NOTICE

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

N 8900.323

National Policy

Effective Date:
9/8/15

Cancellation Date:
9/8/16

SUBJ: Flight Standards Service Compliance Policy

1. Purpose of This Notice. This notice revises and 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, to align with the newly published FAA Order 8000.373, Federal Aviation Administration Compliance Philosophy, and related changes to FAA Order 2150.3B, FAA Compliance and Enforcement Program. Together, these changes enable FAA program offices such as AFS to become policy owners for "Compliance Actions" (see Appendix A definition) below the level of administrative or legal enforcement action. These AFS Compliance Actions can be taken, when appropriate, in a more efficient, effective, and timely manner for actual or apparent deviations from statutory or regulatory standards.

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 the Flight Standards Information Management System (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 the FAA Compliance Philosophy, Order 8000.373, dated June 26, 2015. AFS employees are encouraged to use the principles of the order to reduce risk and/or correct any ongoing noncompliance of Title 14 of the Code of Federal Regulations (14 CFR). AFS personnel must use the guidance in this notice *until* contrary guidance is *corrected* in Order 8900.1.

5. Effective Date. The new terms, definitions, procedures, and activity numbers for Compliance Actions become effective October 1, 2015, as specifically described throughout this notice. The interdependence, critical thinking, and problem-solving approaches described below are within current policy; inspectors are encouraged to begin using, or continue to use, these approaches and methods.

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 included the following compliance statement in Order 8000.373:

> *Compliance Philosophy*
>
> *The FAA establishes regulatory standards to ensure safe operations in the National Airspace System. The FAA's safety system is largely based on, and dependent upon, voluntary compliance with these regulatory standards.*
>
> *The aviation and aerospace communities have a statutory obligation to comply with established regulatory standards. This obligation includes a duty to develop and use processes and procedures that will prevent deviation from regulatory standards.*
>
> *To promote the highest level of safety and compliance with regulatory standards, the FAA is implementing Safety Management System constructs based on comprehensive safety data sharing between the FAA and the aviation community. To foster this open and transparent exchange of data, the FAA believes that its compliance philosophy, supported by an established safety culture, is instrumental in ensuring both compliance with regulations and the identification of hazards and management of risk.*
>
> *When deviations from regulatory standards do occur, the FAA's goal is to use the most effective means to return an individual or entity that holds an FAA certificate, approval, authorization, permit, or license to full compliance and to prevent recurrence.*
>
> *The FAA recognizes that some deviations arise from factors such as flawed procedures, simple mistakes, lack of understanding, or diminished skills. The Agency believes that deviations of this nature can most effectively be corrected through root cause analysis and training, education, or other appropriate improvements to procedures or training programs for regulated entities, which are documented and verified to ensure effectiveness. However, reluctance or failure in adopting these methods to remediate deviations or instances of repeated deviations might result in enforcement.*

> *The FAA views those intentional or reckless deviations from regulatory standards, as defined in the Agency's safety oversight guidance, or deviations from regulatory standards that otherwise present an unacceptable risk to safety, as posing the highest risk to safe operation of the NAS, and thus requiring strong enforcement.*
>
> *Matters involving competence or qualification of certificate, license, or permit holders will be addressed with appropriate remedial measures, which might include retraining or enforcement.*
>
> *Regulatory violations involving law enforcement-related activities may be addressed with enforcement. In addition, legal enforcement will be taken when required by law.*

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 present structure 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 are found in Appendix B.

7. AFS Compliance Philosophy. Since at least 2007, Order 2150.3 has included the following Compliance and Enforcement Philosophy guidance:

> "Voluntary Compliance. Civil aviation safety depends on voluntary adherence to legal requirements. Therefore, the FAA administers programs to promote a clear awareness and understanding of the governing statute and regulations.
>
> Education. FAA investigative personnel should take advantage of opportunities during their surveillance and inspection activities to strengthen a regulated person's understanding of the statutory and regulatory requirements. The FAA also promotes education through public awareness programs and other special aviation educational efforts."

