

CHANGE**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION****ORDER
2150.3B
CHG 9**

National Policy

Effective Date:
09/03/15**SUBJ:** Guidance for Implementing the FAA Compliance Philosophy

- 1. Purpose.** This change to Chapter 5 of FAA Order 2150.3B adopts new guidance for carrying out the FAA's compliance and enforcement program in connection with the FAA Compliance Philosophy. In addition, this change removes: the remedial training program guidance from Chapter 5 and Appendix A; Appendix F (Enforcement Decision Process); and C&E Bulletin No. 2014-3.
- 2. Who this change affects.** The change affects all agency legal counsel who process enforcement actions and all lines of business and program offices having an oversight function.
- 3. Disposition of Transmittal Paragraph.** Retain this transmittal sheet until the directive is cancelled by a new directive.

PAGE CHANGE CONTROL CHART

Remove Pages	Dated	Insert Pages	Dated
vi-vii viii xv	10/01/07 01/20/15 05/13/11	vi thru viii and xv	09/03/15
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i (Appendix A: Sample Documents Table of Contents)	10/01/07	i (Appendix A: Sample Documents Table of Contents)	09/03/15
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Appendix F (EDP), F-1 thru F-10	10/23/09	NA	
Compliance & Enforcement Bulletin No. 2014-3, H-11 thru H-13	01/05/15	NA	

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4. Administrative Information. This Order change is distributed to divisions and branches in Washington headquarters, regions, and centers and to all field offices and facilities.

A handwritten signature in black ink, appearing to read 'Michael P. Huerta', with a circled '1' at the end.

Michael P. Huerta
Administrator

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Appendixes

Appendix A: Sample Documents

Appendix B: Table of Sanctions for All Enforcement Programs, Except Hazardous Materials

Appendix C: Sanction Guidance—Hazardous Materials Enforcement

Appendix D: Selected Statutes

Appendix E: Examples

Appendix F: (Deleted)

Appendix G: FAA Form 2150-5, Codes for Blocks 19-24

Appendix H: Compliance and Enforcement Bulletins

Compliance and Enforcement Bulletin No. 2010-1: Forgoing enforcement action for persons who disclose previous falsification on applications for airman medical certification regarding the use of antidepressant medication, the underlying condition for which the antidepressant was prescribed, and visits to health professionals in connection with the antidepressant use or underlying condition.

H-1

“FDR” means Flight Data Recorder.

“FLEA” means Federal Law Enforcement Agency.

“FMS” means Department of Treasury Financial Management Services.

“FOIA” means Freedom of Information Act.

“FOQA” means Flight Operational Quality Assurance.

“FSDO” means Flight Standards District Office.

“Hazmat” means hazardous materials.

“HMR” means Hazardous Materials Regulations.

“IOP” means Item of Proof.

“LEA” means law enforcement agency.

“LOI” means Letter of Investigation.

“MIDO” means Manufacturing Inspection District Office

“NASA” means National Aeronautics and Space Administration.

“NAS” means National Airspace System.

“NTSB” means National Transportation Safety Board.

“OIG” means Office of Inspector General.

“OST” means Office of the Secretary of Transportation.

“PAH” means Production Approval Holder.

“Person” means an individual or entity, firm, partnership, corporation, company, association, joint stock association, or governmental entity. It includes a trustee, receiver, assignee, or similar representative of any of them.

“PMA” means Parts Manufacturer Approval.

“Program Office” means the Flight Standards Service, the Aircraft Certification Service, the Office of Aerospace Medicine, the Office of Security and Hazardous Materials, the Office of Airports, or the Office of Commercial Space Transportation.

“Regional Counsel” means Regional Counsel and Aeronautical Center Counsel.

“Regions” means all regions and the Aeronautical Center.

“SNAAP” means Streamlined No Action and Administrative Action Process.

“SPAS” means Safety Performance Analysis System.

“TSOA” means Technical Standard Order authorization.

Chapter 5. Responsibilities of the FAA Program Offices When Selecting Among Compliance, Administrative, and Legal Enforcement Actions

1. Purpose. The Federal Aviation Administration Compliance Philosophy (FAA Order 8000.373), this Order, and the policies and procedures issued by program offices guide agency personnel in the exercise of the FAA's prosecutorial discretion when using compliance, administrative, and legal enforcement action to ensure that all regulated persons conform their conduct to statutory and regulatory requirements. This Order also provides guidance for FAA personnel to issue compliance actions in situations not involving noncompliance but when such actions would address other safety concerns. Noncompliances by regulated persons that are willing and able to comply and are willing to cooperate in corrective actions may be addressed with compliance actions, except when legal enforcement action is required under paragraph 5 or administrative or legal enforcement action is preferred under paragraph 6. Noncompliances by regulated persons that are unwilling or unable to comply or are not cooperative in corrective actions must be addressed with enforcement action. Note that in every case, regardless of how a noncompliance is addressed, the regulated person must return to compliance, now and for the future, or enforcement action may be taken.

2. FAA Responses to Non-Regulatory Safety Risks and to Regulatory Noncompliance.

FAA personnel use compliance, administrative, or legal enforcement actions to uphold the public's safety interest in ending noncompliance and ensuring full compliance in the future.

- Holders of certificates, approvals, authorizations, permits, or licenses are subject to compliance, administrative, or legal enforcement action.
- Except as provided below, non-certificated persons are subject to compliance, administrative, or legal enforcement action.
- Non-certificated shippers of hazardous materials, including non-certificated holders of special permits issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA) and other non-certificated entities under the Hazardous Materials Regulations (HMR) are subject to informal action, administrative action or legal enforcement action, but not compliance action.

