

## II. Research by the Rank and File

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# The Craft or Class of “Mechanic and Related”: Are They Really All Related?

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Currently, in the eyes of the National Mediation Board (NMB), federally licensed aircraft mechanics are not considered a unique craft or class with a unique skill set and unique responsibilities. Instead, they are lumped by the NMB into a large grouping of seemingly unrelated workers called the Mechanic and Related craft or class. In contrast, however, pilots are in the unique craft or class of Pilots, flight attendants are in the unique craft or class of Flight Attendants, flight dispatchers are in the craft or class of Flight Dispatchers, and locomotive engineers are in the craft or class of Engineers. It appears to be an anomaly that the licensed aircraft mechanics has historically not been afforded the same unique bargaining status that these other unique groups of workers within the air and rail industries have been afforded.

It is relatively common in union representation cases involving airlines that disputes arise regarding which workers are appropriately categorized as being within the current Mechanic and Related craft or class. Conversely, there is rarely a dispute over which employees are appropriately classified as Pilots, Dispatchers, or Flight Attendants. Apparently the NMB considers the Federal Aviation Administration (FAA) Airman Certificate for a pilot or a flight dispatcher to be much more exclusive than that of the licensed aircraft mechanic.

The thesis of this paper is that the licensed aircraft mechanic should be afforded a unique craft or class. Additionally, the workers in the “and Related” portion of the current craft or class of Mechanic and Related should be afforded the same rightful autonomy with respect to the reasonable “community of interest” criteria presently employed by the NMB. In the process of exploring this thesis, many current as well as historical determinations, proceedings, and rulings that have assembled such a large and seemingly varied number of work group classifications into one nearly all-encompassing and overly broad classification are examined. In addition, the problems, inconsistencies, and questionable logic that are illuminated in the NMB determination processes regarding the workers in this craft or class which, spanning decades, created the current craft or class. These same inconsistencies and questionable logic are also justification for reexamining the current craft or class of Mechanic and Related. Finally, suggestions are proposed in this paper as to why the current craft or class of Mechanic and Related needs to be changed, as well as how to affect the suggested changes in an orderly and structured manner.

### **Licensed Aircraft Mechanics Are Unique**

Simply put, in the eyes of the NMB, licensed aircraft mechanics are not a unique trade or skill group. Such varied workers as automotive mechanics, maintenance records entry personnel, building cleaners, parts washers, building repairmen, aircraft fuelers, and cabin interior cleaners, among other workers, are all lumped into the NMB craft or class of Airline Mechanic and Related, along with licensed aircraft mechanics. In this

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instance, the NMB has historically collectivized large numbers of varied, and seemingly unrelated, groups of airline workers under an umbrella grouping with the phrase “and Related.” In only one other instance since 1998, when NMB records started being maintained digitally, has the phrase “and Related” been applied to a craft or class. That case involved engineers and related workers at United Airlines, who were in fact also licensed aircraft mechanics involved in a representational dispute at that carrier (NMB-R-6902, 2003).

The *American Heritage Dictionary* defines mechanic as “A worker skilled in making, using, or repairing machines, vehicles, and tools” (*American Heritage Dictionary* 2000/2009). The U.S. Department of Labor Bureau of Labor Statistics further defines the aircraft mechanic occupation as: “... aircraft and avionics equipment mechanics and service technicians perform scheduled maintenance, make repairs, and complete inspections required by the FAA” (U.S. BLS 2010) It is clear by these definitions that to be recognized as a mechanic, not only must one have mechanical aptitude but also a high level of skill and problem-solving abilities. In its description of licensed aircraft mechanics, the BLS clarifies the critical nature of the work they perform by stating that “today’s airplanes are highly complex machines with parts that must function within extreme tolerances for them to operate safely” (U.S. BLS 2010).

From a broad perspective, there can be no dispute that there are numerous types of mechanics, or mechanical trades, in both the rail and airline industries, as well as throughout nearly all other industries. The primary differences between such varied groups of mechanics, all of whom have some similar basic mechanical abilities, can be broken down into the following criteria: required levels of education or training, level of personal responsibility, level of professional liability, and, finally, the presence or absence of mandatory government-regulated licensing requirements to perform their associated work.

There are clearly no uniform licensing requirements for the vast majority of the work groups currently assembled within the craft or class of Mechanic and Related. These work groups include building cleaners, aircraft cabin cleaners, aircraft washers, parts washers, etc. In addition, these listed work classifications hold no requirement of advanced education or advanced training requirements, no recurrent training requirements imposed by a federal regulatory authority, and virtually no personal liability or long-term professional responsibility for the quality of their work. Another significant issue is that among the major airline labor agreements, there is no formal line of progression or apprenticeship program within any of these work groups into the category of licensed aircraft mechanic—or any other current mechanic classification for that matter. Several airlines have or have had programs, however, whereby an individual, either a new hire or current employee, can gain experience within the carrier. In these instances, the carriers all require that the employee already possess the appropriate FAA Airman ratings required to perform the work before being employed as a licensed aircraft mechanic. As a point of clarification, these programs are not actually a form of apprenticeship because the worker is already a licensed aircraft mechanic; these programs more closely resemble an extended training and probation period to ensure that adequate experience is acquired prior to the inexperienced worker being allowed to work independently and without a stringent oversight program.

