

Attachment 9

To Operations Group Factual Report

DCA12IA141

FAA Notice 8900.194

NOTICE

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

N 8900.194

National Policy

Effective Date:
7/13/12

Cancellation Date:
7/13/13

SUBJ: Reexamination of Airmen Tested by Designated Pilot Examiner Edward Lane

1. Purpose of This Notice. This notice provides guidance to Federal Aviation Administration (FAA) aviation safety inspectors (ASI) on program policies and procedures for reexamining individuals holding pilot certificates with various ratings who were tested by Designated Pilot Examiner (DPE) Edward L. Lane of Las Vegas, Nevada. The reexamination will ensure that these individuals meet the standards of Title 14 of the Code of Federal Regulations (14 CFR) part 61 to hold their certificates and/or ratings.

Note: This guidance is considered to be supplemental to FAA orders and Federal regulations.

2. Audience. The primary audience for this notice is Flight Standards District Office (FSDO) ASIs. The secondary audience includes Flight Standards branches and divisions in the regions and in headquarters (HQ).

3. Where You Can Find This Notice. You can find this notice on the MyFAA employee Web site at https://employees.faa.gov/tools_resources/orders_notices. Inspectors can access this notice through the Flight Standards Information Management System (FSIMS) at <http://fsims.avs.faa.gov>. Operators can find this notice on the FAA's Web site at <http://fsims.faa.gov>. This notice is available to the public at http://www.faa.gov/regulations_policies/orders_notices.

4. Authority. Title 49 of the United States Code (49 U.S.C.) § 44709 is the authority for the reexamination of a certificated pilot. The law in part states, "The Administrator of the Federal Aviation Administration may... reexamine an airman holding a certificate issued under section 44709 of this title."

5. Purpose of the Reexamination. As a result of a Special Emphasis Evaluation Designee (SEED), and subsequent investigation by the FAA of the certification activities of DPE Edward L. Lane, the Administrator has determined that there is reason to believe that the competency of the airmen examined by DPE Lane from the period of September 2009 to October 2011 (fiscal year (FY) 2010 and FY 2011) is in doubt. As a result of the evidence obtained during the investigation, the FAA has determined that these airmen will require

reexamination of their competency pursuant with 49 U.S.C. § 44709 to ensure safety in air commerce.

6. Airmen to be Reexamined.

a. Tested by Edward L. Lane. All airmen that were tested by DPE Lane will be reexamined unless they have subsequently been reexamined or tested by another DPE or FAA inspector for additional certificates or ratings with satisfactory results; in those cases, no reexamination letter will be sent. The Las Vegas FSDO will send a § 44709 notification letter to all other airmen tested by DPE Lane during the cited time period. If it is subsequently determined that an airman has been tested for an additional pilot certificate or rating with satisfactory results after the last test administered by DPE Lane, the reexamination letter will be rescinded. The letter will also be rescinded in the case of a current military pilot in command (PIC) submitting evidence of satisfactory completion of a military proficiency check subsequent to the test conducted by DPE Lane.

b. Assigned Outside the United States and its Trust Territories. Relief for U.S. military and civilian personnel who are assigned outside the United States and its Trust Territories in support of U.S. Armed Forces operations will be applied to airmen requiring reexamination. The criteria for this relief will be the same as is offered in Special Federal Aviation Regulation (SFAR) 100-2; relief includes the opportunity to complete reexamination within 6 calendar-months after returning to the United States.

c. Foreign Airmen. Foreign airmen issued certificates or ratings by DPE Lane during the cited time period are to be reexamined in the same manner as airmen in the U.S. In many instances, the foreign airmen will have been issued foreign certificates or ratings based on their U.S. certificates or ratings. No reexamination activity outside the U.S. is authorized by this notice. In order to be reexamined, foreign airmen will have to appear in the U.S. at their own expense.

