

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 65**

[Docket No. FAA-2010-1060]

Policy Clarifying Definition of “Actively Engaged” for Purposes of Inspector Authorization**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of policy; disposition of comments.

SUMMARY: This action clarifies the term “actively engaged” for the purposes of application for and renewal of an inspection authorization. It also responds to the comments submitted to the proposed policy and revises portions of that proposal. This action amends the Flight Standards Management System FAA Order 8900.1.

DATES: This policy becomes effective September 6, 2011.

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SUPPLEMENTARY INFORMATION:**Background**

Section 65.91(c) of Title 14 of the Code of Federal Regulations sets forth the eligibility requirements for obtaining an inspection authorization (IA). Among other requirements, an applicant must “have been actively engaged, for at least the two-year period before the date he applies, in maintaining aircraft certificated and maintained in accordance with [FAA regulations].” Section 65.93(a) sets forth the eligibility requirements for renewing an IA and incorporates the requirements for obtaining one under § 65.91(c)(1)–(4). Accordingly, an individual must be actively engaged, for at least the prior two-year period, in maintaining aircraft to be eligible to either obtain or renew an IA.

The FAA provides guidance concerning the issuance of IAs in the Flight Standards Information Management System (FSIMS), FAA Order 8900.1, Volume 5, Chapter 5, Sections 7 and 8. These sections assist aviation safety inspectors (ASIs) in evaluating an initial application for an IA or an application for renewing an IA as well as allow a prospective applicant to determine his or her eligibility. IAs

are issued for two years and expire on March 31 of odd-numbered years. March 31, 2013, is the next expiration date.

The definition of the term “actively engaged” has caused confusion among ASIs and aircraft maintenance personnel. The term is not defined in 14 CFR, and its definition in agency guidance materials has varied over time. In November 2010, the FAA published a notice of proposed policy clarifying the definition of “actively engaged” for the purposes of an IA.¹ The notice recognized the FAA’s prior inconsistent application of the term and the public’s misunderstanding of the regulatory requirements contained under § 65.91(c)(2). The notice proposed to amend FAA Order 8900.1 Volume 5 Chapter 5 to provide a clearer definition of “actively engaged” within FAA policy. The FAA reaffirmed longstanding policy that an applicant who is employed full-time in inspecting, overhauling, repairing, preserving, or replacing parts on aircraft consistently are considered actively engaged. For an applicant participating in (regardless of employment status) maintenance activities part time or occasionally, it proposed an ASI would use documentation or other evidence provided by the applicant detailing the maintenance activity to determine whether the type of maintenance activity performed, considering any special expertise required, and the quantity of maintenance activity demonstrated the applicant was actively engaged. The notice also proposed a limited carve-out, or relief, for ASIs holding an IA that are restricted in the type of maintenance they can perform due to ethical considerations.

The comment period closed on January 17, 2011, following an extension of the comment period.² The FAA considered late-filed comments through February 4, 2011. As of that date, more than 954 comments had been filed.

Discussion of the Comments and Final Policy

The majority of individual commenters believed the FAA was engaging in rulemaking rather than clarifying an existing rule, and these commenters generally were opposed to the proposed clarification. Many of these commenters expressed the belief the IA was a certificate or license, rather than an FAA authorization. They contended the loss of their IA would result in a loss of knowledge that could

affect their existing or future employment as well as lost knowledge to the industry in general. Some commenters contended a shrinking population of IAs would result in increased maintenance and inspection costs. Incidentally, many of these commenters acknowledged they did not perform or supervise any maintenance activities and previously renewed their IA by attending training or through oral testing under § 65.93(a)(4)–(5). Similarly, several commenters expressed the belief that accomplishing any of the activities in § 65.93(a)(1) through (5) were sufficient for IA renewal.³