In accordance with this guidance and with the FAA's Compliance Philosophy, the AFS approach to oversight and compliance is evolving to stress an engaged, solution-oriented, outcomes-based approach. The goal is to identify deviations from standards and correct them as effectively, quickly, and efficiently as possible. If the deviation does not involve intentional, reckless, or criminal behavior and the airman/organization is cooperative, AFS should resolve the issue through use of the compliance tools, techniques, concepts, and programs discussed above and throughout this notice. This approach will more effectively address inadvertent deviations and conserve FAA enforcement resources for intentional, reckless, criminal, and uncooperative behavior. 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 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.

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

(4) 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).

(1) Traditional oversight has relied on the assumption that if an organization is fully compliant with the applicable regulatory requirements, then an adequate level of safety is achieved. However, the aviation environment has reached a level of complexity where further safety improvements cannot be achieved by simple compliance with prescriptive rules. Compliance with regulations must move beyond viewing them simply as administrative legal requirements and into an environment where compliance entails effective control of clearly defined hazards as intended in the rules. This view of compliance stresses a problem solving approach where enhancement of the safety performance on the part of individual and organizational certificate holders is the goal.

(2) Regardless of how robust and compliant a system is, risk still exists; developing rules for every possible situation is ineffective, if not impossible. Although compliance is still a minimum expectation, experience has shown that simple compliance with regulations does not guarantee safety. Operational risks must still be managed through positive system-level action by the airmen and organizations themselves. It is important to recognize that this obligation includes a duty to develop and use processes and procedures that will prevent deviation from standards and enhance safety.

(3) These processes and procedures can include voluntary safety measures, as well as the use of Safety Management System (SMS) principles. The SMS approach is applicable to individual airmen as well as to large and complex organizations. It offers a problem solving approach where individuals and organizations have the primary responsibility for safety

performance enhancements. FAA Safety Team (FAASTeam) program management is based on an SRM approach, using system safety principles, risk prioritization, and new technology concepts. Good safety management practices are expected of all airmen and organizations.

(4) A standardized approach to managing risk, SMS has been adopted worldwide as a management tool. It establishes a formalized, risk-based approach in which processes, decisions, and activities are examined from a safety risk perspective. The goal is to ensure that all potential associated hazards are identified and analyzed, and that the risk is either accepted or mitigated to an acceptable level through controls.

(5) To achieve this goal, airmen and organizations must develop risk controls in the context of their operational environment. Through regulations and standards, the FAA provides baseline requirements for control of known hazards that affect a large segment of the aviation community. In essence, FAA rules and standards are specifications for risk controls.

(6) Because there are hazards and risks that are unique to each organization and airman's specific systems and/or environment, safety performance cannot be measured or achieved solely through compliance with the published prescriptive rules alone. Rather, safety management by airmen and organizations must proactively identify and address the unique hazards/risks that exist in each system and/or environment and resolve conditions that are unsafe but not "illegal" from the standpoint of the prescriptive rules. Inspectors should thus encourage the use of SRM tools.

e. Human Error, Human Factors, and Safety Culture.

(1) Human beings commit errors. Even the most dedicated professionals can inadvertently drift from full compliance with policies, processes, and procedures due to complacency or shortcomings in the larger systems in which they work. Unfortunately, the complexity of today's aerospace system means that even inadvertent and unintentional errors (honest mistakes) can have a serious adverse impact on safety.

(2) To address this issue, an airman or organization must account for the inevitability of human error through effective safety barriers and risk controls that focus on prevention, detection, and the mitigation of error consequences on the NAS. Deviations must be identified and resolved by airmen/organizations, collaborative/voluntary programs, or by AFS surveillance and follow-up. In addition, there must be expectation of, and appreciation for, self-disclosure of errors.

(3) On the FAA side, AFS must promote and implement a just safety culture approach. Errors must be identified, reported, and analyzed in a non-blaming manner so that appropriate remedial or system-wide corrective action can be taken based on the specific facts and circumstances of each case. Inspectors must understand the difference between accountability, which accepts responsibility and looks forward, and blame, which focuses on punishment for what has already occurred. Key to a just safety culture is the ability to determine where the line should be drawn between blameless unsafe acts that can be effectively addressed through use of compliance tools and unacceptable behavior that requires use of enforcement action.

(4) The outcome of an event is not what determines whether or not the behavior is acceptable or unacceptable. The greatest systemic safety risk arises not from a specific operational event or its outcome, but rather from an airman or organization's unwillingness or inability to comply with safety standards and, most importantly, to not operate in accordance with the core principles of SRM.

8. Policy. Effective October 1, 2015, AFS personnel will no longer use the Enforcement Decision Process (EDP) to determine what action to take for noncompliance with regulatory standards. The first priority is to identify the problem and stop any ongoing deviation from standards. Inspectors must then determine what action to take by evaluating both the airman's/organization's behavior and level of cooperation. Interdependence and critical thinking are essential tools for this task. An inspector should seek to engage and collaborate with the stakeholder to correct the underlying problem.

a. Tools to Prevent Recurrence. On most occasions, AFS can prevent recurrence through Root Cause Analysis (RCA) and training, counseling, or education for airmen as well as appropriate improvements to systems, procedures, or training programs for organizations. An inspector must contemplate all the tools available and apply the remedy most appropriate to the specific circumstances. Possible remedies to address deviations include, but are not limited to: open communication, training/education, on-the-spot corrections, counseling, and remedial training. The inspector documents such training and improvements and verifies that those procedures have effectuated compliance.

b. Enforcement Tools. In the case of intentional, reckless, or criminal behavior or an uncooperative offender, the inspector should use enforcement tools: administrative actions or legal enforcement action.

c. Pilot's Bill of Rights (PBR). Currently, informal and administrative enforcement actions (and effective October 1, 2015, Compliance Actions) do not relate to the approval, denial, suspension, modification, or revocation of a certificate. Therefore, no PBR notification is required. Informal or administrative actions (and effective October 1, 2015, Compliance Actions) may be sufficient to address the apparent violation without the need for the inspector to provide written notification of the airman's rights. However, there are certain instances in which the case could be elevated to a legal enforcement action. At the time it becomes apparent that the case is being elevated, the airman would be required to be provided with written notification of the PBR.

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 Compliance Action 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 remarks section of the Program Tracking and Reporting Subsystem (PTRS).

f. Process.

(1) Understand the problem:

- Who,
- What,
- Where,
- When, and
- Why.

(2) Determine if you are working with an airman/organization that is proactive, cooperative, and capable of participating in effective corrective or preventive action.

(a) Conditions are based on observable behaviors:

- Consistently performs in a positive manner toward regulatory requirements;
- Cooperates with investigative personnel to achieve compliance; and
- Takes actions necessary to come into and maintain compliance.

OR

(b) Are there repeated failures to adopt methods to remediate deviations or instances of repeated deviations? Is there a pattern of negative behaviors or performance that is consistently being repeated that has an identifiable common root cause (systemic) that the airman/organization fails to mitigate even though it is aware of the problem?

1. The determination must be based reasonably on the facts and circumstances in each case:

- Is the airman/organization uncooperative?
- Has the airman/organization failed to take corrective action on previously discovered deviations?
- Is the airman/organization noncompliant in more than one area? Does it involve multiple personnel? The fact that multiple areas or personnel are involved may indicate a failure to manage (i.e., poor supervision, poor procedures, and misplaced priorities/goal conflicts).

2. If repeated deviations occur, inspectors should assess all available facts and circumstances associated with the current and previous deviations. When applicable, inspectors should evaluate the systemic issues; this is particularly important when citing a common regulation. Depending upon the specific circumstances associated with the event, citations of a common regulation may not necessarily be indicative of a common systemic failure.

Note: Often on the surface it appears that the same regulation is being repeatedly violated due to the broadly defined wording of most regulations. However, every situation has a different set of factors. A review of the specific underlying circumstances associated with such repeated regulatory citations may find that they are due to entirely different circumstances and underlying causes.

(3) Take the most effective course of action.

(a) Can you prevent recurrence through an on-the-spot correction, training, counseling, or education for airmen or through improvements to systems, procedures, or training programs for organizations?

Note: There are policy and process actions AFS must follow as the result of commitments made to Congress, the Inspector General, and other external parties. Inspectors must be mindful of these commitments and respect other critical processes outlined in AFS policy. Examples include, but are not limited to: Airworthiness Directives (AD) and Remedial Training (RT).

(b) Most situations fall into a range where an inspector will have discretion to handle the matter with a collaborative problem solving approach. However, there are instances when enforcement action is appropriate. For example:

- If you determine that the violation was intentional, reckless, or criminal, then legal enforcement action is required (refer to Order 2150.3 for definitions and actions); or
- If it is determined that an apparent violation was neither intentional nor reckless, yet there is repeated failure to adopt methods to remediate deviations or instances of repeated deviations, then enforcement action may be required.

