16-9901

PACIFIC PROPELLER, INC.

DEPT. OF TRANSPORTATION DOCKETS

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May 20, 2002

Docket Management System
Department of Transportation
Room Plaza 401
400 Seventh Street, SW
Washington, DC 20590-0001

Re: Docket Number FAA-2002-11301 — 12

Dear Ladies and Gentlemen:

Pacific Propeller, Inc. is writing in opposition to the Notice of Proposed Rulemaking (NPRM) filed in the above referenced docket as it would require non-certificated maintenance subcontractors to be covered under an FAA anti-drug and alcohol misuse prevention program (drug and alcohol program). The NPRM would expand coverage to all employees who perform maintenance in the United States on equipment operated by U.S. air carriers.

Pacific Propeller, Inc. is a FAA Repair Station with a Propeller Class 2 rating and several limited ratings. We are one of the largest, independent propeller repair stations in the world. The majority of our business is large turbo propeller overhaul. We work on the Hamilton Standard 54H60 Propeller used on the Lockheed C-130 Hercules and the Lockheed P-3 Orion for both commercial and military customers. We have a current contract with the U.S. Navy for overhaul of blades used on the P-3 Orion and with NAMSA for the overhaul of 54H60 propeller assemblies and components. We support the regional aircraft market with our work on the Hamilton Standard 14SF, 14RF and 24PF regional aircraft propellers. We are the current Type Certificate Holder (P898) for the Aeroproducts Model A6441FN propeller used on the Convair 580 and Lockheed Electra and is the only facility overhauling this propeller system.

We believe, for the following reasons, that this is inconsistent with the Docket statement at the end of the **SUMMARY**: "The FAA believes that changing the regulations would improve safety and lessen a burden on the regulated public."

As you have requested, we will reference the specific portions of the proposal that concern us. They are located in:

> Appendix I to Part 121 section III the inclusion of "[including by subcontract at any tier]" and the OPTION 1 FOR SECTION IX: paragraph C.1.b. with the inclusion of the words "a non-cetificated repair station, ... or any other individual or company that provides safety-sensitive service."

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Appendix J to Part 121 section II the inclusion of "[including by subcontract at any tier]" and the OPTION 1 FOR SECTION VII: paragraph C.1.b. with the inclusion of the words "a non-cetificated repair station, ... or any other individual or company that provides safety-sensitive service."

First we will address the issue of improving safety:

The NPRM did not identify the safety-related basis for this change of FAA policy. Have there been accidents or incidents, malfunctions, defects or other quality escapes that resulted from drug and alcohol use by employees of non-certificated maintenance providers? It was our understanding that the safety issues were adequately addressed by ensuring that only those who take airworthiness responsibility under Parts 43 and 145 were covered by a drug and alcohol program.

Without any evidence that safety would be enhanced, the NPRM would significantly increase costs for repair stations by requiring them to oversee their subcontractors AT ANY TIER OF THE MAINTENANCE PROCESS for drug and alcohol program compliance. It would also make them responsible under the regulations for any non-compliance by those entities. With the huge holes that exist in the current anti-drug and alcohol misuse prevention program, specifically by exempting foreign Repair Stations and manufacturers, we believe this is neither an improvement in safety nor a lessening of the burden on the regulated public.

To assist you in understanding our concern, we will describe a true situation specific to our company. As a domestic Repair Station the NPRM would require us to set up and administer an Alcohol and Drug program over a local subcontractor who is putting a surface protective coating, i.e. plating, on a part which has a minimal impact on the safety operation of the product while at the same time we are directed by Federal law, because of an FAA Airworthiness Directive, to send parts to a foreign Repair Station for a required AD inspection that has catastrophic safety implications. The foreign Repair Station is not required to have a Drug and Alcohol program. What is gained by testing the local subcontractor when foreign Repair Stations making critical inspections are exempt?

Our only major competition comes from several foreign Repair Stations. One of who was an OEM domestic Repair Station that was transferred overseas and as previously mentioned we are now obligated to send work to, for a required Air Directive compliance inspection. An Air Directive that, I might add, contains a proprietary OEM process and therefore prohibits the development of alternate means of compliance. Besides being exempt for the requirements to be covered under an FAA anti-drug and alcohol misuse prevention program they also have the added advantage that many foreign nations are actively promoting and encouraging the growth of aviation related businesses.

For years, the FAA interpreted the drug and alcohol rules to exclude non-certificated maintenance subcontractors because they cannot, under the regulations, take airworthiness responsibility for the work they perform. We, as the certificated repair stations, take airworthiness responsibility for the work they perform under section 145.47 of the FAR. This will continue to be the case under the new Part 145, effective April 6, 2003. This means that safety is assured because our employees are included in an FAA drug and alcohol program. How is the safety of the foreign Repair Station assured?