The FAA believes these comments result from a common misunderstanding of the IA renewal requirements under § 65.93. Section 65.93 sets forth five activities, at least one of which must be completed in the first year and at least one of which must be completed in the second year, to be eligible for renewal of an IA. However, § 65.93(a) also states “an applicant must present evidence * * * that the applicant still meets the requirements of § 65.91(c)(1) through (4).” Accordingly, IA applicants must hold a current mechanic’s certificate with both airframe and powerplant ratings that has been in effect for at least 3 years and must have been actively engaged in maintaining aircraft for 2 years prior to the application. Additionally, IA applicants must identify a fixed base of operation at which he or she may be located in person or by phone during normal working hours. This may be a residence or place of employment. An IA applicant also must have available the equipment, facilities, and inspection data necessary to properly inspect airframes, powerplants, propellers, or related parts or appliances. Technical data includes type certificate data information, airworthiness directives, federal regulations, and availability of manufacturers’ service or maintenance information specific to the inspections being performed. Equipment required to properly inspect aircraft, powerplants, propellers, or appliances includes but may not be limited to basic hand tools,

³ Those activities are: (1) Performed at least one annual inspection for each 90 days that the applicant held the current authority; (2) performed at least two major repairs or major alterations for each 90 days that the applicant held the current authority; (3) performed or supervised and approved at least one progressive inspection in accordance with standards prescribed by the Administrator; (4) attended and successfully completed a refresher course, acceptable to the Administrator, of not less than 8 hours of instruction; and (5) passed an oral test by an FAA inspector to determine that the applicant’s knowledge of applicable regulations and standards is current. § 65.93(a).

¹ 75 FR 68249 (Nov. 5, 2010).

² See 75 FR 75649 (Dec. 6, 2010).

compression testers, magneto timing lights or disk, and devices applicable to determining control surface travels, cable tensions, or blade angles as applicable during the performance of an inspection. Facilities should be available to provide proper environmental protection of the aircraft, powerplant, propeller, or appliance being inspected. Consideration should be given to any adverse effects by wind, rain, temperature, or other inhibiting elements on the product being inspected.

The FAA disagrees with commenters' contention that the IA is a certificate or rating. The FAA consistently has held the IA is an authorization. The FAA also rejects the contention that employment would be affected because employers reasonably expect the FAA to ensure regulatory compliance and expect a person holding an IA has met all FAA requirements to hold that authorization.

Many commenters were concerned ASIs would evaluate individuals engaging in maintenance activities part time or occasionally in a subjective or inconsistent manner. These commenters request further clarification of part-time or occasional engagement to promote consistency and standardization. A commenter suggests any clarification specifically address individuals engaged in personal aircraft maintenance, retired mechanics providing occasional or relief maintenance, individuals providing maintenance in rural areas, and individuals offering specialized expertise in electrical, composites, and rare or vintage aircraft.

The FAA recognizes and values individuals with experience in wood structures, steel tubing, fabric coverings, radial engines, ground adjustable propellers, aging aircraft, and the fatigue inspection issues associated with these aircraft. The FAA also values the experience of individuals who are available on a part-time or occasional basis to inspect vintage or rare aircraft or aircraft that may be located in rural areas of the country not serviced by an abundance of IAs. The FAA does not intend to eliminate eligibility or renewal opportunities of these individuals. Accordingly, the FAA has adopted a broad definition of "actively engaged" to include not only part-time employment but also occasional activity, which does not require employment and can occur on an infrequent basis. The FAA believes it problematic to list every situation that could be considered actively engaged, and that approach may exclude situations that an ASI would determine meets the regulatory requirements. Additionally, as indicated in the

proposed policy, the FAA values the substantive nature of experience rather than a strict quantity formula.

The FAA has concluded that requiring ASIs to evaluate evidence or documentation provided by the applicant will facilitate a consistent review because the ASI will have more than the applicant's self-certification to make the determination. This documentation, when required, could include records showing performance or supervision of aircraft maintenance, return to service documents, and copies of maintenance record entries. The FAA expects documentation will establish an applicant's continued contributions to the aviation industry and ability to demonstrate compliance with 65.91(c)(1)–(4).