Regardless of the chosen course of action—compliance action, administrative action, or legal enforcement action—FAA personnel are, in accordance with program office policy, to determine whether corrective action is necessary, and, if so, to ensure that the regulated person takes corrective action, satisfactory to the FAA, to strengthen the regulated person's operations or to bring a regulated person into compliance, prevent recurrence of noncompliance, and mitigate risks to safety.

Neither compliance actions nor administrative actions are adjudications and neither constitute a finding of violation. However, FAA personnel will consider a regulated person's prior compliance actions for regulatory noncompliance and administrative actions in deciding on the appropriate action in response to any future noncompliance.

3. Compliance Action.

a. Noncompliance. As set forth in the Compliance Philosophy Order, it is the FAA's goal to use the most effective means to return an entity holding an FAA certificate, approval, authorization, permit, or license to full compliance and prevent recurrence. Many deviations from regulatory compliance are caused by factors such as flawed procedures, simple mistakes, lack of understanding, or diminished skills. When FAA personnel determine that a person is both willing and able to comply with regulatory standards, they may use compliance action to address the underlying root cause of noncompliance through such means as airman training, counseling, or education, and/or appropriate improvements to a regulated person's procedures, training, or other programs. When FAA personnel take compliance actions, they are required to document the following:

- A detailed identification and description of the noncompliance;
- An appropriate analysis of the cause of the event;
- A detailed description of the regulated person's corrective actions to come into full compliance and avoid recurrence including documentation of the actions taken; and
- Documentation that the corrective actions have been implemented and whether or not they have returned the person to full compliance.

In a compliance action, when a person fails to implement agreed-upon corrective actions to bring the person into full compliance, FAA personnel shall recommend legal enforcement action for the noncompliance that gave rise to the compliance action, as well as any subsequent noncompliances that would have been addressed by the corrective action. A failure to implement agreed-upon corrective action differs from implementing an agreed-upon corrective action that does not achieve its intended purpose. In the latter case, further corrective action may be appropriate.

The program office shall retain a record of compliance actions in accordance with Agency record retention policies. Compliance action is not appropriate when the criteria for legal enforcement action are met as set forth in subparagraphs 5.a.-e.

FAA personnel should consult their program office guidance about providing persons with notification under the Pilot's Bill of Rights.

As FAA personnel evaluate a person's progress in implementing corrective action associated with a compliance action, FAA personnel should be mindful of the stale complaint rule or statute of limitations associated with regulatory noncompliance. In general, the FAA must initiate legal enforcement action against an airman or certificate action against an entity within 6 months after the noncompliance occurs. In other cases (e.g., most civil penalty actions), the FAA generally must initiate legal enforcement action within two years after the noncompliance occurs. If the corrective action process is approaching the applicable time limitation and FAA personnel want to continue that process while preserving the FAA's ability to take further action if necessary,

FAA personnel should consult with the Office of the Chief Counsel to determine whether obtaining a waiver of the time limitations period to any legal enforcement action arising from the original noncompliance is needed.

In the context of a compliance action, the term, “willing,” may be demonstrated where:

- The person acknowledges responsibility for the event.
- The person openly shares information with the FAA to determine the root cause of the event.
- The person promptly implements corrective action.

The term, "able" may be demonstrated where:

- The person has resources (e.g., personnel, financial, time) sufficient to implement the necessary corrective action(s).
- The person has, or has the ability to develop through corrective action, the knowledge and technical competence required of the certificate they hold. If FAA personnel identify a competency or qualification issue, it must be addressed in accordance with paragraph 8.
- The person has access to data, equipment, facilities, etc. necessary to comply with regulatory requirements and appropriately manage risk.

b. Non-Regulatory Compliance Action Determinations. FAA personnel may, in accordance with program office policy, use compliance action to encourage regulated persons to adopt best practices of a non-regulatory nature by making recommendations and suggestions with regard to other safety concerns, which have been identified. Such recommendations may be made either independent of, or in conjunction with, a compliance, administrative, or legal enforcement action taken for regulatory noncompliance that also exists. Because these suggestions to improve operations are non-regulatory in nature, they may be made notwithstanding the regulated person’s compliance with all applicable regulatory requirements. However, when recommendations are made in conjunction with any compliance, administrative, or legal enforcement actions taken for regulatory noncompliance, the recommendations and suggestions must be clearly identified as non-regulatory in nature and set apart from both the statement of facts and circumstances constituting the statutory or regulatory noncompliance and the agreed-upon corrective action. A regulated person is not subject to enforcement action for electing not to take corrective action pertaining to a non-regulatory compliance action determination.

4. Administrative Action.

- a. Criteria.** FAA personnel take administrative action when:

- They reasonably and in good faith determine that compliance action will not remediate noncompliance and ensure future compliance;
- Legal enforcement action is not required under subparagraphs 5.a.-e., below, or warranted under paragraphs 6-9, below.

b. Types of Administrative Actions. There are two types of administrative actions - warning notices and letters of correction.

(1) Warning Notice. A warning notice advises the noncompliant person of the facts and circumstances constituting noncompliance and requests future compliance. See sample warning notice in Figure A-10 of Appendix A.

If a letter of investigation (LOI) has not been issued to the regulated person, FAA personnel shall include:

- In the warning notice the following language: “If you wish to add any information in explanation or mitigation, please write to me at the above address.”; and
- With the warning notice a privacy act notice. *See* sample privacy act notice for warning notice in Figure A-14 of Appendix A.

Any responsive information should be evaluated to determine whether the warning notice continues to be appropriate. If FAA personnel determine the warning notice is not appropriate, they withdraw it.