In addition, neither the automotive mechanic nor facility mechanic is required to be certified or licensed at the federal level. While many employers require some industry qualifications, they can vary greatly from state to state and employer to employer. The educational requirements to adequately perform repairs to automobiles, motorized vehicles, or buildings and facilities can be significant; however, they do not parallel the educational requirements for the licensed aircraft mechanic. Furthermore, neither occupation imposes on its members the same level of personal responsibility or professional liability that the licensed aircraft mechanic assumes.

## **How Are Licensed Aircraft Mechanics Certified In the United States?**

In the United States, all persons and operators must be certificated and licensed by the FAA to perform maintenance and/or repairs on any aircraft operated within U.S. borders. This certification, called an Airman Certificate, is used to certify what activities the holder of the certificate may perform on aircraft.

The Airman Certificate for licensed aircraft mechanics allows for two different aircraft mechanic ratings. The Airframe and the Powerplant ratings, most commonly awarded at the same time, attach to the Airman Certificate and enable the mechanic to perform maintenance, preventive maintenance, rebuilding, and

alterations to the structure, systems, engines, propellers, and appliances of aircraft (14 CFR 65 Part D). While it is possible to be awarded one or the other rating individually, both are more commonly required by most aviation employers who do not have a specific need for only one rating. These two Airman ratings, more commonly called an A&P, are considered independent ratings. This means that the individual worker holds the actual authority and license to perform work on aircraft, independent of the authority of an employer or carrier.

A second type of aircraft mechanic, the repairman (14 CFR 54.103), is awarded a Repairman Certificate but works strictly under the license of the employer (14 CFR 145.159). The employer actually holds the license, called a Certified Repair Station (14 CFR 145). These repair stations are normally centralized facilities where the repairman is most often employed in the activity of extensive repairs, alterations, and overhaul of aircraft under the authority of the employer. In this scenario, unlike the licensed A&P mechanic, the repairman does not actually hold an independent license to work on aircraft; the employer holds the ultimate authority and certificate under which the repairman works.

To clarify the differences between the two forms of aircraft mechanics in a real-world setting, one need only observe the activities of a typical airline. There are two principal forms of aircraft maintenance performed on aircraft operated by an airline. These can be generally classified as either overhaul maintenance or line maintenance activities. The overhaul maintenance activity is rarely seen by the flying public and is normally accomplished in a remote area, while line maintenance is readily observable each and every day at nearly any airport that supports scheduled passenger flights.

The first maintenance activity to explore in greater detail is overhaul maintenance. This activity is where the repairman principally works. In this situation, the aircraft is parked in a hangar overhaul facility. It is usually disassembled to some degree, extensive inspections are performed, required repairs and adjustments are accomplished, and then final reassembly and system testing is done. After all of these processes are completed, it is not uncommon for the aircraft to require a functional check flight. This verification flight ensures that all functions, systems, and maintenance on the affected the systems of the aircraft have been ascertained to function properly in flight before the carrier uses the aircraft to carry passengers. The aircraft mechanics who perform this overhaul work are not generally required by the FAA to possess A&P licenses because the work is being performed under the authority of the Certified Repair Station license, which is granted to the air carrier or aircraft repair company by the FAA and not to the individual worker (14 CFR 145).

The second maintenance situation is line maintenance, which is where the aircraft is in operation and carrying passengers. In this instance, licensed aircraft mechanics, generally holding both the Airframe and Powerplant ratings, are required to perform all maintenance and repairs on the aircraft. These repairs, maintenance, and periodic inspections are performed either on the flying day or, more commonly, in overnight time frames. The FAA in most instances mandates that all line maintenance repairs and related actions on commercial aircraft be performed in accordance with approved procedures and processes and that all work be performed by licensed aircraft mechanics holding the appropriate Airframe or Powerplant rating as (14 CFR 121.371).

## **How the Craft or Class of “Mechanic and Related” Emerged**

Upon enactment of the amended Railway Labor Act in (RLA) 1936, airline labor activities were added to the regulatory authority of the NMB. Previously, the NMB principally regulated rail labor issues. Before the 1936 amendment and even before enactment of the RLA, many craft or class disputes in the rail industry were already resolved and well defined by the trade unions that represented workers in the rail industry. Because the air carrier industry was a fledgling industry at the time of the enacted amendment, the process of identifying which workers belonged in which craft or class basically started from scratch. In the early determinations by the NMB, reversals, changes, and corrections were quite commonplace. Examining solely the air carrier mechanical and ground worker groups, there were initially numerous different classifications of mechanics, including Flight Mechanic, Ground Mechanic, Automotive Mechanic, Plant Maintenance Mechanic, Radio Mechanic, and Mechanical Department Employees, among others. Over time,

these distinctions evaporated at air carriers as more and more mechanical workers were assembled into the current craft or class of Mechanic and Related by their unions.

