



Transport Workers Union of America, AFL-CIO

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"AMERICA'S FIGHTING DEMOCRATIC UNION"

April 11, 2023

The Honorable Billy Nolen
Acting Administrator
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

RE: Safety Management Systems NPRM (Docket number FAA-2021-0419)

Dear Acting Administrator Nolen,

On behalf of more than 155,000 members of the Transport Workers Union of America (TWU), the largest union of U.S. airline workers, I am writing in response to the above referenced rulemaking. TWU members include aircraft mechanics (both line and overhaul), flight attendants, ground service workers, dispatchers, pilot instructors, and others who work in and around aircraft on a daily basis. The use of safety management systems (SMS) by all of the pieces of our air transportation system will directly effect these workers, as well as the travelling public.

While we applaud the FAA for expanding the SMS protocols to many of its certificate holders through this NPRM, these comments are specifically in response to the FAA's question regarding part 145 repair stations:

(9) The FAA seeks comments and information regarding expanding the applicability of part 5 in the future. Should the FAA consider a future rulemaking project to expand the applicability of part 5 to include repair stations certificated under part 145? Repair stations perform a wide range of repair and maintenance work on an equally wide range of aircraft and components. Some repair stations do not perform work on aircraft used for passenger-carrying operations. Should the FAA consider applying part 5 to all certificated part 145 repair stations? Should applicability be limited to a subset of part 145 repair stations? The FAA seeks information and supporting data regarding how the applicability should be limited to a subset (i.e., to which repair stations should part 5 be applicable).

The TWU strongly believes that all part 145 repair stations should be required to use the same SMS programs already in place for those facilities covered under the part 121 SMS program. As SMS is expanding to cover nearly the entire airline sector, leaving repair stations out of these requirements deprives the FAA and stakeholders of vital safety information. It also incentivizes outsourcing airline maintenance

operations to non-SMS properties – a significant loophole clearly not envisioned by the FAA in the original SMS rule.

The clearest examples of the issues created by not including the part 145 stations in the SMS programs are found at the FAA-certified facilities outside of the U.S. These facilities, in many cases, could not even describe their safety protocols if asked. While they are nominally required to follow part 121 safety programs for the carriers whose planes they repair, overhaul, and maintain, there is absolutely no meaningful oversight from either the carriers nor the FAA on these facilities. The FAA has exempted part 145 facilities outside of the U.S. from even the most basic safety requirements “due to the burden it would cause on the repair station and the FAA”¹ – not for any safety reason. The reality is that neither the FAA nor the airlines (and certainly not airline workers) have any insight or reliable data from many of these facilities.

SMS at repair stations has been cited as a best practice by the International Civil Aeronautics Organization (ICAO) precisely because it provides a level of transparency for the entire safety chain. Exempting the repair facilities from these requirements deprives in-house mechanics from essential data about the aircraft they repair on the line. It also decreases these mechanics’ faith in the repairs performed by outside entities, so when an aircraft comes in from such a facility those licensed professionals spend additional time inspecting previous work before moving on to new repairs and maintenance. Mandating SMS at these facilities will increase both safety and efficiency for U.S. carriers.

It is important to remember that safety has a cost to it measured in dollars. SMS are not free to set up and run. The TWU believes that those costs are very much worth the return in lives saved and injuries averted. However, bad actors persist in every industry and they seek to compete on cost. Requiring part 145 facilities operated by part 121 carriers (also known as in-sourced work) to participate in SMS programs while allowing contract facilities with the same license to skip this requirement enables those outsourced facilities to offer a cheaper product than they would otherwise be able to. It is not a better product, in fact we believe it is less safe and less reliable, but it will cost less than it would if it were held to the same standard as other facilities. The result is FAA-incentivized outsourcing and it is undermining safety in our industry.

Not requiring SMS for part 145 facilities is also masking the severity of the issues at these facilities. Were the FAA receiving data with the same robustness from outsourced maintenance repair organizations (MROs) as it does from airlines, we are confident it would show many more problems than we are currently aware of. Absent this level of transparency, airlines may be continuing to send work to facilities that are intentionally cutting corners; workers are deprived of vital information about their competitors; and the travelling public is being needlessly exposed to an increased number of maintenance-related delays and cancellations. Even if we are wrong and the outsourced facilities are overperforming on safety, this data would provide a more holistic view of every airline’s maintenance realities. Without this

¹ FAA Order 8900.1, Volume 2, Chapter 11, Section 6, paragraph 2-1260 second note

requirement, the FAA is working with one eye blindfolded when it comes to aircraft maintenance.

Because of the nature of many part 145 facilities, the TWU believes that there may be some unique requirements for MRO SMS over and above other certificate holders. For instance, data associated with these facilities must be transparent to the FAA and the owner of any aircraft being maintained there, but some of this information may be proprietary in nature and should be shielded from the owners of other aircraft being maintained at the facility. These kinds of issues are not a reason for the FAA to opt-out of SMS programs at part 145 facilities. Rather, they increase the need for SMS to better operationalize safety commitments made by MROs to airlines. Not having safety procedures does not mean that information doesn't flow, it simply means that what information flows to who is not clear or consistent.

Ultimately, for work performed on aircraft operated by part 121 carriers, the carriers' SMS should be the primary controlling documents for part 145 facilities (just as it is for MROs owned by part 121 certificate holders today). Part 145 SMS should include provisions which ensure compliance with any part 121 SMS-covered aircraft the facility is repairing, maintaining, or overhauling. For part MROs working on aircraft operated by more than one part 121 carrier, the MRO SMS should function as the minimum standard at the facility. Wherever a part 121 SMS would require a higher standard, that should become the floor for work performed on that carrier's aircraft. Airlines and airline workers bear the final responsibility for ensuring safety onboard their aircraft and SMS should never be used as an impediment to those responsibilities.

Finally, it should be stated that while SMS is an extremely powerful tool that can be used to raise standards in the airline industry, such a tool is only as good as the people responsible for using it. We have seen too many instances of SMS justifying lower standards in specific cases in the name of a safe overall system. The TWU and other unions have strongly endorsed many alternative means of compliance for safety procedures through SMS. In every case, those alternative means have been vetted by frontline workers responsible for upholding the overall safety of the operation. Those cases are appreciably different than non-union carriers or facilities deeming a practice safe and calling on the FAA to let them get away with lower standards based on a promise of good behavior. We are sure that expanding SMS to all part 145 facilities, which are significantly less unionized than their airline counterparts, will present the FAA with many such nefarious attempts to undermine safety. This is not a reason not to apply SMS to these facilities, it is a consideration that the FAA should think about as part of implementing this requirement. In no case should the FAA allow SMS to decrease the standards in place at certified MROs today.

SMS is a demonstrated safety improvement tool that will make the airline industry better if implemented at all part 145 MROs. For the reasons above, the TWU strongly supports expanding the SMS requirement to include these facilities. We would strongly oppose exempting facilities outside of the U.S. or others from these requirements. ICAO's classification of SMS for part 145 facilities as a best practice should be the guiding principle for the FAA on

implementation for this requirement. The current status quo is incentivizing airlines to outsource work onto non-SMS standards and hurting the FAA's ultimate goal of increasing the level of safety in our skies.

Sincerely,

A handwritten signature in cursive script that reads "Andre Sutton". The signature is fluid and includes a large, sweeping flourish at the end.

Andre Sutton
Air Division Director