

NOTICE

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

N 8900.343

National Policy

Effective Date:
2/2/16

Cancellation Date:
2/2/17

SUBJ: Flight Standards Service Compliance Policy

1. Purpose of This Notice. This notice clarifies the current Flight Standards Service (AFS) Compliance Policy contained in Federal Aviation Administration (FAA) Order 8900.1, Flight Standards Information Management System (FSIMS), Volume 14, Compliance and Enforcement. This notice also adds appendices which provide guidance on how to apply Compliance Philosophy to enforcement cases which are downgraded to Compliance Actions (CA) (Appendix E), introduce the AFS Compliance Philosophy (CP) Focus Team (Appendix F), and provide a guide showing how Order 8900.1, Volume 14, was revised and reorganized on October 1, 2015 (Appendix G).

2. Audience. The primary audience for this notice is certificate-holding district offices (CHDO) [including Flight Standards District Offices (FSDO) and certificate management offices (CMO)], and aviation safety inspectors and technicians (ASI and AST). The secondary audience includes AFS branches and divisions in regions and headquarters (HQ).

3. Where You Can Find This Notice. You can find this notice on the MyFAA employee Web site at https://employees.faa.gov/tools_resources/orders_notices. Inspectors can access this notice through FSIMS at <http://fsims.avs.faa.gov>. Operators can find this notice on the FAA's Web site at <http://fsims.faa.gov>. This notice is available to the public at http://www.faa.gov/regulations_policies/orders_notices.

4. Applicability. This notice supplements FAA Order 8000.373, Federal Aviation Administration Compliance Philosophy, dated June 26, 2015, and Order 8900.1, Volume 14. AFS employees will use the principles and policies in the orders and this notice to reduce risk and/or correct any ongoing noncompliance of Title 14 of the Code of Federal Regulations (14 CFR). This notice cancels Notice N 8900.323, Flight Standards Service Compliance Policy, dated September 8, 2015. Original N 8900.323 paragraph numbers and appendix letters have been retained for clarity of editorial changes and to show notice content moved into Order 8900.1 or deleted.

5. Effective Date. The terms, definitions, procedures, and activity numbers for CAs became fully effective October 1, 2015, through publication of the original N 8900.323 and Order 8900.1, Volume 14, revisions. AFS personnel must continue to use the interdependence, critical thinking, and problem-solving approaches described below. Additional guidance for enforcement cases that are later determined to be eligible for CAs is found in Appendix E.

6. Background. The safety of our National Airspace System (NAS) is based on the duty to provide for public safety and for an air carrier to provide service with the highest possible degree of safety in the public interest. The high level of safety in the NAS arises from the culture and behavior of those who participate in it. This culture relies on a high degree of voluntary compliance from those subject to FAA regulation. In order to advance this safety culture and improve its effectiveness, the Administrator issued Order 8000.373.

a. Statutory Authority. The FAA's statutory authority to prescribe, revise, and enforce standards is in Title 49 of the United States Code (49 U.S.C.), Subtitle VII, Chapter 447, Safety Regulation, and is the foundation for the purpose and mission of AFS.

b. Clarification. The FAA Compliance Philosophy clarifies and reinforces the discretion that public law and agency policy already provide for FAA program offices to take the most appropriate action to resolve safety issues in the NAS.

c. Additional Guidance. Additional policy and guidance on the Office of Aviation Safety (AVS), AFS, and other approaches to safety and risk management formerly in Appendix B are now in Order 8900.1, Volume 14, Chapter 1, Section 1, paragraph 14-1-1-13, References.

7. AFS Compliance Philosophy. Refer to Order 8900.1, Volume 14, Chapter 1, Section 1, for additional information on AFS Compliance Philosophy, and Section 2 for the AFS CA Decision Procedure. AFS core competencies in the context of compliance are explained below. Inspectors are expected to use *interdependence and critical thinking* to evaluate the discrete facts of a particular situation and choose the best tool to fix the problem, ensuring that the outcome is *consistent* with regulations, policies, and the specific circumstances.

a. Interdependence.

(1) Interdependence means:

- Understanding that there is nothing wrong with asking for help;
- Communicating and collaborating up, down, and across the organization to solve problems in creative and innovative ways;
- When necessary, asking for help, advice, counsel from peers, principal inspectors (PI), Certificate Management Teams (CMT), managers, front line supervisors, and the appropriate policy division; and
- Understanding that different is not necessarily wrong.

(2) When there is a professional difference of opinion, the first action should be to understand the other perspective. When there is a clearly reasoned concern about risk, inspectors must work interdependently with colleagues to determine whether, and how, the airman/organization can sufficiently mitigate risk and meet compliance obligations. If a proposed means of compliance appears to be safe and within the scope of regulations but outside AFS policy, inspectors should work through the management chain to obtain short-term policy relief and to seek appropriate long-term policy revisions.

b. Critical Thinking.

(1) Critical thinking requires inspectors to:

- Use interdependence to help develop the necessary understanding of facts, desired outcomes, and possible solutions;
- Make judgments based on each specific pattern of facts, recognizing that different operators can achieve compliance in different ways;
- Foster a collaborative, problem-solving approach; and
- Explain how the specific facts, desired outcomes, and possible solutions are consistent with regulations and interpretations.

(2) Critical thinking involves using your judgment, experience, and background when assessing and analyzing the situation. It also involves relying on the same expertise from your peers, management, and appropriate subject matter experts (SME) when needed.

(3) Critical thinking inherently requires respect for due process. AFS must be fair, reasonable, and just. Inspectors must consider all circumstances relating to the facts and allegations. They must make a good-faith effort to understand the position of the airman/organization and to communicate the agency's position in a timely manner.

(4) Due process does not imply unwillingness to apply the full force of statutory sanctions where warranted. There are clear instances that require enforcement action.

(5) AFS leadership is committed to the development of inspector interpersonal skills, critical thinking, and judgment to improve AFS efficiency, effectiveness, and organizational health. Accordingly, AFS leaders, managers, and supervisors will support individual inspectors when they use critical thinking to exercise sound professional judgment and take actions in accordance with this notice.

c. Consistency.

