

NOTICE

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

N 8900.273

National Policy

Effective Date:
8/22/14

Cancellation Date:
8/22/15

SUBJ: Reexamination of Airmen Tested by Designated Mechanic Examiner Marty James Simmons

1. Purpose of This Notice. This notice guides Federal Aviation Administration (FAA) aviation safety inspectors (ASI) in reexamining persons holding mechanic certificates with airframe and/or powerplant ratings who were tested by Designated Mechanic Examiner (DME) Marty James Simmons of the Anchorage, Alaska Flight Standards District Office (FSDO) area. The reexaminations will ensure that these persons meet the standards of Title 14 of the Code of Federal Regulations (14 CFR) part 65 to hold their certificate and/or rating(s).

Note: This guidance is supplemental to FAA Orders and Federal regulations.

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

3. Where You Can Find This Notice. Inspectors can access this notice through the Flight Standards Information Management System (FSIMS) at <http://fsims.avs.faa.gov>. Operators and the public can find this information on the FAA Web site at: <http://fsims.faa.gov>.

4. Authority. Title 49 of the United States Code (49 U.S.C.) § 44709 is the authority for the reexamination of an Airframe and Powerplant (A&P) mechanic. The law states in part, “The Administrator of the Federal Aviation Administration may . . . reexamine an airman holding a certificate issued under section 44703 of this title.”

5. Purpose of the Reexaminations. The Administrator believes that the competency of the airmen examined by DME Simmons is in question, based on a Special Emphasis Evaluation of a Designee (SEED), and on a subsequent FAA investigation of DME Simmons’ certification activities. The FAA obtained compelling evidence during the investigation, which gave the FAA sufficient reason to doubt the adequacy of tests administered by DME Simmons. To ensure safety in air commerce, these airmen will undergo reexamination of their competency to 49 U.S.C. § 44709 standards.

6. Airmen To Be Reexamined.

a. Tested by Marty Simmons. The FAA will reexamine all airmen tested by DME Simmons who were not previously successfully reexamined, in which case the FAA will not send

a reexamination letter. The Anchorage FSDO will send a § 44709 reexamination letter to all affected airmen tested by DME Simmons.

b. Assigned Outside the United States. Relief will be applied to those airmen requiring reexamination who are U.S. military and civilian personnel assigned outside the United States and its territories in support of U.S. armed forces operations. Relief will be offered per Special Federal Aviation Regulation (SFAR) 100-2, and includes the opportunity to complete reexamination within six calendar-months after returning to the United States.

c. Foreign Airmen. Both foreign airmen and airmen in the U.S. will share the same reexamination procedures. This notice does not authorize reexamination activity outside the U.S. Foreign airmen will have to appear in the U.S. at their own expense, and will also be evaluated per the current edition of Advisory Circular (AC) 60-28, English Language Skill Standards Required by 14 CFR Parts 61, 63 and 65.

7. Section 44709 Notification Letter. The Anchorage FSDO will notify airmen about reexamination by mail, sent to the airman's address of record in the FAA's Civil Aviation Registry. The Anchorage FSDO point of contact (POC) will issue each notification letter. The letter will indicate the decision to reexamine, and will instruct the airman to contact the Anchorage FSDO POC - referenced in the letter - within 10 business days of receipt of the letter and schedule a reexamination. The letter will list each certificate and/or rating(s) subject to reexamination. The Anchorage FSDO will maintain records of the notifications sent to airmen and the records of the reexaminations.

a. Domestic Airmen. The Anchorage FSDO will mail two copies of the notification letter to each airman via the U.S. Postal Service - one copy by certified mail/return receipt requested, and one copy by regular mail. Lack of a return of the regular mail letter suggests the airman received the letter. In such cases, the Anchorage FSDO will document that the regular mail letter was not returned.

b. Foreign Airmen. The Anchorage FSDO will mail two copies of the notification letter to each airman; one copy will be sent either via the U.S. Postal Service International Registered Mail (return receipt), or DHL (proof of service), depending on the recipient's country of residence. The other copy will be sent by International First Class mail.

8. Scheduling a Reexamination. When the airman contacts the Anchorage FSDO, the airman may choose from available dates and times to schedule the reexamination. The reexamination should normally take place within 15 days of receiving the letter of notification, except if delayed per FAA Order 8900.1, Volume 5, Chapter 7, Section 3, Conduct a Reexamination Test of a Mechanic or an Inspection Authorization Under Title 49 of the United States Code, subparagraph 5-1470B. The inspector should accommodate the airman as necessary and appropriate to the situation, but the airman may not postpone the reexamination indefinitely. If the airman makes arrangements for reexamination at another FSDO, that FSDO must apply the same standards.