A few landmark cases have shaped the current craft or class of Mechanic and Related. In one such case in 1945, the NMB placed virtually all ground workers—specifically, “Airline mechanics (including radio mechanics), Ground service personnel, Plant maintenance personnel, and Fleet service personnel”—into one craft or class known as Airline Maintenance of Equipment Employees at American Airlines (NMB-R-1447, 1945). Stores personnel, more commonly known in industry now as logistics workers, were specifically excluded from that list and were allowed to vote as a separate craft or class. Stores personnel are the workers who handle and transport materials and parts, mainly in support of the aircraft maintenance operation. In that same year, the NMB defined the craft or class Airline Mechanic very narrowly at Colonial Airlines, even after referencing the previous American Airlines case, when a representation dispute was declared between the International Association of Machinists and Aerospace Workers and the Air Line Mechanics Association. This representation case determination included only “various grades of airline mechanics and inspectors” in the craft or class of Airline Mechanic (NMB-R-1462, 1945).

Because of a series outdated and often seemingly contrary decisions made by the NMB going back more than 50 years, the licensed aircraft mechanic has been relegated to a mass classification that, according to the NMB, can include nearly anyone from data entry personnel to fleet service to lower-level management personnel. The NMB reasoning is that all these work groups share a strong “community of interest.” It could be reasonably argued that the pilot and the flight dispatcher are closely intertwined in their duties to plan and execute safety compliance for the flights they are assigned to, yet they each have a unique craft or class. Flight attendants and pilots, it could be further argued, are both focused on the safety of the passengers while in the air and share a strong “community of interest” in ensuring the safety of the passengers while in flight, yet they have their own craft or class. Stores workers could be interpreted as having a strong community of interest with the Mechanic and Related craft or class, considering that both work groups generally handle the same parts and materials, yet stores workers are afforded their own craft or class. In addition, the activities of stores workers also closely relate to the work of those in the classes or crafts of Clerical, Office, Station, and Store-House Employee, but after careful consideration by the NMB, stores workers were reaffirmed to be in their own craft or class (NMB-R-1462, 1945).

When considering issues of “community of interest,” without a solid foundational reference point, the circular arguments seem to be endless. These arguments can range from the supposition that nearly every worker activity deserves its own craft or class to the blanket statement that all employees of a company obviously have a strong “community of interest,” which is for the company to consistently earn a profit. By collectively ensuring continued success of the carrier, all affected workers are obviously afforded long-term, stable employment.

## **History of the Railway Labor Act and the National Mediation Board**

To understand the entire issue, it is necessary to explore the legislation and history of this topic, including a brief summary of the RLA and actions of the NMB. The RLA was enacted into law in 1926 (45 USC 151-188). In 1936, the RLA was amended to include the U.S. airline industry (49 Stat. 1189). The RLA provides a legal framework for the resolution of labor–management disputes in those two industries, including employee representation issues, as well as collective bargaining and contract administration processes where employees have chosen to be represented by a labor union. Under the auspices of the RLA, the creation of a new administrative organization, the NMB, was authorized to administrate the requirements of the RLA (45 USC 154). Once Congress enacted this statute, the NMB was granted ultimate authority over nearly all labor–management disputes relating to representation as well as bargaining agreement negotiation and resolution, for rail and air carriers, in addition to some maritime activities as well.

## **Occupational Classifications Explained**

Unfortunately, there is no official classification system regarding craft or class for the NMB. The system by which the NMB determines which workers belong or do not belong within a specific craft or class is performed on a case-by-case basis (NMB Representation Manual 19.2, 2010). When a representation

dispute arises for the first time, only then is the classification actually discussed, examined, and resolved, and then only for that instance. On this issue, the NMB Representation Manual states that

the NMB considers many factors, including the composition and relative permanency of employee groupings along craft or class lines; the functions, duties and responsibilities of the employees; the general nature of their work; and the extent of community of interest existing between job classifications. Previous decisions of the NMB are also taken into account. (NMB Representation Manual 9.1, 2010)

Because these representation disputes are investigated on a case-by-case basis, there has never been a baseline foundational construct of which worker activities make up any craft or class. The case-by-case situation is based on the claims from each unique carrier as well as the expectations of each labor organization. This can be exacerbated when there are two labor unions, with different philosophies, vying to represent the same worker group. This is generally the case where an industrial union and a trade union are both seeking to represent a group of workers. Each type of union will present their case in light of their philosophy, either vast inclusion for the industrial union or focused inclusion for the trade union.

### **Who Is in the Craft or Class?**

Historically, there have been significantly fewer craft or class disputes in the rail industry than in the airline industry. This is commonly attributed to the fact that trade unions in the rail industry had long ago resolved most craft or class disputes well in advance of the enactment of the RLA, along more obvious and traditional trade union lines—for example, rail mechanics are organized in the machinists union, rail electricians in the International Brotherhood of Electrical Workers, rail sheet metal workers in the Sheet Metal Workers Union, etc. (Heisler 1969).