(2) Letter of Correction. While a letter of correction serves the same purposes as a warning notice, the letter of correction is also used to memorialize the specific agreement between FAA personnel and the regulated person as to the particular corrective action taken or to be taken within a specified time to effectuate compliance. See sample letter of correction in Figure A-11 of Appendix A.

Because a letter of correction reflects the regulated person’s agreed-upon action, such letters do not invite the regulated person to submit information in explanation or mitigation.

c. Follow-Up Inspection to Verify Completed Corrective Action. In the event corrective action has not been completed before or at the time of issuance of the letter of correction, FAA personnel perform a timely follow-up inspection. If the corrective action is fully implemented, FAA personnel will send a letter acknowledging that fact and closing the matter. See sample letter acknowledging completion of corrective action in Figure A-13 of Appendix A.

d. Failure To Fulfill Agreement To Take Corrective Action. If a corrective action is not completed in the agreed-upon manner and time, FAA personnel are to refer the matter and any documentation of additional noncompliance to the Office of Chief Counsel for legal enforcement action.

e. Streamlined No Action and Administrative Action Process (SNAAP). FAA inspectors for the Flight Standards Service and FAA special agents in the Office of Security and Hazardous Materials Safety DUI/DWI program may, with the approval of their program office, issue warning notices or letters of correction using the SNAAP process to remediate noncompliance that does not require extensive investigation. However, SNAAP may not be used in response to voluntary disclosures under the Voluntary Disclosure and Reporting Program or matters in which the requisite corrective action is not immediately and fully implemented (i.e., SNAAP is not available for matters that contemplate or require the regulated party to implement any remedial activity, in whole or in part, in the future).

5. Legal Enforcement Action. In some circumstances FAA personnel are required, and in other circumstances they have the discretion, to refer matters to the Office of the Chief Counsel for evaluation and initiation of a legal enforcement action against a regulated person. FAA personnel are required to refer to the Office of Chief Counsel cases that they determine involve noncompliance arising from or relating to the regulated person's:

a. Intentional Conduct. An act (or failure to act) while knowing that such conduct is contrary to a statutory or regulatory requirement.

b. Reckless Conduct. An act (or failure to act) evidencing a deliberate indifference to or a conscious disregard of: (i) a safety standard embodied in an applicable statute or regulation or (ii) the reasonably foreseeable consequences of the act (or failure to act).

c. Failure to Complete Corrective Action. Failure to complete corrective action on terms satisfactory to the FAA.

d. Conduct Creating or Threatening to Create an Unacceptable Risk to Safety. Conduct that creates or threatens to create a high level in the likelihood and/or severity of significant risk to safety, when the Director of the program office determines that alternative means to address the noncompliance and to effectuate immediate and future compliance would not be sufficient.

e. Legal Enforcement Required by Law. The express terms of a statute or regulation require the initiation of a legal enforcement action.

f. Justified Exception. In unusual circumstances, FAA personnel may forgo referring a matter to the Office of the Chief Counsel for legal enforcement if it meets the criteria of subparagraphs 5.a.-d., above, and in lieu thereof, take administrative action. However, before formally taking such action, the Director of the program office or delegate at the executive level shall provide to the Office of the Chief Counsel a written statement explaining the rationale for why legal enforcement action would serve no salutary purpose and the basis to conclude that use of an administrative action effectuates full and immediate compliance. When legal action is required by law, subparagraph 5.e. above, no exceptions from legal action are permitted.

Matters for which FAA personnel have discretion as to whether to refer to the Office of the Chief Counsel are set forth in Paragraphs 6, 7, 8, and 9, below.

6. Repeated Noncompliance. FAA personnel have discretion to respond to repeated noncompliance using compliance action, administrative action, or referring the matter to the Office of the Chief Counsel for it to initiate a legal enforcement action. Repeated violations mean:

- Noncompliance with various sections or subsections of the same or similar regulations, discovered during either a single, multiple, or successive inspections;
- Recurring noncompliance with the same or similar section or subsection of a regulation discovered during multiple or successive inspections; or
- Noncompliance with different sections or subsections of a regulation arising from a common root cause.

FAA personnel determine whether or not the facts and circumstances of the case indicate a repeated violation, as defined above, and, if so, determine in accordance with program office guidance, whether a compliance, administrative, or legal enforcement action is the appropriate response. In determining the appropriate response, FAA personnel consider safety risk as determined by the program office.

FAA personnel should consider a progressive response to repeated noncompliance. For example, where FAA personnel determine that compliance action did not correct the noncompliance, administrative action or legal enforcement action might be the appropriate response. The following are examples of when these actions may be appropriate:

- *Compliance action* may be appropriate when it would effectively remediate the root cause or causes of the repeated noncompliance. If the agreed upon corrective action, properly executed, did not remediate the noncompliance and additional corrective action has been identified, it may be appropriate for FAA personnel to take further compliance action. If the noncompliance persists, FAA personnel must evaluate whether or not the noncompliance reflects an unwillingness or inability to fix the problem, in which case enforcement action will be appropriate.
- *Administrative action* may be appropriate when the regulated party has implemented significant but not complete corrective action, immediate implementation of the remaining corrective action effectuates full compliance, and the circumstances warrant additional documentation of the continued noncompliance.
- *Referral to the Office of Chief Counsel for legal enforcement action* is appropriate when the regulated party demonstrates an unwillingness or inability to comply as evidenced by, for example, disregard for its compliance obligation, failure to prioritize or invest appropriate resources to achieve compliance, inadequate safety culture, or where prior use of administrative action did not effectuate full compliance.