(1) Consistency means:

- Using interdependence and critical thinking to ensure that decisions are consistent with those of AFS colleagues (i.e., would another inspector be able to reach a similar decision with the same set of facts?); and
- Providing “right” answers that are anchored in rule, consistent with interpretation, and appropriate to the discrete set of facts.

(2) It is important to understand that consistency does not mean that each entity gets identical results. Every situation is different, and there are many ways for regulated entities to comply. Accordingly, consistency means evaluating each set of facts and developing solutions that are tailored to these specific circumstances, but being firmly anchored in statutes, regulations, policy, and legal interpretation.

(3) To achieve consistency, inspectors must use interdependence and critical thinking to evaluate the facts of each issue against objective standards (regulations, legal and policy interpretations, etc.). The inspector must also be able to explain our differing responses to any stakeholder based on the facts and standards used to make the determinations.

d. Safety Risk Management (SRM). Content previously in this subparagraph is now incorporated into Order 8900.1, Volume 14, Chapter 1, Section 1, subparagraphs 14-1-1-5B, Increasing NAS Complexity, and 14-1-1-5C, Compliance Strategy Evolution; and subparagraphs 14-1-1-9A, Regulatory Risk Controls, 14-1-1-9B, Managing Operational Risks, and 14-1-1-9C, Safety Management Systems (SMS).

e. Human Error, Human Factors, and Safety Culture. Content previously in this subparagraph is now incorporated into Order 8900.1, Volume 14, Chapter 1, Section 1, subparagraph 14-1-1-7A, Greatest Safety Risk; subparagraph 14-1-1-9D, Human Factors and Human Error; and subparagraph 14-1-1-11E, Just Culture.

8. Policy. Content previously in this paragraph is now incorporated into Order 8900.1, Volume 14, Chapter 1, Section 1, subparagraphs 14-1-1-7C, Most Deviations Can Be Effectively Corrected, and 14-1-1-11G, Due Process Considerations. Volume 14, Chapter 1, contains primary AFS Compliance Philosophy and policy.

a. Special Emphasis Programs (Order 8900.1, Volume 14, Chapter 3, Section 11) and Other Policy Commitments. Special emphasis programs may be used when it has been determined that the increased actions should bring about compliance, that the results are measurable, and that upon return to normal or noncritical status in the area of concern the programs will be discontinued.

b. Compliance and Enforcement Bulletin No. 2014-1. After coordination with other affected agencies, the Administrator has determined that cases formerly handled under Compliance and Enforcement Bulletin No. 2014-1 (National Security Airspace) are to be evaluated by FAA personnel under the FAA Compliance Philosophy. The bulletin is scheduled to be rescinded.

c. Policy Reviews. Review and alignment of the rest of Order 8900.1 content with Volume 14 policy is ongoing as an AFS-1 Priority Project. AFS will reevaluate other policy commitments as time allows and as described in the note following Order 8900.1, Volume 14, Chapter 1, Section 1, subparagraph 14-1-1-1B. If an investigating office believes an event subject to special FAA policy (which predates October 1, 2015) requiring enforcement could be more efficiently and effectively addressed with CA, personnel are encouraged to contact the CP Focus Team (see Appendix F) for the latest status on review of the subject policy.

d. Review of Enforcement Cases. FAA Order 2150.3B, FAA Compliance and Enforcement Program, Change 10, was signed on October 30, 2015. Change 10 clarifies that FAA personnel are to evaluate regulatory noncompliance under Change 9 (i.e., under the Compliance Philosophy) as of the September 3, 2015 effective date of Change 9. See Appendix E for more information and detailed procedures.

Note: Appendix E documentation procedures apply only when an Enforcement Investigation Report (EIR) and/or Enforcement Information System (EIS) entry was generated and it is later determined that CA is appropriate. The change in determination may come as the inspector gathers new information, through review by office management or regional personnel, or through discussion with the Office of the Chief Counsel (AGC). Offices should not generate a new EIS record to take a CA.

(1) For cases received by FAA legal counsel (AGC) prior to September 3, 2015 that do not require legal enforcement action, AGC will consult with AFS (and, when appropriate, the regulated entity) in the development of a corrective action plan that would be appropriate in the settlement. A corrective action might include training, counseling and education, or improvements to procedures or training programs.

(2) If AGC had not yet received a case as of September 3, 2015, AFS evaluates that case under the updated policy in Order 8900.1, Volume 14. Such cases are eligible to be resolved through a CA (when the appropriate criteria are met).

(3) For cases received by AGC on or after September 3, 2015, AGC may return those cases for consideration as a CA or administrative action.

e. Policy-Related Questions. The CP Focus Team was established, in part, to assist the field by answering policy-related questions and may be contacted directly by anyone in AFS (see Appendix F).

9. Action. To be effective, AFS Compliance Policy must be applied consistently across AFS. Every situation is different; inspectors must recognize there are many ways for regulated entities to comply. In this context, consistency means interdependently evaluating each discrete set of facts and anchoring our work in rule, consistent with interpretation.

a. Encourage Risk Management Development. Inspectors must use critical thinking in a problem-solving approach that stresses developing effective individual and organizational risk management environments. When appropriate, inspectors should engage collaboratively with airmen and organizations to encourage development of system-level risk mitigations on issues for which such methods may effectively ensure ongoing compliance.

b. Enforcement. For a repeat, intentional, or uncooperative offender, more severe enforcement measures may be necessary.

c. Use the Right Tool. Regardless of the circumstance, sound professional judgment involves consistently choosing the right tool to regain and/or ensure compliance based on the discrete facts of a particular situation.

d. Interdependence and Critical Thinking Application. When making a determination, apply interdependence and critical thinking. Inspectors are expected to work with colleagues to determine whether, and how, the airmen/organization can mitigate risk to the extent needed to meet their compliance obligations (i.e., see that the problem is fixed). Inspectors must use interdependence to help develop the necessary understanding of facts, desired outcomes, and

possible solutions by consulting with peers, PIs, CMTs, managers, front line supervisors, and the appropriate policy division to develop a well-reasoned rationale.

e. Communication. Communicating with the appropriate personnel will prepare the organization to adhere more effectively to safety management principles. For example, in a case where an inspector who is not the PI believes that CA may be appropriate for an air carrier, the inspector will refer the action to the PI via email, telephone conversations, or personal contact. The inspector should document the notification of the PI in the comments section of the Program Tracking and Reporting Subsystem (PTRS) record or appropriate field in the Safety Assurance System (SAS) for the original activity.

f. Process. Refer to Order 8900.1, Volume 14, Chapter 1, Section 2, Flight Standards Service Compliance Action Decision Procedure.