As the airlines, called carriers by the NMB, have evolved, decisions about which craft or class performs a specific task have changed over time. Some of these have remained fairly static, with very specific limitations on who is covered by the craft or class, including pilots, flight attendants, and flight dispatchers, among others. For the Mechanic and Related craft or class, that is not the case.

The workers assigned to the craft or class of Airline Mechanic and Related have historically been subject to a much more malleable definition than most other workers, such as the Pilot, Flight Attendant, and Flight Dispatcher work groups. Depending on which airline a worker is employed by, the craft or class may change and include or exclude some work groups. The following workers are currently included in the craft or class of Mechanic and Related at many carriers, including United Airlines, American Airlines, and Southwest Airlines: licensed aircraft mechanic, automotive mechanic, facility mechanic, aircraft washer/cleaner, interior cabin cleaner, parts washer, building cleaner/custodian, aircraft fueling workers, and maintenance records data entry, and other workers.

There have been a significant number of representation disputes between unions that subscribe to an industrial union philosophy and those that subscribe to the trade union philosophy. In general, the industrial unions have pursued nearly any worker in the craft or class of Mechanic and Related; these industrial unions have clearly have been successful. The most obvious example is the NMB decision from 1945 in which the Transport Workers Unions (TWU) successfully included such questionably related workers as parts washers, flight engineers, and fleet service personnel (NMB-R-1447, 1945). It is interesting that the NMB during this same investigation found that “another rather surprising development is the complete change in attitude on the part of certain organizations as to what constitutes a ‘craft or class.’” The NMB referred to the fact that some involved labor organizations either discontinued their interest in the case or completely reversed their initially stated position and further noted that concepts similar to economies of scale and industrial union philosophies prevalent at the time may have strongly factored into the industrial trend at the time.

The NMB has never specifically defined the craft or class of aircraft mechanic—or many other worker crafts and classes for that matter. It relies substantively on previous determinations, although it is not strictly bound by them in the manner that the courts are understood to be bound implicitly by precedent (NMB Representation Manual 2010). Unfortunately, this policy has caused significant conflict, confusion, and

contradiction over the decades that the NMB has administered the edicts of the RLA regarding who belongs in what craft or class.

### **What Makes the Licensed Aircraft Mechanic Unique?**

A significant number of factors clearly separate the licensed aircraft mechanic from every other work group currently within the Mechanic and Related craft or class. Foremost among these, and the primary factor that separates the licensed aircraft mechanic from any other craft or class under the RLA, is the fact that licensed aircraft mechanics are the only group of workers required to possess a federal license to perform their work within the current craft or class. Unlike any other group of workers within the craft or class, the licensed aircraft mechanic is not only directly responsible for the work directly performed but also is responsible for the ultimate airworthiness of every aircraft he or she worked on in the long-term, not just for the approaching flight. If the licensed aircraft mechanic fails to accomplish work properly, whether intentionally or not, he or she may be subject to federal investigation, substantial fines, and loss of the ability to work under the FAA license. He or she could also potentially be imprisoned for violations of federal aviation regulations (14 CFR 13.23). No other work group within the current craft or class carries such a level of responsibility, or personal and professional risk.

During research for this paper, no other unique craft or class covered by the authority of the NMB could be found that currently comingles both federally licensed and nonlicensed workers in one craft or class. In each other case, the federally licensed work group is afforded its own distinctive craft or class.

Licensed aircraft mechanics are the only group of workers within the craft or class of Mechanic and Related who are required by FAA and U.S. Department of Transportation (DOT) mandate to submit to random drug testing (14 CFR Part 121). This finding by the DOT and FAA that the licensed aircraft mechanic falls under the Safety Sensitive classification further demonstrates the lack of a discernible “community of interest” with the rest of the current craft or class. This mandate alone should clearly separate the licensed aircraft mechanic from all other work groups currently within the craft or class of Mechanic and Related.

The presence of federally mandated duty time regulations is another example of how only licensed aircraft mechanics are subject to unique federal regulation (FAR 121.377). Like pilots and flight attendants, licensed aircraft mechanics have federally mandated periods of rest. Every licensed aircraft mechanic is required to have no fewer than four days off each month. Obviously, this means that even if the licensed aircraft mechanic desired to work additional days, his or her ability to increase income is limited by FAA mandate. In addition, some airlines further limit the amount of time a licensed aircraft mechanic may work each day. The current United Air Lines limitation is 14 hours (UAL-AMFA 2005), and American Airlines has limitations that vary for each station but do not normally exceed 16 hours per day (AA 2010).

The presence of licensed aircraft mechanics in the National Aeronautics and Space Administration’s Aviation Safety Reporting System is clear recognition of the integral role that those mechanics serve in continuing to advance the interests of aviation safety. The primary function of this federal program is to collect, analyze, and respond to aviation incident reports to reduce the likelihood of future aviation mishaps. This program is available only to licensed aircraft mechanics, pilots, air traffic controllers, ad flight dispatchers, and flight attendants (the latter is the only nonlicensed group) who are obviously directly involved in safety of flight interests. Once again, other than licensed aircraft mechanics, no group of workers within the current craft or class of Mechanic and Related is involved in this important safety related program.