7. Accurate Data. Accurate data is the foundation of safety management processes and supports the timely development and implementation of appropriate risk mitigation measures. FAA personnel may take compliance, administrative, or legal enforcement action based on the

applicable program office policy as it pertains to evaluating the cause and impact of noncompliant safety management data systems and processes. However, statutory or regulatory noncompliance related to inaccurate or unreliable data resulting from falsification or other intentional misconduct always is referred to the Office of the Chief Counsel for initiation of a legal enforcement action.

8. Matters Pertaining to Certificate Holder's Competency or Qualification. FAA personnel address issues of a certificate holder's competency or qualification through use of compliance, administrative, or legal enforcement action as follows:

- If an issue of competence or qualification relates to a certificate holder's skills or ability to meet technical eligibility requirements, FAA personnel may take either compliance or administrative action provided such action ensures that the certificate holder is in full compliance with the requisite qualification or competence standards when exercising the privileges of a certificate.
- If a lack of qualification is evidenced by a lack of the care, judgment, and responsibility to hold that certificate, FAA personnel refer the matter to the Office of the Chief Counsel for it to evaluate and initiate legal enforcement action.

Pursuant to 49 U.S.C. § 44709, FAA personnel have authority to take appropriate action, including reexamining or reinspecting a certificate holder to resolve any question as to the holder's competence or qualification to hold a certificate.

9. Law Enforcement-Related Activities. FAA personnel should usually refer matters involving law enforcement-related activities to the Office of the Chief Counsel for it to initiate legal enforcement action. For example, FAA personnel ordinarily would recommend legal enforcement action in cases where a certificate holder exercises the privileges of the certificate while under the influence of drugs or alcohol, or where an aircraft is used in the commission of a criminal offense. In other cases involving law enforcement-related activities, however, FAA personnel have discretion to address the matter with compliance or administrative action, or by referring the matter to the Office of the Chief Counsel for it to initiate a legal enforcement action. For example, FAA personnel might address a certificate holder's delay in reporting to the FAA a motor vehicle action involving alcohol or drugs with compliance action or administrative action, or by recommending legal enforcement action depending on the circumstances. For additional guidance on the handling and coordination of criminal investigations, refer to Chapters 4, 6, and 8 of this Order.

10. FAA's Office of Security and Hazardous Materials Safety (ASH) Program (HMSP): Treatment of Non-Certificated Persons.

ASH's compliance and enforcement program for non-certificated persons consists of informal action, administrative action, and legal enforcement action to ensure compliance with Hazardous Materials Regulations. Noncompliance by non-certificated persons is not addressed with compliance action.

a. Informal Action. Non-certificated regulated persons that offer or transport hazardous materials may be subject to informal action to address noncompliance. Informal action typically consists of either oral or written counseling and may require the regulated party to complete immediate, on-the-spot, corrective action.

The following two criteria must be met to give FAA personnel discretion to use informal action:

- The noncompliant conduct must meet all of HMSP's criteria for administrative action (set forth below); and
- Noncompliance must present a low risk to safety (as determined by reference to ASH's modified Enforcement Decision Process tool).
- Despite satisfaction of both criteria, however, ASH retains discretion to forgo using informal action respond to such noncompliance using either administrative or legal enforcement action.

FAA personnel record the following data on informal actions in ASH's Aviation Hazmat Portal database:

- Name of the regulated party;
- Regulation involved (include section, paragraph, and subparagraph);
- Date of informal action;
- Whether oral or written counseling was used;
- Name, title, and contact information of the person(s) counseled;
- Brief description of the noncompliance; and
- Information demonstrating verified completion of corrective action.

b. Administrative Action. The following six criteria guide FAA personnel in determining when administrative action is appropriate:

- Legal enforcement action is not required by law;
- Administrative action (i.e., warning notice or letter of correction) is more likely to deter future noncompliance;
- Noncompliance does not arise from or is not related to purposeful (i.e., intentional, as defined in subparagraph 5.a. above) conduct;
- The noncompliant conduct did not constitute a "substantial disregard" of safety (i.e., substantial deviation from the degree of care and diligence expected of a reasonable

person in those circumstances). For purposes of this criterion, the offering of undeclared hazardous materials does not always constitute a “substantial disregard for safety,” as clarified in ASH’s internal policy ADG 2015-03;

- The noncompliant person demonstrably manifests a constructive attitude toward coming into and maintaining compliance; and
- The noncompliance does not evidence a trend of noncompliance with, or a disregard for, a specific part of an FAA regulation as demonstrated by prior noncompliance with the same FAA regulation. The concept of “trend of noncompliance” is further amplified in ASH’s internal policy

c. Safety Risk. ASH’s modified Enforcement Decision Process tool correlates safety risk with the choice of using informal, administrative, or legal enforcement actions to address noncompliance. Thus, for example, a low safety risk is Risk Category “C” material, for which noncompliance may be addressed using informal action. Administrative action or legal enforcement action are used to address noncompliance that creates or threatens to create moderate or high safety risk.

d. Justifiable Deviations. ASH management officials may authorize deviations from policy set forth herein; provided, however, the authorizing official includes in the EIR his or her written explanation of the reasons for such deviation together with identification of persons consulted.

11. Reinspection and Reexamination.

a. General.

(1) Reinspection. FAA investigative personnel under 49 U.S.C. § 44709 may reinspect at any time a civil aircraft, aircraft engine, propeller, appliance, design organization, production certificate holder, air navigation facility, or air agency. This authority includes, but is not limited to, such activities as conducting surveillance, ramp checks, and routine inspections.

