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

Office of the Chief Counsel

Office of the Chief Counsel
800 Independence Ave., SW.
Washington, DC 20591

OCT 18 2013

David Schober
[redacted]

Dear Mr. Schober,

By letter dated April 9, 2013, you requested a legal interpretation on the application of section 45.11(e), Title 14, Code of Federal Regulations (C.F.R.), to requirements for identification plates (ID plate) on aircraft manufactured in the late 1940s. Specifically, you ask whether an aluminum ID plate secured inside the aircraft cabin would be in compliance with current section 45.11, paragraphs (a) and (e).

The following background information is contained in your letter. You own two aircraft that were manufactured in the late 1940s. ID plates on both aircraft are fabricated from aluminum and are located inside the cabin. The manner that the aircraft have been marked was in compliance with section 45.11, paragraphs (a) and (d), as published in 1987. The 1987 version of the regulation allowed marking "by painting or using some other method of marking the model and serial number on the aft portion of the fuselage, and leaving the existing data plate in the original location." You claim the current regulations have new requirements that did not exist in 1987, namely that a fireproof ID plate be attached to the aircraft. You state that the FAA did not follow proper procedures, i.e. provide notice or perform an economic analysis, before implementing these requirements. Because the FAA did not follow proper procedures to implement the "new requirements" you believe that the manner in which you marked the aircraft, which complied with the 1987 version of section 45.11(a) and (d), should be considered in compliance with the current section 45.11(a) and (e).

In responding to your inquiry, we have assumed that 14 C.F.R. § 21.182(a) applies to the two aircraft referenced in your letter.

We have reviewed the regulatory history of section 45.11 as it pertains to aircraft manufactured in the late 1940s and determined that requirements for a "fireproof" ID plate to be "attached" to the aircraft are not new. In 1987 the regulation governing ID plate requirements for aircraft manufactured before 1987 was section 45.11, paragraphs (a) and (d), which in pertinent part stated:

> (a) Aircraft and aircraft engines. Aircraft must be identified ... by means of a fireproof plate ... marked by etching, stamping, engraving, or other approved method of fireproof marking. ... The ID plate for the aircraft must be secured in such a manner that will not likely be defaced or removed during normal service, or lost or destroyed in an accident.

> (d) On aircraft manufactured before December 8, 1987, the identification plate required by paragraph (a) of this section may be secured at an accessible exterior or interior location near an entrance, if the model designation and builder's serial number are also displayed on the aircraft fuselage exterior. The model designation and builder's serial number must be legible to a person on the ground and must be located either adjacent to and aft the rear most entrance door or on the fuselage near the tail surfaces. The model designation and builder's serial number must be displayed in such a manner that they are not likely to be defaced or removed during normal service....

14 C.F.R. § 45.11(a) and (d) (1987).

The equivalent regulation today is section 45.11, paragraphs (a) and (e), which in pertinent part provides as follows:

> (a) *Aircraft.* A manufacturer of aircraft covered under § 21.182 of this chapter must mark each aircraft by attaching a fireproof identification plate that—
> (1) Includes the information specified in § 45.13 using an approved method of fireproof marking;
> (2) Must be secured in such a manner that it will not likely be defaced or removed during normal service, or lost or destroyed in an accident; and
> (3) Except as provided in paragraphs (d) through (h) of this section, must be secured to the aircraft fuselage exterior so that it is legible to a person on the ground, and must be either adjacent to and aft of the rear-most entrance door or on the fuselage surface near the tail surfaces.
>
> (e) *Aircraft manufactured before March 7, 1988.* The owner or operator of an aircraft manufactured before March 7, 1988 must mark the aircraft by attaching the identification plate required by paragraph (a) of this section. The plate must be secured at an accessible exterior or interior location near an entrance, if the model designation and builder's serial number are also displayed on the exterior of the aircraft fuselage. The model designation and builder's serial number must be—
> (1) Legible to a person on the ground,
> (2) Located either adjacent to and aft of the rear-most entrance door or on the fuselage near the tail surfaces, and
> (3) Displayed in such a manner that they are not likely to be defaced or removed during normal service.

14 C.F.R. § 45.11(a) and (e) (2013).

We compared the current regulatory text for section 45.11(a) and (e) to the corresponding provisions of the 1987 version of section 45.11 (then paragraphs (a) and (d) and found no major substantive differences. In 1987, the regulation required the ID plate to be marked by "etching, stamping, engraving, or other approved method of fireproof marking." Id. The current regulation requires the use of "an approved method of fireproof marking; ...."

While the language used in current section 45.11(a) omits the words "etching, stamping, engraving," it does not prohibit the use of those methods for marking aircraft. The 1987 regulatory text required that the ID plate be "secured" to the aircraft while the 2013 text requires that the ID plate must be attached. This change in terminology has no effect on the meaning of the provision as revised in 2009. Overall, it appears that when the FAA adopted the changes to the regulatory text of 45.11 in 2009, the changes at most clarified the rule and did not alter the rule's substantive meaning when compared with the 1987 version.

Based on the foregoing, we conclude that you have complied section 45.11(a) and (e) by securing a fireproof aluminum ID plate to the interior cabin of the aircraft, assuming all other relevant requirements are met.

I trust this interpretation fully addresses your concerns. This response was prepared by Viola M. Pando, an attorney in the International Law, Legislation and Regulations Division of the Office of the Chief Counsel, and was coordinated with the Production Certificate Branch, AIR-220. Please contact us at (202) 267- 3073 if we can be further assistance.

Sincerely,

Mark W. Bury
Assistant Chief Counsel for International Law, Legislation
And Regulations, AGC-200