Another distinguishing factor demonstrating the uniqueness of the licensed aircraft mechanic is that at numerous airports, including O’Hare International Airport (ORD), the activity of moving aircraft on the ground, when passengers are not on board the aircraft, either by towing or taxiing, is solely within the applicable job description for the licensed aircraft mechanic (ORD 2009). Recently, in addition to conventional taxi or tractor tow-bar movement operations, several airports including ORD have implemented specific policies regarding the use of new and more modern aircraft tow vehicles, often called super-tugs or towbarless tow vehicles. The same ORD policy that places conventional taxi and tow activities solely within the realm of activity of the licensed aircraft mechanic also now includes use of this new vehicle for aircraft movement.

The complex and often stressful activity of relocating an aircraft on the ground—from a maintenance hangar to the departure gate, for example—entails moving an aircraft, either under its own power or by utilizing a tow vehicle, while navigating an often busy airport while under the direction of the FAA air traffic control ground movement controller. This activity requires intimate knowledge of the applicable aircraft systems, as well as complete familiarization with the airport and the numerous FAA and local airport authority regulations, policies, and procedures. Aircraft ground movement is critical because, at many airports, it is often necessary to move the aircraft across active departure or arrival runways and navigate a maze of directional change directives from the FAA air traffic controller who coordinates all airport ground movement. During all this activity, the licensed aircraft mechanics must constantly maintain situational awareness and ensure that aircraft systems are functioning properly.

In addition to the preceding reasons that Licensed Aircraft Mechanic is a unique work group, serious consideration must also be given to the issue of cross-utilization, and this is examined in much greater detail later in this paper. Cross-utilization in this instance refers to the inability of a worker or mechanic to work as a licensed aircraft mechanic if he or she is not in actual possession of the required A&P license.

Moreover, the enumerated work groups are consistently separated not only physically, but also departmentally at various air carriers, as well as within various unions. At American Airlines, for example, the aircraft maintenance department is contained within a completely separate corporate structure, Maintenance and Engineering, and is separated from the Facility Maintenance, Automotive Maintenance, or Cabin Service departments, which are within the Marketing structure. At United Airline Lines, this unique department status is again demonstrated for aircraft maintenance and is named United Services, but it is similarly structured and separated, similar to American Airlines, from other work groups within the craft or class of Mechanic and Related (United Services 2010).

A more recent shift of definition and distinction has been observed as part of the changing aircraft maintenance business model at air carriers, commonly brought on by the Chapter 11 reorganizational bankruptcy process (11 USC Chapter 11—Reorganization). Currently, only one legacy air carrier performs virtually all its aircraft overhaul efforts in-house, American Airlines. All other legacy air carriers have effectively outsourced most or all of their aircraft overhaul activities to third-party aircraft overhaul companies, usually via bankruptcy. These same air carriers continue to employ substantial numbers of licensed aircraft mechanics to perform the line type of aircraft maintenance, while shedding the cost, labor, and overhead of the entire aircraft overhaul maintenance process. The bankruptcy process also historically sheds or outsources to third-party vendors numerous other groups of workers and work groups currently within the craft or class of Mechanic and Related, including automotive mechanics, cabin cleaners, facility mechanics, etc. Recently, the last legacy air carrier, American Airlines, filed for Chapter 11 reorganizational bankruptcy protection. Its preliminary expressed goals for exiting bankruptcy included significantly reducing or eliminating internal aircraft overhaul activities at both its Tulsa and Fort Worth facilities. This is a common business tactic as part of the exiting bankruptcy air carrier business plan by outsourcing work to lower cost third-party vendors (Tulsa World 2012).

An industry shift also occurred with the labor organizations representing the craft or class of Mechanic and Related. In the late 1990s, a concerted representation effort occurred at American Airlines by the Aircraft Mechanics Fraternal Association (AMFA) independent union. During what in the end was a failed attempt to replace the TWU, one of the TWU International's responses to the campaign was to provide the work groups involved in the representation campaign the unprecedented opportunity, for the first time, to separate from their larger locals into antonymous locals. The specific work groups afforded this opportunity included automotive mechanics, facility mechanics, stores workers and licensed aircraft mechanics. This process was dubbed "self-determination" by the newly forming locals as well as TWU International. Before this action, each local represented all crafts or classes that the TWU represented at that carrier within a specified geographic area or station. When the self-determination process was completed, several new locals were created, divesting portions of work groups from existing locals. The result further demonstrates a serious craft or class disconnect between work groups within the current craft or class of Mechanic and Related and its representative union. In Chicago, the facility and automotive mechanics chose to remain in the current Local 512 with fleet service clerks, while the licensed aircraft mechanics and stores workers chartered their own new Local 563. In the New York area, which includes Boston, the newly

chartered Local 562 under self-determination now represents licensed aircraft mechanics at all of their listed cities, represents stores worker at all of its assigned stations except Boston, and represents automotive and facility mechanics in Boston only. The rest of these workers chose to remain with the previous Local 501 instead of moving within the NMB craft or class group at the new Local 562. Similar activities occurred within the TWU in the Miami, Dallas, Los Angeles, and San Francisco areas.

