



U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

MAY - 4 2016

Nelson Hochberg
[REDACTED]

Re: What Tasks Must be Recorded in an Aircraft's Maintenance Record,
and Whose Names Must Appear in those Maintenance Records Under
14 C.F.R. § 43.9(a)

Dear Mr. Hochberg:

This responds to your July 18, 2015 request for an interpretation of 14 C.F.R. § 43.9(a), to clarify the circumstances under which a person must make an entry in the maintenance record of an aircraft, and under what circumstances must a person's name be included in the record when the task he or she performed is minor or in the nature of assisting the person who approves the aircraft for return to service. You asked three related questions, and the general answer to each is that if the task performed is one of the activities addressed in the regulation (maintenance, preventive maintenance, rebuilding, or alteration), the record entry must be made, and the name of the person who performed the task must be included in the maintenance record.

Your questions involve only maintenance or preventive maintenance tasks, not rebuilding or alteration. Preventive maintenance tasks are listed in 14 C.F.R. part 43, appendix A, paragraph (c). The general definition of maintenance is found at 14 C.F.R. § 1.1—it means, "inspection, overhaul, repair, preservation, and the replacement of parts, but excludes preventive maintenance." Our answers below are in the context of general aviation, and do not necessarily apply to aircraft operated by air carriers under 14 C.F.R. parts 121 or 135, the maintenance of which are governed by those parts in addition to part 43.

Your first question, triggered by advice you and another received from FAA Aviation Safety Inspectors (ASI), is at what point does preventive maintenance rise to the level that a § 43.9(a) record entry must be made? First, you state that an ASI advised you that if a pilot asks you to look at an aircraft tire on the ramp and you find it to be OK, you must make a logbook entry recording your inspection as maintenance. Second, an experienced pilot told you that an ASI told him he needs to make a maintenance record each time he cleans a windshield or adds a quart of oil to the engine.

First, all preventive maintenance must be recorded under § 43.9(a). The issue is whether a task is preventive maintenance. None of the tasks you referenced would be required by § 43.9(a) to be entered in the maintenance records of the aircraft because, under the circumstances you described, they are neither maintenance nor preventive maintenance. In the case of cleaning a windshield or getting an opinion on the condition of a tire, the FAA considers these to be

covered in the normal course of flight preparation and pre-flight inspection—tasks not normally considered to fall under the definitions of maintenance or preventive maintenance. One exception to that would be if the pilot had written up a discrepancy in the aircraft records. In that case the inspection of the item would result in making an airworthiness determination that would need to be documented in the logbook. The subject of adding oil is often debated; however, we note that it is not an item included in part 43, appendix A, paragraph (c), which lists items the FAA considers to be preventive maintenance. Accordingly, while it may be prudent to include in the maintenance log the adding of oil, including the quantity added, doing so is not required by a regulation. In determining whether the performance of a given task must be entered in the maintenance record of the aircraft, you should determine if it falls within the regulatory definition of either maintenance or preventive maintenance. If it does, the regulations require that the entry be made.

Your second question asks at what level of work do additional persons performing work need to be listed in the logbook entry? Section 43.9(a) states that “Except as provided in paragraphs (b) and (c) of this section, *each person* who maintains, performs preventative maintenance, rebuilds, or alters an aircraft, airframe, aircraft engine, propeller, appliance, or component part shall make an entry in the maintenance record of that equipment containing the following information ... (3) *The name of the person performing the work* if other than the person specified in paragraph (a)(4) of this section” (emphasis added). Therefore, if a person assists you in performing some task (trading airplane washing for flight time, in your example), you would make the assessment on a case-by-case basis to determine if the task rose to the level that § 43.9(a) would require it to be recorded. If it did, you must provide the name of the person performing the work.

Your third question asks whether, during owner-assisted annual inspections, it is acceptable under § 43.9 for the person who holds the Inspection Authorization (IA) to list all work done and sign the entry with only his name, with no reference to any person who assisted him. First, note that the maintenance record entry for annual inspections is governed by § 43.11, not § 43.9.¹ And yes, so long as the level of assistance provided does not independently rise to the level of maintenance or preventive maintenance, a separate entry listing the person’s name would not be required under § 43.9.² Therefore, the answer to your question is that only the holder of the IA is required to make the inspection maintenance entry under § 43.11. Section 43.11(a) does not require the names of the persons who assist in the inspection to be listed. Note, however, that if, in the course of providing this assistance, the assister performed a task that would independently

¹ Note that § 43.9(c), in pertinent part, specifically excludes inspections performed in accordance with part 91 (in this case, annual inspections) from the requirements of § 43.9. It is § 43.11 that provides the maintenance record entry requirements for inspections conducted in accordance with Part 91, including annual inspections.

² Only the holder of an IA may perform an annual inspection, but certain people may assist the IA holder. See Legal Interpretation to Mr. Tim Amalong, 2015 WL 2170369 (D.O.T.). “Under 14 C.F.R. § 43.3(b) the holder of a mechanic certificate may perform maintenance as provided in part 65, and under § 43.3(d) a person working under the supervision of the certificate holder may also perform maintenance, as circumscribed by that paragraph. Except for the actual annual inspection of the items listed in part 43, appendix D, the listed items are maintenance items that may be performed by persons authorized in § 43.3.” Legal Interpretation to Mr. Tim Amalong, 2015 WL 2170369 (D.O.T.).

rise to the level of maintenance or preventive maintenance, that work must be recorded pursuant to § 43.9.