(4) Document your action(s).

10. Importance of Compliance Action Reporting. 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.

11. PTRS Records (effective October 1, 2015).

a. Recording Compliance Actions. Compliance Actions must be recorded separately from other actions/surveillance in PTRS as outlined in this notice, in pending revisions to Order 8900.1, and per the PTRS procedures manual with these Operations 1000-series, Maintenance 3000-series, and Avionics 5000-series INVESTG/COMPLIANCE ACTION Activity Numbers:

(1) *749 ADDITIONAL TRAINING. Formerly “REMEDIAL” Training; expanded to include all additional training processes documented by non-FAASTeam ASIs per Order 8900.1, *excluding* Volume 15. When an RT referral is made to the FAASTeam, the referring ASI documents with *749 per this notice or later Volume 14 guidance, and the administering FAASTeam Program Manager (FPM) documents with *950 per FAA Notice N 8900.325, Remedial Training Guidance and Procedures for Flight Standards Service, or later Volume 15 guidance.

(2) *750 COUNSELING. Formerly “AIRMAN” Counseling; expanded to include noncertificated personnel.

(3) *751 ON-THE-SPOT CORRECTION.

(4) *752 OTHER. New Activity Number for Compliance Actions that do not fit in one of the other specific categories.

(5) *753 CONVENE SAT. New Activity Number used by Safety Assurance System (SAS) ASIs only when choosing to convene a System Analysis Team (SAT) in response to a safety concern or deviation.

Note: Activity Numbers *734, labeled “Informal Action,” will be discontinued when the above numbers are activated.

b. Generating PTRS. In accordance with the current PTRS manual, the PTRS codes used to document the Compliance Action (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.

(1) 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 PTRS generated for the Compliance Action should be triggered from the PTRS generated for the underlying activity.

(2) 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 concern.

c. Documenting PTRS in the Air Transportation Oversight System (ATOS)/SAS. All document of Compliance Action PTRS records within ATOS/SAS comment fields shall precede the record number with "CAPTRS" (without quotes or spaces) to enable keyword searching and shall use the full record transmittal ID number as shown in this example: CAPTRSEA61201512345.

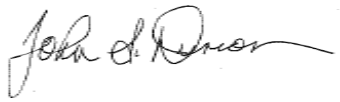
(1) ATOS users must add the PTRS number of the Compliance Action in the appropriate "Inspector Action Taken" block [just as is done with Enforcement Investigation Report (EIR) numbers].

(2) If a SAT is used, create a "Convene SAT" PTRS record with sufficient comments to describe the reason for convening the SAT and to locate the SAT record in SAS. SAT activities and outcomes only need to be documented in SAS, not the PTRS record. This will provide PI visibility to the Compliance Action within the SAS data, and also office/regional/national visibility for identified concerns within the PTRS data.

(3) Additional instructions for documentation are in pending revisions to Order 8900.1, Volume 10 (SAS) and 14; Order 2150.3 (Change 9); and in Appendix D of this notice [for Volume 10 (non-SAS)].

> **Note:** Order 8900.1, Volume 10 (non-SAS) ATOS-specific policy changes are provided in Appendix D. The remaining ATOS carrier and office are expected to complete the transition to SAS by January 2016, and ATOS policy/automation changes are no longer resourced. The guidance in Appendix D must be followed by ATOS users until SAS transition is completed. Appendix D guidance will not be incorporated into Order 8900.1.

12. Disposition. This notice will expire one year after publication, and we will incorporate the information in this notice (excluding Appendix D) into Order 8900.1 before this notice expires. Direct questions concerning the information in this notice to John Duncan, AFS-1.



John S. Duncan
Director, Flight Standards Service

Appendix A. Definitions

a. Compliance Action. An action taken by Flight Standards Service (AFS) personnel to correct airman/organization deviation from standards when the deviation does not present a high safety risk to the National Airspace System (NAS).

> **Note:** The highest safety risks to the NAS are intentional, reckless, criminal behavior or a pattern of negative behaviors or performance.