The AMFA pursued representation of facility mechanics at Southwest Airlines, where it had already represented the craft or class of Mechanic and Related, which comprised only the licensed aircraft mechanics at that air carrier. The NMB eventually used the process of accretion, examined in greater detail later in this paper, to incorporate those facility mechanics into the craft or class of Mechanic and Related (38 NMB 23, R-7281, 2011). This specific example further demonstrates that the complete craft or class of Mechanic and Related, namely the facility mechanics in this instance, were not afforded the same representation opportunity by the NMB when the AMFA began representing licensed aircraft mechanics at that carrier. This further demonstrates that, even from carrier to carrier, the definition of which workers are and are not considered to rightfully be contained within this specific craft or class according to the NMB seems to change.

An additional anomaly in the continuing history of the Mechanic and Related craft or class determinations is the relatively newer group of workers known as flight simulator technicians. These skilled craftsmen maintain and repair highly complex modern flight simulators for numerous airlines and third-party flight training companies. In 1986 Pacific Southwest Airlines contended that their employees who worked as flight simulator technicians were a unique craft or class, while the International Brotherhood of Teamsters (IBT) argued they were properly part of the Mechanic and Related craft or class (14 NMB 5, R-5656, 1986). The NMB in this case determined that flight simulator technicians are actually classified as "... an accretion to the craft or class of Mechanic and Related Employees." Merriam-Webster defines the word *accretion* as "the process of growth or enlargement by a gradual buildup" (Merriam-Webster 2010). The policy of accretion at the NMB was previously known as an "addendum to certification" and effectively placed workers into an overall craft or class via the addendum process (Eischen 1976). To further complicate matters, this unique accretion group from the Mechanic and Related was then afforded the right to vote separately for representation instead of simply being absorbed into the current craft or class of Mechanic and Related. Strangely, in the election that was called for later that year, eligible technicians were then identified by the NMB not as accreted but simply as the craft or class of Flight Simulator Technicians (14 NMB 16 & R-5656, 1986). The work performed by flight simulator technicians is obviously a specific type of mechanic work, not required to be federally certified but still afforded a unique craft or class, while federally licensed aircrafts mechanic are still not considered unique enough to be afforded the same consideration.

After a series of determinations, flight simulator technicians were held as an accreted craft or class, reaffirming the policy of affording unique work groups the opportunity to continue to vote separately. The accreted group of workers known as flight simulator technicians were effectively afforded their own craft or class in function if not originally in name or unique craft or class. In Southwest Airlines' representation dispute with their flight simulator technicians in 1988, the NMB certified flight simulator technicians as a unique craft or class as then represented by the Southwest Flight Simulator Technicians Association (15 NMB 56, R-5808, 1988), while the Mechanic and Related craft or class at that carrier remained represented by the IBT (10 NMB 34, R-5342, 1982). Since then, the designation Flight Simulator Technician has been used by the NMB and recognized as a unique craft or class for election purposes.

### **Other Skilled Craft or Class Situations**

The NMB has never specifically defined the craft or class of the Licensed Aircraft Mechanic, or many other worker groups for that matter. It relies substantively on previous determinations, but, as stated before, is not strictly bound by them in the same manner that the courts are understood to be bound implicitly by precedent, barring legislative alteration (NMB Representation Manual 2010). As previously explained, the emphasis on a real and tangible "community of interest" for groups of workers is of great significance to the NMB when determining craft or class boundaries.



Some of the most significant reasons that the licensed aircraft mechanic should be considered unique were laid out clearly in the first portion of this paper. Now the craft or class determination process within the NMB is examined to shed light on the often seemingly contradictory decisions.

First, the group of workers known as Flight Engineers is examined in greater detail. The NMB initially included flight engineers at American Airlines that were represented by the Flight Engineer Association in the Airline Mechanic craft or class by using the primary logic that members of both groups hold the A&P certificate (NMB-R-1212, 1944). The NMB later modified its position and determined that flight engineers at Transcontinental & Western Air, represented by the Air Line Flight Engineers Association, are actually part of the unique craft or class of Flight Engineer, even though they hold the same license as licensed aircraft mechanics (NMB-R-1484, 1945). Again, this time in 1961, the NMB changed its position as to which craft or class flight engineers actually belong, deciding that flight engineer belongs in the craft or class of Pilot or Flight Deck Crew Member at United Airlines when the pilots were represented by the Air Line Pilots Association (and flight engineers were represented by the Flight Engineers' International Association (NMB-C-2946, 1961). In this dispute, the foundational question was whether the two groups should maintain their unique craft or class of Flight Engineer if the carrier required all flight engineers to now hold a pilot license. One of the principal factors cited by the NMB in deciding this case was whether flight engineers were required to have an aircraft pilot license, as they were at United Air Lines (UAL). The NMB determined that since they were required to hold the same license, they were all pilots and should all be listed in that craft or class. This has historically been understood to mean that because the flight engineer (holding only an A&P certificate) cannot be cross-utilized as a pilot due to licensing requirements, the unique position of flight engineer was essentially being eliminated in favor of perceived improvements in operational flexibility at that carrier.

