required to be approved by the FAA. Both organizations requested that the FAA retain the current language.

With respect to commenters' concerns that requiring a description of the training program for approval to be included in the application package would be burdensome and not justified, the FAA notes that a meaningful description of the program would be necessary under the current training requirements regulation (§ 145.163), which requires the program be approved by the FAA. The agency concurs, however, that this description is not necessary as a separate part of the application, and is withdrawing this proposed requirement.

#### *C. Personnel Requirements (§§ 145.153 and 145.157)*

In the NPRM, the FAA proposed requiring supervisors to be present to oversee the work being performed by the repair station and that they be appropriately certificated under 14 CFR part 65 for the work being supervised. The NPRM also proposed that both supervisors and inspection personnel be able to speak English. The FAA is not adopting this proposal, except for a minor editorial change.

Many of the large repair stations, as well as ARSA, did not concur with the proposals that supervisors be present to oversee the work performed and that they speak English. AEA and others commented that if the FAA proceeded with the proposed regulation, it would have essentially required a supervisor to be present and to oversee every individual performing every maintenance activity at repair stations. This also would have had broad implications for contract maintenance.

The commenters further stated that a clear unintended consequence of this proposed language would have been a substantial increase in the cost of maintenance services to compensate additional supervisory positions, as well as a corresponding decrease in availability of maintenance services due to limited availability of supervisory personnel.

Most of the comments regarding the proposal that supervisors be present when the work was performed stated that this requirement would have required industry to hire numerous additional supervisory personnel at great cost to cover eventualities such as night work, emergency field

maintenance, line maintenance, and work conducted at additional fixed locations.

EAA commented that the proposed requirement for supervisors to speak English was not justified, and that the Americans with Disabilities Act prohibits such discrimination. EAA reasoned that a supervisor might not be able to speak English, but could effectively "communicate" in English. Pratt and Whitney suggested the requirement to speak English served no purpose, was subjective, and would be a detriment to safety by forcing foreign persons to speak in a non-native language. Foreign repair stations Hong Kong Aircraft Engineering Company, Ltd., and Tamagawa Aero Systems Co., Ltd., and other domestic repair stations and individuals commented that the requirement to speak English was unnecessary as it did not enhance safety. The commenters also disagreed with the proposed requirement for inspection personnel to speak English.

Commenters also disagreed with the proposed requirement for a repair station inspector to be available at the article while performing inspections. The commenters viewed the need to have an inspector at each phase while the work was being performed as too costly and not necessary.

Based on the comments received, the FAA will not revise the current requirements for supervisory personnel, inspection personnel, or personnel authorized to approve an article for return to service, except to insert "appropriately" before "certificated" and "as a mechanic or repairmen" before "under part 65" in §§ 145.153 and 145.157. This will correct the inadvertent omissions from the 2001 rulemaking. The repair station industry generally agreed with this proposed editorial change. As discussed above in the Overview of Final Rule section, we are making the same change to § 145.213(d) for clarification and consistency.

#### *D. Denial Authority (§§ 145.51, 145.53, and 145.55)*

As proposed in the NPRM, the FAA may deny a repair station a certificate in instances where one or more key individuals had materially contributed to the circumstances causing a previous repair station certificate revocation. As discussed previously, the FAA's proposed changes were based on an NTSB recommendation, and the proposal was influenced to a large extent by 14 CFR 119.39(b). The FAA is also amending § 145.55, to now contain a certificate surrender provision that requires acceptance for cancellation by

the FAA to render the certificate no longer effective.

Some commenters were concerned with the proposed amendment to § 145.55 (Duration and renewal of certificate) that would maintain the effectiveness of a surrendered repair station certificate until the FAA accepts it for cancellation. This new requirement addresses a loophole that allowed certificate holders to avoid the ramifications of a revoked certificate by voluntarily surrendering a repair station certificate at any point during the FAA's investigation prior to the certificate's actual revocation. Once surrendered, there would be no certificate to take action against, and the investigation would stop. Accordingly, no order would be issued, and there would be no findings of violations or certificate revocation of record.

Several commenters expressed their understanding of the proposed denial provision and credited the FAA's desire for safety, but they asserted that the agency's implementation of the denial provision in a fair and uniform manner would be difficult. The commenters generally stated that the increase in safety was outweighed by the burden that would be placed on the agency and the industry. In addition, the requirement would waste FAA resources through unnecessary paperwork exercises without providing any safety benefits.

The SBA Office of Advocacy stated that small entities expressed concerns about repair stations lacking the knowledge and ability to track parties whose certificates have been revoked or who voluntarily surrendered certificates during an enforcement proceeding. Additionally, repair stations have no way of knowing who these disqualified individuals are, thereby making the cost of complying with the certificate denial provisions highly unpredictable or impossible. Small entity representatives suggested that if the agency adopted this proposal, the FAA should maintain a list of disqualified individuals.

GAMA recommended the insertion of "knowingly" in proposed § 145.1051(e)(2) (§ 145.51(e)(2) in this final rule) to implicate the intent of an applicant and suggested that the text be amended to read "the applicant knowingly fills or intends to fill a management position." The FAA declines to adopt this suggestion because, in general, the purpose of this provision is to help ensure that persons who have committed serious (and often intentional) violations of the regulations are not able to continue doing so under a newly issued repair station certificate.

It is important that the FAA be aware of the compliance disposition of key management personnel when the agency assesses the fitness of those who will be operating repair stations. This safeguard is necessary whether or not the applicant has knowledge of the person's compliance history. An applicant's knowledge of the person's compliance history is implicated only when he or she completes the application and checks "Yes" or "No" to the 2-part question on FAA Form 8310-3, whether key personnel described in § 145.51(e) will be involved in the management or control of the new repair station. If the applicant knowingly provides a false answer to this question, the entry would be considered intentionally false and in violation of § 145.12.

The International Association of Machinist Aircraft Workers (IAMAW), International Brotherhood of Teamsters—Aircraft Division (IBT-AD), Transportation Trades Department (TTD) of the AFL-CIO, and Transportation Workers Union (TWU) endorsed the new requirement. The IAMAW stated that it is a common sense reform. The IBT-AD stated that the proposal did not go far enough, and suggested that the FAA consider maintaining a list of persons or entities that have been involved in repair station certificate revocations, or require an applicant to affirmatively disclose whether it has previously had a certificate revoked.

