

Wet paper bag of responsibility
By Bill O'Brien

In the past 10 years as one of FAA headquarter's part-time, talking heads, it's my lot in life not only to explain the Federal Aviation Regulations, but also to defend them at over 420 safety presentations. It's not easy standing up there all alone; I sit down on scar tissue.

At these meetings attended by both mechanics and pilots, the second most asked question from the audience is, "Who is responsible for the airworthiness of an aircraft?" Is the pilot? The owner? Or the mechanic? Who has to ensure that the aircraft is airworthy?

At my last meeting, one rather large, grizzled redheaded mechanic stood up. He was tall, about 40, and with arms so big that he looked like he could bench-press a Harley Davidson motorcycle without so much as a grunt. He smiled sweetly at me, adding to my apprehension, and put the same "who is responsible" question to me in a more memorable way. He said, "Hey, Mr. Fed, who gets to hold the wet paper bag of responsibility? The owner, the pilot, or me?"

Gathering my failing amount of courage, I replied, "All three individuals get to hold the wet paper bag of responsibility." After a rather long pause, during which time the mechanic, who still remained standing, slowly digested my sage advice, squinted his eyes as if to put me in some imaginary gun sights, and said, "Your answer, Mr. FAA, was a perfect Washington, D.C. reply." "How so?" I responded, falling headfirst into his trap.

"Your answer was probably 100 percent right, but it's 100 percent useless," he said.

The crowd laughed, the mechanic's smile got even bigger, and my ears got red. "OK," I said to the crowd of folks who were enjoying themselves at my expense. "Will you please give me a chance to defend my answer?" I asked the crowd, but at the same time feeling like a fallen gladiator hoping that Nero was in a good mood. A series of nods from the audience gave me the encouragement to try to make my point. I even got a nod from the mechanic as he sat down to enjoy my discomfort. "OK," I said, taking the high road, "Before we go any further, we need a benchmark, a standard that we can all agree to. The best way I've found to reach this standard is to agree on the definition of the term 'airworthy'."

I continued, "You would think that such an important and fundamental aviation term would be defined in Part 1 Definitions and Abbreviations of the Federal Aviation Regulations (FAR); however, this is not the case. But in the last 40 plus years, National Transportation Safety Board case law and civil court decisions generally agree that the term 'airworthy' means that an aircraft or one of its component parts, meets its approved type design or properly altered condition and is in a condition for safe operation."

Seeing no outright opposition, I asked the audience if we can agree that this definition of the term "airworthy" or "airworthiness" is the standard which all three individuals, the owner/operator, the pilot, and the mechanic must meet. The crowd's agreement to the definition wasn't what one would call very enthusiastic, but at least it was not hostile, so I pressed on.

Owner's responsibility

Falling easily into my bureaucratic mode, I said, "Title 14, Part 91, Section 91.409 (a), states that the owner or operator of an aircraft is primarily responsible for maintaining that aircraft in an airworthy condition.

"This includes compliance with Part 39 (airworthiness directives). To comply with these rules, it means that the owner/operator must have the aircraft inspected, ADs performed, life-limited parts called out on the aircraft, engine, or propeller, and the type certificate must be changed when required."

But I wasn't quite done with the owner/operator's responsibilities yet. In addition, Section 91.405, Maintenance Required, states that the owner/operator must ensure that any discrepancies not

addressed by an approved minimum equipment list or in accordance with Section 91.213, Inoperative Instruments and Equipment, must be fixed between inspections. In paragraph (b) of Section 91.405 the rule requires the owner/operator to ensure that maintenance personnel make the appropriate entries in the aircraft's logbooks.

"Under Section 91.417, Maintenance Records, the owner/operator must comply with two sets of maintenance recordkeeping requirements. Paragraph (a) requires the owner to have available for FAA inspection the records of the last 100-hour or annual inspection or approved inspection and any other maintenance, preventive maintenance, and alterations that happened in the last year.

"The second requirement of Section 91.417 is to keep the following records until the aircraft is sold or destroyed. These records are: total time in service of the airframe, each engine, and each propeller; the current status of life-limited parts; time since overhaul on all parts requiring overhaul, current status of airworthiness directives; current status of inspections; and copies of Form 337 for all major alterations performed on the aircraft." I could tell how many in the audience owned airplanes by the less than happy expressions on the faces looking back at me.

Pilot's responsibility

I continued, "Section 91.7, Civil Aircraft Airworthiness, is pretty clear when it states that the determination of whether or not an aircraft is airworthy prior to flight is the primary responsibility of the pilot in command (PIC).