(2) Reexamination. FAA investigative personnel use the reexamination authority of 49 U.S.C. § 44709 when there is a reasonable question whether an airman is qualified to hold a certificate. The purpose of a reexamination is to determine whether an airman remains qualified to hold his or her certificate. If the facts of a particular situation demonstrate that the certificate holder is not qualified, then reexamination is not appropriate and certificate action is taken to revoke that certificate based on the demonstrated lack of qualification.

(3) Reexamination and reinspection are not punitive measures, and they do not preclude initiating concurrent punitive enforcement action when appropriate. When a certificate holder fails to comply with a request for reexamination or reinspection, FAA enforcement personnel suspend the certificate under 49 U.S.C. § 44709. This action removes a person that may not be qualified from the system and encourages the person to comply with the reexamination or reinspection.

b. Procedures for Reexamination. Under NTSB case law, reexamination may be required when FAA investigative personnel or an office with medical responsibility has a reasonable basis to believe that a certificate holder may not be qualified to exercise the privileges of a certificate or rating.

(1) FAA investigative personnel or the FAA office with medical responsibility generally notifies the certificate holder by letter sent regular mail and either by either certified mail, return-receipt requested, or registered mail, that a reexamination is necessary. *See* sample reexamination letter in Figure A-15 of Appendix A. In some instances, instead of a letter, investigative personnel may notify the certificate holder of the necessity for the reexamination through the issuance of an administrative subpoena. Generally, the certificate holder is permitted a reasonable period of time in which to accomplish the reexamination. The certificate holder is advised in the letter that failure to submit to reexamination will result in referral of the matter to legal counsel for possible suspension of the certificate pending reexamination. In some circumstances, immediate action to suspend the certificate in advance of the reexamination in accordance with chapter 5, subparagraph 11.c. may be appropriate. For example, immediate action may be necessary in advance of the reexamination when an airman is believed to have a medical condition that is incompatible with aviation safety and safety considerations will not allow for the usual procedures to be followed.

(2) Generally the letter requests that within 10 days of the date of the letter the certificate holder contact the FAA to schedule the time and place of the reexamination. Reasonable consideration is given to the convenience of the airman. The letter also states the factual basis on which the reexamination is requested and the scope of the reexamination. For reexamination requests, FAA investigative personnel point out precisely the certificate or rating that will be reexamined. For medical certificates, the office of medical responsibility identifies the specific information or history needed to determine whether the holder of an airman medical certificate meets the applicable medical standards.

(3) In cases in which punitive enforcement action may be taken in addition to reexamination, FAA investigative personnel take care not to suggest that reexamination is the only action to be taken. Where appropriate, the letter states that the FAA may take enforcement action in addition to the requested reexamination.

c. Failure to Submit to Reexamination or Reinspection. If the certificate holder fails to submit to reexamination within a reasonable time or to cooperate with a reinspection, FAA investigative personnel follow the procedures in chapter 5, subparagraphs 11.c.(1)-(7).

(1) FAA investigative personnel or the FAA office with medical responsibility prepares an EIR recommending suspension of the certificate or rating until the holder submits to and passes the reexamination or is reinspected and found to be qualified. Emergency certificate action generally is appropriate.

(2) The EIR contains the facts and evidence that support the need for reexamination or the facts surrounding the attempted reinspection. For example, if an aircraft accident gave rise to the need for reexamination, the details of the accident are described and any supporting evidence

compiled. The EIR contains an analysis explaining why the facts indicate the certificate holder may not be qualified. For example, the EIR specifies what it was about the accident that caused the FAA to question the competence of the certificate holder with respect to the certificate or rating. If an accident or incident did not give rise to the necessity for the reexamination, then the EIR should document the circumstances that form the basis for the reexamination. For example, if the reexamination is necessary because there is doubt that the certificate holder met the eligibility requirements to apply for the certificate or that the certificate holder was adequately examined by the examiner, then the EIR should document those circumstances. The EIR also generally contains documentation showing that the FAA requested the certificate holder to submit to reexamination or reinspection and that the certificate holder has not done so. If circumstances require the immediate suspension of a certificate or rating without first requesting reexamination or reinspection, such circumstances may be identified and explained instead of this documentation.

(3) Legal counsel initiates certificate action in accordance with the provisions of chapter 5 when the evidence is sufficient to establish that the certificate holder refused to be reexamined and that the certificate holder may lack the qualifications to hold the certificate or rating, requiring the suspension of the certificate pending satisfactory completion of reexamination. Likewise, legal counsel issues a suspension order when a reinspection cannot be accomplished because of a certificate holder's or product owner's lack of cooperation.

(4) The certificate action orders or proposes the suspension of the certificate or rating until the certificate holder submits to reexamination or the reinspection is accomplished and qualification to hold a certificate is established.

(5) If the certificate holder is found qualified while any appeal of the order of suspension pending reexamination or reinspection is pending before the NTSB, the FAA investigative personnel or the office with medical responsibility that conducts the reexamination or reinspection notifies legal counsel so the order can be terminated.

(6) If the certificate holder satisfactorily establishes qualifications to continue to hold the certificate, FAA investigative personnel or office with medical responsibility issues a letter advising the certificate holder of that finding, with a copy to the legal counsel who issued the order. Legal counsel takes appropriate steps to terminate the order, release the certificate stop order, and update the EIS.

