

the Federal Aviation Regulations, "FAR," 14 C.F.R. Part 43.² For the reasons discussed below, we will deny the appeal.³

The charge in this case arose from respondent's efforts to demonstrate the airworthiness of one of the aircraft operated by Spokane Community College, where respondent was the chairman of the aviation department and a powerplant instructor. An FAA inspector had found numerous deficiencies in the aircraft's maintenance logbook when one of the college's students tried to use the aircraft for a checkride in July 1996. The deficiencies involved the lack of entries showing the performance of maintenance pursuant to various applicable airworthiness directives. The Administrator's April 4, 1997 emergency order of revocation alleged, among other things, the following facts and circumstances:

1. You are now, and at all times mentioned herein were, the holder of Mechanic Certificate No. 2072923, with Airframe and Powerplant ratings, and with Inspection Authorization.
2. You made or caused to be made entries in the maintenance records of civil aircraft N704QA, a Cessna 150M aircraft equipped with a Continental 0 - 200 engine, which entries represented the

²FAR section 43.12(a)(1) provides as follows:

§ 43.12 **Maintenance records: Falsification, reproduction, or alteration.**

(a) No person may make or cause to be made:

(1) Any fraudulent or intentionally false entry in any record or report that is required to be made, kept, or used to show compliance with any requirement under this part[.]

³The Administrator has filed a reply brief opposing the appeal.

following with regard to that aircraft:

- a. That on April 12, 1993, you had complied with the requirements of Airworthiness Directive 93- 18-03.
 - b. That on April 12, 1993, you had complied with the requirements of Airworthiness Directive 93-19-03.
 - c. That at aircraft time 2655.1 [occurring on or about January 26, 1996], you had complied with the requirements of Airworthiness Directive 96-09-06.
 - d. That at aircraft time 2654.0 [occurring sometime between September 1995 and January 1996] you had complied with the requirements of Airworthiness Directive 72-15-02.
 - e. That at aircraft time 2654.0 you had complied with the requirements of Airworthiness Directive 76-02-07.
 - f. That at aircraft time 2654.0 you had complied with the requirements of Airworthiness Directive 76-07-12.
3. These representations were fraudulent or intentionally false, in that:
- a. Airworthiness Directive 93-18-03 did not exist on the date you certified that you complied with it.
 - b. Airworthiness Directive 93-19-03 was not applicable to N704QA, since this AD was applicable to Pratt and Whitney engines, whereas N704QA has a Continental engine. If you had intended to indicate accomplishment of AD 93-19-04 (applicable to carburetors installed on N704QA's Continental engine) rather than 93-19-03, this was also a false statement, since AD 93-19-04 did not exist on the date you certified that you complied with it.
 - c. Airworthiness Directive 96-09-06 did not exist on the date you certified that you complied with it.
 - d. Airworthiness Directive 72-15-02 was only

applicable to belt-driven Prestolite alternators. Civil aircraft N704QA was equipped [with] a Ford gear-driven alternator.

- e. Airworthiness Directive 76-02-07 was only applicable to certain Prestolite gear driven alternators installed on Continental engine models IO-520-B, BA, C M; TSIO-520-B, D, E, J, K, L, N; and GTSIO-520-C, D, H, and L. Civil aircraft N704QA was equipped with a Continental 0-200 engine.
- f. Airworthiness Directive 76-07-12 was only applicable to Bendix ignition switches. Civil Aircraft N704QA was equipped with a Gerdes ignition switch. [N704QA maintenance records showed that at aircraft time 2653.7, on September 20, 1996, Airworthiness Directive 93-05-06, applicable to Gerdes ignition switches, was complied with on this aircraft].

At the hearing, respondent did not deny that he made the entries set forth in paragraphs 2.a. through 2.f., and he did not dispute the correctness of the statements in 3.a through 3.f. concerning the applicability and effective dates of the six airworthiness directives or the inapplicability of four of them to civil aircraft N704QA.⁴ He maintained, nevertheless, that any errors made as to when pertinent airworthiness directives had actually been complied with or as to the asserted performance of directives shown to be inapplicable were unintended errors or mistakes. The law judge found otherwise, concluding that the respondent made the material false entries in the aircraft's maintenance records with knowledge that they were inaccurate.