9. Reexamination Process.

a. Test Procedure. The reexamination will cover the certificate and/or rating(s) the airman received based on tests given by DME Simmons. Certificates based on tests not administered by DME Simmons are not subject to this reexamination. Airmen holding both A&P ratings will be reexamined for competency of both ratings at the same time. The reexaminations will consist of oral tests. An airman may voluntarily surrender one rating for cancellation and show competence for another.

b. Oral Test. The airman will receive a complete oral test for each rating based on tests administered by DME Simmons. Inspectors will ask the airman at least four questions in each subject area. The applicant must successfully answer 70 percent of the oral questions asked in each subject area. The airman must pass each subject area to pass a section. The inspector will use no more than 10 questions to evaluate a subject area.

(1) An airman will pass a subject area if he or she correctly answers:

- At least 3 of 4 questions,
- At least 5 of 7 questions, or
- At least 7 of 10 questions.

(2) The inspector will record the oral test results on a test planning sheet as described in the current edition of FAA Order 8900.2, General Aviation Airman Designee Handbook, Chapter 6.

(3) Inspectors giving oral tests must contact the Designee Standardization Branch (AFS-640) to request access to the Web-based Technical Personnel Examiner (TPE) Oral Question Generator as follows:

- Select “Create a User Profile” from the menu. Record the user ID and password and keep it safe.
- Send an email directly to AFS-640, Norman.L.Johnson@faa.gov and Roger.D.Webb@faa.gov, requesting access to the TPE Oral Question Generator.

(4) Once verified, inspectors will receive an email indicating access to the system and additional instructions for gaining access. Inspectors may get more information about oral test administration from AFS-640 at (405) 954-6495.

c. Scoring the Test. A score of 70 percent or greater correct answers is satisfactory. A score of less than 70 percent is unsatisfactory. Any unsatisfactory test results indicate the airman does not possess the part 65 standards for the certificate and/or rating(s) held. The current edition of FAA Order 2150.3, FAA Compliance and Enforcement Program, Chapter 5, describes procedures inspectors must follow if the airman demonstrates unsatisfactory test performance.

(1) The airman may schedule a retest 45 days from the first test date if the airman deposits his or her certificate at the FSDO. Inspectors should give the airman (1) a minimum of 30 days to prepare if desired, and (2) scheduling priority to ensure the airman retests in 45 days.

(2) If the airman has retested and failed twice, the FAA will revoke the airman's certificate or rating. The FAA will allow a second retest when the airman voluntarily places the airman's certificate on deposit with the FAA.

d. Reexamination Documentation. Inspectors must use FAA Form 8610-2, Airman Certificate and/or Rating Application, to document a reexamination. FAA Order 8900.2, Chapter 6, describes how to complete FAA Form 8610-2. FAA Order 8900.1, Volume 5, Chapter 7, Section 3, details how to document a reexamination on FAA Form 8610-2.

(1) Inspectors must print, in the upper margin of FAA Form 8610-2, "DME Simmons, Reexamination Under 49 U.S.C.," and in the lower margin print "Reexamination Under 49 U.S.C."

(2) The FSDOs and Regional Counsel Offices must mail the original documents to the Airman Certification Office in two sealed envelopes. Both the inner sealed envelope and the outer mailing envelope should be addressed as follows:

For your eyes only: Mary Snyder (405) 954-3794
FAA Airmen Certification Branch, AFS-760
Mike Monroney Aeronautical Center
Civil Aviation Registry
PO Box 25082
Oklahoma City, OK 73125

(3) Inspectors must send Brian Richmond, the Anchorage FSDO POC, copies of packages sent to the AFS-760 address above. Please send copies to Brian Richmond by either:

Email: Brian.Richmond@faa.gov, or

Mail: Brian Richmond
Anchorage Flight Standards District Office
300 West 36th Avenue
Anchorage, AK 99503

10. Information for the Public. Interested parties may access <http://www.faa.gov/mechanics/retesting/> for information about the reexamination process.

11. Marty Simmons Reexamination Program Team. The Anchorage FSDO will (1) send reexamination letters to airmen subject to reexamination, and (2) track progress of reexaminations to conclusion. The Alaskan Region Technical Standards Branch (AAL-230) is responsible for overseeing program activities.

a. Anchorage FSDO POC. The POCs are Front Line Manager (FLM) Charles Strange and ASI Brian Richmond. These POCs will manage a team to oversee this reexamination program, and will track retest administration and process tracking records.

b. AAL-230 POC. The POC is Adam Geber, AAL-230 Regional Airworthiness Specialist. The AAL-230 POC will help track the program, process Enforcement Investigative Reports

(EIR), and forward case files to the Alaskan Region Office of Regional Counsel (AAL-7) for legal enforcement action.