7. Section 44709 Notification Letter. Airmen requiring reexamination will be notified by mail sent to the airman's address of record (obtained from the FAA's Civil Aviation Registry). The Las Vegas FSDO point of contact (POC) will issue each notification letter. The Las Vegas FSDO will print and mail two copies of the notification letter to each airman via the U.S. Postal Service; one copy will be sent certified mail/return receipt requested (proof of service), and the other by regular mail. Lack of a return of the regular mail letter raises a presumption that the airman received the letter; in such cases, an appropriate person at the Las Vegas FSDO should document that the regular mail letter was not returned. For an airman with both U.S. and foreign addresses, two copies will be mailed to each address. The letter will notify the airman of the decision to reexamine and require the airman to contact the Las Vegas FSDO POC (referenced in the letter) within 10 business days of receipt of the letter to schedule a reexamination. The letter will state that the airman may be reexamined for each certificate and rating DPE Lane issued them from September 2009 to October 2011. The Las Vegas FSDO will maintain the records of the notifications to the airmen and the records of the administration of the reexaminations.

8. Reexamination Process.

a. Preliminary Test Procedure. The inspector conducting the § 44709 reexamination of the airman will request and review the airman's certification records prior to conducting any reexamination. The inspector will determine whether or not the airman has successfully completed a practical test for any certificate or rating with a DPE (other than DPE Lane) or FAA inspector since the last successful test taken with DPE Lane. If the inspector determines that the airman has successfully completed an additional certification action as described, the requirement for this reexamination will be rescinded. The FSDO will validate proof of the airman's satisfactory testing (temporary airman certificate) with the Airman Certification Branch (AFS-760) prior to contacting the Las Vegas FSDO to terminate the reexamination process. The POC for this verification is Mary Snyder, who can be contacted at 405-954-3794 or mary.snyder@faa.gov.

b. Test Standard. If the airman has not received an additional certificate or rating as described above, the reexamination will continue. The reexamination will cover the most recent certificate or rating that the airman received from DPE Lane. Certificates or ratings issued to the airman by DPEs other than DPE Lane are not subject to this reexamination. The reexamination will consist of a complete practical test as set forth in the appropriate practical test standard (PTS) for the applicable certificate or rating.

c. Voluntary Surrender or Exchange. An airman may elect to voluntarily surrender or exchange a certificate for cancellation or downgrade pursuant with part 61, § 61.27. They may surrender a certificate for downgrade only if the practical test for the lower grade certificate was not administered by DPE Lane. If the reexamination is for the purpose of demonstrating qualification for a rating (e.g., Instrument Airplane), the airman may surrender his or her certificate for the purpose of having it reissued without the rating. An airman who offers to voluntarily surrender their airman certificate for cancellation or exchange will be provided a statement to sign that records voluntary surrender.

d. Practical Test. The applicable airman PTSs that were identified in the reexamination letter will be used.

e. Test Locations. Reexaminations will be performed at the Las Vegas FSDO or the office of the airman's choosing, providing that the individual notifies the Las Vegas FSDO of the other office on the form provided with the reexamination letter for this purpose.

f. Scheduling a Reexamination. When the Las Vegas FSDO is contacted by the airman, they will allow the airman to choose from available dates and times to schedule the reexamination. The reexamination should normally take place within 15 days of receipt of the letter of notification; however, there may be exceptions that delay the reexamination in accordance with FAA Order 8900.1, Volume 5, Chapter 7, Section 1, subparagraph 5-1419C. The inspector should accommodate the airman as deemed necessary and appropriate to the situation, but may not allow the airman to postpone the reexamination indefinitely. If the airman does not intend to operate aircraft for a short period of time, or needs time to practice and cannot meet the 15 day deadline, the airman may temporarily deposit their airman certificate at the FSDO for a maximum of 30 days in accordance with the temporary deposit and reissue policy (refer to

FAA Order 8900.1 Volume 5, Chapter 2, Section 5, Miscellaneous Part 61 Certification Information). If the airman has made arrangements to have the reexamination administered at another FSDO, the same standards should be applied.