⁴The false entries were made in the aircraft's engine logbook (Adm. Exh. C-6), on a document attached to the back of the logbook entitled "Airworthiness Directive Compliance List," and on a computer-generated document entitled "AD Compliance Report." (Adm. Exh. C-1).

On appeal, respondent contends, among other things, that the falsification charge should not have been upheld because even though he in fact used the maintenance records in which the false entries appeared to establish N704QA's compliance with Part 43, he was not *required* to use those particular records.⁵ In other words, respondent, without citing any regulatory history or other authority for his position, reads the "required to be made, kept, or used" clause in FAR section 43.12(a)(1) as applying only to records or reports that are required to be made, required to be kept, or required to be used to show that an aircraft is in compliance with a particular maintenance requirement in Part 43.

We think the law judge correctly rejected such a reading (Tr. at 41),⁶ agreeing, instead, with the Administrator's clearly

⁵Most of the arguments raised in the respondent's brief warrant little or no comment. Specifically, respondent complains that the hearing in this case was not scheduled to begin within the 25-day target date set forth in our emergency rules (49 CFR 821.56(a)) because the Administrator mis-served the copy of the emergency order sent to the Board, that others involved in the aircraft's maintenance have not been the subject of emergency action, that emergency action was not justified by the circumstances, and that revocation for the falsifications alleged is excessive. It is answer enough to these objections to note that the clerical error which resulted in the hearing's not being held until 32 days after the complaint was served on the Board has not been shown to have prejudiced the respondent in any way, the Board does not review the Administrator's exercise of judgment or discretion concerning determinations as to which cases should be prosecuted as emergencies, and the Board has repeatedly affirmed the sanction of revocation for even single instances of intentional falsification.

⁶While we are not aware of any Board precedent directly in point, the law judge's ruling is certainly consistent with falsification cases under a parallel regulation (in FAR Part 61) in which we have found pilot logbook entries to be material even though they were not required to be kept or needed to show qualification for a higher rating or certificate, if they were in

reasonable position that the regulation reaches falsifications in any maintenance documents actually kept or used to show compliance with a requirement in Part 43, whether or not they are records or reports in a form or format the Administrator specifically requires an individual to keep or to use for that purpose.⁷ At the same time, our view of the issue would not necessarily be any different if the regulation were read to apply only to reports or records that are required to be kept or required to be used.

In this connection, we note that respondent's argument assumes that the regulation means "required" by the Administrator. However, it can also be broadly construed to mean required by the circumstances for which compliance is sought or necessary. Here, respondent presented documents purporting to establish compliance with various airworthiness directives because *he* wanted to establish that aircraft N704QA was airworthy. Since the aircraft's airworthiness could not be established unless the airworthiness directives had been complied with, respondent's submission of the records attesting their accomplishment represents his recognition that they constitute

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fact used to show compliance. See, e.g., Administrator v. Turner, NTSB Order EA-3748 (1992), and Administrator v. Lee, et al., NTSB Order EA-4260 (1994).

⁷The regulation is concerned, we think, with insuring the truthfulness or accuracy of written information about an aircraft's maintenance history. Thus, even a mechanic's notes about work performed on an aircraft would appear to be subject to the regulation if they were submitted to verify the accomplishment of required maintenance.

records (or the kinds of records) that he, on behalf of the college, was required to make, keep, and use in order to satisfy the requirements of Part 43 so that the aircraft could be lawfully operated.⁸

Respondent also argues on appeal that the evidence does not prove that he intended to deceive the FAA with the concededly false entries involving the airworthiness directives. However, he has not identified any factor he believes the law judge may have misweighed in reaching a contrary conclusion, and his argument ignores the negative credibility assessment concerning his testimony which the law judge implicitly made in determining that the false entries about the airworthiness directives were knowingly made. In any event, the initial decision thoroughly sets forth the law judge's rationale for disbelieving the respondent's disavowal of intent to falsify the maintenance records he provided the inspector to establish N704QA's airworthiness, and nothing in respondent's brief persuades us that the law judge erred in resolving the issue.

ACCORDINGLY, IT IS ORDERED THAT:

⁸Similarly, while a pilot need not log flight time in a logbook or other specific document, the absence of a detailed written account of flight experience would essentially preclude the acquisition of additional or higher ratings or certificates.

1. The respondent's appeal is denied, and
2. The initial decision and the emergency order of revocation are affirmed.

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above opinion and order.