Many commenters, including several associations, requested the definition of actively engaged include supervision, either technical or in an executive capacity, of maintenance or alteration of aircraft because supervision meets the recency of experience requirements for an airframe and powerplant (A & P) certificate. Some commenters also requested actively engaged includes full-time instruction under part 147 and employment directly related to airworthiness (such as, technical representative, maintenance sales, maintenance coordinator, and maintenance auditor).

The FAA agrees that supervision of maintenance activities provides the same sort of experience the actively engaged requirement was intended to require. For that reason, the FAA will include technical supervision and supervision in an executive capacity on either a full-time, part-time, or occasional basis in the definition of actively engaged. The FAA previously determined involvement solely in an academic environment is not actively engaged. However, a technical instructor or part 147 school instructor may maintain aircraft or supervise the maintenance of aircraft in addition to instruction, in which case the instructor could be considered actively engaged. Individuals employed as a manufacturer's technical representative, maintenance coordinator, or maintenance auditor also could be considered actively engaged depending on the activity demonstrated. Without a better understanding of duties involved, it is unclear whether an individual involved in maintenance sales could demonstrate inspecting, overhauling, repairing, preserving, or replacing parts on an aircraft, or supervising those activities.

Several commenters contended the carve-out for ASIs renewing an IA was

inconsistent with the definition of actively engaged. One commenter contended an ASI should be required to meet the hands-on experience required of other applicants.

As stated in the proposed policy, FAA Order 8900.1 restricts the types of maintenance that ASIs can perform because of ethical concerns, and the FAA does not intend for ASIs to be prejudiced because of their employment restrictions. The FAA does not intend to change its policy regarding an ASI holding an IA by virtue of the ASI 1825 job description and resulting ASI responsibilities. An ASI retains the ability to maintain a personally-owned aircraft or aircraft owned by another ASI in meeting the actively engaged definition. Additionally, an ASI's job description requires continuous determinations of conformity to aircraft, engine, and propeller type certificates; adherence to manufacturers' maintenance requirements or inspection requirements; compliance with Airworthiness Directives; and the actual issue of recurrent and original airworthiness certificates. Further, an ASI accomplishes or oversees export certificate issuance requirements, oversees maintenance record entries for stated special airworthiness certificate issuance, oversees determinations of major repair/alteration requirements on FAA form 337, and oversees the determination of appropriate maintenance record entries. These job functions parallel the supervision in a technical or executive capacity and therefore these activities could be considered when determining whether the ASI has been actively engaged. After considering the comments, the FAA does not adopt an ASI carve-out because it anticipates ASIs would be able to demonstrate they are actively engaged under the policy as would any applicant supervising maintenance in a technical or executive capacity.

Several commenters, including associations, expressed concern that FAA Order 8900.1 lacked a specific appeal process for applicants denied the initial or renewal IA because of an ASI's determination that the applicant was not actively engaged.

Because the issuance or renewal of an IA is not a certificate action, the FAA does not have a formal appeal process. However, an action on an IA application could be addressed through the Aviation Safety Consistency and Standardization Initiative (CSI), which requires review of a questioned or disputed action at every level of the AVS management chain.

One commenter contended there should be no actively engaged

requirement for an initial or renewal IA. Another commenter suggested the period of active engagement should be extended from two to four years.

These comments are beyond the scope of the policy clarification because they would require rulemaking. Nevertheless, the FAA views the actively engaged requirement as providing maintenance experience relevant to conducting inspections. Similarly, the two-year period provides the recency of experience in maintenance performance or supervision necessary to conduct inspections.

The FAA has determined to make this policy effective for the next renewal cycle in March 2013 to allow IAs and ASIs adequate time to participate in the required activity. The FAA will update FAA Order 8900.1 accordingly.