AIA, ASA, GAMA, NATA, and HEICO Aerospace generally supported the FAA's intent to follow the NTSB's recommendation. However, with regard to the FAA's proposal to change the word "entitled" in § 145.53(a) to "eligible," as one means to implement the denial provisions, AIA stated that it was unclear what the specifics of being found "eligible" are, and that the term left too much discretion to FAA inspector preference or interpretation. AIA also stated that its membership recognizes that there may be circumstances where the public interest is best served by denying a certificate, even when the other conditions are met. AIA suggested that "entitled" be retained with an additional exception that would remove the variability of local inspector preference or interpretation, but which would retain the intent of the proposal.

The FAA agrees with the suggestion from AIA that the term "entitled" be retained in § 145.53(a), and that an additional exception to entitlement reference be added to include the new exceptions. The FAA also agrees and will retain the current language that provides for entitlement of the

certificate when the requirements of part 145 have been met. Paragraph (a) of § 145.53, however, is amended to add the denial authority (found in new § 145.51(e)) as another exception to the current certificate entitlement provision.

EAA believes it is not an applicant's responsibility to determine if certain individuals are subject to this provision and that the responsibility for this determination should remain with the FAA. EAA is concerned that the proposal introduces uncertainty and confusion into the application process by not providing a method for determining whom a repair station should not employ. To address this concern, the FAA will respond to an applicant request for information regarding specific persons.

MARPA stated that the proposed language would permit the FAA to deny a certificate to a range of applicants associated with previous certificate revocations and requested that the entire proposed rule be rescinded. MARPA noted the following effects this proposal would have on the repair station industry:

- It would impose a de facto blacklist of certain parties, potentially excluding those on the list from significant participation in the repair station industry, and could include personnel who may have had nothing to do with the offenses that caused the prior repair station certificate to be revoked.
- It would have a chilling effect on subsequent employment of experienced repair station personnel who had previous association with repair stations whose certificates were revoked.
- Although the language is permissive ("may be denied"), the expense of a repair station certificate application would make it impractical to proffer an application that might be denied on a discretionary basis, further leading to an effective blacklisting of such persons.

MARPA noted further that in cases where a repair station (especially a small one) accepts a revocation by the FAA due to a lack of resources to fight the action, the applicant would be effectively blacklisted from the repair station industry. It added that in such cases in the past, FAA employees have specifically advised certificate holders to accept the proposed revocation and then to reapply. For all past revocations, the proposed rule would effectively impose a new penalty that was unanticipated at the time of the original revocation. MARPA also stated that the ex post facto imposition of such a penalty on a class of persons represents a Bill of Attainder (or a Regulation of

Attainder) and is in violation of Article I, Section 9, of the U.S. Constitution.

The FAA does not agree with MARPA's assertion that the new denial authority amendments to § 145.51 would effectively impose a new penalty that was unanticipated at the time of the original revocation, and therefore that this would amount to an *ex post facto* imposition of a penalty on a class of persons. Because the agency did not discuss the prospective nature of the proposal in the NPRM, it is understandable that MARPA raised this concern. The FAA intends, however, that the new denial authority in § 145.51(e) will be exercised only prospectively. It will be applied only in instances where the revocation at issue takes place after the effective date of this rule. Accordingly, no "ex post facto imposition of a penalty" issue could arise.

The FAA also disagrees with MARPA's characterization that the denial provision would represent a Bill of Attainder (or a Regulation of Attainder). Black's Law Dictionary defines Bill of Attainder as: "Legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial."<sup>3</sup> Section 145.51(e) will not provide for punishment of any person without due process. First, a full appeal process through the NTSB and the federal courts is provided by 49 U.S.C. 44709 for any person identified in paragraph (e)(1)—an applicant who holds a repair station certificate that is undergoing a revocation process, or who held a repair station certificate that had been revoked. Second, to respond to the commenters' concerns about an absence of due process for individuals identified in paragraph (e)(2) and (3), we are adding a new paragraph (f) to § 145.51 to provide that, if the FAA revokes a repair station certificate for violations of the repair station regulations, those individuals identified in § 145.51(e)(2) and (3) may be subject to an order finding that they materially contributed to the circumstances causing the revocation. Issuance of these orders will be governed by the FAA's Investigative and Enforcement Procedures, 14 CFR part 13—specifically the procedures set forth in § 13.20 will apply, including the right to a hearing under subpart D of part 13.

In order to effectively implement this new provision, the FAA's investigation underpinning the revocation process

<sup>3</sup> Black's Law Dictionary, West Publishing Company (1079).

must develop evidence that supports the factual allegations leading to a charge that the identified person materially contributed to the circumstances that caused the revocation. The FAA will develop guidance to assist agency inspectors in gathering and documenting the necessary evidence simultaneously with an investigation leading to the associated repair station certificate revocation. In accordance with § 13.20, except in egregious matters in which the Administrator determines that an emergency exists requiring immediate issuance of an order, each identified individual would first be provided with a notice that would include the pertinent factual allegations and the charge that he or she materially contributed to the circumstances causing the revocation. Though § 13.20 presently does not provide for the opportunity for a person who receives a notice under that section to participate in an informal conference with an FAA attorney prior to the FAA issuing an order, the agency is simultaneously with this rule amending the part 13 regulation to provide for that option. The FAA believes that providing this option for all orders issued under § 13.20 would be beneficial for all affected parties because often the issues are resolved, or at least narrowed, at that stage, providing for economies of resources.

Section 145.51(e) is nearly identical to the similar rule for air carriers. In the same manner that § 119.39(b) applies to air carriers, this new repair station rule is intended to help ensure those persons who exercise operational authority over business decisions in a repair station are those who have not demonstrated an unwillingness or an inability to ensure safe and compliant operations. Along these lines, the FAA views the restriction on new repair stations being controlled or managed by persons identified in § 145.51(e)(2) and (3) as a continuing and ongoing requirement. In other words, the FAA would look with disfavor on the actions of a certificate holder who, sometime after obtaining the certificate with no association with key personnel identified in those paragraphs, becomes associated with one or more of the persons the regulation was designed to preclude from controlling repair station operations. In egregious cases, such a repair station could be subject to an enforcement action under § 145.51(e) based on its not meeting the original certification requirement. The FAA Administrator has previously decided that a regulation imposing a requirement addressed to an

“applicant” can impose an ongoing and continuing qualification requirement. See *Alphin Aircraft, Inc.*, FAA Order No. 97–10 at 3 (1997), 1997 WL 93230 (FAA). For air carriers, in applying the similar provisions of 14 CFR 119.39(b), the FAA considers the obligation for an air carrier not to be controlled by one or more of these persons to be ongoing and continuing.