10. Importance of Thorough and Timely CA Reporting.

a. PTRS Comments¹. “All AFS managers should ensure that inspectors know the importance of reporting comments in the comments section of PTRS in accordance with [the PTRS Procedures] [M]annual”² (PPM). The higher the level of reporting, the more complete the map of risk factors and risk behaviors available for analysis. The more we can learn about precursor risk factors, the greater the opportunity to drive down accident probabilities even further. A single event may seem minor, but multiple events may indicate increased risk. If individual events are not recorded, a larger problem may not be identified. Timely entry of comments and record closure aids analysts in identifying risk factors quickly. “*An inspector’s narrative comment of observations and evaluations are the most important parts of the overall work activity report.*”³

b. Implementation and Use of Policy. AVS and AFS senior leadership want to encourage the successful implementation of Compliance Philosophy and are monitoring available metrics to gauge progress. The guidelines and procedures in paragraphs 10 through 12 are not meant to deter the use of either compliance or enforcement actions when appropriate. Rather, these long-standing PTRS procedures provide measurable public safety benefits as described in subparagraph 10a above. The timely creation of PTRS entries and comments will also provide visibility on workforce efforts to address noncompliance and assist in gauging the transition to using the FAA’s Compliance Philosophy. Quality PTRS information and policy feedback from the workforce will allow the management team to provide support and assistance to ensure successful implementation.

¹ All PTRS data quality instructions are generally applicable to data fields in the Air Transportation Oversight System (ATOS) and SAS as well. Order 8900.1, Volume 10, and Volume 14, Chapter 1, Section 2, paragraphs 14-1-2-7 through 14-1-2-9 contain specific additional non-PTRS data entry policies.

² Program Tracking and Reporting Subsystem Procedures Manual (PPM) Reissue 8/31/08, Chapter 1, Section 3, subparagraph 5C on page 1-6. The PPM is available under the “Policy and Guidance” heading at <https://efsas.avs.faa.gov/Default.aspx>.

³ PPM, Chapter 4, Section 2, paragraph 2 on page 4-24 (text is bold in the PPM).

11. Data Quality and Other Responsibilities. PPM, Chapter 2, Section 2, Oversight Responsibilities, and other areas throughout the PPM list responsibilities for all personnel, including supervisors and managers at the field and regional level. Both the PPM and FAA Order 1800.56, National Flight Standards Work Program Guidelines, describe reporting and data quality requirements in detail, some of which have been referenced in this notice for emphasis. AFS personnel should be familiar with these guidelines.

a. Regional Flight Standards Division (RFS). “RFSs have an oversight responsibility for the accuracy and currency of databases maintained by the [field offices]. They will establish a process which will assist an[d] enable [field offices] to maintain a database of the highest possible quality.”⁴

b. Field Office Responsibilities. PPM, Chapter 2, Section 2, paragraph 3, Office Managers and Supervisors, contains detailed information for supervision (subparagraph 3D), processing (subparagraph 3F), and data quality control (subparagraph 3K), among others. Review of these subparagraphs is recommended for effective Compliance Philosophy implementation.

c. ASI Analysis and Interdependence. “ASIs should continually analyze data available on their assigned [certificates for] trends, findings or problem areas that may point to issues regarding compliance and that may require corrective actions. Inspectors should also make recommendations to management for changes in [surveillance plans and policies] if adverse patterns, trends, or problem areas are discovered. Inspectors should coordinate their findings with the supervisor and office manager when potential adverse safety data is detected and make adjustments to their work program as necessary.”⁵

12. PTRS Records. CAs are defined in Order 8900.1, Volume 14, Chapter 1, Section 2, subparagraph 14-1-2-3D, and will be documented in PTRS using the activity numbers in subparagraph 14-1-2-3E and additional instructions in paragraph 14-1-2-9.

a. Generating PTRS. In accordance with the PPM, the PTRS codes used to document the CA (i.e., non-enforcement action) are not a replacement for the activity code used to document the underlying activity during which the deviation was found.

Note: No CA PTRS records will be made for airmen on an accepted Aviation Safety Action Program (ASAP) event, or for an organization on an accepted Voluntary Disclosure Reporting Program (VDRP) event. ASAP and VDRP corrective actions documentation and PTRS requirements are detailed in Order 8900.1, Volume 11. Additional information on excluded reports is found in Order 8900.1, Volume 14, Chapter 3, Section 12, and Notice N 8900.331, Aviation Safety Action Program (ASAP), Voluntary Disclosure Reporting Program (VDRP) and the New Compliance Philosophy.

⁴ PPM, Chapter 2, Section 2, paragraph 2 on page 2-2.

⁵ PPM, Chapter 2, Section 2, subparagraph 4C on page 2-7.

(1) When AFS personnel find a potential problem, the PTRS documenting the CA, administrative or legal enforcement action should not be created until it is determined what action will be taken. AFS personnel must first investigate, analyze, and assess the problem⁶, determine if a noncompliance exists, and then determine the most efficient and effective course of action to reestablish and maintain compliance. When FAA action is necessary, the appropriate CA or enforcement action PTRS record should be created within 3 business days of the inspector's determination per PPM guidelines⁷.

(a) If AFS personnel are still in the process of investigating, analyzing, and assessing the problem⁸ and have not yet determined if a noncompliance exists or have not yet determined what appropriate course of action to take, the compliance or enforcement action PTRS should not be created. During this time, any necessary comments can be entered in the PTRS or SAS record for the underlying activity (pilot deviation (PD) investigation, Data Collection Tool (DCT), etc.) that led to the discovery.