A second pertains to a group of workers in the rail industry. A craft or class dispute arose between the United Transportation Union (UTU) and the Brotherhood of Locomotive Engineers (BLE) at Union Pacific Railroad (UP). In this instance, the dispute was about whether, due to operational changes over time and advances in technology, the craft or class of Train and Engine Service Employees should include the previously unique craft or class of Engineers in with other workers who perform conductors' duties and who were currently in the craft or class of Train and Engine Service Employees. The main argument by the UTU was the same cross-utilization argument as used in the UAL flight engineer case (NMB-C-2946 (1961)). In the UP rail dispute, the UTU argued that the two work groups should be combined into one craft or class because rail engineers can be cross-utilized as rail conductors. The UTU neglected to mention, however, that a conductor may not, without the necessary federal license, ever be cross-utilized as an engineer. One of the critical deciding factors stated by the NMB in the BLE-UTU dispute at UP as to why rail engineers are unique and should not be merged into the same craft or class as rail conductors is the fact that, unlike rail conductors, rail engineers are in fact required to have a federal certificate in order to perform their primary job function (27 NMB 45, 2000). It is clear from this decision that the absence of the ability to effectively cross-utilize into the position of a federally licensed position without possession of the required federal license is a significant determining factor and is of critical importance to the NMB.

## **Proposed Changes to the Current Craft or Class**

Craft or class disputes are not simply issues about exclusion but about appropriate inclusion as well. The very nature of the craft or class determination process is one of either exclusion or inclusion. As the NMB policy states, "a clearly defined community of interest is a principal deciding factor on which workers shall share a common craft or class" (NMB Representation Manual 9.1, 2010).

The basic work group craft or class must be the basic building block definition by which the NMB defines the category of work or distinct community of interest for each proposed new craft or class based on the criteria of the NMB over time:

- *Licensed Aircraft Mechanic:* This craft or class would comprise employees performing the aircraft maintenance functions specified in the Airframe and Powerplant Airman certificates and ratings issued by the FAA, as well as employees employed in an aircraft overhaul capacity working under a Certified Repair Certificate. It would be reasonable, as has been discussed in this paper, to

further examine these two unique work groups and potentially create an Aircraft Overhaul Repairman craft or class and a Licensed Aircraft Mechanic craft or class. The separation could be defined simply by whether the individual exercises the rights and authorities of individually issued Airman Certificate and ratings (14 CFR 65) or whether the worker performs under the auspices of the license of the employers' Certified Repair Station license (14 CFR 145).

- *Flight Simulator Technician:* This craft or class should be maintained in the current condition, as it is clearly and correctly established that these skilled workers are unique. No proposed or perceived changes to this craft or class are readily apparent.
- *Ground Mechanic:* This craft or class would include all employees currently performing automotive repairs, maintenance, and overhaul as well as those performing building and facility construction, repairs, and maintenance activities, along with any formal apprentices. It is not unreasonable to further separate this group of mechanics. Automotive mechanics and facility mechanics could be separated into different crafts and classes based on their unique activities. Automotive mechanics generally receive certifications from the National Institute for Automotive Service Excellence (ASE) for each type of automotive repair activity they qualify for. Facilities mechanics, however, generally receive qualifications, certificates, or licenses from various state agencies or test into the associated trade union. Examples include electricians, plumbers, pipe-fitters, insulators, and carpenters. This position can be further reinforced by the fact that in the rail industry there are many unique mechanic-type crafts or classes (Electricians, Sheet Metal Workers, etc.) that currently have their own unique craft or class.
- *Ground Support Worker:* This craft or class would include all employees performing functions such as aircraft cabin cleaning, aircraft parts cleaning, aircraft polishing, building cleaning, and administrative support functions, including all production support personnel added by the recent NMB determination (287 NMB 89). However, workers who perform aircraft fueling activities as the major portion of their work should appropriately remain in the current craft or class of Fleet Service (NMB-R-3639, 1963).

To summarize, these proposed new craft or class groups would more accurately and equitably reflect the real and tangible community of interest requirements of the NMB. The proposed changes would also amass workers into associated groups that perform the same activities and have a well-defined community of interest. Automotive mechanics, for example, are a unique and skilled group, as are facility mechanics and licensed aircraft mechanics. The most obvious NMB-referenced differences among the three basic mechanic groups for air carriers are their unique licensing and certification processes, along with the fact that none of these mechanics can be cross-utilized into most other groups of mechanics without first possessing the requisite licenses or certifications.