For the purposes of implementing § 145.51(e)(2) and (3), the notice sent to an identified individual will set forth the factual allegations supporting the agency’s determination and advise the person that he or she may be subject to an order finding that he or she materially contributed to the revocation circumstances. The notice will also advise the person that, if the order described above is issued and affirmed, the person’s name will be included in an FAA data base of individuals that have been found to have materially contributed to the circumstances causing a repair station certificate revocation. In addition, the notice will also advise that, under § 145.51(e), an applicant for a new repair station certificate in the future may be denied the certificate if a person in this data base will have the same or similar position of authority or control over the new repair station’s operations. The notice should also advise that, as described above, the person may be denied a similar controlling role in an existing repair station. The means to facilitate this preclusion would be an action against the repair station to enforce the provisions of § 145.51(e).

AEA stated that it did not understand the proposed change to § 145.55—that a surrender of a certificate was not effective until the FAA accepted the certificate for cancellation. AEA stated the proposed language was not clear and recommended the current text be retained without that addition. ARSA was vehemently opposed to the FAA having to “accept” the surrender of a repair station certificate and therefore requested the proposal not be adopted.

Airborne Maintenance and Engineering Services, Inc. (Airborne) commented that adopting the proposed requirement would encourage entities working on the fringes of the regulations to impede or otherwise not support FAA inspector corrective actions and create a disincentive for a poorly run repair station to voluntarily surrender its certificate.

The FAA is including the proposed amendment to § 145.55(a) to make clear that an attempt by a repair station undergoing an enforcement investigation to surrender its certificate in order to stop the investigation will be

ineffective, as the certificate will remain effective until the FAA accepts it for cancellation or otherwise takes appropriate enforcement action. As a consequence, the investigation would continue, and, if appropriate, enforcement action could be taken. If serious violations of the regulations were found and the FAA concluded that the certificate holder lacked qualifications to hold the certificate, an order revoking the certificate could ensue.

#### *E. Falsification of Records (§ 145.12)*

The FAA is adding new § 145.12 to prohibit any fraudulent or intentionally false entry or omission of a material fact in any application, record, or report made under part 145. Among other things, this new prohibition will help discourage applications that fail to include the names of the persons contemplated by the denial provisions found in § 145.51(e). The sanction for any of those acts is suspension or revocation of the repair station certificate and any certificate, approval, or authorization issued by the FAA and held by the person committing the act.

Several companies, along with three associations and one individual, commented on this proposal. None of the commenters disagreed with the need to prohibit fraudulent or intentionally false entries. The most common concerns were that the proposed requirement lacked due process, and that it was redundant to a similar prohibition in the maintenance rules, specifically 14 CFR 43.12. At least three of the commenters raised issues concerning determinations made by individual inspectors in initiating enforcement actions. Gulfstream Aerospace Corporation questioned whether “intent” to make the false entry must be determined.

Other than expressing concerns over possible abuses resulting from determinations made by individual inspectors, the comments concerning a lack of due process were rather vague and unspecific. The FAA notes that any report of an alleged violation made by an individual inspector will be reviewed at several levels within the FAA—including by legal counsel—before a notice or order is issued. Further, legal counsel will not issue a notice or order unless the agency has evidence that such a violation, in fact, had occurred. In any case brought by the FAA against an alleged violator of a falsification regulation, or any other regulation, the burden of proving the violation is on the agency, and the affected person is entitled to a full appeal process. Alleged violators of a

prohibition against making intentionally false entries, as with any other alleged violation, are entitled to due process in accordance with 49 U.S.C. 44709 or 46301 and associated FAA and NTSB regulations.

In answer to a comment by Gulfstream Aerospace Corporation as to whether “intent” must be determined, the answer is yes, but only to the extent that the false entry was made knowingly. That is, at the time the person made the false entry, the person knew the entry was false. Other FAA regulations already prohibit fraudulent or intentionally false entries, either of which necessarily incorporates an element of intentionality in making the false entry, *i.e.*, the person knew at the time of making the entry that it was false, but the person made the entry anyway. Similarly, an explicit element of the new paragraph (b) in this final rule (discussed below) is a knowing concealment of a material fact. As with knowingly making a false entry, paragraph (b) is triggered when a person knew that he or she failed to include the material fact in the document at issue.

As to the comments that opined that the proposal was redundant to the falsification prohibition already existing in the maintenance rules (§ 43.12), the FAA addressed both the differences between that rule and the one proposed for repair stations, and the need for this regulation in the NPRM. While § 43.12 provides for suspension or revocation of the applicable airman and other mentioned certificates and privileges for requisite maintenance record falsifications or fraudulent acts, it does not provide for repair station certificate suspension or revocation for the same kind of conduct (77 FR 30066, May 21, 2012).

In addition, we are adding two additional consequences that will apply to the making of intentionally false entries or omissions. The first additional potential consequence is that the proscribed conduct may warrant imposition of a civil penalty either in addition to or in combination with a certificate action. This sanction option reflects the civil penalty authority granted to the FAA by the Congress in 49 U.S.C. 46301, whereby the FAA can assess civil penalties against both individuals and businesses for violations of the statute and the agency’s regulations. Depending on the circumstances, sometimes a civil penalty may be an appropriate deterrent. The second additional consequence is that the FAA may deny an application if it is supported by an intentionally false entry or omission. The FAA views this consequence to be

within the scope of what was proposed in the NPRM. This reflects the common sense notion that, if a certificate could be suspended or revoked based on an intentional falsification, it would make no economic sense for the agency to first issue the certificate and then turn around and initiate a certificate action based on the falsification. This change is consistent with a November 2013 amendment to 14 CFR part 121, in which the agency added a new § 121.9, which, among other things, provides for the imposition of a civil penalty and/or the denial of an application if a person made or caused to be made a fraudulent or intentionally false statement or knowing omission as described in that section (78 FR 67836; Nov. 12, 2013).