(b) When a CA or enforcement action PTRS is created, the comments must provide a synopsis of the problem, the overall planned corrective action, and show how the deviation was permanently fixed. For PTRS entries made for administrative or legal enforcement action, the comments must include the rationale of why a CA was not appropriate.

(2) If an inspector finds a deviation during a routine facility inspection and uses an on-the-spot correction to address the deviation, then the inspector would complete a PTRS entry for both the facility inspection and the on-the-spot correction. The CA activity record should be triggered from the PTRS record for the underlying activity.

(3) If an inspector finds nonregulatory safety concerns and/or has safety recommendations with no apparent deviation, the concerns/recommendations can be documented in a separate comment within the record for the underlying activity (such as design/performance assessment, surveillance or compliant investigation) that led to identification of the concern⁹.

(4) Inspectors must make quality entries and Front Line Managers (FLM) must verify that all CAs recorded in PTRS answer the questions of "Who, What, When, Where, and Why" as described in the PPM¹⁰, including each root cause that led to the deviation. Once the cause(s) are clearly identified and documented, the comments must document the immediate as well as long-term corrective actions (see next paragraph for discussion of follow-up). Documentation must be clear and stand alone in later history searches, showing the noncompliance stopped and that any fixes put in place to prevent recurrence were effective. The answers to these questions and requirements should be readily identifiable. A complete and comprehensive report demonstrates that a *quality* work activity was performed.

⁶ Using Order 8900.1, Volume 14, Chapter 1, Section 2, Flight Standards Service Compliance Action Decision Procedure.

⁷ PPM, Chapter 2, Section 2, subparagraph 3F on page 2-3.

⁸ Using Order 8900.1, Volume 14, Chapter 1, Section 2, Flight Standards Service Compliance Action Decision Procedure.

⁹ Document as described in Order 8900.1, Volume 14, Chapter 1, Section 2, paragraph 14-1-2-9.

¹⁰ PPM, Chapter 4, Section 2, paragraph 2 on pages 4-25 and 4-26.

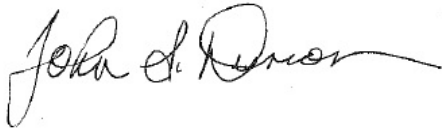
(5) Trigger follow-up surveillance activities when needed to validate CA effectiveness. Follow-up is normally not needed for simple mistakes, lack of understanding, or diminished skills which have been corrected with on-the-spot corrections, oral/written counseling, or (for General Aviation (GA) airmen) Remedial Training (RT) completed per Notice N 8900.325, Remedial Training Guidance and Procedures for Flight Standards Service, or later Order 8900.1, Volume 15, Chapter 6. Company program, manual, or procedure changes normally require follow-up to validate that the change is put in place and that it has the intended result. The CA record may remain open until simple follow-up is completed. For complex or long-term follow-up, new surveillance can be triggered or programmed in SAS, with the required follow-up activities documented in the parent CA record per Order 8900.1, Volume 14, Chapter 1, Section 2, paragraph 14-1-2-9. When in doubt on the need for follow-up activities, the ASI should consult with his or her FLM, and with the appropriate PI or CHDO when an air agency/carrier/operator or letter of authorization (LOA) holder is involved.

b. Documenting PTRS in the SAS.

(1) SAS user instructions are in Order 8900.1, Volume 14, Chapter 1, Section 2, subparagraph 14-1-2-9D.

(2) Initial revisions for CA have been made to Order 8900.1, Volume 10 (SAS). Future revisions are under consideration for SAS automation and Volume 10 policy and will be developed as resources allow.

13. Disposition. This notice will expire 1 year after publication, and we will incorporate the information in this notice into Order 8900.1 before this notice expires. Direct questions concerning the information in this notice to the Compliance Philosophy Focus Team using the information in Appendix F.



John S. Duncan
Director, Flight Standards Service

Appendix A. Definitions

Definitions are now found in FAA Order 8900.1, Volume 14, Chapter 1, Section 2, subparagraph 14-1-2-3D, Definitions.

Appendix B. Reference Documents

Reference documents are now found in FAA Order 8900.1, Volume 14, Chapter 1, Section 1, paragraph 14-1-1-13, References.

Appendix C. Example Scenarios

The following are some basic examples of actions taken by inspectors that embody the new Federal Aviation Administration (FAA) Compliance Philosophy and Flight Standards Service (AFS) Compliance Policy, including the basic Program Tracking and Reporting Subsystem (PTRS) requirements:

a. During a routine ramp inspection conducted after a flight, an inspector asks a private pilot to produce his certificate (per Title 14 of the Code of Federal Regulations (14 CFR) part 61, § 61.3(a)). The pilot is unable to locate his certificate, which he believes to have been on board the aircraft prior to the flight. The airman now speculates that his certificate may be lost. The inspector makes note of the information for the airman and flight. Upon returning to the office, the inspector checks the airman information, noting that the airman does hold an appropriate certificate and has no violation or Compliance Action (CA) history. The inspector sends the airman an email with information from airman online services on obtaining a new certificate and how to request temporary exercising privileges. The inspector triggers a CA *750 COUNSELING PTRS record from the ramp inspection PTRS record and closes the ramp record with “F” for follow-up. The inspector documents and closes the finding of the deviation with written counseling in the counseling record. The inspector enters the counseling PTRS record ID number in the ramp record comment section using the appropriate Primary Area, Keyword “907,” and Opinion Code “I,” per Chapter 4 of the PTRS Procedures Manual (PPM) as described in FAA Order 8900.1, Volume 14, Chapter 1, Section 2, subparagraph 14-1-2-9C1. Although some may suggest the inspector should require the pilot to provide evidence that the new certificate was obtained, no additional follow-up is required in this case. There is no safety impact related to this specific technical deviation, the pilot was willing and able to comply, and is aware of the requirement to have the certificate before operating again. More FAA follow-up would use inspector and pilot time with no safety benefit.

b. During a 14 CFR part 147 maintenance technician school records check, an inspector finds that one student’s file does not contain the information on the last required test taken by that student (per part 147, § 147.33(a)). All other files are in compliance with the regulations. A school representative is able to determine the date and grade of the student’s test and annotates the student’s record accordingly. Further, it is clear that the school understands the regulation but has simply made an unintentional error.