### **The NMB Is Not Averse to Implementing Corrections**

In the instances in the past where the NMB has found its logic, circumstances, or policies to be contrary to the intent of the Railway Labor Act or the balance between workers and carriers, the NMB has taken corrective action. In one recent example, it reversed a 75-year policy on how ballots that are not cast in a representation election are counted. Before the change, votes not actually cast were considered votes against representation. This was the only situation in the United States where a predisposition of elective choice was effectively imposed on a voter before he or she casted a ballot. After much debate between carriers, union representatives, affected workers, and academia, the three-person board ultimately decided to change the policy and simply ignore votes not cast rather than allow those votes to weigh the election against representation ((29 CFR Parts 1202 and 1206) Docket C-6964) (2010). This was an extremely contentious proposal. The NMB received thousands of pieces of correspondence from workers, carrier representatives, management, legal experts, and academia. In the final decision, spanning 27 pages of the *Federal Register*, the NMB Board said it had reversed its previous long-standing policy because the change would “more accurately measure employee choice in representation elections.”

## **Why Changes to the “Mechanic and Related” Craft or Class Are Necessary**

As demonstrated in this paper, a significant factor in considering community of interest with air carrier pilots and flight engineers, as well as rail carrier conductors and engineers is whether employees in the work group must have a federal license or certificate to perform their job. Currently, only one group of workers in the airline and rail industries that holds a federally issued license or certificate is not granted the right and recognition of a unique craft or class: the licensed aircraft mechanic. The NMB has determined that pilots, flight dispatchers, and locomotive engineers (all of whom are federally licensed in their areas) are justified in having their own unique craft or class. As previously discussed in this paper, possession of a federal license has been a critical point for the NMB in establishing unique crafts or classes.

## **How to Change the “Mechanic and Related” Craft or Class**

Clearly, the basic definition of “licensed aircraft mechanic” must cross carrier boundaries in the same manner that the foundational definitions of pilot, flight attendant, and flight dispatcher cross carriers. Their duties and requirements are not disputed, regardless of which carrier those groups are employed by. The criteria the NMB has previously adopted include licensing requirements, community of interest considerations, and, to a lesser degree, precedent.

Now that it has been established in this paper that a change is both necessary and prudent, the next step is to examine what processes exist to effect that change in an orderly manner. There are several established avenues to either adjust or correct previous decisions and make the proposed craft or class divisions to the Mechanic and Related work group based more in line with the logic the previously discussed decisions, strictly considering community of interest issues within the craft or class of Mechanic and Related and the workers currently in that craft or class.

In this case, the NMB could formally invoke its authority to convene a committee to examine the issue (NMB Representation Manual, 2010) and invite public comment on the proposed changes. This input would come from individuals and institutions and invariably include strong positions on both sides of the issue. After that, the NMB would examine comments and data and make a binding determination.

The most direct and expedient path would also be the least probable: obtaining a congressional directive. While a directive is possible, Congress has historically left such representation decisions to the NMB to be resolved through its internal processes. There have been few instances where a congressional mandate involved the RLA. One such anomaly is wording in the RLA that allows locomotive firemen and engineers to select which bargaining unit will represent them (the BLE or the UTU), regardless of which is the certified bargaining unit for their official craft or class (45 USC 151, Eleventh (c)).

A third possibility, also highly unlikely, is for a focused labor organization to emerge and obtain an adequate number of representation election authorization cards from licensed aircraft mechanics at a major air carrier, either excluding all other work groups currently within the craft or class or including them as separate work groups and justifying the changes. Because the AFL-CIO’s constitution (Article XX, Section 2) specifically prohibits any member union from raiding another AFL-CIO union, the antagonist union would need to be an independent union (AFL-CIO Constitution 2010). Another major challenge with this possibility is more functional or political. The action of attempting to separate the work groups at an air carrier represented by an industrial union could result in severe consequences for organizers who are members of the industrial union, if their efforts are unsuccessful. The adverse consequences could include designation as a nonmember or placement in bad standing if the card-drive campaign is defeated. These actions could therefore potentially prevent the deposed organizer from being eligible to hold any union position, attend membership meetings, or even be active at any level within the current representing union.

## **Summary**

Various criteria that the NMB previously used to justify a separate craft or class have not been used effectively or consistently to provide the licensed aircraft mechanic, or the other skilled mechanic groups previously discussed, with the deserved unique craft or class status at air carriers. Having examined the history of the craft or class of Mechanic and Related, it is clear that an injustice has been done not only against the

licensed aircraft mechanic but also against the other skilled mechanics and workers within the current craft or class of Mechanic and Related. This paper demonstrates that the proposed changes to the current craft or class of Mechanic and Related are both appropriate and solidly founded in NMB craft or class determination intent and logic.

The facts and history presented here are strong justification that each of the skilled mechanic work groups discussed in this paper should be afforded their own craft or class along real and defined communities of interest, and that the other workers currently relegated to the group “and Related” should also be afforded their own rightful craft or class classifications along similar tangible community of interest principles.

In addition, it is also argued in this paper that it is well past time for the NMB to create foundational work definitions for each craft or class and ensure that those definitions are enforced and administered consistently across all air carriers.

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