The agency notes that, while § 43.12(b) does provide for the suspension or revocation of an applicable operator certificate, in addition to the applicable airman certificate, it does not provide for the suspension or revocation of a repair station certificate. Because of the importance to safety of accurate records, this final rule adopts the text proposed that provides for the suspension or revocation of not only the repair station certificate but also of any FAA-issued certificate, approval, or authorization held by the person who committed the falsification.

As stated in the NPRM, in view of the FAA’s limited resources, both the agency and ultimately the flying public depend heavily on the integrity of the system of self-reports. Because of the importance of honest and trustworthy records and reports to aviation safety, the FAA believes that any person who makes or causes to be made an intentionally false or fraudulent entry in any record or report the agency needs to provide proper oversight of repair stations should be subject to enforcement action as noted above. Accordingly, the agency may suspend or revoke not only the repair station certificate, but any certificate, approval, or authorization issued by the FAA and held by that person.<sup>4</sup>

Another company, Airborne, expressed concern that most of the other falsification prohibition regulations referenced in the NPRM (*e.g.*, §§ 61.37, 61.59, 63.18, 63.20, 65.18, 65.20, and 67.403) refer to certificates held by individuals, not companies. Airborne stated that its review of other operating rules (*e.g.*, those in parts 121, 125, 129, and 135) found no similar falsification provisions applicable to those certificate holders. The company also referenced Chapter 7 of the FAA’s Compliance and

Enforcement Program, FAA Order 2150.3B, Paragraph 2.a(1), which states that the agency generally suspends the certificates of individual certificate holders for violations, but usually takes civil penalty action against air carriers and airports. The commenter was especially concerned that a wrongful act (fraudulent or intentional falsification) by a single individual could result in the closing of an entire certificated entity.

Although Airborne may be correct in observing that the other falsification prohibition regulations cited in the NPRM refer to suspending or revoking certificates held by individuals and not by companies, the FAA does not believe that is a reason to refrain from issuing this rule. Besides, as discussed briefly above, in November 2013 (approximately a year and a half after the Repair Station NPRM), the FAA published amendments to 14 CFR part 121, which added a new § 121.9 (Fraud and falsification), which provided for sanctions against air carriers and persons employed by them for violations of similar proscribed conduct. Those sanctions include: (1) A civil penalty; (2) suspension or revocation of any FAA-issued certificate held by that person; (3) the denial of an application for any FAA-issued approval; and (4) the removal of any FAA-issued approval (78 FR 67836; November 12, 2013). As noted in the NPRM, the importance of accurate records to assist the FAA in exercising its aviation safety oversight responsibilities cannot be overstated. If repair station officials know that one consequence of falsifying records is the loss of the repair station certificate, they may be motivated to produce accurate and truthful records.

The FAA also notes that Airborne, in opposing a regulation that could result in the revocation of a repair station’s certificate, selectively quoted from the FAA’s Compliance and Enforcement Program, FAA Order 2150.3B, when it stated: “Thus, the agency generally suspends the certificates of individual certificate holders for violations. However, the FAA usually takes civil penalty action against air carriers and airports. . . .” Airborne, however, neglected to reference the next sentence in Order 2150.3B, which states: “Nevertheless, when the FAA determines that safety considerations warrant it, the agency will suspend the certificate of any type of certificate holder. In no case will the FAA take civil penalty action alone when remedial legal action is necessary or

<sup>4</sup> 77 FR 30067; May 21, 2012.

appropriate.”<sup>5</sup> Additional FAA guidance in this area is found in paragraph 2.b(4) of the Order which states that revocation is normally appropriate when a certificate-holding entity deliberately or flagrantly violates the statute or regulations or falsifies records. Moreover, in the FAA’s published sanction guidance, the sanction generally called for in the case of an intentionally false or fraudulent entry, reproduction, or alteration in a record or report is certificate revocation.<sup>6</sup>

As discussed above, however, we have added the additional sanctions of a civil penalty and the denial of an application. Consistent with § 121.9 (Fraud and falsification), three different sanctions will be available to the agency to enforce this rule. Section 145.12(c) provides that committing an act prohibited by either paragraph (a) or (b) is a basis for any one or any combination of (1) suspension or revocation, (2) a civil penalty, and (3) denial of an application. The addition of the civil penalty sanction addresses commenters’ concerns that in some cases a civil penalty would be more appropriate for a company than a revocation of its certificate. Whether a civil penalty, a certificate action, or both, is an appropriate sanction would depend on the actual circumstances of the matter and a consideration of appropriate factors, including agency sanction guidance, related to determining the sanction or sanctions to be applied.

As discussed above and in the NPRM, the FAA has long considered intentional falsification of required records to be a serious safety-related problem with a potential for dire consequences. The referenced regulatory prohibitions against individual falsifications are long-standing, as are the recommended sanctions for both individuals and entities in the agency’s published sanction guidance. Including in the regulations a proscription against entities falsifying records made, kept, or used to show compliance with a requirement is in the public interest, and the FAA is adopting this section as proposed, but with the added clarification that a falsification in material submitted in support of an application is also proscribed. This is to forestall an argument that information submitted, while false, technically was not in the application, and therefore was

outside the reach of the regulation. Also, in response to a comment, the FAA is adding a proscription against concealment of a material fact by omission, as discussed below.

Finally ARSA, in stating it had no objection to the proposal, also noted that the FAA should be mindful that similar sections in 14 CFR include omission of material information as equally egregious. Consequently, ARSA suggested that the FAA may wish to consistently express all prohibitions of such actions.

The FAA agrees with ARSA’s recommendation that the regulation should prohibit omissions of material information. ARSA’s reference in its comments to similar sections in 14 CFR that include omission of material information may be a reference to the omission prohibition in 14 CFR 3.5(c)(2). The FAA issued 14 CFR part 3 in 2005 to prohibit persons from making fraudulent or intentionally false statements in records when conveying information in an advertisement or sales transaction about the airworthiness of a type-certificated product. Section 3.5(c)(2) provides, in pertinent part, that no person may make, or cause to be made, through the omission of material information, a representation that a type-certificated product is airworthy if that representation is likely to mislead a consumer.