(1) The inspector concludes that an on-the-spot correction, that includes a control mechanism to help mitigate future errors, is sufficient to address the apparent deviation.

(2) The inspector triggers a CA *751 ON-THE-SPOT CORRECTION PTRS record from the school records check PTRS record and closes the records check with “F” for follow-up. The inspector documents the observed correction of the student’s record with one comment in the *751 record, and documents the school’s development of the control mechanism (an administrative process change) with a separate comment in the same record as described in Order 8900.1, Volume 14, Chapter 1, Section 2, subparagraph 14-1-2-9B. The *751 record should remain open until the inspector validates that the new control is in place. The inspector enters the *751 PTRS record ID number in the records check record comment section using the appropriate Primary Area, Keyword “907,” and Opinion Code “I,” per Chapter 4 of the PPM as

described in Order 8900.1, Volume 14, Chapter 1, Section 2, subparagraph 14-1-2-9C1. No additional follow-up is required.

(3) Alternatively, the inspector could have used the *751 record for correction of the student's record, and triggered a *752 OTHER record for the process improvement. This may be the best approach when the process improvement is complicated or may take some time, such as for an extensive manual revision followed by employee training and FAA observation to verify the fix was effective.

c. An inspector observed mechanics performing a tire change for a 14 CFR part 121 air carrier. After reviewing the air carrier manual instructions, the inspector noticed the landing gear pins were not installed per the air carrier manual instructions and cautions.

(1) The inspector gathered the maintenance crew and had them install the gear pins. The inspector also provided informal counseling that addressed:

- The hazard, as explained by the manual caution; and
- Mechanic responsibilities, per 14 CFR part 43, § 43.13.

(2) Because the mechanics were covered by an Aviation Safety Action Program (ASAP) and have 24 hours to file reports, the inspector then contacted the principal inspector (PI) and the FAA ASAP event review committee (ERC) member. The mechanics submitted ASAP reports which were accepted. The inspector documented the inspection and safety findings in the Safety Assurance System (SAS). Because ASAP reports were accepted, no CA record was created in PTRS for the mechanics (refer to Notice N 8900.331, Aviation Safety Action Program (ASAP), Voluntary Disclosure Reporting Program (VDRP) and the New Compliance Philosophy; ASAP instructions in Order 8900.1, Volume 11, Chapter 2, Section 1; and related CA instructions in Order 8900.1, Volume 14, Chapter 1, Section 2, subparagraphs 14-1-2-7 and 14-1-2-9A3).

(3) The PI concluded that the inability of the operator to ensure maintenance was performed per their manual as required by part 121, § 121.367 might reflect a pattern of negative behavior or performance. However, after further analysis and discussions with the operator and the Certificate Management Team (CMT), it was determined that the deviation was not a pattern of bad performance. The operator, with the assistance of the PI, developed a corrective action to mitigate any future deviation. The PI documented the event, root cause(s), carrier's corrective action(s), and FAA's corrective action follow-up validation (if needed) in a CA record on the *carrier*, monitored using the Action Item Tracking Tool (AITT) until completion.

d. A PI conducted a routine record check on a 14 CFR part 135 air carrier. During the initial inspection, the inspector discovered that the operator had not maintained a complete pilot record for all of the pilots used in its operations. Such action is contrary to part 135, § 135.63. The inspector used an on-the-spot correction that included a control mechanism to help mitigate future errors to address the issue. The inspector documented the action in the PTRS as described similarly above in scenario b, paragraphs (2) or (3). At the next base inspection, the inspector noted additional issues with the pilot records. The inspector worked with the operator to develop an additional risk control; a change to their office procedures which would preclude future recurrence. Again the inspector documented the action in PTRS as described above. When the

inspector returned again in a few months for the next inspection, the pilot records were still not in compliance. At this point, the operator displays a repeating pattern of negative behaviors or performance that appears to be systemic which the organization fails to mitigate, even though it is aware of the problem.

(1) The inspector initiates an enforcement investigation while continuing to require the carrier to identify and implement fix(es) for the root cause(s) of the organization's failure to maintain compliance.

(2) Regardless of the enforcement outcome, the problem must be permanently fixed. The carrier must determine and the inspector must validate whether the prior controls were adequately implemented: Was staff adequately trained and held accountable by management through adequate supervision to follow the new office procedures? Do they check or audit their own processes? Is there another problem that was not yet identified or properly addressed?

(3) The carrier's repeated failure to remain in compliance requires enforcement action. The inspector should identify appropriate corrective actions to permanently fix the problem if the carrier is unwilling or unable to identify the fixes themselves. An administrative Letter of Correction (LOC) could be an appropriate initial response for this technical scenario to put effective fixes in place which the carrier may not have undertaken on its own. Failure to comply with the requirements in the LOC to the FAA's satisfaction would require legal enforcement action.

e. An airman is recommended for Remedial Training (RT) following an apparent violation in which the airman committed a class C airspace incursion. The investigating inspector notes that the airman received a flight review recently, and, when asked, the airman indicates that airspace procedures were not discussed during the flight review.

(1) While the scenario certainly does not offer evidence that the certificated flight instructor (CFI) committed a regulatory standards deviation in the conduct of the flight review, the CFI may benefit from counseling and the knowledge that an airman they had recent contact with committed an airspace incursion. The CFI may elect to amend the topics of training they cover in their flight review to specifically address airspace incursion avoidance. In this way, the CFI may help prevent future airspace incursions.

(2) The inspector assigned the pilot deviation (PD) investigation would use the CA Decision Process in Order 8900.1, Volume 14, Chapter 1, Section 2, to make the determination that RT was appropriate, then make the RT offer to the airman. If initially accepted, the inspector would make an RT referral to the FAA Safety Team (FAASTeam). The inspector would also make the determination that the CFI would benefit from counseling. The inspector would trigger the airman's *749 ADDITIONAL TRAINING record and the CFI's *750 COUNSELING record from the PD record. Detailed procedures are in Order 8900.1, Volume 14, Chapter 1, Section 2; Volume 14, Chapter 3, Section 2; and Notice N 8900.325, Remedial Training Guidance and Procedures for Flight Standards Service, or later Order 8900.1, Volume 15, Chapter 6.

f. A very proactive and compliant commuter air carrier contacts the CMT about a new joint venture it would like to start up with a rural health care agency to provide on-demand

MEDEVAC flights with a new make-model of multiengine turboprop aircraft not currently operated by the carrier. The CMT and commuter agree to initiate a certification project to add the aircraft and address training program and other carrier manual changes. In the course of the project, the carrier professionally disagrees with the CMT about the need to comply with an AFS policy requirement related to the MEDEVAC operation.

