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U.S. Department of Transportation
Docket Operations
West Building Ground Floor
Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

RE: Petition for Rulemaking on 14 CFR section 145.221
Direct Final Rule to Correct Error

To Whom It May Concern:

Pursuant to Title 14 Code of Federal Regulations (CFR)[1] part 11,[2] the undersigned respectfully petition for an amendment to 14 CFR part 145 in the form of a direct final rule.

Proposed Action and Purpose[3]

Specifically, the signatories petition the agency to include the word "serious" in § 145.221; the word was erroneously removed during a recent rulemaking.[4]

The undersigned organizations represent a large cross-section of the civil aviation repair station industry. Our members will be directly and significantly impacted by the erroneously amended language.

Proposed Language for Amended Rule[5]

Restore § 145.221 to:

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

[1] All regulatory references are to 14 CFR unless otherwise indicated.
[2] *See* §§ 11.61(a), 11.63(a)(2), and 11.71.
[3] *See* § 11.71(a)(2).
[4] 79 FR 46971, (August 12, 2014).
[5] *See* § 11.71(a)(3).

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Information, Arguments, Facts and Circumstances[6]

The Federal Aviation Administration (FAA) erred in removing the word "serious" from § 145.221. The agency apparently removed the word based upon an incomplete history of the rulemaking activities surrounding the section. The FAA's statement that "[t]he word 'serious' was removed through notice and comment rulemaking in the 2001 final rule[7]…[and]…was inadvertently inserted by a separate final rule" is incorrect.[8] Rather, the word "serious" was deliberately and correctly reinserted as a direct consequence of public comments in the Dec. 30, 2003 final rule.[9] Specifically, the preamble to the 2003 amendment specifically notes:

> Also, FAA agrees with the repair station industry concerning the word 'serious'. It was not the agency's intent to require repair stations to report 'any' failure, malfunction, or defect. When FAA combined §§ 145.63 and 145.79 to create § 145.221, FAA standardized language in that section to match language in parts 121, 125, and 135, which do not include the word 'serious.' In doing so, FAA removed the word 'serious' to describe the type of failures, malfunctions, and defects repair stations must report. Again, it was not FAA's intent to require repair stations to report all failures, malfunctions, and defects. Repair stations are required to report only serious failures, malfunctions, and defects. **Therefore, FAA is reinserting the word 'serious' before the word 'failure' in § 145.211(a)**.[10] (Emphasis added.)

It is therefore clear that the addition of the word "serious" was a deliberate act emanating from appropriate public comment, and therefore "serious" should not have been removed in the final rule issued Aug. 12, 2014, which becomes effective Nov. 10, 2014.[11]

Furthermore, the burden of reporting "any failure, malfunction or defect" is as costly today as when the original removal of the word was contemplated. Articles come to repair stations because of those stated conditions; without the word "serious" all items received for work would have to be reported under the rule. The cost to the agency and

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[6] *See* § 11.71(a)(5)-(6).
[7] 66 FR 41088, (August 6, 2001).
[8] 65 FR 56192, (September 15, 2000).
[9] 68 FR 75380, (December 30, 2003).
[10] 68 FR 75381. (December 30, 2003)
[11] 79 FR 46971, (August 12, 2014).

the industry is incalculable. More importantly, it would not yield information to help the industry and the agency determine pre-cursors to safety events; rather, it would merely inundate the agency's database.

Why the Proposed Action is in the Public Interest[12]

It is in the public interest for the agency to honor its previous rulemaking activity by correcting the record on its recent final rule. To do otherwise creates confusion and misunderstanding regarding the laws and directives governing the rulemaking process. The Administrative Procedures Act (APA)[13] mandates agencies review public comment and if appropriate make changes to notices of proposed rulemaking to accommodate the input. The FAA did so appropriately in 2003 and inadvertently misrepresented those activities in 2014.

Due to the urgency of ensuring a proper rulemaking and to avoid unnecessary cost or confusion to the agency and industry, it is imperative that the FAA reinsert the word "serious" through a direct final rulemaking under the APA's good cause exception. The agency certainly can find that notice and comment procedures are "impracticable, unnecessary, [and] contrary to the public interest."[14] In this instance, it is in the public interest to implement a correction that was fully vetted during a previous comment period relating to the exact same section and issue.

We strongly urge FAA to accept our petition and issue a direct final rule correcting § 145.221.

Thank you for your time and consideration on this important matter.

Sincerely,

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[12] *See* § 11.71(a)(4).
[13] 5 U.S.C. 553.
[14] 5 U.S.C. 553(b)(3)(B).

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