12. Legal Enforcement Action. If the airman does not respond to a letter of notification, or does not satisfactorily retest nor voluntarily surrender the airman's certificate and/or rating(s) for cancellation or downgrade, inspectors must begin legal enforcement action described in FAA Order 2150.3.

a. No Response. If the airman does not respond to the § 44709 notification letter within 15 days of the date of receipt of the letter, the Anchorage FSDO will compile an EIR, including the § 44709 notification letter, proof of service, certificate and/or rating(s) held, which certificate and/or rating(s) DME Simmons issued, and any relevant information. The Anchorage FSDO will forward the EIR to AAL-230. After review, AAL-230 will forward the EIR to AAL-7 for legal enforcement action to suspend - pending compliance - the certificate and/or rating(s) issued by DME Simmons.

b. Administered by Another FSDO. If a retest given by a FSDO other than the Anchorage FSDO is unsatisfactory and an airman also fails a second retest, the inspector who administered the retest(s) will contact the Anchorage FSDO POC, Brian Richmond, and forward all documentation to him. The Anchorage FSDO will begin legal enforcement action to revoke the airman certificate and/or rating(s).

c. After Issuance of an Order of Suspension. If the airman successfully completes a reexamination at a FSDO after the airman's certificate was suspended, that FSDO will forward documentation of the successful retest to the Anchorage FSDO POC, who will then forward a copy of that documentation to AAL-7. If the airman fails the reexamination, inspectors will submit all required documentation to the Anchorage FSDO POC, Brian Richmond. The POC will compile a new EIR to revoke certificate and/or rating(s), and forward it to AAL-230.

d. Certificate Surrender. If the airman surrenders the airman's certificate and/or rating(s) for cancellation or downgrade, inspectors should accept the certificate and forward it to the Anchorage FSDO POC, who will forward the certificate and documentation to AAL-7, and a copy of the package to Mary Snyder of Airman Records for tracking purposes.

13. Failure to Test by September 1, 2015.

a. Retesting. Initial testing must be completed prior to September 1, 2015. An airman that has requested retesting using the procedures described in this notice must complete retesting within 45 days of initial failure.

b. Emergency Legal Enforcement Action. If an airman has not completed initial testing by September 1, 2015, the Anchorage FSDO will send that airman's files to AAL-7 to initiate emergency legal enforcement action as described in FAA Order 2150.3, and FAA Order 8900.1, Volume 7, Chapter 7, Section 1, General. Airmen may be exempt from the September 1, 2015 deadline (1) as described in subparagraph 6b, or (2) as approved by AAL-230 after considering circumstances, such as sickness or hardship.

14. Successful Completion of the Reexamination.

a. Airman's Certificate. After successfully completing the reexamination, the FAA will return the airman's certificate, if in the possession of the FAA, and will give the airman an official letter of successful completion of reexamination. The FAA will also close the matter per FAA Order 8900.1, Volume 5, Chapter 7, Section 3.

b. FAA Form 8610-2. Inspectors must use (1) the FAA Inspector's Report on the back of FAA Form 8610-2, and (2) a test planning sheet to document reexaminations. Inspectors can find specific instructions for completion of FAA Form 8610-2 and the test planning sheet in FAA Order 8900.1, Volume 5, Chapter 7, Section 3 and FAA Order 8900.2, Chapter 6, Section 2.

15. Reexamination Failure Actions.

a. Alternatives. If the airman's test performance was unsatisfactory, the airman may (1) voluntarily surrender the certificate for cancellation, or (2) put the certificate on deposit and request a retest as detailed in FAA Order 2150.3. An airman surrendering the certificate for cancellation will sign a statement recording voluntary surrender for cancellation. If the airman declines both alternatives, inspectors must inform the airman that they will begin legal enforcement action to revoke the airman's certificate and/or ratings.

b. Refusal to Surrender Certificate. If an airman does not surrender the certificate for cancellation and does not place the certificate on deposit, inspectors must give the airman a statement of unsatisfactory performance and a statement that the inspector will start legal enforcement action. Refer to FAA Order 2150.3 and FAA Order 8900.1, Volume 7, Chapter 7, Section 1 for details concerning legal enforcement action. The Anchorage FSDO will send letters to the airman's address of record.

16. Test Outcomes.

a. The Airman Successfully Completes the Reexamination with an Inspector.

(1) Review the front of FAA Form 8610-2 for accuracy, completeness, and signatures. Complete the test planning sheet and the back of FAA Form 8610-2, indicating the successful reexamination outcome.

(2) Issue a letter of satisfactory results to the airman.

(3) Photocopy the letter, test planning sheet, and the front and back of FAA Form 8610-2.