Clearly, omissions of material information can be as damaging as the insertion of false information in a required document. This issue is brought to light in contemplation of new § 145.51(e) (Application for certificate), in which the FAA seeks information on who an applicant proposes to place in management or controlling positions. Information on the compliance history of these personnel is important to the FAA in determining the qualifications, including the compliance disposition, of those persons who could make operational decisions. Omitting the requested information could be as damaging as making an intentionally false entry.

The NTSB, in interpreting the plain language of current falsification prohibition regulations, has held that the failure to make an entry cannot constitute an intentionally false entry because the omission is not an entry.<sup>7</sup> The FAA aims to close this “loophole” by adding new paragraph (b) to new § 145.12, to provide that no person may, by omission, knowingly conceal or cause to be concealed, a material fact.

<sup>7</sup> *Administrator v. Alvarez*, 5 NTSB 1906, 1907 NTSB Order No. EA-2504, 1987 WL 122066 (N.T.S.B.)

This text also finds support in the Government’s general falsification prohibition statute, 18 U.S.C. 1001, which, in paragraph (a)(1), provides for criminal penalties for whoever falsifies, conceals, or covers up by any trick, scheme, or device a material fact.

The FAA has also eliminated the phrase “required to be” with regard to any record or report made, kept, or used to show compliance. The agency has done so to forestall an argument a falsifier could make that, although the falsity occurred in a record or report that was made, kept, or used to show compliance, it was not a record or report that was required by a regulation to be made or kept. The NTSB has already rejected that argument in addressing a violation of § 43.12.<sup>8</sup> There, the respondent argued that he was not required to use those particular records that formed the basis for the falsification charge. The NTSB agreed instead with the FAA’s position that the rule reaches falsifications in any maintenance documents kept or used to show compliance with a requirement in part 43, whether or not the documents are records or reports in a form or format the FAA requires an individual to keep or to use for that purpose.

The NTSB offered a second rationale in that case for construing the term “required” in the regulation. The term should not be restricted to mean “required” by the FAA Administrator. The NTSB decision noted that the term can also be broadly construed to mean required by the circumstances for which compliance is sought or necessary. Here, the respondent presented documents purporting to establish compliance with various airworthiness directives to establish that the aircraft was airworthy. The respondent’s submission of the records attesting the airworthiness directives’ accomplishment represented his recognition that they constitute records that he was required to make, keep, and use in order to satisfy the requirements of part 43. Even though NTSB case law should preclude an alleged falsifier from arguing the false entry at issue was not in a required record or report, the FAA determined that eliminating the term from this regulation will, at a minimum, remove the potential ambiguity.

The FAA also notes that a similar falsification prohibition in the FAA’s certification rules (14 CFR part 21) does not contain the phrase “required to be” to modify the phrase “kept, made, or used.” Specifically, § 21.2(a)(2) prohibits any fraudulent, intentionally

<sup>8</sup> *Administrator v. Anderson*, NTSB Order No. EA-4564, 1997 WL 355350 (N.T.S.B.).

<sup>5</sup> FAA Order 2150.3B, Ch. 7, Para. 2.a(1).

<sup>6</sup> FAA Order 2150.3B, Appendix B, Table of Sanctions, in Part Two, Section 1 (U.S. Air Carriers, U.S. Commercial Operators, Part 125 Operators, and Part 129 Operators) in Figure B-1-j (Records and Reports), in (1)(a).

false, or misleading statement in any record or report that is kept, made, or used to show compliance with any requirement of this part. The FAA's removal of the phrase "required to be" from the text proposed in the NPRM simply aligns this rule with the existing certification falsification provision and, as noted above, accords with NTSB precedent.

#### *F. Other Specific Comments*

The comments in this section concern proposed changes in definitions, contract maintenance, and compliance costs. All of the concerns raised by the commenters in this section are addressed by the FAA's withdrawal of the applicable proposed sections.

AEA, ARSA, CASE, EAA, and some repair stations voiced objection to the definitions of avionics and line maintenance proposed in § 145.1003, Definition of terms. AEA did not concur with the definition of avionics and suggested that it should include both mechanical and electronic radios, indicators, and instruments. Both AEA and ARSA commented that although the FAA defined avionics, the agency never used the term in part 145. ARSA added that the definition is unnecessary and should be removed in its entirety.

AEA and EAA objected to the definition of line maintenance, stating that the FAA has not given justification for establishing a new requirement on where line maintenance may be performed. AEA stated that maintenance authorizations may be limited to commercial operators; however the definition of line maintenance is much broader than unscheduled maintenance for a part 121 and 135 air carrier.

ARSA stated that the line maintenance definition should be stricken in its entirety and that the term can be defined only within the context of a repair station's capabilities and the operator's requirements. Therefore, the amount, type, and extent of line maintenance is already controlled by the performance standards; the only additional "control" needed under part 145 is the validation that the repair station has appropriate capabilities and quality procedures. ARSA also stated that if the agency keeps the definition it cannot be limited purely to work under parts 121 and 135; it must include part 91, subpart K, at a minimum. Further, the time allotment must be removed; it places an artificial barrier on the type of work that can and should be performed with limited resources in accordance with part 43.

GAMA commented on the proposed section covering contract maintenance,

stating that on-site inspection of the subcontractor would be required before any maintenance is performed by that person. GAMA emphasized that this is not stated in the rule and should not be added as an interpretation without being added to the rule. For organizations with multiple service facilities, the proposed rule would have required each facility to inspect the subcontractor, which would place an undue burden on both the repair station and the subcontractor.

Almost all commenters disagreed with the FAA's economic forecast. They stated that the FAA's calculations grossly underestimated the costs to industry. EAA added that at a time when the aviation industry is in perilous condition, it does not seem appropriate to impose a large economic impact on aviation businesses and their customers for little or no safety benefit.

