44709 Reexamination

Sec. 44709. Amendments, modifications, suspensions, and revocations of certificates

(a) Reinspection and Reexamination.--The Administrator of the Federal Aviation Administration may … reexamine an airman holding a certificate issued under section 44703 of this title. *Citation*

A 44709 reexamination usually results from an accident, incident, or violation. It takes the form of a practical test with an FAA examiner. You will receive a letter from the FAA (LOI) describing their areas of interest to the FAA and which of your certificates are at risk. In a normal check ride, if your performance is unsatisfactory, you can take the ride again. If your performance on the 44709 ride is unsatisfactory, your certificate(s) can be revoked.

If your reexamination comes as the result of a violation or you have not been exceptionally friendly with them, then the process will likely be a little more difficult. If you are reading this before your first interview, then you need to know that the inspector has the option offer you remedial training in lieu of legal action. That means no 44709 check ride, no certificate action, and no civil (monetary) penalties, as long as you complete the training. The FAA's internal policies are quite clear: "The airman in the response must express an interest in pursuing a prescribed course of remedial education and must cooperate with the investigation." You always have the option to keep your mouth shut and hire an attorney. I can't give that legal advice, but I can tell you that Remedial Training is a better deal than a 44709 ride.

The 44709 ride is intended to confirm your competence to exercise the privileges of your pilot certificates. The check ride is conducted in accord with the current Practical Test Standards for the certificate you hold. If the triggering incident was related to flight instruction, you may be reexamined both as an Instructor and Commercial Pilot or ATP, as applies. The examiner has the authority to ask you to demonstrate any task i.e., "Demonstrate a Power-on Stall", or "Teach me to do a Lazy Eight." You will be expected to perform to the standard in the current PTS. You can print them off the web http://www.faa.gov/training_testing/testing/airmen/test_standards/. We also have them in the school. Pay particular attention to the stuff in the front of the book -- the Special Emphasis Areas.

The examiner has the right to require a complete check ride as described in the PTS. In my experience with examiners from the Teterboro, NJ FSDO, you will not likely have to do every task. What the examiner asks you to do you should do well, however. It is a check ride, after all. Show up happy and confident, only a little nervous, and full of knowledge.

I advise my clients to adopt a positive attitude: This is your opportunity to show the examiner what you've learned in two or twenty years of flying. You are a good pilot or a great instructor. Show him or her.

Remedial Training

At your first conversation with the FAA after an accident, incident, or alleged violation, you have two choices: protect your rights by not saying anything and invoking your right to legal counsel. The other choice is to cooperate with the investigator – without throwing yourself under the bus, of course. The FAA's internal procedure is specific as to the investigator's options. He or she can offer the pilot a Remedial Training Program in lieu of legal action if three conditions are met. The first is that pilot has shown a cooperative attitude. The second is his or her belief that the pilot would likely benefit by additional training. "The airman in the response must express an interest in pursuing a prescribed course of remedial education and must cooperate with the investigation." The third is that you were not flying for hire.

Remedial training is a good deal. You will agree with the FAA as to a training syllabus. You may work with your instructor until you complete it.

Case Study – for a CFI

On the day of your check ride, you and the inspector will discuss the flight first. The examiner will note this as the Oral portion. Likely you will start with a discussion of pilot certificates, currency, and airworthiness. You are the pilot in Command of the flight. The examiner wants to see (1) that you know the requirements, and (2) that you fulfill them. You will probably be asked the same about the maintenance records of the aircraft.

You need to exhibit confidence. You are both a Commercial Pilot and Instructor. Let's keep it that way.

Your ground discussion will go on to cover your responsibilities as a commercial pilot. The student has a reasonable expectation that you will take him flying and return him safely to earth. You may be asked to describe for how long your medical is valid, when you need a second class medical and when you need a third class medical.

Your ground discussion will cover your responsibilities as an instructor. When you sign a logbook, you are attesting to the competence of your student, whether it is for solo or a biennial flight review. If your student has a problem, the examination will eventually come back to you. You should describe to the inspector how important your role is in aviation safety. You are the front line of defense against stupid pilot tricks. You don't give away BFRs.