(1) The carrier makes a reasoned argument that they can safely comply with applicable regulations and that the AFS policy requirement is overly restrictive. After careful consideration of the carrier's position, the CMT and office management agrees with the carrier and elevates the deviation from policy through the regional office to the policy division. After a phone call with the policy division and no initial objection, the CMT provisionally accepts the carrier's related training program and manual changes pending a future formal response to the deviation request.

(2) Near the end of the certification project, the policy division provides formal approval of the policy deviation. The policy division then asks the CMT to assist in drafting a permanent policy change that is less restrictive but still within the regulation.

(3) The above activities embody the Compliance Philosophy, interdependence, critical thinking, and consistency, but do not require CA PTRS records. The activities would be documented through operator correspondence and traditional certification, manual/program review and deviation request processes/procedures.

Appendix D. Volume 10 (Non-SAS) ATOS Policy Changes

All Flight Standards (AFS) field offices have now transitioned to the Safety Assurance System (SAS) and Air Transportation Oversight System (ATOS) policy is no longer needed. Appendix D content has therefore been deleted.

Appendix E. Guidance for Review of Enforcement Cases under the FAA's Compliance Philosophy

Cases received in the Office of the Chief Counsel (AGC) prior to September 3, 2015:

If one instance of noncompliance documented in the Enforcement Investigation Report (EIR) warrants a legal enforcement action, then all instances of noncompliance in the EIR will be addressed with legal enforcement action. For those cases *not requiring legal enforcement action*, AGC may recommend settlement through an administrative action. The following general steps apply:

1. AGC will consult with the Flight Standards Service (AFS) (and, when appropriate, the regulated entity) in the development of a corrective action plan that would be appropriate in the settlement. A corrective action might include training, counseling and education, or improvements to procedures or training programs.
 - a. The corrective action can also take into account actions already initiated or completed by the regulated entity.
2. **For an uninitiated case (e.g., AGC has not issued a notice of proposed certificate action)**, AGC will contact the regulated entity with a standard letter explaining the Federal Aviation Administration (FAA) Compliance Philosophy and that the case might be settled without the need for a legal enforcement action.
 - a. If no response is received within 10 days, AGC will likely proceed with the legal enforcement action.
 - b. Note: For an initiated case (e.g., AGC has issued a notice of proposed certificate action), the attorney will not send the standard letter, because the attorney previously made initial contact with the regulated individual or entity. For initiated cases, AGC, AFS, and the regulated individual or entity may discuss settlement under the Compliance Philosophy through the informal conference.
3. For an uninitiated case, AGC will schedule a conference with the regulated entity and AFS personnel to discuss the corrective action plan.
 - a. AGC will normally schedule the conference 7–10 days after AGC receives the response described in step 2 above.
 - b. It is expected that an agreement on the corrective action plan will be reached within 14 days after AGC receives the response described in step 2 above.
4. For an uninitiated case, AGC will prepare the settlement agreement and contact the regulated entity.
5. For an uninitiated case, if the entity agrees to the settlement, the attorney will return the EIR (including the settlement agreement) to the AFS regional office. The AFS field/regional office will monitor completion of the corrective action plan.

- a. AFS will inform AGC whether or not the terms of the corrective action plan are met. If so, AFS will close the case with an administrative action via a Letter of Correction (LOC) as described in FAA Order 2150.3B, FAA Compliance and Enforcement Program, Change 9, Chapter 5, paragraph 4(b)(2). The LOC should state the corrective action taken by the regulated entity.
 - b. If the regulated individual or entity did not take corrective action to the satisfaction of the FAA, the FAA will initiate a legal enforcement action.
6. **For an initiated case (e.g., AGC has issued a notice of proposed certificate action),** AGC and AFS will coordinate to handle the case similarly to the process for uninitiated cases, described above, except that:
- a. AGC will retain the EIR until AFS reports that corrective action has been completed to the satisfaction of the FAA. At that point, AGC will withdraw the notice of proposed certificate action (or the notice of proposed civil penalty, or the civil penalty letter, as the case may be) and will return the case to the program office to be closed with an administrative action via an LOC. The LOC is described in Order 2150.3B, Change 9, Chapter 5, paragraph 4(b)(2) and should state the corrective action taken by the regulated entity.
7. The following steps must be taken to properly document the action:
- a. In EIS, change the recommended action code from the original recommended action to an administrative action. Action Code 38 – Closed for Compliance Action cannot be used.
 - b. In the Program Tracking and Reporting Subsystem (PTRS), change the activity code to reflect an administrative action. In the comments section, indicate that an administrative action through an LOC is being taken instead of a legal enforcement action, and provide pertinent information concerning the corrective action agreement.
 - c. Other PTRS codes can be used during this process as needed in order to document providing technical assistance to legal counsel, document additional surveillance to support monitoring of the Compliance Action (CA) plan, etc.

Cases received by AGC on or after September 3, 2015, but before the October 1, 2015, FAA-wide implementation date for the Compliance Philosophy:

AGC may return cases to AFS, when legal enforcement is not required under Order 2150.3B, Change 9, for reconsideration as a CA or administrative action, as appropriate. If AFS agrees to resolve the case through CA, the steps in paragraphs 8 through 12 below apply. If, however, an administrative action is appropriate, AFS will follow the steps in paragraph 7, above.

8. Change the PTRS activity code to reflect the CA taken.
 - a. In the comments section, indicate that a CA is being taken instead of enforcement action and provide any pertinent details needed to explain the decision.
 - i. Additional comments that provide the information required by Order 8900.1, Volume 14, Chapter 1, Section 2, subparagraph 14-1-2-9E must be entered.