NATA, AOPA, Mobile Transponder Services, LLC, and others stated that the FAA identified two compliance costs to repair stations: The cost to apply for a rating and the cost to revise their manuals. However, the FAA also proposed significant changes to training program requirements but did not account for the resources required to develop the new training curriculum and the staff-hours necessary to re-train all applicable staff members. Some commenters also stated the FAA did not consider the complications and costs of limiting mobile maintenance operations, particularly to general aviation aircraft owners and operators. These expenses will increase the cost of these elements of the proposed rules exponentially.

Additionally, several commenters, including AOPA, noted that the agency estimated the average one-time compliance costs would be \$1,146 for a small repair station, and \$2,848 for a medium sized repair station. The commenters argued that those costs are just a fraction of the cost of the proposed rule. They also expressed the view that even considering just the costs identified by the FAA (application for rating and revision of manuals) the estimates are unrealistically low. Furthermore, the commenters stated that the costs assigned by the FAA are especially unreasonable if the FAA intended for currently certificated repair stations to complete a letter of compliance, in addition to enduring the entire certification process and revising manuals and other documents.

Collectively, the commenters stated that in large repair stations, "supervisors" are often hourly-paid lead personnel. The term "supervisor" in some instances may refer to the administrative supervisor who does not

give technical guidance to those who are unfamiliar with all the necessary job requirements. Therefore, the commenters argued that naming each supervisor on a roster, as proposed in the NPRM, would be ineffective for enhancing safety.

The FAA is withdrawing the overarching ratings proposal with associated certification and personnel requirements. The proposals for changes to definitions, contract maintenance, and the required 24-month transition are inseparably linked to the overarching proposals and are not adopted in this final rule. This rule contains only the amendments that add denial authority, require FAA acceptance of a surrendered certificate, and prohibit fraudulent or intentionally false entries and omissions, as well as several minor administrative changes.

### **V. Regulatory Notices and Analyses**

#### *A. Regulatory Evaluation*

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect

and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows:

This rule amends regulations for repair stations in four areas. First, it introduces a new exception that enables the FAA to deny an applicant a repair station certificate if the applicant previously held a repair station certificate that had been revoked, or if certain key individuals (those that would be in a management position or who would have control or a substantial ownership interest in the applicant) had materially contributed to the circumstances that caused a previous repair station certificate revocation. Along these lines, the rule also provides that a repair station's attempt to surrender its certificate is not effective until the FAA accepts the certificate for cancellation. Secondly, the rule provides that false or fraudulent entries or omissions in applications, records, or reports may result in revocation of any certificate issued by the FAA. Thirdly, the rule adopts administrative changes to clarify the intent of the current rule. Lastly, the rule corrects several errors in the repair station regulations.

Current regulations do not allow the FAA to deny a repair station certificate to a technically qualified applicant, regardless of conduct. This rule permits the FAA to deny an application if the applicant previously had a certificate revoked or if the certificate is in the process of being revoked, or the applicant intends to fill a position with an individual as described in part 145.51(e). To determine if an applicant fits the criteria described in part 145.51(e), the FAA will add one two-part question to FAA Form 8310-3 "Application for Repair Station Certificate and/or Rating." The new question is: "Will any person as described in part 145.51(e) be involved with the management, control, or have substantial ownership of the repair station? If 'YES', provide a detailed explanation on a separate page." If an applicant declares "No," no additional explanation by the applicant is required. If an applicant declares "Yes," the applicant is required to give a written narrative of the circumstances leading to the revocation. Based on the information provided in the narrative, the FAA can deny the applicant a repair station certificate, if warranted. In addition, an applicant, on occasion, may find it necessary to contact FAA personnel to determine if a certain individual has been identified as a contributor to a repair station certificate

revocation. The time expended by both parties for this query, as well as the increased time required for an applicant to complete revised FAA Form 8310-3, is expected to be negligible.

Since the expected outcome will be a minimal impact with positive net benefits, a regulatory evaluation was not prepared. The FAA has, therefore, determined that this final rule is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is not "significant" as defined in DOT's Regulatory Policies and Procedures.

#### *B. Regulatory Flexibility Determination*

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354) (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation." To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration." The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

For this regulatory flexibility analysis, the FAA used the SBA-defined categories of "small" (1,500 or fewer employees) and "non-small" (more than 1,500 employees) for the aircraft manufacturing industry. As of May 2013, there were 4,779 FAA certificated repair stations. Of these repair stations, a vast majority (99.5 percent or 4,753) are defined as "small." The last time a

certificate application was made by a "non-small" entity was in 2005.<sup>9</sup>

During the three-year period from 2010 through 2012, the FAA received 526 applications for repair station certification, for an average of 175 applications per year.<sup>10</sup> All 526 applications for certification were submitted by small entities. Consequently, it is projected that most future applicants for repair stations certificates will also be small entities. Accordingly, this final rule will impact a substantial number of small entities.

The SBA Office of Advocacy provided comments to the FAA on the NPRM. One comment was that the cost estimate for the re-certification of repair stations (which was prompted by a new ratings system) is understated. The FAA withdrew the provision for a new ratings system from the final rule. Thus, the cost estimate for recertification of repair stations has been eliminated.

The SBA also commented that small industry representatives stated that they lack the knowledge and ability to track parties whose certificates were either revoked or voluntarily surrendered during an enforcement proceeding, thereby making the cost of complying with the "bad actor" provisions highly unpredictable or impossible. The representatives recommended that should this provision be adopted then the FAA should maintain a list of disqualified individuals. Repair station applicants could then query the FAA regarding that information on certain persons. To address this concern, the FAA will respond to an applicant request for information regarding specific persons; however a list of disqualified persons will not be made available to the public.

There will be a substantial number of small entities impacted by this rule. However the expected economic impact to these entities will be minimal. To assist in implementing this rule, the FAA will add one additional two-part question to the application for a repair station certificate. To further assist applicants in answering this question, the FAA will answer an applicant's inquiry as to whether a named individual has contributed to the revocation of a repair station certificate. Thus, the cost of this incremental time required for these activities is expected to be minimal.

If an agency determines that a rulemaking will not result in a

<sup>9</sup> Federal Aviation Administration Safety Performance Analysis System Database (SPAS).

<sup>10</sup> SPAS Database—Applications for Repair Station Certificates: CY 2010—185 applications; CY 2011—171 applications; CY 2012—168 applications.

significant economic impact on a substantial number of small entities, the head of the agency may so certify under section 605(b) of the RFA. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

#### *C. International Trade Impact Assessment*

The Trade Agreements Act of 1979 (Pub. L. 96-39), as amended by the Uruguay Round Agreements Act (Pub. L. 103-465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States.

Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that it will impose the same costs on domestic and international entities and thus has a neutral trade impact.

#### *D. Unfunded Mandates Assessment*

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of \$151.0 million in lieu of \$100 million. This final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

#### *E. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an

information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

This final rule will impose a revision to the existing information collection requirements previously approved under OMB Control Number 2120-0682, Application for Repair Station Certificate and/or Rating (FAA Form 8310-3). The FAA has determined that the revision to the information collection is not significant or substantive and does not change the terms of the existing OMB approval. As required by the Paperwork Reduction Act, the FAA submitted the information collection revision to OMB for its review to ensure that the public record is accurate.

#### *F. International Compatibility and Cooperation*

(1) In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

(2) Executive Order (EO) 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of EO 13609, and has determined that this action would have no effect on international regulatory cooperation.

#### *G. Environmental Analysis*

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312(d) and involves no extraordinary circumstances.

### **VI. Executive Order Determinations**

#### *A. Executive Order 13132, Federalism*

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The

agency determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

#### *B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use*

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a "significant energy action" under the executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

### **VII. How To Obtain Additional Information**

#### *A. Rulemaking Documents*

An electronic copy of a rulemaking document may be obtained by using the Internet—

1. Search the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visit the FAA's Regulations and Policies Web page at [http://www.faa.gov/regulations\\_policies/](http://www.faa.gov/regulations_policies/) or
3. Access the Government Printing Office's Web page at <http://www.gpo.gov/fdsys/>.

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680.

#### *B. Comments Submitted to the Docket*

Comments received may be viewed by going to <http://www.regulations.gov> and following the online instructions to search the docket number for this action. Anyone is able to search the electronic form of all comments received into any of the FAA's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

#### *C. Small Business Regulatory Enforcement Fairness Act*

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document, may contact its local

FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit [http://www.faa.gov/regulations\\_policies/rulemaking/sbre\\_act/](http://www.faa.gov/regulations_policies/rulemaking/sbre_act/).

**List of Subjects in 14 CFR Part 145**

Air carriers, Air transportation, Aircraft, Aviation safety, Recordkeeping and reporting, Safety.

**The Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 145 as follows:

**PART 145—REPAIR STATIONS**

■ 1. The authority citation for part 145 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701–44702, 44707, 44709, 44717.

■ 2. Section 145.12 is added to subpart A to read as follows:

**§ 145.12 Repair station records: Falsification, reproduction, alteration, or omission.**

- (a) No person may make or cause to be made:
  - (1) Any fraudulent or intentionally false entry in:
    - (i) Any application for a repair station certificate or rating (including in any document used in support of that application); or
    - (ii) Any record or report that is made, kept, or used to show compliance with any requirement under this part;
  - (2) Any reproduction, for fraudulent purpose, of any application (including any document used in support of that application), record, or report under this part; or
  - (3) Any alteration, for fraudulent purpose, of any application (including any document used in support of that application), record, or report under this part.
- (b) No person may, by omission, knowingly conceal or cause to be concealed, a material fact in:
  - (1) Any application for a repair station certificate or rating (including in any document used in support of that application); or
  - (2) Any record or report that is made, kept, or used to show compliance with any requirement under this part.
- (c) The commission by any person of an act prohibited under paragraphs (a) or (b) of this section is a basis for any one or any combination of the following:
  - (1) Suspending or revoking the repair station certificate and any certificate, approval, or authorization issued by the FAA and held by that person.

- (2) A civil penalty.
- (3) The denial of an application under this part.

■ 3. Amend § 145.51 by revising paragraph (b), and adding paragraphs (e) and (f) to read as follows:

**§ 145.51 Application for certificate.**

\* \* \* \* \*

(b) The equipment, personnel, technical data, and housing and facilities required for the certificate and rating, or for an additional rating, must be in place for inspection at the time of certification or rating approval by the FAA. However, the requirement to have the equipment in place at the time of initial certification or rating approval may be met if the applicant has a contract acceptable to the FAA with another person to make the equipment available to the repair station at any time it is necessary when the relevant work is being performed.

\* \* \* \* \*

(e) The FAA may deny an application for a repair station certificate if the FAA finds that:

- (1) The applicant holds a repair station certificate in the process of being revoked, or previously held a repair station certificate that was revoked;
  - (2) The applicant intends to fill or fills a management position with an individual who exercised control over or who held the same or a similar position with a certificate holder whose repair station certificate was revoked, or is in the process of being revoked, and that individual materially contributed to the circumstances causing the revocation or causing the revocation process; or
  - (3) An individual who will have control over or substantial ownership interest in the applicant had the same or similar control or interest in a certificate holder whose repair station certificate was revoked, or is in the process of being revoked, and that individual materially contributed to the circumstances causing the revocation or causing the revocation process.
- (f) If the FAA revokes a repair station certificate, an individual described in paragraphs (e)(2) and (3) of this section is subject to an order under the procedures set forth in 14 CFR 13.20, finding that the individual materially contributed to the circumstances causing the revocation or causing the revocation process.

■ 4. Amend § 145.53 by revising paragraph (a) to read as follows:

**§ 145.53 Issue of certificate.**

(a) Except as provided in § 145.51(e) or paragraph (b), (c), or (d) of this

section, a person who meets the requirements of subparts A through E of this part is entitled to a repair station certificate with appropriate ratings prescribing such operations specifications and limitations as are necessary in the interest of safety.

\* \* \* \* \*

■ 5. Amend § 145.55 by revising paragraphs (a), (b), and adding paragraph (c)(3) to read as follows:

**§ 145.55 Duration and renewal of certificate.**

(a) A certificate or rating issued to a repair station located in the United States is effective from the date of issue until the repair station surrenders the certificate and the FAA accepts it for cancellation, or the FAA suspends or revokes it.

(b) A certificate or rating issued to a repair station located outside the United States is effective from the date of issue until the last day of the 12th month after the date of issue unless the repair station surrenders the certificate and the FAA accepts it for cancellation, or the FAA suspends or revokes it. The FAA may renew the certificate or rating for 24 months if the repair station has operated in compliance with the applicable requirements of part 145 within the preceding certificate duration period.