If your goal is to improve safety I would suggest the NPRM be amended to show the deletion of Section XII in Appendix I of Part 121 and Section VIII in Appendix J of Part 121 and thus requiring foreign certificated Repair Stations and their subcontractors AT ANY TIER OF THE MAINTENANCE PROCESS to comply with the Drug and Alcohol misuse programs. This would have the added advantage of leveling the playing field for domestic Repair Stations.

What specific safety benefits will result form changing these regulations?

Second we will address the issue of lessening the burden on the regulated public.

In accordance with the provisions of the new Part 145, effective April 6, 2003 we have identified and are tracking non-certificated persons used to perform subcontract maintenance. There are a total of eight (8) non-certificated subcontractors. Four are small plating companies, two are small welding shops, one is a small machine shop and one is an original equipment manufacturer where the aviation repair work is only one percent (1%) of the business. The size of these entities varies from one person (in two of the companies) to a company with one hundred thirty employees. Excluding the large company, the average is fourteen employees. The work that is done for us is only a small part of their business but some would be very hard for us to replace. None of them subcontract at any level so the chain would stop there. I have contacted all of them and gone over the issues of the NPRM and the impact it might have upon their company should this NPRM become law. I asked them to submit comments and hopefully they will. However, be assured that all were concerned about the increased costs that would have to be absorbed if they were to establish and maintain a drug and alcohol program. This is particularly so for the smaller job shops as much of their business does not require such expensive and burdensome overhead.

We also contract or do work with twenty-five (25) certificated Repair Stations. The two major ones are foreign Repair Stations and are therefore exempt. If we look at the other twenty three (23) and say that on average they only have four (4) non-certificated subcontracting entities, or half of what we use, that would be an additional ninety two (92) companies which would have to register with the FAA Office of Aerospace Medicine Drug Abatement Division and set up compliant drug and alcohol programs. Another way of looking at the volume would be to look at the number of domestically certificated Repair Stations that would be affected by the NPRM. If we assume, on average, they have four non-certificated persons to whom they subcontract (this allows for the overlap we know will occur), you can see the volume of individuals covered grows very quickly. This assumes that none of them have sub-tier contracting and does not account for any non-certificated persons used by the U.S. air carriers.

We believe that the NPRM, if adopted, could drive many companies away from supporting the aviation industry. They would have to take on the additional burdens of setting up their our own drug and alcohol program (and the infrastructure it entails) as it would not be practical to include their employees in the programs of the certificated Repair Stations. A large company that only does a small amount of repair work (like one of our non-certificated subcontracting entities) may have a big problem if they cross-utilize their employees. All would have to be covered under Part 121, Appendix I and J because they could be called upon to work on equipment operated by a U.S. air carrier. Additionally, they would be taking on employee-employer relationship problems that heretofore they have not had to anticipate. Their employees might believe that drug testing is an invasion of privacy and, since they are not in the aviation industry, may find it difficult to understand why they are subject to such a burden. I believe many of them simply do not perform enough aviation work to subject themselves to FAA regulation. Indeed, if the FAA adopts the rule as it is written, some of our eight (8) non-certificated maintenance subcontractors may refuse to continue their relationship with our certificated Repair Station.

For those companies that choose to do so, they would need to pass the costs of establishing and maintaining a drug and alcohol program on to the certificated Repair Stations or to all their customers, aviation and non-aviation related alike. These customers like the certificated Repair Stations would, in turn, pass it on to their customers, again, many of which may not even be in aviation. All of this will result in increased costs, without any apparent safety benefits to the aviation industry. It will make it even harder for the domestic Repair Stations to stay competitive with the foreign Repair Stations that are exempt from these requirements.

This leads me to believe that the FAA has not adequately balanced the safety and cost impacts or considered the potential ramifications of having these subcontractors, particularly those not certified to perform work on their own, covered by an FAA Drug and Alcohol approved program.

Rather than reducing the burden on the regulated public, as the FAA has claimed, we believe this proposal would have the opposite effect by imposing significant additional burdens on the public.

Our major economic issue is with the possibility of losing our one key plating subcontractor. As this is not a large part of their business, if they elected to stop supporting the aviation industry the consequences could be very expensive. To bring a large sodium cyanide based plating operation into our facility with current air, water and fire restrictions at last estimate was well over $300,000 as Washington State's has some of the strictest and closely monitored environmental laws in the nation.

For these reasons, we believe the FAA should reaffirm its previous policy that non-certificated maintenance subcontractors are not subject to the FAA's drug and alcohol rules. Thank you for providing this opportunity to comment.

Sincerely,

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