> **Note:** Identified hazards/risks without noncompliance should be communicated to the appropriate airman/organization and may require other actions (such as airman education or organizational procedure changes).

b. Corrective Action. Action taken by airmen/organizations to correct a deviation from standards or mitigate hazards/risks.

c. Enforcement Action. Formal administrative and legal enforcement action taken by AFS personnel where appropriate or where required by law in accordance with the guidance published in the current edition of Federal Aviation Administration (FAA) Order 2150.3, FAA Compliance and Enforcement Program. Enforcement actions are not Compliance Actions as described in this notice.

Appendix B. Reference Documents

1. Orders (current editions):

a. Order 8000.373, Federal Aviation Administration Compliance Philosophy, at http://www.faa.gov/regulations_policies/orders_notices/index.cfm/go/document.information/documentID/1027891.

b. Order 2150.3, FAA Compliance and Enforcement Program, at http://www.faa.gov/regulations_policies/orders_notices/index.cfm/go/document.information/documentID/17213.

c. Order VS 8000.367, Aviation Safety (AVS) Safety Management System Requirements at http://www.faa.gov/regulations_policies/orders_notices/index.cfm/go/document.information/documentID/1020529.

d. Order 8000.368, Flight Standards Service Oversight, at http://www.faa.gov/regulations_policies/orders_notices/index.cfm/go/document.information/documentID/1020609.

e. Order 8000.369, Safety Management System (cancelled Order VS 8000.1, Safety Management System Doctrine), at http://www.faa.gov/regulations_policies/orders_notices/index.cfm/go/document.information/documentID/1021106.

f. Order VS 8000.370, Aviation Safety (AVS) Safety Policy, at http://www.faa.gov/regulations_policies/orders_notices/index.cfm/go/document.information/documentID/1020947.

g. Order 8040.4, Safety Risk Management Policy, at http://www.faa.gov/regulations_policies/orders_notices/index.cfm/go/document.information/documentid/1019950.

2. Handbooks (current editions). Risk Management Handbook (FAA-H-8083-2) at http://www.faa.gov/regulations_policies/handbooks_manuals/aviation/risk_management_handbook/.

3. Advisory Circulars (AC) (current editions). AC 120-92, Safety Management Systems for Aviation Service Providers, at http://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/1026670.

4. Other Materials:

a. Report of the Independent Review Team, 2008, at http://www.faa.gov/aircraft/air_cert/continued_operation/ad/ad_arc/media/IRTreport.pdf.

b. The Regulatory Craft: Controlling Risks, Solving Problems, and Managing Compliance, by Malcolm Sparrow, 2000, at https://openlibrary.org/books/OL8050332M/The_Regulatory_Craft.

c. The ARMS Methodology for Operational Risk Assessment in Aviation Organisations, by ARMS Working Group, 2010, at http://www.skybrary.aero/bookshelf/books/1141.pdf.

d. Systems Thinking for Safety: Ten Principles (A White Paper), by Eurocontrol, 2014, at http://www.skybrary.aero/index.php/Toolkit:Systems_Thinking_for_Safety:_Ten_Principles.

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:

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 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 closes the finding of the deviation with written counseling.

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. 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.

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) The mechanics submitted Aviation Safety Action Program (ASAP) reports. The inspector documented the inspection in the Safety Assurance System (SAS) and the Compliance Action in the Program Tracking and Reporting Subsystem (PTRS). The inspector then contacted the principal inspector (PI) and the FAA ASAP event review committee (ERC) member.

(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 Compliance Action.

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. 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 reoccurrence. Again the inspector documented the action in PTRS. 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 pattern of negative behaviors or performance that is consistently being repeated and has an identifiable common root cause (systemic) that the organization fails to mitigate, even though it is aware of the problem. The inspector initiates an enforcement investigation.

e. An airman is recommended for remedial training 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. While this 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.

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. 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. 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.

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

The following changes, effective October 1, 2015, are made to Air Transportation Oversight System (ATOS) policy to document Compliance Actions. Deleted text is noted with ~~strikethrough~~ and new text is underlined. These policy changes must be followed by ATOS users until Safety Assurance System (SAS) transition is completed and ATOS policy is removed from Order 8900.1, Volume 10. Additional Volume 10 guidance may require revision to align with Federal Aviation Administration (FAA) and Flight Standards Service (AFS) Compliance Policy. AFS personnel must use the guidance in this notice until contrary guidance is corrected in Order 8900.1. When in doubt as to the appropriate course of action or policy to follow, inspectors will work through their Front Line Managers (FLM) and office managers with the appropriate regional branches and policy divisions for clarification.

