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

Office of the Chief Counsel
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Washington, DC 20591

JUN 1 8 2012

Michael R. Mertens
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Re: Legal Opinion on Whether Any Regulation Proscribes an Approval for Return to Service of a U.S.-Registered Aircraft Following an Inspection Required by 14 C.F.R. part 91, 125, or 135 if the Aircraft Registration Certificate is Not Current?

Dear Mr. Mertens:

This is in response to your letter dated April 28, 2011, addressed to the Lincoln, Nebraska, Flight Standards District Office (FSDO) asking: "What regulation clearly prohibits an inspection from being approved for return to service on a U.S. registered aircraft if the aircraft registration certificate is not current?" Because your question seeks a legal opinion, the FAA's Central Region forwarded your request to the FAA's Regulations Division in the Office of the Chief Counsel, in Washington, D.C. Your letter specifically referenced inspection requirements found in 14 C.F.R. § 43.15, which applies to inspections required by part 91, 125, or 135. The answer to your question is there are no FAA regulations that prohibit an approval for return to service following one of the referenced inspections solely because the aircraft's registration certificate expired.

According to your letter, this issue arose following the FAA's amending its Aircraft Registration rules, 14 C.F.R. part 47, to require a three-year renewal period for aircraft registrations. Effective October 1, 2010, the new rule provides that failure to renew an aircraft registration at the end of the three-year period results in the expiration of the certificate. (*See* § 47.40.) You stated that the amendment prompted an E-mail from the Eastern Michigan FSDO and a magazine article, each of which had the same message: "Do not sign off an inspection if the aircraft registration certificate is not current." As explained below, that advice is not sound. The magazine article stated that, if an aircraft's registration certificate is expired, "that aircraft's airworthiness certification becomes ineffective," and "[n]o matter how mechanically sound for flight, if the aircraft [registration] records are not

current, the aircraft is not airworthy." The author is correct that if an aircraft's U.S. registration is expired, its airworthiness certificate is not effective. Under 14 C.F.R. § 21.181(a)(1), the airworthiness certificate of an aircraft is effective as long as the maintenance, preventive maintenance, and alterations are performed in accordance with Parts 43 and 91 and the aircraft is registered in the United States. If an aircraft's registration certificate expires, as a matter of law the aircraft is considered at that point not to be registered.

As you know, 14 C.F.R. part 43 contains the FAA's general maintenance rules. Section 43.1 provides, in pertinent part, that part 43 applies to any aircraft having a U.S. airworthiness certificate. The applicability of the part is not contingent on the aircraft having a current registration certificate, though, in general, such registration is a prerequisite to a first issuance of an airworthiness certificate.[1]

The author of the magazine article also correctly observed that, under 14 C.F.R. § 91.203, no person may operate a civil aircraft unless it has within it both an appropriate and current airworthiness certificate and an effective U.S. registration certificate. If the airworthiness certificate is rendered ineffective during a lapse in U.S. registration, it would not be considered to be "appropriate and current."[2] Therefore, if a person operated the aircraft with the ineffective airworthiness certificate, the person would be in violation of § 91.203(a)(1). That is a different issue than whether an aircraft that meets all the airworthiness standards and is in condition for safe operation should not be considered airworthy after an annual or other required inspection.

As a final note, § 43.11(a) (on maintenance records for inspections) requires, among other things, that the person approving or disapproving the aircraft for return to service must: (1) if the aircraft is found to be airworthy and approved for return to service, make a maintenance entry certifying that the aircraft was inspected and was determined to be in an airworthy condition; or (2) if the aircraft is not approved for return to service because of needed maintenance . . . make a maintenance entry certifying that the aircraft was inspected and a list of discrepancies and unairworthy items has been provided to the owner or operator. Nothing in the regulation indicates that a failure by the owner to renew the registration is a type of discrepancy contemplated by part 43. Indeed, in the preamble to the final rule amending part 47, the agency stated:

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[1] There are other situations, however, when a U.S.-registered aircraft with a U.S. airworthiness certificate becomes temporarily unregistered. For example, a U.S.-registered aircraft may be sold to someone else. The buyer might not immediately re-register the aircraft; however, the aircraft retains its airworthiness certificate under 14 C.F.R. § 21.181. Section 21.181(a)(1) permits the retention of the airworthiness certificate, but that certificate is not *effective* until the aircraft is re-registered in the United States. A similar situation occurs when maintenance is required to make a temporarily unairworthy aircraft airworthy again. During the period of time when the airworthiness certificate is not effective (because maintenance had not been performed continuously in accordance with part 43) the aircraft may not be operated (*see* 14 C.F.R. § 91.203(a)(1)), but maintenance under part 43 may continue.

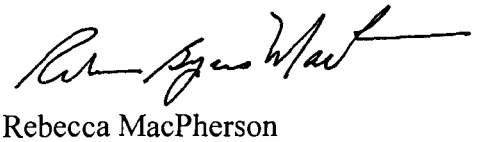
[2] Note that § 91.203(a)(1) also states that the airworthiness certificate must have on it the registration number assigned to the aircraft under part 47. The mere fact that an aircraft owner failed to timely renew the registration under the new rule does not, without more, change the registration number assigned to that aircraft.

> Several commenters suggested that registration is or can be inspected as part of an aircraft's annual inspection. Only the aircraft owner has the knowledge sufficient to review, update, and affirm the validity of an aircraft's registration information. Therefore, the FAA has concluded that it is inappropriate to include verification of registration as part of an annual inspection, which may not involve the participation of the aircraft owner. (See 75 FR 41975, July 20, 2010.)

Based on the above, we conclude that no current FAA regulation proscribes an approval for return to service of a U.S.-registered aircraft following an inspection required by parts 91, 125, or 135 if the aircraft's registration certificate is not current. If the aircraft has an airworthiness certificate (whether effective or not) and the inspector determines that the aircraft conforms to its type certificate (including any applicable supplemental type certificates (STC) and is in compliance with all applicable airworthiness directives (AD)) and is in condition for safe operation, the inspector may approve the aircraft for return to service as airworthy.

This interpretation was prepared by Edmund Averman, an Attorney in the Regulations Division in the Office of the Chief Counsel, and coordinated with the Aircraft Maintenance Division (AFS-300) and the Civil Aviation Registry Division (AFS-700) in the Office of Flight Standards. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,



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