(c) \* \* \*

(3) Show that the fee prescribed by the FAA has been paid.

\* \* \* \* \*

■ 6. Revise § 145.57 to read as follows:

**§ 145.57 Amendment to or transfer of certificate.**

(a) A repair station certificate holder applying for a change to its certificate must submit a request in a format acceptable to the Administrator. A change to the certificate must include certification in compliance with § 145.53(c) or (d), if not previously submitted. A certificate change is necessary if the certificate holder—

- (1) Changes the name or location of the repair station, or
  - (2) Requests to add or amend a rating.
- (b) If the holder of a repair station certificate sells or transfers its assets and the new owner chooses to operate as a repair station, the new owner must apply for an amended or new certificate in accordance with § 145.51.

■ 7. Amend § 145.153 by revising paragraph (b)(1) to read as follows:

**§ 145.153 Supervisory personnel requirements.**

\* \* \* \* \*

(b) \* \* \*

(1) If employed by a repair station located inside the United States, be appropriately certificated as a mechanic or repairman under part 65 of this chapter for the work being supervised.

\* \* \* \* \*

■ 8. Amend § 145.155 by revising paragraph (a)(2) to read as follows:

**§ 145.155 Inspection personnel requirements.**

(a) \* \* \*

(2) Proficient in using the various types of inspection equipment and visual inspection aids appropriate for the article being inspected.

\* \* \* \* \*

■ 9. Amend § 145.157 by revising paragraph (a) to read as follows:

**§ 145.157 Personnel authorized to approve an article for return to service.**

(a) 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 appropriately certificated as a mechanic or repairman under part 65.

\* \* \* \* \*

■ 10. Amend § 145.163 by revising paragraph (a) to read as follows:

**§ 145.163 Training requirements.**

(a) A certificated repair station must have and use an employee training program approved by the FAA that consists of initial and recurrent training. An applicant for a repair station certificate must submit a training program for approval by the FAA as required by § 145.51(a)(7).

\* \* \* \* \*

■ 11. Amend § 145.213 by revising paragraph (d) to read as follows:

**§ 145.213 Inspection of maintenance, preventive maintenance, or alterations.**

\* \* \* \* \*

(d) Except for individuals employed by a repair station located outside the United States, only an employee appropriately certificated as a mechanic or repairman under part 65 is authorized to sign off on final inspections and maintenance releases for the repair station.

■ 12. Amend § 145.221 by revising paragraph (a) to read as follows:

**§ 145.221 Service difficulty reports.**

(a) A certificated repair station must report to the FAA within 96 hours after it discovers any failure, malfunction, or defect of an article. The report must be in a format acceptable to the FAA.

\* \* \* \* \*

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44707 in Washington, DC, on July 14, 2014.

**Michael P. Huerta,**

*Administrator.*

[FR Doc. 2014-18938 Filed 8-11-14; 8:45 am]

**BILLING CODE 4910-13-P**

**FEDERAL TRADE COMMISSION**

**16 CFR Part 305**

**[RIN 3084-AB03]**

**Energy Labeling Rule**

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Trade Commission (“Commission”) amends its Energy Labeling Rule (“Rule”) by publishing new ranges of comparability for required labels on central air conditioners, heat pumps, and weatherized furnaces.

**DATES:** The amendments announced in this document will become effective on January 1, 2015.

**FOR FURTHER INFORMATION CONTACT:** Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 (202-326-2889).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Commission issued the Energy Labeling Rule in 1979, 44 FR 66466 (Nov. 19, 1979) pursuant to the Energy Policy and Conservation Act of 1975 (“EPCA”).<sup>1</sup> The Rule covers several categories of major household appliances, including central air conditioners and heat pumps. It requires manufacturers of covered appliances to disclose specific energy consumption or efficiency information (derived from DOE test procedures) at the point-of-sale. In addition, each label must include a “range of comparability” indicating the highest and lowest energy consumption or efficiencies for comparable models. The Commission updates these ranges periodically.

**II. Range Updates for Central Air Conditioners, Heat Pumps, and Weatherized Furnaces**

The Commission is updating the Rule’s ranges of comparability, based on current data, for central air conditioners, heat pumps, and weatherized furnaces, effective January 1, 2015. In a February

<sup>1</sup> 42 U.S.C. 6294. EPCA also requires the Department of Energy (“DOE”) to set minimum efficiency standards and develop test procedures to measure energy use.

6, 2013 **Federal Register** Notice (78 FR 8362), the Commission issued new EnergyGuide label requirements to help consumers, distributors, contractors, and installers easily determine whether a specific furnace or central air conditioner meets applicable DOE regional efficiency standards. Among other things, these amendments revised labels for central air conditioners, heat pumps, and weatherized furnaces that will be required on January 1, 2015. In the 2013 Notice, the Commission did not publish updated comparability ranges for those products because energy data available at that time would likely become obsolete before the January 1, 2015 date. However, the Commission explained it would publish new ranges for central air conditioners, heat pumps, and weatherized furnaces, when more current data became available before 2015.<sup>2</sup> That date serves as the effective date for the new FTC labels and the new comparability ranges for these products.

In addition to publishing the new ranges, the Commission is updating the prototype and sample labels in the Rule to reflect these range changes. As discussed in a **Federal Register** Notice published this year, the Commission plans to address updates for other heating products, including boilers and non-weatherized furnaces, separately.<sup>3</sup>

**III. Administrative Procedure Act**

The amendments published in this Notice involve routine, technical and minor, or conforming changes to the labeling requirements in the Rule. These technical amendments merely provide a routine change to the range and cost information required on EnergyGuide labels. Accordingly, the Commission finds for good cause that public comment for these technical, procedural amendments is impractical and unnecessary (5 U.S.C. 553(b)(A)(B) and (d)).

**IV. Regulatory Flexibility Act**

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603-604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Energy Labeling Rule. These technical amendments merely provide a routine change to the range information required on EnergyGuide labels. Thus, the amendments will not have a “significant economic impact on a

<sup>2</sup> 78 FR at 8365.

<sup>3</sup> 79 FR 34642, 34652 (June 18, 2014).