> **Note:** All documentation of compliance action Program Tracking and Reporting Subsystem (PTRS) records within ATOS comment fields shall precede the record number with "CAPTRS" (without quotes or spaces) to enable keyword searching and use the full record transmittal ID number as shown in this example: CAPTRSEA61201512345.

Chapter 2, Section 6:

Subparagraph 10-214A on page 2 (PDF version):

A. Activities Recorded in the ATOS Database. The Certificate Management Team (CMT) or Certification Project Team (CPT) records complete ATOS data collection activities in the ATOS database. Never enter the same data in both the ATOS database and the Program Tracking and Reporting Subsystem (PTRS). If reporting an ATOS activity, enter those data into the ATOS database utilizing SAIs, EPIs, ConDORs, random inspections, and DORs. Use the appropriate system for any followup reporting (e.g., compliance actions, enforcement investigations or self-disclosures).

Subparagraph 10-214G2), on page 5 (PDF version):

2) Inspector Actions Taken. Whenever there is a "No" response to a question, the "Inspector Action Taken" field associated with that specific data reporting tool question is available to use as described below.

a) ASIs who observe an unsafe condition that could result in an accident, incident, or violation of the regulations must notify the appropriate air carrier and PI, or applicant personnel and the CPM. The originating office tracks any action taken involving a compliance action as prescribed by policy effective October 1, 2015, or later in N 8900.323 and Order 8900.1, Volume 14, or enforcement investigation as prescribed in Volume 14 and the current edition of FAA Order 2150.3, FAA Compliance and Enforcement Program. When opening a compliance action or Enforcement Investigation Report (EIR) prior to saving the DCT to final, document the number(s) in the "Inspector Action Taken" field of the activity report. If you do not have the ~~EIR~~ number(s) prior to saving the DCT to final, document the compliance action PTRS number and/or EIR number in the explanation box of the Assessment Determination and Implementation (ADI).

b) ASIs should not enter a description of their actions to complete the particular activity they are reporting. The intent of this field is not to capture what records the ASI reviewed or the processes he or she observed.

c) Actions entered in this field include, but are not limited to, notifying the appropriate air carrier or applicant personnel of a safety concern/recommendation or potential/apparent noncompliance, initiating a compliance action or enforcement investigation, consulting with air carrier or applicant personnel to effect an action, or notifying the PI or CPM.

Table 10-1, Data Quality Guidelines—Specific Data Requirements Table, page 16 (PDF version):

"Inspector Action Taken" field: Same revisions in right-hand column as in subparagraph 10-214G2)a) above.

Chapter 2, Section 9:

Figure 10-53, Module 8: Design Action Determination and Implementation:

At steps 8.3 and 8.11: "Is Compliance and/or Enforcement Action Required?"

If yes: "Follow Procedures in Accordance with Order ~~2150.3~~ 8900.1, Volume 14"

Paragraph 10-280C on page 2 (PDF version):

C. Is Compliance Action or Enforcement Action Required? (see flowchart process step 8.3). The PI determines if a safety concern/recommendation or potential/apparent violation of a Federal Aviation Administration (FAA) regulation or statute is involved that may lead to a compliance action or enforcement action. ~~Enforcement action is required if an air carrier is, or has been, conducting operations contrary to applicable FAA regulations.~~ The PI follows the procedures outlined in N 8900.323 and Order 8900.1, Volume 14, effective October 1, 2015, to take compliance action and determine if or when ~~the current edition of Order 2150.3, FAA Compliance and Enforcement Program, if~~ enforcement action is required. If you have the compliance action PTRS number or Enforcement Investigation Report (EIR) number prior to saving the Data Collection Tool (DCT) to final, document the number(s) in the "Inspector Action Taken" field of the activity report. If you do not have the ~~EIR~~ number(s) prior to saving the DCT to final, document the compliance action PTRS and/or EIR number in the explanation box of the Assessment Determination and Implementation (ADI).