(7) If a certificate holder whose certificate is suspended fails to submit to a reexamination or reinspection, the certificate or rating remains suspended indefinitely pending the certificate holder's successful reexamination. Legal counsel changes the status of such cases in the EIS from *open* status to *pending* status after the time to appeal the suspension order has passed. The certificate stop order remains in effect until the reexamination is successfully completed.

d. Unsuccessful Reexamination or Reinspection. If the certificate holder submits to reexamination or reinspection and does not establish qualifications, and does not voluntarily surrender that certificate or rating for cancellation, FAA enforcement personnel

follow the procedures in chapter 5, subparagraph 11.d.(1)-(3).

(1) The FAA investigative personnel or office with medical responsibility prepares an EIR, recommending revocation of the certificate or rating. This generally is on an emergency basis, unless an order suspending the certificate or rating is already in effect and the FAA holds the certificate.

(2) The EIR is assigned a new report number. Any companion report number that was assigned to an earlier EIR in connection with certificate suspension is stated in the *related number* block. If revocation action is taken against only part of the certificate, such as a single rating, for example, the appropriate FAA investigative personnel or office with medical responsibility issues the necessary temporary certificate or new certificate with the remaining privileges. FAA investigative personnel include evidence of the failure to demonstrate qualifications as an item of proof in the EIR. For airman medical cases only, the EIR prepared by the office with medical responsibility need only consist of section A (FAA Form 2150-5) and supporting documentation listed in chapter 5, subparagraph 11.c.(2).

(3) The FAA does not allow an airman who has not demonstrated qualifications to try repeatedly to prove qualification. Generally, if the airman has twice submitted to reexamination and has twice failed, the certificate or rating is revoked. The opportunity for a second reexamination is allowed when the airman voluntarily places his or her certificate on deposit with the FAA following the first failure while the certificate holder prepares for the second attempt.

12. Voluntary Disclosure Reporting Program for Certain Violations of the Federal Aviation Regulations.

a. General. The voluntary disclosure reporting program is intended to improve safety compliance by forgoing a civil penalty when a regulated entity has promptly disclosed to the FAA an apparent violation and has taken prompt action satisfactory to the FAA to correct the violation and preclude its recurrence. The FAA regulates entities' performance through setting regulatory standards, issuing guidance, and monitoring compliance through periodic inspections. Regulated entities, which have the ultimate responsibility for compliance, have a superior vantage point for monitoring their own performance. Therefore, voluntary disclosure programs can serve an important role in achieving compliance and improving aviation safety.

b. Internal Evaluation Procedures. Because a regulated entity is in the best position to identify deficiencies and promptly correct them, it should have in place a procedure whereby internal compliance audits are performed and top management is informed of its company's operations, compliance, and safety record. Such internal audits improve a regulated entity's ability to identify and correct any safety problems before, rather than after, FAA inspections. Public safety is enhanced significantly if deficiencies are identified and corrected when they are discovered by a regulated entity, instead of when the FAA discovers the deficiencies, sometimes much later, during an inspection or in the wake of an accident or incident. The voluntary disclosure reporting program is intended to serve as an incentive to set up and maintain a system of internal evaluation.

c. Applicability of Voluntary Disclosure Reporting Program. The voluntary disclosure reporting program applies to certificate-holding entities, production approval holders, and other entities subject to regulation under 14 CFR parts 21, 119, 121, 125, 129, 133, 135, 137, 141, 142, 145, and 147 and, for qualified fractional ownership programs operating under part 91, subpart K, those portions of part 91 pertaining directly to the duties and responsibilities of the program manager, as defined in part 91, subpart K or management specifications (MSpecs).

d. Guidance for Program Participation. Guidance about the voluntary disclosure reporting program is contained in Advisory Circular AC 00-58, as amended. (AC 00-58, as amended may be found online at <http://rgl.faa.gov>).

e. Criteria for Acceptance of Voluntary Disclosure. The FAA may accept a voluntary disclosure of an apparent violation under the voluntary disclosure reporting program only if the criteria specified in chapter 5, subparagraphs 12.e. (1)-(6) are met.

(1) The regulated entity has notified the FAA of the apparent violation immediately after detecting it and before the agency has learned of it by other means;

(2) The regulated entity does not disclose the apparent violation to the FAA during, or in anticipation of, an FAA investigation or inspection or in association with an accident or incident;

(3) The apparent violation was inadvertent;

(4) The apparent violation does not indicate a lack, or reasonable question of a lack, of qualification of the regulated entity;

(5) Immediate action, satisfactory to the FAA, was taken upon discovery to terminate the conduct that resulted in the apparent violation; and

(6) The regulated entity has developed or is developing a comprehensive fix and schedule of implementation satisfactory to the FAA. The comprehensive fix includes a follow-up self-audit to ensure the action taken corrects the noncompliance.

f. Investigation of Voluntary Disclosure. FAA investigative personnel thoroughly investigate, analyze, review, and report the facts and circumstances surrounding all self-disclosed apparent violations. They determine whether the apparent violation disclosed meets the criteria in chapter 5, subparagraphs 12.e.(1)-(6) for acceptance under the program. FAA investigative personnel contact the CHDO, MIDO, or other oversight office, as appropriate, to determine, and gather written information that indicates if and when the regulated entity disclosed the apparent violation and when it became known to the regulated entity. In addition, FAA investigative personnel consult with the CHDO, MIDO, or other oversight office as appropriate about the effectiveness of the regulated entity's proposed action to preclude recurrence of the apparent violation.