- ii. Any comments previously entered for the enforcement action should be retained in the PTRS.
 - b. The EIR number should remain in the “EIR#” field within the PTRS.
 - i. This is critical to allow the PTRS record to be associated with the previous EIR file.
 - c. If the EIR PTRS record is no longer available in the Enhanced Flight Standards Automation System (eFSAS) for editing, the record can be restored by making a request to 9-amc-afs620-certinfo@faa.gov.
9. If the PTRS was originally triggered from a surveillance activity, then the surveillance activity PTRS comments must be annotated as described in Order 8900.1, Volume 14, Chapter 1, Section 2, subparagraph 14-1-2-9C1):
 - a. *The inspector must manually enter tracking of triggered record(s) in the parent record. The activity number(s)/record ID(s) of the triggered record(s) should be entered in the comment section using the appropriate Primary Area, Keyword “907,” and Opinion Code “I,” per Chapter 4 of the PTRS Procedures Manual (PPM). Refer also to the PPM, Appendix B, for triggering and linking records.*
10. In the Enforcement Information System (EIS), the Recommended Action Code should be changed to “38” (Closed to Take Compliance Action).
11. AFS should contact the airman and proceed with the CA procedures described in Order 8900.1, Volume 14, Chapter 1, Section 2.
12. If in the future the CA needs to be terminated and enforcement action initiated (i.e., airman chooses not to participate, is unable to take effective corrective action, or new information/behavior makes CA inappropriate):
 - a. A new EIR PTRS record should be triggered from the CA PTRS record.
 - b. A new EIR number and record will need to be created within the EIS. The original CA EIR number should be entered into the related number field of the new EIR number in the EIS.

Cases where AFS personnel initiate an enforcement action and an EIS entry is generated, but it is later determined that CA is appropriate:

The determination to take CA in lieu of enforcement action may arise as the inspector gathers new information through review by office management or regional personnel, or through discussion between AFS and AGC personnel.

13. AFS personnel should utilize the procedures in paragraphs 8 through 12 above to document the CA within the PTRS and address the entry created within the EIS.

14. There is no need for an office to make an entry in the EIS to take a CA. The procedures above are only used when an enforcement action was initiated and it is later determined that a CA will be taken.

Supporting information:

1. Order 2150.3B, Change 9, was signed on September 3, 2015. This revision contained changes to reflect the FAA's Compliance Philosophy and included allowance for AFS to address regulatory noncompliance with CAs (below the level of administrative or legal enforcement action).
2. Order 2150.3B, Change 10, was signed on October 30, 2015. Change 10 clarifies that FAA personnel are to evaluate regulatory noncompliance under Change 9 (i.e., under the Compliance Philosophy) as of the September 3, 2015, effective date of Change 9.
 - a. AFS published updates to Order 8900.1, Volume 14, to align with the allowances provided in Order 2150.3B, Change 9. These changes were effective October 1, 2015.
 - b. If AGC had not yet received a case as of September 3, 2015, AFS evaluates that case under the updated policy in Order 8900.1, Volume 14. This is because Order 2150.3B, Change 9, became effective while AFS was investigating the apparent violation or processing the case. Such cases are eligible to be resolved through a CA (when the appropriate criteria are met).
 - c. As new cases arise on and after September 3, 2015, aviation safety inspectors (ASI) will generally process those cases under the Compliance Philosophy as described in FAA Order 8900.1, Volume 14. AFS will refer the case to AGC only if the ASI determines that legal enforcement action is required under Order 8900.1 and Order 2150.3B, Change 9.
3. Order 2150.3B, Change 10, also clarifies that Change 9 does not by its terms apply to regulatory noncompliance that was the subject of EIRs that were transferred to AGC for legal enforcement action before September 3, 2015. This means that if AGC received a case before September 3, 2015, the FAA is not obligated to resolve that case under the Compliance Philosophy (for example, by taking CA when the appropriate criteria in Order 8900.1 and Order 2150.3B, Change 9, are met). *Nonetheless, in the spirit of the new philosophy, FAA enforcement attorneys generally evaluate—under the Compliance Philosophy—open cases in legal that AFS transferred before September 3, 2015.* For this subset of cases that AFS transferred to AGC before September 3, 2015 and that are currently open in legal, enforcement attorneys will work with ASIs to determine whether the case, though initially referred to AGC for a legal enforcement action, can be resolved with administrative action.

Appendix F. Flight Standards Service (AFS) Compliance Philosophy (CP) Focus Team

Purpose:

The CP Focus Team has been created to maintain a consistent, ongoing leadership emphasis and oversight of CP alignment, policy and training development, and implementation within AFS, and also to serve as the AFS focal point for related work in coordination with or on behalf of the Office of Aviation Safety (AVS) and the Federal Aviation Administration (FAA) in general.

Focus Team Mission:

- Handling day-to-day questions and feedback;
- Developing and supporting CP messaging and metrics;
- Developing and maintaining CP-related policy and training; and
- Maintaining regional interfaces.

Personnel:

First	Last	Division/Role	Email	Phone
Lee	Abbott	ACE-240 Manager	lee.p.abbott@faa.gov	816-329-3220
Don	Arendt	AFS-900 Senior Technical Specialist for Safety Management	don.arendt@faa.gov	703-338-7746
Jennifer	Coady	AFS-550, Instructional Systems Specialist	jennifer.coady@faa.gov	703-487-3948
David	Karalunas	AAL-240, Detail to AFS-1, Policy Lead	david.karalunas@faa.gov	907-388-7089
Chris	MacWhorter	AFS-8, CP Focus Team Leader	christopher.macwhorter@faa.gov	540-454-0587
Jeffrey	Smith	AFS-810, Detail to AFS-1, Change Management Lead	jeffrey.smith@faa.gov	202-365-3617
Stacy	Swigart	AFS-500, Detail to AOA Strategic Initiatives Group	stacy.swigart@faa.gov	202-267-2681
Ellen	Tom	AGL-240B Operations ASI	ellen.m.tom@faa.gov	513-842-9609
Judy	Voytilla	AFS-550 Project Manager	judith.l.voytilla@faa.gov	425-227-2290
JB	Williams	AFS-850, Outreach, Operations ASI	j.b.williams@faa.gov	559-473-7144
Mark	Williams	AFS-330, Data Quality, Maintenance ASI	mark.e.williams@faa.gov	816-329-4042

Leadership:

The Team Lead and Team report to the Office of the Director (AFS-1). The Team Lead is the focal point for communication between the Team and other stakeholders, unless otherwise delegated. The Team's work is on behalf of AFS-1, with near-term policy and training alignment efforts managed as an AFS-1 Priority Project as outlined in AFS-002-103, Directive and Advisory Circular Production, Appendix B, Process for AFS-1 Priority Projects.