You will discuss Aeronautical Decision Making and Risk Management. The examiner doesn't care whether you tell your own stories about common sense, or whether you teach any of the million models: DECIDE, IMSAFE, or whatever. You simply need to show that you impart to the student the need to consider what he is about to do before he goes to the airport to fly. You need to show that by your example, you impart this safety sense to your student.

The inspector will likely ask you to fly. He will certainly want to see your taxi stuff. He can ask you to demonstrate anything in either PTS.

Before flying, put him on the spot, and ask him what he wants to learn. If he says slow flight, ask what flap setting he would like to see demonstrated. Give him a talk about critical angle of attack and power. Explain to him the procedure for recovery from a spin, PARE. You are the instructor, and you are pilot in command, from the moment he says he wants to fly.

Preflight. Do you really inspect the airplane, and teach the student to do the same? Don't just kick the tires and light the fires. When you hop in the plane, you need to have an explicit discussion about who is in charge. You will fly from the right seat and you are the PIC, the same as with a student. Treat the inspector like a student. Use the checklist and tell him about positive exchange of controls. You are PIC, no matter what you tell him or what he says to you.

Taxi. Explain that taxiing in the ramp is no faster than you can walk. Show him how you watch the wingtips. Talk about looking at wingtip shadows. Explain the markings on the taxi lanes. What is a movement area? What is a non-movement area? What color are taxiway lines and lights? What color are runway lines and lights? What are the new amber lights at your airport?

When you fly, he may give you an engine failure on takeoff, but I doubt it. He may give you an engine failure at any time. He will certainly want to hear you give a takeoff briefing, "If we lose the engine before xxx feet, we will land straight ahead." Tell him to look out for traffic.

Expect that he will want to see slow flight. First you will demonstrate, then he may want you to teach him. I wouldn't worry so much about whether you do it +/- 10 degrees. Make absolutely certain that you do the clearing turns and a pre-landing checklist. When you are done, make sure your recovery is smooth and complete. Get the flaps up and reconfigure for cruise (trim it lean it, etc).

If he's having a bad day, he may slip in some extra rudder on slow flight. If the wing drops, say very confidently, “My airplane” and recover in the first quarter or half turn. He's not out to get you. He just wants to see that you are on your game. After all, it is the mission of every student to kill the instructor. He wants to see that you are ready. Be prepared to save the day.

When you land, expect one of two things to happen: he'll freak out at 100' or he will bounce and freak out. Just take the plane and go around. The FAA is not very interested for us instructors to teach students how to salvage landings with a little throttle. Don't ask me how I know. Say, “My airplane. We're going around.” Then go around.

Remember that until the inspector started working for the FAA, he or she was just another pilot or flight instructor trying to make a living. He didn't change because he got a job with the FAA. He just wants to see that you can do as good a job as any other certificate holder.

Notice of a 44709 makes most pilots nervous. You will less nervous if you understand the FAA’s goals. The FAA examiner has a file to close (EIR). Your flying ability is one of nine things inspector must address. In some cases the most important element of which is documentation that your accident or incident was not the result of one of the nine things the FAA regulates and found that they had not failed to prevent an incident.

1. Performance of FAA facilities or functions was a factor.
2. Performance of non-FAA owned and operated (ATC) facilities or navigational aids was a factor.
3. Airworthiness of FAA-certificated aircraft was a factor.
4. Competency of FAA-certificated airmen, air agencies, commercial operators, or air carriers was involved.
5. Federal Aviation Regulations were adequate.
6. Airport certification safety standards or operations were involved.
7. Airport security standards or operations were involved.
8. Airman medical qualifications were involved.
9. There was a violation of Federal Aviation Regulations.

Special Emphasis Areas

Examiners shall place special emphasis upon areas of aircraft operation considered critical to flight safety. Among these are:

1. positive aircraft control;
2. positive exchange of the flight controls procedure;
3. stall/spin awareness;
4. collision avoidance;
5. wake turbulence avoidance;
6. LAHSO;
7. runway incursion avoidance;
8. CFIT;
9. ADM and risk management;
10. wire strike avoidance;
11. checklist usage;
12. temporary flight restrictions (TFRs);
13. special use airspace (SUA);
14. aviation security; and
15. other areas deemed appropriate to any phase of the practical test.
16. Single Pilot Resource Management (SRM)

With the exception of SRM, all of these areas may not be specifically addressed under each TASK. They are essential to flight safety and will be evaluated during the practical test.