Note: If the airman refuses to be reexamined or to voluntarily surrender for cancellation or downgrade, the FAA inspector will inform the airman that legal enforcement action will be initiated to suspend or revoke the certificate(s) and/or rating(s).

g. Reexamination Results.

(1) First Reexamination Satisfactory. If the first reexamination test is successfully completed, the airman will be provided with an official letter of successful completion of reexamination, closing the matter. The airman may then continue to exercise the privileges of the certificate and/or rating(s).

(2) Second Reexamination.

(a) The airman must be informed in detail of each deficiency. The individual should be offered the opportunity to surrender for cancellation or downgrade in lieu of a second reexamination. The airman should not be offered a second reexamination if the inspector finds and documents that the airman's performance on the first reexamination was so substandard that the airman is unsafe for flight, even with additional practice or training.

(b) If the airman accepts the offer to take a second reexamination, their certificate must be temporarily deposited at the FSDO; the inspector issues a temporary certificate to allow additional practice or training. The temporary certificate must have a limitation against carrying passengers and a 30 day expiration date, in accordance with FAA Order 8900.1, Volume 5, Chapter 7, Section 1, subparagraph 5-1424B and Figure 5-141, FAA Form 8060-4. The airman has 30 days in which to practice or obtain dual instruction before being reexamined again. If the temporary deposit certificate term is nearing expiration, a decision must be made to either suspend the certificate in accordance with the current edition of FAA Order 2150.3, FAA Compliance and Enforcement Program, or extend the temporary deposit certificate for another 30 days. If the airman fails the second reexamination, he or she should be offered the opportunity to surrender for cancellation or downgrade. If the airman successfully completes the second reexamination, the airman's certificate will be returned, and the airman will be provided with an official letter of successful completion of reexamination, closing the matter.

h. Reexamination Documentation. FAA Form 8710-1, Airman Certificate and/or Rating Application, will be used to document the reexamination. FAA Order 8900.1, Volume 5, Chapter 1, Section 3, paragraphs 5-52 through 5-54 and Chapter 7, Section 1, subparagraph 5-1427G provide appropriate instructions to document the reexamination. Copies of all documents must be sent to the Las Vegas FSDO. Order 8900.1, Volume 5, Chapter 7, Section 1, subparagraphs 5-1427L through N outline required documents depending on the outcome of the exam.

9. Legal Enforcement Action. If the airman does not respond, or does not successfully complete reexamination and does not voluntarily surrender their certificate(s) and/or rating(s) for cancellation or downgrade, legal enforcement action must be taken in accordance with FAA Order 2150.3. In accordance with that order, the Enforcement Investigation Report (EIR) must reflect whether the legal enforcement action should be on an emergency basis; thus, evidence of the airman's current ability to operate is necessary, including current status of FAA medical certification.

a. No Response. If the airman does not respond to the § 44709 letter within 30 days of the date of the letter, the Las Vegas FSDO will compile an EIR, including the § 44709 letter; proof of service; certificate(s) and rating(s) held; which certificate(s) and/or rating(s) DPE Lane issued; and other evidence. The Las Vegas FSDO will forward the EIR to the Western-Pacific Region Flight Standards Division (AWP-200). After review, AWP-200 will forward the EIR to the Western Pacific Regional Counsel (AWP-7) for legal enforcement action to suspend the certificate(s) and/or rating(s) issued by DPE Lane.

b. Administered by the Las Vegas FSDO. If the reexamination is administered by the Las Vegas FSDO, the FSDO will compile an EIR, including the § 44709 letter; proof of service; documentation of the reexamination(s), certificate(s), and rating(s) held; which certificate(s) and/or rating(s) DPE Lane issued; and other evidence. The Las Vegas FSDO will forward the EIR to AWP-200. After review, AWP-200 will forward the EIR to AWP-7, for legal enforcement action to revoke the certificate(s) and/or rating(s) issued by DPE Lane.

