

Mr Jones,

Please let me introduce myself. I am an aviation attorney representing several owners of Conquest aircraft that are deeply concerned about the SID program adopted by Cessna and your interpretation of it being mandatory in your Info Memorandum if the owner had not selected a maintenance program in their maintenance log prior to August 31, 2007.

I have just a few questions concerning this interpretation.

1. How can the issuance of a SID that has not been approved and adopted by the FAA Administrator under 91.415 be made mandatory?
2. How can a SID (or any government rule) that has never been approved under the Administrative Procedures Act (APA) by a governmental agency ever be made mandatory on an owner?
3. Cessna has stated to some owners that unless they comply with the SID their aircraft will be "grounded" by them. It has always been my understanding that such powers could not be delegated by the FAA to a private, non-governmental entity. How can any private entity ground an aircraft or fleet of aircraft for non-compliance with their program?
4. I have spoken with the Office of Chief Counsel of the FAA and they state no change has been approved or mandated for the Cessna Conquest Inspection program, that if an owner engages in the SID inspection program it is their personal election to do so. Are they incorrect?
5. Since the Cessna Conquest SID has not gone through final FAA and APA approval and adoption, can you state with assurance that it will ultimately be adopted in total without additions or deletions of particular inspection items?

The above are all questions and concerns that have been presented to me by clients that I represent and who are individuals frustrated by the confusion and conflicting responses received from Cessna and the FAA.

I would appreciate each question being addressed fully and completely with final legal approval of any answer being given by the Office of Chief Counsel if at all possible. Until then, I will continue to advise my clients that compliance with the SID is only an "elective choice" they have to exercise at this time.

Larry Furnas
Attorney at Law, President
Aviation Advocates, LLC
P. O. Box 17007
Indianapolis, IN 46217
317-293-5000
317-694-8631 Mobile

PARTIAL VERBAL RESPONSE FROM RUSTY JONES

Thursday August 7, 2009 a partial verbal response was received from Mr. Rusty Jones of the FAA to questions 3 and 5 above. Although all questions will be submitted to the Office of Chief Counsel for legal response, his initial answer is as follows:

Question 3. Neither Cessna or any other private entity has authority to ground an aircraft, that authority remains solely in the hands of the FAA. We continued on an discussed that should a Service Center discover an airworthiness discrepancy, it would be illegal for a pilot to fly the aircraft knowing of its existence, but even in that situation, the authority to ground remains with the FAA.

Question 5. It is unknown at the present time if the SID will be adopted in any form, but if so, the adoption will occur through an AD notification from the FAA after being processed in accordance with the Administrative Procedures Act (APA). Mr. Jones further stated that if the SID is adopted in the form of an AD it will not be in an "across the board" action, that some current inspection items will be eliminated and that other items discovered in the inspections already conducted, could be added.

We also discussed his interpretation of "current inspection program" and he remains with the position that if an owner purchased his aircraft prior to the enactment date of the SID, the inspection is not mandatory. If the aircraft was purchased after the enactment date of the SID, the new owner is covered by the SID inspection mandate.

I take exception to the above interpretation because it allows the OEM's to mandate amendments to every new owner that virtually could make the aircraft unmarketable, all without public comment or FAA input as required by the APA. I further believe that Section 91.415 of the Federal Aviation Regulations establishes the intent to limit the authority of arbitrary changes to an inspection program where it states "(a) Whenever the *Administrator* finds that revisions to an approved aircraft inspection program under 91.409(f)(4) or 91.1109 are necessary for the continued adequacy of the program, the owner or operator must, after notification by the Administrator, make any changes in the program found to be necessary by the Administrator."

Granted, this particular paragraph addresses "any other inspection program" and not "one recommended by the manufacturer" which is included under paragraph 91.409(f)(3) but the intent of the section is just the same and in accordance with the December 5, 2008 Memorandum issued by the FAA which stated in part "An interpretation of the regulation that would allow manufacturers unilaterally to issue changes to their recommended maintenance *and inspection* programs that would have future effect on *owners* of their products would not be legally correct. This would run afoul of the APA."

Nothing is said about "new owners" of the aircraft, it states "that would have *future effect on owners*". If the FAA allows a SID to be mandated by the manufacturer to any owner, present or future, the FAA has delegated its rulemaking authority to the manufacturer which it cannot do.

Therefore, I maintain that until such time as the FAA adopts all or a portion of the SID requirements through the procedures outlined in the APA, the SID is only elective. As an owner, you should weigh all concerns that effect your safety and that of your passengers in making your election. You are better equipped to know whether your aircraft has been exposed to extensive stress or corrosion than anyone else and you will be able to factor

that knowledge into any decision made concerning the necessity of the SID to your aircraft.

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