"Section 91.103 requires the PIC to become familiar with all available information concerning the flight. This includes weight and balance, take off, and landing data to name a few.

"The pilot's responsibility to determine airworthiness of the aircraft continues during the flight and only ends after the aircraft is tied down or put in the hangar after the flight."

Mechanic's responsibility

"To explain a mechanic's responsibility under the FAR will take a bit of doing," I warned them. The audience seemed willing, but I wasn't. I suddenly got the feeling that I was going to fall into an open grave, but being first generation Irish I pressed on anyway.

I began, "The length of time a mechanic is held responsible for the airworthiness of the aircraft depends on whether or not the mechanic has performed either an inspection or a performed maintenance.

"If a mechanic has performed a 100-hour inspection and signed it off in the aircraft's logbooks in accordance with Section 43.11, that mechanic is held responsible for the airworthiness of the aircraft until the ink of his or her signature has dried."

On hearing that statement, all the mechanics in the room smiled and probably would vote for me in the next election if I ran; however, most of the pilots had protruding veins in their foreheads, which was a solid indication that they were now starting to exceed their manifold pressure limits of their coronary pulmonary systems. I asked the pilots to reduce power and calm down long enough for me to explain my answer.

"OK," I said, catching a breath and looking at a lot of red faces, "When a mechanic signs off a 100-hour inspection or an IA signs off an annual, that mechanic is certifying that the aircraft is airworthy at that moment in time. Once the aircraft leaves the hangar, the mechanic no longer has control over the status of the aircraft. So, the FAA cannot hold a mechanic responsible for the airworthiness of an aircraft that is no longer in his care."

Almost immediately a very young, obviously brand new pilot stood up to confront me. In a cold voice that belied his tender years, he centered his 20/20 gaze on me and said, "If a mechanic does a 100-hour or annual inspection, what does the FAA hold the mechanic responsible for, Mr. FAA?" Now mentally wishing I had followed my father's advice and opened a corner bar in Philadelphia, I pressed on with my answer. "While the FAA does not hold the mechanic responsible for a 100-

hour or annual inspection for anything that happens to the aircraft in the future, we do hold him responsible for any repair, alteration, service bulletin, AD, maintenance that was done to the aircraft up until the date on the aircraft's airworthiness certificate; be it six months ago, six years ago, or 60 years ago!

"To sum up, a mechanic's responsibility for airworthiness, when he or she signs off the 100-hour, progressive, annual inspection, or any other inspection under Section 91.409 (e)(f), that mechanic who signs off inspection buys the past, not the future airworthiness of the aircraft."

The young pilot was sharp and not to be denied his pint of bureaucratic blood and pound of government flesh. "OK, Mr. FAA, for the time being, I can buy the part about a mechanic signing off an inspection and is responsible until the ink dries in the logbook, but what about when a mechanic makes a repair or alteration to the aircraft? Is this going to be another dried ink story?"

"No," I replied, feeling alone in a crowd, "a mechanic who performs work on an aircraft other than an inspection is responsible for that repair or alteration until that work is inspected, replaced, altered, or repaired again. About the longest length of time a mechanic is held responsible for work performed on a general aviation aircraft is approximately a year, because the next annual inspection is usually due.

"In summary, what do we have here? We have three individuals, one airworthiness standard, and different lengths of time that each is held responsible for the airworthiness of the aircraft.

"The aircraft's owner or operator is the lucky one; he or she gets to hold the wet bag of responsibility a whole lot longer and is primarily responsible for the airworthiness of the aircraft. However, the standard for the 'airworthiness' of the aircraft is exactly the same for the pilot (when flying) and the mechanic who worked on the aircraft — even though they get to hold the wet paper bag for a shorter length of time. In effect, we have a concept of shared responsibility between the owner, the pilot, and the mechanic."

When I finished, I looked out over my now enlightened audience and bid them a fond thank you and good-bye as I stepped down from the podium.

Walking briskly to the back of the room to avoid another ego destroying question, I vaguely remembered what a famous public speaker, Bishop Fulton J. Sheen, said about applause. He said that if a speaker is applauded before he or she speaks, it's an act of faith on the part of the audience. If a speaker receives applause during his or her speech, it's an act of hope. When applause is given at the end of a speech, it's an act of charity. If I ever get the opportunity to meet Mr. Sheen, I'll ask him what no applause meant.