(4) Mail the original application, original test planning sheet, and a copy of the letter of results to Mary Snyder in Airman Records, as outlined in subparagraph 9d. Inspectors should note the additional documentation requirements outlined.

(5) Inspectors must forward a copy of the entire package (letter, FAA Form 8610-2, and test planning sheet) to the Anchorage FSDO POC.

(6) Complete a 3532/5532 Program Tracking and Reporting Subsystem (PTRS).

- (a) Enter “P” in the Pass/Fail field.
- (b) In the National Use field, enter “SIMMONS” without quotation marks or spaces.
- (c) Enter the airman name and certificate number (or pre-cert number).
- (d) Enter the location of reexamination (LOC).

b. The Airman Is Unsuccessful at Completing the Reexamination.

(1) Inspectors must inform the airman in detail of each deficiency, and should give the airman an opportunity to surrender the airman’s certificate for cancellation or downgrade in lieu of a second reexamination.

(2) If the airman accepts the offer to take a second reexamination, the airman must temporarily deposit the airman’s certificate at the FSDO.

(a) Complete the back of FAA Form 8610-2 and the test planning sheet, indicating the unsuccessful outcome of the reexamination.

(b) Photocopy the letter, test planning sheet, and the front and back of FAA Form 8610-2.

(c) Collect the airman’s certificate (retention of the certificate will last for 45 days or less).

(d) Issue a temporary Mechanics Certificate to the airman for the ratings surrendered, with an expiration date of no longer than 45 days.

(3) Mail the original application, a copy of the surrender letter, and a copy of the Temporary Airman Certificate to Mary Snyder in Airman Records.

(4) A copy of the entire package will also be forwarded to the Anchorage FSDO POC.

(5) Complete a 3532/5532 PTRS.

- (a) Enter “F” in the Pass/Fail field.
- (b) In the National Use field, enter “SIMMONS” without quotation marks or spaces.
- (c) Enter the airman name and certificate number (or pre-cert number).
- (d) Enter the location of reexamination (LOC).

c. Certificate Temporary Deposit Term Is Nearing Expiration. If a certificate temporary deposit term is almost ended, inspectors must either (1) take legal enforcement action to suspend the certificate per FAA Order 2150.3, or (2) extend the temporary deposit certificate for another 45 days.

d. The Airman Attempts the Reexamination for a Second Time.

(1) If the airman fails the second reexamination, inspectors should offer the airman the opportunity to surrender the airman's certificate for cancellation or downgrade. If the airman chooses not to surrender or exchange the certificate, inspectors should proceed with enforcement action to revoke the certificate and/or rating(s) based on lack of qualification to hold the certificate.

(2) If the airman successfully completes the second reexamination, the FAA will return the airman's certificate, and give the airman an official letter of successful completion of reexamination, closing the matter.

e. Voluntary Surrender or Exchange.

(1) If an airman elects to not complete the reexamination - or fails a retest and does not retest a second time - the airman may voluntarily surrender or exchange the airman's certificate for cancellation or downgrade.

(2) The airman may surrender the airman's certificate for downgrade only if the oral and/or practical test for the remaining grade of certificate was not administered by DME Simmons. Inspectors must contact Mary Snyder or the Anchorage FSDO POC before processing a downgrade or surrender.

17. Updating Required PTRS Entries.

a. PTRS Entry Status Updates. Inspectors must update the PTRS in a timely manner. Key program personnel will be using the information recorded in PTRS to monitor and administer the reexamination program. All entries will include activity code 3532 or 5532, National Use Code "SIMMONS" (without quotes, no spaces), airman certificate number (or precertificate), airman name, and location of reexamination.

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

(1) Document response from airman concerning scheduling of reexamination:

- Status = "P."
- Call up date = Scheduled reexam date.

(2) Document result of satisfactory reexamination:

- Pass/Fail = "P."
- Tracking = date of test without punctuation or spacing (mmddyy).

(3) Document result of unsatisfactory reexamination:

- Pass/Fail = "F."
- Miscellaneous = "SURRENDER", "DEPOSIT", or "ENFORCEMENT."

- Tracking = date of failure without punctuation or spacing (mmddyy).
- If certificate is put on deposit, Call up date = scheduled retest date.

18. Disposition. The authors of this notice will not incorporate this information into FSIMS before this notice expires. Direct questions or comments about this notice to Adam Geber, AAL-230, at (907) 271-2331 or Adam.Geber@faa.gov. General information is also available at <http://www.faa.gov/mechanics/retesting/>.

A handwritten signature in black ink, appearing to read "J. Barbagallo". The signature is stylized with a large, sweeping "J" and a cursive "Barbagallo".

John Barbagallo
Acting Deputy Director, Flight Standards Service