c. Administered by Another FSDO. If the reexamination is administered by a FSDO other than the Las Vegas FSDO, the inspector will contact the Las Vegas FSDO POC to obtain all items of proof, including the Las Vegas FSDO's copy of the § 44709 letter and proof of service. The FSDO that administered the reexamination will compile an EIR, including records obtained from the Las Vegas FSDO; documentation of the reexamination(s), certificate(s), and rating(s) held, which certificate(s) and/or rating(s) DPE Lane issued, and other evidence. The FSDO that administered the reexamination will forward the EIR to their respective regional Flight Standards division (RFSD). After review, the RFSD will forward the EIR to their respective regional counsel for legal enforcement action to revoke the certificate(s) and/or rating(s) issued by DPE Lane.

d. After Issuance of an Order of Suspension. If the airman presents himself or herself to an FSDO after the issuance of an order suspending his or her certificate, that FSDO will forward documentation of the success of the reexamination to the Office of Regional Counsel that issued the Order of Suspension. If the airman fails reexamination, the FSDO will compile an EIR with a new EIR number for revocation of the certificate(s) and/or rating(s), and forward the EIR to their respective Flight Standards division. If the airman surrenders their certificate for cancellation or downgrade, the FSDO accepts the certificate, and forwards the certificate to the Office of Regional Counsel that issued the Order of Suspension.

10. Edward Lane Reexamination Program Team.

a. Focal Point. The Las Vegas FSDO will be responsible for sending the reexamination letters to the airmen who are subject to the reexamination process, and for tracking the progress

of each to its conclusion. However, the AWP Technical Support Branch—General Aviation (AWP-230) has overall responsibility for coordination of all the activities being conducted as part of this program.

b. POC. The Las Vegas FSDO has identified the POCs as Terri Tackett, Front Line Manager (FLM) and John Waugh, principal operations inspector (POI), as well as a team to oversee the reexamination program. This team will track the administration of the reexaminations and process the tracking records created for this program to record its progression toward completion of the requirements for the airman.

11. Failure to Contact the FSDO. If the airman does not contact the Las Vegas FSDO within 30 days of the date of the reexamination letter, the Las Vegas FSDO POC should initiate legal enforcement action, in accordance with FAA Order 2150.3. Because letters of notification sent by regular mail are forwarded if an address change is on file with the U.S. Postal Service, lack of return of the general delivery letter provides a presumption that the letter was received.

12. Required PTRS Entries.

a. Initiating and Updating Entries. It is imperative that the PTRS records be initiated and updated in a timely manner. The Las Vegas FSDO focal point and other key program personnel will be using the information recorded in the PTRS to monitor and administer the reexamination program. All entries will include:

- Activity code 1534,
- National use code “DPELANE” (without quotation marks or spaces),
- Airman certificate number (or pre-certificate),
- Airman name, and
- Localizer (LOC)/departure point (location of reexamination).

Note: PTRS records should be returned to the server after entries are made and must not be retained in a “checked out status,” since this would prevent access by program personnel.

b. Making Entries. Inspectors conducting the reexamination will make the PTRS entries described below.

(1) Response from airman concerning scheduling of reexamination:

- Status = “P.”
- Call up date = Date scheduled for reexamination.

(2) Result of satisfactory reexamination:

- Pass/Fail = “P.”
- Tracking = date of test (mmddyy); no punctuation or spacing.

(3) Result of unsatisfactory reexamination:

- Pass/Fail = “F.”
- Miscellaneous = “SURRENDER,” “DEPOSIT,” or “ENFORCEMENT.”
- Tracking = date of failure (mmddyy), no punctuation or spacing.
- If certificate is put on deposit, call up date = date scheduled for retest.

13. Labor Distribution Reporting (LDR) Code. Use LDR code “12XXFA AIRMEN PT1532” when reporting time spent working on this project.

14. Disposition. We will not incorporate the information in this notice into FAA Order 8900.1. Direct questions or comments concerning the information in this notice to Chester Chang, AWP-230 focal point for this program, at 310-725-7243 or chester.chang@faa.gov.



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