g. EIR for a Voluntary Disclosure. The EIR for a voluntary disclosure includes any

evidence of how, when, and where the apparent violation was detected and by whom. It also includes evidence of whether and when the regulated entity disclosed the apparent violation to the CHDO, MIDO, or other oversight office, as appropriate, when it became known to the regulated entity and when the regulated entity took action to correct the apparent violation; that is, to stop any conduct that did or might constitute a violation. The EIR also includes evidence of whether a regulated entity has taken, or has agreed to take, corrective action acceptable to the FAA to preclude recurrence of the apparent violation, including an analysis of the nature and likely effectiveness of the action and the time within which the regulated entity must implement the corrective action. FAA investigative personnel also include in the EIR an EIS printout or equivalent summary listing similar violations by that regulated entity to evaluate what corrective action, if any, may be necessary to preclude recurrence of the apparent violation.

h. Letter of Correction under Voluntary Disclosure Reporting Program. When the FAA determines under this program that it will not seek a civil penalty, it advises the regulated entity by a letter of correction issued under 14 CFR § 13.11(b)(2). The letter of correction does not constitute a formal adjudication of the matter. The letter of correction contains all relevant facts, including how, where, and by whom the apparent violation was detected; when the regulated entity disclosed it to the FAA; the nature and extent of any actions taken to correct it and to preclude its recurrence; and any mitigating circumstances the FAA considered relevant. Following issuance of the letter of correction, FAA investigative personnel closes the case subject to reopening if the regulated entity does not complete the agreed-upon comprehensive fix on time. The CHDO, MIDO, or other oversight office, as appropriate, monitors the completion of the agreed-upon comprehensive fix. The FAA may take civil penalty action for the apparent violations that were disclosed if the regulated entity does not fully implement the agreed-upon comprehensive fix. Closed cases are kept in accordance with the agency's records retention order.

13. Voluntary Disclosure Reporting Program for Certain Violations of the Hazardous Materials Regulations.

a. General. FAA believes that aviation safety is enhanced by incentives to encourage regulated entities to discover their own instances of noncompliance, immediately correct such noncompliance, and implement comprehensive corrective action to prevent future recurrence of the noncompliance. The FAA issues a letter of correction, instead of a civil penalty action, to certificate holders or foreign air carriers who voluntarily disclose covered instances of noncompliance under the terms of Advisory Circular (AC) 121-37.

b. Applicability. Holders of certificates under 14 CFR parts 119 and 125 and foreign air carriers issued operations specifications under 14 CFR part 129 who accept hazardous materials for transport by air may voluntarily disclose to the FAA apparent violations of 49 CFR part 175.

c. Guidance for Program Participation. Guidance about the voluntary disclosure reporting program for hazardous materials violations is contained in AC 121-37.

d. Criteria for Acceptance of Voluntary Disclosure. The FAA may accept a

voluntary disclosure of an apparent violation under the voluntary disclosure reporting program for certain hazardous materials violations only if the conditions in chapter 5, subparagraphs 13.d. (1)-(5) are met.

(1) The certificate holder or foreign air carrier has notified the HAZMAT branch manager of the apparent violation within 24 hours after detecting it and before the FAA has learned of it by other means.

(2) The apparent violation was inadvertent.

(3) The apparent violation does not indicate a lack, or reasonable question of a lack, of qualification of the certificate holder to hold a certificate, or, in the case of a foreign air carrier, operations specifications.

(4) The certificate holder or the foreign air carrier took immediate action to terminate the conduct that resulted in the apparent violation.

(5) The certificate holder or the foreign air carrier has developed or is developing a comprehensive fix satisfactory to the FAA that includes a follow-up self-audit to ensure the corrective action taken prevents a recurrence or noncompliance.

14. Voluntary Surrender of Certificate.

a. Purpose. This section provides guidelines for handling a certificate holder's voluntary surrender of a certificate.

b. Surrender of FAA Certificate for Cancellation. The FAA's regulations provide for the voluntary surrender of FAA-issued certificates for cancellation. *See*, for example, 14 CFR §§ 61.27(a), 63.15(c), and 65.15, 119.61(a) (1), 145.55(a) and (b). FAA investigative personnel, however, refuse the voluntary surrender of a certificate if it appears the surrender is being attempted to avoid certificate action. FAA investigative personnel should be alert for indications that a certificate holder is attempting to avoid a certificate action through the voluntary surrender of a certificate, including whether the certificate holder is the subject of an enforcement investigation or enforcement action. Consequently, before determining whether to accept a certificate holder's voluntary surrender of a certificate, FAA investigative personnel review actions in the EIS and other databases showing investigative or enforcement activity. If the EIS or any other database reveals that the certificate holder is the subject of an enforcement investigation or enforcement action, FAA investigative personnel refuse the certificate holder's attempt to voluntarily surrender a certificate and continue with an investigation and recommend enforcement action, if appropriate. *See* sample voluntary surrender of certificate form in Figure A-16 of Appendix A.

15. Legal Enforcement Actions.

a. General. This section describes enforcement actions that FAA investigative personnel may determine are necessary or appropriate for violations once they determine that

legal enforcement action is appropriate based on the guidance in this chapter.

b. Certificate Actions.

(1) 49 U.S.C. § 44709(b) authorizes the Administrator to amend, modify, suspend or revoke any part of a certificate issued under 49 U.S.C. chapter 447 if the Administrator decides that safety in air commerce or air transportation and the public interest require that action. 49 U.S.C. §§ 44106, 44710, 44724, 44726, 44924, and 46111 require the revocation of a certificate under circumstances described in those sections. Holders of certificates issued under 49 U.S.C. chapter 447 may appeal actions taken against their certificates to the NTSB. When the certificate holder files such an appeal, the certificate holder may continue to exercise the privileges of that certificate pending the outcome of the appeal, unless the certificate action is made immediately effective.