Subparagraph 10-280F3) NOTE on page 3 (PDF version):

> NOTE: The SAT process does not change any existing Flight Standards compliance action or enforcement policies. The PI or CPM must conduct SATs in a manner that complies with N 8900.323 and Order 8900.1, Volume 14, policy effective October 1, 2015 ~~does not compromise FAA enforcement responsibilities~~.

Subparagraph 10-280J NOTE on page 6 (PDF version):

> NOTE: The CATT is the tool that CMT managers and PIs must use to ensure that air carriers meet schedules for completing corrective actions that result from Design Assessments (DA), PAs, or other oversight functions. The CATT documents immediate and long-term CMT-initiated corrective actions required of air carriers, including specific followup actions that may be required by guidance elsewhere in this order. The CATT may be used to track other CMT issues; however, it cannot be used to replace documentation requirements specified in other guidance, including (effective October 1, 2015) N 8900.323 and Order 8900.1, Volume 14, for Compliance Actions. Enter the CATT record number in the appropriate Compliance Action PTRS comment(s) along with any other information required to document the Compliance Action in accordance with N 8900.323 and Volume 14 requirements that is not already documented in the related DCT, ADI, or CATT record. If all N 8900.323 and Volume 14 Compliance Action documentation requirements are met within ATOS, then only the related DCT, ADI, or CATT record number(s) need to be entered in the Compliance Action PTRS comment.

Subparagraph 10-281B: Same edits as above Section 9, paragraph 10-280C.

Chapter 2, Section 11:

Figure 10-55, Module 8: Performance Assessment Action Determination and Implementation (Performance Affirmed), steps 8.3 and 8.12: Same edits as above Section 9, Figure 10-53.

Subparagraphs 10-320C and 10-321C: Same edits as above Section 9, subparagraph 10-280C.

Subparagraph 10-320F3) NOTE: Same edits as above Section 9, subparagraph 10-280F3) NOTE.

Subparagraph 10-320J: Add content to align with Section 9, subparagraph 10-280I as shown below:

J. Is Air Carrier/Applicant Corrective Actions Required? (see flowchart process step 8.4.1). The PI or CPM must determine the extent of the deficiencies and if further analysis is required to establish what corrective actions the air carrier requires. Other possible considerations are the need for a formal action plan, participation of air carrier personnel, timeliness of required actions, regional or national significance, or the output of other tools such as the decision aid used to evaluate air carrier changes. The PI or CPM documents what other action is going to be accomplished by the air carrier/certificate management team as part of the mitigation process.

After subparagraph 10-320K: Add Section 9, subparagraph 10-280J NOTE including edits shown above.

Chapter 4, Section 1:

Paragraph 10-377 on page 7 (PDF version):

10-377 DETERMINE AND IMPLEMENT FOLLOWUP ACTIONS (see flowchart process step 1.14). PIs are responsible for determining and implementing followup actions in response to the DAs, PAs, and ConDORs completed during the evaluation. PIs should consider whether they need to initiate compliance actions or enforcement actions in accordance with N 8900.323 and Order 8900.1, Volume 14, effective October 1, 2015; re-evaluate air carrier approvals, authorizations, deviations, or exemptions; recommend an FAA policy or regulation change; recommend the issuance of an Airworthiness Directive (AD); schedule ConDORs; or schedule a followup evaluation. The PI documents one or more appropriate courses of action.

Subparagraph 10-377C3) on page 8 (PDF version):

3) Compliance Action and/or Enforcement Action. ~~Enforcement action is required if an air carrier is or has been conducting operations contrary to applicable FAA regulations. If enforcement action is required,~~ PIs are responsible for determining if a safety concern/recommendation is identified or if a potential/apparent violation of an FAA regulation or statute is involved. The PI follows the procedures outlined in N 8900.323 and Order 8900.1, Volume 14, effective October 1, 2015, to take compliance action and determine if or when ~~the current edition of FAA Order 2150.3, FAA Compliance and Enforcement Program~~ enforcement action is required, and documents the action with explanation on the Assessment Determination and Implementation (ADI) tool. Document the compliance action PTRS number and/or Enforcement Investigation Report (EIR) number in the ADI ~~for EIRs~~ if not previously opened and documented in "Inspector Action Taken" block of the activity report. Refer to N 8900.323, Appendix D, for additional information.

After subparagraph 10-377C5): Add Section 9, subparagraph 10-280J NOTE including edits shown above.