Amendment

In consideration of the foregoing, the Federal Aviation Administration will revise FAA Order 8900.1, Volume 5, Chapter 5 as follows:

1. Amend Section 7, Paragraph 5–1279 by adding a Note after subparagraph A to read: 5–1279 ELIGIBILITY. The ASI must establish the applicant's eligibility before allowing the applicant to test. None of the requirements of Title 14 of the Code of Federal Regulations (14 CFR) part 65, § 65.91 can be waived by the ASI.

A. The applicant must hold a current mechanic's certificate, with both airframe and powerplant ratings, that has been in effect for at least 3 years. The applicant must have been actively engaged in maintaining certificated aircraft for at least the 2-year period before applying.

Note: Actively engaged means an active role in exercising the privileges of an airframe and powerplant mechanic certificate in the maintenance of civil aircraft. Applicants who inspect, overhaul, repair, preserve, or replace parts on aircraft, or who supervise (i.e., direct and inspect) those activities, are actively engaged. The ASI may use evidence or documentation provided by the applicant showing inspection, overhauling, repairing, preserving, or replacing parts on aircraft or supervision of those activities. This evidence or documentation when required could include employment records showing performance or supervision of aircraft maintenance, return to service documents and or copies of maintenance record entries.

Technical instructors or individuals instructing in a FAA part 147 approved AMT school, who also engage in the maintenance of aircraft certificated and maintained in accordance with 14 CFR, can be considered actively engaged. Individuals instructing in a FAA part 147 AMT school, who also engage in the maintenance of aircraft-related

instruction equipment maintained in accordance with 14 CFR standards, can be considered actively engaged.

B. There must be a fixed base of operation at which the applicant can be located in person or by telephone. This base need not be the place where the applicant will exercise the inspection authority.

C. The applicant must have available the equipment, facilities, and inspection data necessary to conduct proper inspection of airframes, powerplants, propellers, or any related part or appliance. This data must be current.

D. The applicant must pass the IA knowledge test, testing the ability to inspect according to safety standards for approval for return to service of an aircraft, related part, or appliance after major repairs or major alterations, and annual or progressive inspections performed under part 43. There is no practical test required for an IA.

Note: The ASI should see paragraph 5–1285 for instructions on determining an applicant's eligibility.

2. Amend Section 8, Paragraph 5–1309 by adding a Note after subparagraph (A)(1) to read:

5–1309 RENEWAL OF INSPECTION AUTHORIZATION.

A. Application Requirements. Application for renewal may be required to comply with the following:

(1) Show evidence the applicant still meets the requirements of § 65.91(c)(1) through (4).

Note: Refer to Paragraph 5–1279(A)–(C) of this document for information on meeting § 65.91(c)(1) through (4) requirements. Refresher training attendance alone does not satisfy those requirements.

(2) Complete Federal Aviation Administration (FAA) Form 8610–1, Mechanic's Application for Inspection Authorization, in duplicate.

(3) Show evidence the applicant meets the requirements of § 65.93(a) for both the first and second year in the form of an activity sheet or log, training certificates, and/or oral test results, as applicable.

Issued in Washington, DC, on July 28, 2011.

John S. Duncan,

Acting Director, Flight Standards Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0012; Airspace Docket No. 10–ASO–44]

Amendment of Class D and Class E Airspace; Columbus Lawson AAF, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class D and Class E airspace at Lawson Army Airfield (AAF), Columbus, GA, by removing the reference to the Columbus Metropolitan Airport Class C airspace area from the description. Controlled airspace at Columbus Metropolitan Airport is being downgraded due to decreased air traffic volume. This action is necessary for the safety and management of air traffic within the National Airspace System. This action also updates the geographic coordinates of Columbus Lawson AAF.

DATES: Effective 0901 UTC, October 20, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

History

On May 24, 2011, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify Class D and E airspace at Lawson Army Airfield (AAF), Columbus, GA by removing the reference to the Columbus Metropolitan Airport Class C airspace area from the description, and modifying the geographic coordinates of Lawson AAF (76 FR 30045) Docket No. FAA–2011–0012. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class D and E airspace designations are published in paragraph 5000 and 6002, respectively, of FAA Order 7400.9U dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace