

[4910-13]

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 Proposed Policy

SUMMARY: This action proposes to clarify the term “actively engaged” for the purposes of application for and renewal of an inspection authorization. This proposal would amend the Flight Standards Management System Order 8900.1.

DATES: Comments must be received on or before December 6, 2010.

ADDRESSES: You may send comments identified by docket number FAA-2010-1060 using any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- **Mail:** Send Comments to Docket Operations, M-30; US Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.
- **Hand Delivery:** Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- Fax: (202) 493-2251.

FOR FURTHER INFORMATION CONTACT: Ed Hall, Aircraft Maintenance General Aviation Branch, AFS-350, Federal Aviation Administration, 800 Independence Avenue S.W., Washington, DC 20591; telephone: (804) 222-7494 ext. 240; email: ed.hall@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to submit written comments, data, or views concerning this proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

The FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposal. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments and any late-filed comments if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of comments received.

Availability of This Proposed Policy

You can get an electronic copy using the Internet by—

- (1) Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
- (2) Visiting the FAA's Regulations and Policies web page at http://www.faa.gov/regulations_policies/; or

- (3) Accessing the Government Printing Office's web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue S.W., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number or notice number of this proposal.

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 not related to this proposal, 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, 2011, 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. Prior to 1988, the FAA considered persons exercising their mechanic certificate when employed full-time in aircraft maintenance to be actively engaged, and those employed on a part-time basis were individually evaluated by an FAA inspector. In 1988, the FAA issued new guidance tightening the definition of actively engaged to include only those individuals employed full time in inspecting, supervising, overhauling, repairing, preserving, or replacing parts on certificated aircraft. In April 2010, the FAA retracted the 1988 policy, largely because it had been applied inconsistently, and began the process of clarifying actively engaged through agency guidance. This proposal is the result of that process.

Generally, amendments to the FSIMS are made directly by the FAA’s Flight Standards Service. However, because of the widespread confusion and inconsistent interpretation of actively engaged, the FAA is publishing this proposed FSIMS amendment and inviting public comment on it.

Discussion of the Proposal

It is a longstanding FAA requirement that an applicant for an IA or for renewal of an IA be actively engaged (i.e., an active, working airframe and powerplant (A&P) mechanic exercising the privileges of the mechanic certificate). An applicant can demonstrate that he or she is an active, working A&P mechanic in a number of ways.

An applicant who is employed full-time in inspecting, overhauling, repairing, preserving, or replacing parts on aircraft consistently has been considered actively engaged. An applicant who is employed part-time in those maintenance activities may be actively

engaged. An applicant who participates in (regardless of employment status) those maintenance activities part time or occasionally may be actively engaged.

Whether that part-time or occasional employment or participation constitutes actively engaged depends on the circumstances. For that reason, those determinations must be made by the ASI reviewing the application. To make the determination, the ASI should consider the type of maintenance activity performed, considering any special expertise required, and the quantity of maintenance activity. In some cases, such as a mechanic performing maintenance in geographical area that has limited access to some special expertise or a retired mechanic who occasionally performs maintenance as needed, the type of maintenance activity may be the determining factor even when its quantity is relatively insignificant. Because the ASI's determination is unique to each applicant, the ASI would use documentation or other evidence provided by the applicant detailing the maintenance activity. Accordingly, the FAA proposes to define in FAA Order 8900.1 the factors an ASI should consider when reviewing an application for an IA or for renewal of an IA.

Additionally, FAA Order 8900.1 restricts the types of maintenance that ASIs can perform because of ethical concerns. The FAA does not intend for ASIs to lose their IAs because of these limitations. Accordingly, the FAA proposes a carve-out for ASIs who also hold an IA.

The FAA intends this policy statement to clarify rather than change the definition of "actively engaged" and provide clear guidance to ASIs that can be applied consistently. The FAA intends for this clarification to be in effect for the next IA renewal cycle in March 2011.

Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 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 exercising the privileges of an airframe and powerplant mechanic certificate in the maintenance of civil aircraft. Applicants who are employed full-time in inspecting, overhauling, repairing, preserving, or replacing parts on aircraft are considered to be actively engaged. Applicants who are employed or participate in inspecting, overhauling, repairing, preserving, or replacing parts on aircraft on a part-time or occasional basis will be evaluated by the ASI to determine whether the applicant is actively engaged. The ASI will evaluate the scope of part-time or occasional activity based on the type of maintenance activity, including any special expertise required, and the quantity of maintenance activity performed. To evaluate the scope of the part-time or occasional maintenance activity, the ASI will use evidence or documentation provided by the applicant showing inspection, overhauling, repairing, preserving, or replacing parts on aircraft.

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. Because volume 1, chapter 3, section 2 of this Order limits the type of maintenance that ASIs can perform, an ASI may renew an IA regardless of volume of maintenance work performed.

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 October 29, 2010

John McGraw
Deputy Director, Flight Standards Service

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