You expressed the view that only the certificate holder who approves work for return to service would be responsible for the work. This view is not correct. While the certificate holder may also be held responsible for the improper repairs,³ any person who improperly performs work subject to the recordkeeping requirements of § 43.9 may be subject to FAA enforcement action.⁴ In a March 20, 2014 legal interpretation to Mr. Randy Romigh, the Assistant Chief Counsel for International Law, Legislation and Regulations explained:

Any mechanic who improperly performs work subject to the recordkeeping requirements of § 43.9 may be subject to FAA enforcement action—including mechanics who contribute to the work but are not responsible for approval. This is because, under § 43.13(a), “each person” performing maintenance, preventive maintenance, or alterations on an aircraft “shall use the methods, techniques, and practices prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness ... or other methods, techniques, and practices acceptable to the Administrator” Furthermore, under § 43.13(b), “[e]ach person” maintaining or altering an aircraft “shall do that work in such a manner ... that the condition of the aircraft... will be at least equal to its original or properly altered condition.” Therefore, by their express terms, §§ 43.13 (a) and 43.13 (b) make clear that each person (not only those who approve the work) is responsible for the proper performance of maintenance.⁵

I hope this information has been helpful. This response was prepared by Edmund Averman and Sarah Sorg, attorneys in the Airworthiness Law Branch of the Office of the Chief Counsel and coordinated with the Aircraft Maintenance Division (AFS-300) in the FAA’s Flight Standards Service. If you have further questions concerning this response, please contact us on 202-267-3073.

Sincerely,



Lorelei Peter
Assistant Chief Counsel for Regulations, AGC-200

³ See e.g. *In the Matter of Sanford Air, Inc.*, FAA Order No. 97-31, 1997 WL 685988, *3 (F.A.A.) (finding by a preponderance of the evidence that Sanford Air approved the aircraft for return to service (though it did so improperly), and that Sanford Air is responsible for the improper repairs where the company billed and received payment for work done by one of its employees).

⁴ See Legal Interpretation to Mr. Randy Romigh, 2014 WL 1394469 (D.O.T).

⁵ *Id.*

NELSON HOCHBERG

July 18, 2015

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Request for interpretation of 14 C.F.R. § 43.9(a)

I have three questions related to 14 C.F.R. § 43.9(a).

Question 1:

43.9(a) states "...each person who maintains, performs preventive maintenance, rebuilds, or alters an aircraft, airframe, aircraft engine, propeller, appliance, or component part shall make an entry in the maintenance record of that equipment..." When does "preventive maintenance" meet the requirements of this paragraph?

I recently was told by a Scottsdale FSDO Maintenance Inspector that if a pilot asks me to look at a tire on an aircraft on the ramp that I find to be OK, I need to log that in the aircraft logbook as maintenance. Extending this further, if this inspector is correct, does the pilot need to log his inspection each time he inspects the tires during a preflight inspection (walk around)?

Another experienced pilot told me a Scottsdale FSDO Maintenance Inspector told him that he needs to log as maintenance each time he cleans his windshield or adds a quart of oil to the engine (not change the oil, just add oil).

Assuming that looking at a tire, cleaning a windshield or adding oil to an engine are not items that need to be logged in the aircraft's logbook at what point does preventive maintenance rise to that level?

Question 2:

§ 43.9(a)(3) states: "The name of the person performing the work if other than the person specified in paragraph (a)(4) of this section." At what point does this need to be complied with?

If a line service tech bucks rivets for me, do I need to record his name and work in the log book? If a high school student trading airplane washing for flight time washes an airplane as required for an annual inspection, does his work need to be logged with his name?

So this question is similar to question 1: at what level of work do additional persons performing work need to be listed in the logbook entry?

Question 3:

Owner assisted annual inspections have been a very common practice in the industry. Legal Interpretation 2015 WL 2170369 by Mark W. Bury on May 1, 2015 clarifies that under 14 C.F.R. § 43.3(d) a person working under the supervision of the certificate holder may also perform maintenance, as circumscribed by that paragraph except for the actual annual inspection of the items listed in part 43, appendix D. With owner assisted annuals, it is common that the IA lists all the work done and signs the entry with his name and no reference to the people who assisted him. In fact, in the decades I have been a mechanic, I have seen only one logbook entry that listed other people who performed some of the work. My question: is this common practice acceptable with § 43.9(a)(3)?

There are situations that demonstrate that this is acceptable. Repair stations and manufacturers have technicians who do not have any certification doing work covered under § 43.9(a) and yet their names never show up in an aircraft maintenance log. Granted, these facilities have other record keeping requirements but still, are they not complying with § 43.9(a)(3)? When the work is done under the supervision of the certificate holder, the certificate holder is ultimately responsible for the work done the same as if he did the work himself. The certificate holder does not share this responsibility with the people under his supervision so it seems logical that only his name needs to be recorded. Other industries follow this policy. For example, in medicine, an assistant can do certain work under a physician's supervision. Medicare and other insurance allow billing the service under the

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physician's name. When a bill is introduced in Congress, it is introduced under the elected representative's name even though s/he usually is not the person who drafted the bill and the drafters of the bill are not mentioned.

If it is acceptable that persons working under the direction of a certificate holder need not be mentioned in a log entry then when does § 43.9(a)(3) apply. If it is not acceptable and these persons do need to be listed in the maintenance log, then when multiple persons are working under the direction of the certificate holder does each person need to be listed with the specific work he personally did or can a blanket statement such as "John Doe and Dave Smith assisted me with opening and closing access ports, removing and replacing seats and cleaning the engine and aircraft".

Thank you,

Sincerely,



Nelson Hochberg