Coordination:

Critical thinking involves using your judgment, experience, and background when assessing and analyzing the situation. It also involves relying on the same expertise from your peers, management, and appropriate subject matter experts (SME) when needed. Interdependence is crucial to understanding the complete picture. We must communicate and collaborate up, down, and across the organization to solve problems in creative and innovative ways while ensuring that the outcome is consistent with statutes, regulations, policies, and the specific circumstances. When in doubt as to the appropriate procedures or policy to follow, or if you have suggestions to improve the policy, AFS personnel should contact the CP Focus Team for clarification. Decisions about the facts of each case and the appropriate agency response must be made by the offices directly involved.

Keep Front Line Managers (FLM) and office managers included in your actions. The CP Focus Team will coordinate with the appropriate regional branches and policy divisions.

Communication and Feedback:

Below is a list of Compliance Philosophy feedback mechanisms (i.e., ways for the workforce at all levels to submit suggestions, questions, or concerns on the Compliance Philosophy and Policy):

- Flight Standards Information Management System (FSIMS) Librarian.
- AFS Monthly Message Feedback Mailbox.
- Contact a CP Focus Team member directly.

We look forward to your feedback to continuously improve the content and communication of the Compliance Philosophy and policy.

Appendix G. Guide to Volume 14 Revision and Reorganization

<u>New Chapter #</u>																				
	<u>New Section #</u>																			
		<u>Chapter Title</u>																		
			<u>Section Title</u>																	
				<u>Remarks</u>																
1	-	FLIGHT STANDARDS SERVICE COMPLIANCE POLICY																		
	1	Flight Standards Service Compliance Philosophy																		
		Major revisions to old content, with some paragraphs retained and moved:																		
		Old Remedial Training (RT) guidance revised and moved to Chapter 3, Section 2.																		
		Old Paragraph 14-6 Investigative info now part of Chapter 2, Section 1.																		
		Old Paragraph 14-9 Special Emphasis Programs now Chapter 3, Section 11.																		
	2	Flight Standards Service Compliance Action Decision Procedure																		
		New content for new procedure. Most of old content now part of Chapter 2, Section 2.																		
	3	Old Chapter 1, Section 3 [General Info & Background on Evidence] now retitled Chapter 2, Section 1.																		
	4	Old Chapter 1, Section 4 now Chapter 2, Section 2.																		
	5	Old Chapter 1, Section 5 now divided up as Chapter 3, Sections 4, 5, & 6.																		
	6	Old Chapter 1, Section 6 now Chapter 2, Section 5.																		
	7	Old Chapter 1, Section 7 now Chapter 2, Section 4.																		
	8	Old Chapter 1, Section 8 [Enforcement Decision Process] deleted.																		
2	-	INVESTIGATION AND ENFORCEMENT-RELATED TASKS																		
	1	Interviews and Investigations Supplemental Information																		
		Old Chapter 1, Section 3 content now here is revised/retitled.																		
		Old Chapter 2, Section 1 content divided/moved to multiple sections starting at Chapter 3, Section 4.																		
	2	Preparation of Federal Aviation Administration Form 2150-5, Enforcement Investigative Report																		
		Old Chapter 1, Section 4 moved here and combined with most of old Chapter 1, Section 2.																		
		Old Chapter 2, Section 2 content moved to Chapter 3, Section 3.																		
	3	Streamlined No Action and Administrative Action Program																		
		Created new section from old Chapter 2, Section 1 paragraphs 14-150, -151, and -158.																		
	4	Provide Technical Assistance to Legal Counsel [was old Chapter 1, Section 7]																		
	5	Respond to Legal Request for Deposition or Appearance in Court Trials and Formal Hearings [was old Chapter 1, Section 6]																		
3	-	SPECIAL CONSIDERATIONS																		
	1	General [created from old Chapter 2, Section 1 paragraphs 14-150/-151]																		
	2	Additional Training Supplemental Information																		
		Old Chapter 1, Section 1, paragraph 14-5 plus new AFS-850 RT information & Compliance Philosophy content.																		
	3	False and Misleading Statements Regarding Aircraft Products, Parts, Appliances, and Materials [was old Chapter 2, Section 2]																		
		[Sections 4 to 10 are old Chapter 2, Section 1, Compliance & Enforcement Special Considerations plus																		
		Chapter 1, Section 5, Special Considerations - General Aviation, broken out into individual sections.]																		
	4	Airworthiness [was old Chapter 1, Section 5, paragraph 14-87]																		
	5	Reckless Operation of Aircraft [was old Chapter 1, Section 5, paragraph 14-86]																		
	6	Interdependence with Assigned Principal Inspectors																		
		Includes old Chapter 1, Section 5, paragraph 14-88 and Chapter 2, Section 1, paragraph 14-157.																		
	7	Deviations Resulting From Emergencies [was old Chapter 2, Section 1, paragraph 14-153]																		
	8	Deviations Involving Multiple Crewmembers [was old Chapter 2, Section 1, paragraph 14-154]																		
	9	System-Wide Deviations [was old Chapter 2, Section 1, paragraph 14-155]																		
	10	Compliance with In-Flight Smoking Regulations [was old Chapter 2, Section 1, paragraph 14-156]																		
	11	Special Emphasis Programs [was old Chapter 1, Section 1, paragraph 14-9]																		
	12	Events Excluded from an Aviation Safety Action Program [new content October 1, 2015]																		
	13	Addressing Organization Designation Authorization Holder Noncompliance [new content October 1, 2015]																		