(2) A suspension of a certificate means the certificate temporarily ceases to be effective. The time the certificate is not effective is specified in the order of suspension, and once the required time period has passed, the certificate is automatically reinstated. The time period is defined by either a specific amount of time, usually a number of days, or until certain conditions are met, for example until a reexamination under 49 U.S.C. § 44709(a) is successfully completed.

(3) A revocation of a certificate means the certificate is no longer valid, and the holder may not exercise any of its privileges. Unlike a suspension, a certificate that has been revoked cannot be reinstated. A certificate holder whose certificate has been revoked may reapply for a new certificate, but an individual applying for an airman certificate must meet all the qualifications for the new certificate, including retaking all tests, whether written, oral, or practical. Any experience requirements for the new certificate may be met with experience obtained before the revocation of the original certificate. If an airman certificate has been revoked for less than one year, the FAA generally denies any application by that airman for a new certificate, and the airman has no appeal from that denial.

c. Deferred Suspension of Certificates. A deferred suspension of a certificate is issued when the violation does not qualify for administrative action, but FAA investigative personnel wish to encourage the certificate holder to take appropriate corrective action, for example, receiving additional training. The suspension of the certificate is proposed, but the certificate holder is advised that the imposition of the suspension may be avoided if the certificate holder takes acceptable corrective action within a specified period of time. If the certificate holder completes the corrective action within the time period, the certificate holder does not lose the privileges of the certificate, although an order of suspension making a finding of violation is issued and entered into the EIS records. The certificate holder may appeal a deferred suspension to the NTSB.

d. Suspension or Revocation of Airman Medical Certificates. An appropriate FAA medical officer, for example, the Federal Air Surgeon, Manager, Aerospace Medical Certification Division (AAM-300), or a Regional Flight Surgeon, may recommend that an airman medical certificate be suspended or revoked. Such action is recommended when an

airman does not meet the medical certification standards or there is a reasonable basis to question his or her qualifications, or when an airman fails to provide requested medical information or provides intentionally false or incorrect information in support of medical certification. The regional Security and Hazardous Materials offices and the Security and Investigations Division of the Aeronautical Center sometimes recommend suspension or revocation of medical certificates after discovering that an airman made incorrect or intentionally false entries on an application for medical certification.

e. Emergency Certificate Action. 49 U.S.C. § 44709(e) authorizes the Administrator to make certificate actions immediately effective if the Administrator finds that an emergency exists and safety in air commerce or air transportation require the order to be effective immediately. An emergency certificate action immediately deprives the certificate holder of the right to exercise the privileges of that certificate. The certificate holder may appeal the action to the NTSB and challenge the agency's use of its emergency authority. The certificate holder may not continue to exercise the privileges of that certificate while the appeal is pending unless the NTSB reverses the emergency nature of the order. Certificate actions are taken as emergency actions when necessary to protect the safety of the public. Emergency certificate actions are generally taken when the FAA believes the certificate holder lacks the qualifications to hold the certificate and the certificate holder is capable of exercising the privileges of the certificate. When FAA investigative personnel believe an emergency certificate action is appropriate, they immediately notify their supervisor, who notifies the regional office, and the Regional Counsel or Assistant Chief Counsel for Enforcement. The investigation and report of an emergency certificate action is generally given priority over all other work. The NTSB must hear and decide an appeal of an emergency certificate action within 60 days after the FAA files its complaint with the NTSB. Because appeals of emergency cases receive accelerated handling, FAA investigative personnel must be ready to assist legal counsel in preparing to try the case within several days of the issuance of the emergency order, including confirmation of the location of witnesses and other evidence.

f. Civil Penalties. 49 U.S.C. § 46301 makes a person liable to the U.S. Government for a civil penalty for violations of certain provisions of 49 U.S.C. subtitle VII and regulations prescribed or orders issued under those provisions. 49 U.S.C. § 5123 authorizes civil penalties for violations of the federal hazardous materials transportation law and regulations prescribed or orders issued under that law. 49 U.S.C. § 70115 authorizes civil penalties for the violation of the commercial space transportation law, regulations prescribed under that law, and the terms of any license issued under that law. A civil penalty is a payment of money. The maximum civil penalty that may be imposed for each violation depends on which statutory or regulatory provisions are violated and who is charged with the violation. *See* appropriate sanction guidance table in Appendix B or C for assistance in determining the maximum civil penalty per violation. Each day that a violation continues may be considered a separate violation. For violations covered by 49 U.S.C. § 46301, each flight that involves a violation also may be considered a separate violation. Civil penalties may be appealed. The forum for the appeal of a civil penalty depends on the amount of the proposed civil penalty and who is charged with the violation. Large civil penalties (for violations on or after December 12, 2003, over \$50,000 for individuals and small businesses and \$400,000 for large businesses and other persons), except hazardous materials and commercial space

transportation cases, are tried in U.S. district courts.

g. Informal Conferences. After FAA legal counsel issues the notice of proposed action, informal conferences between FAA legal counsel and alleged violators, including their representatives, are offered in civil penalty and certificate action cases, except emergency certificate actions. FAA investigative personnel representing the program office are asked to participate in the informal conference when possible. The purpose of the informal conference is to hear any information the alleged violator wishes to present, and to consider whether this information should affect the proposed action. The proposed sanction is not raised above the amount originally proposed. Any violations charged that are disproved by the information presented at this conference are withdrawn. If the proposed sanction is determined to be excessive, it is reduced. Normally the proposed penalty is not changed unless information is presented that was not taken into consideration when the notice was issued.

h. Liens on Aircraft. 49 U.S.C. § 46304(a) makes aircraft subject to a lien for civil penalties when the aircraft is involved in violations under 49 U.S.C. § 46301 and the violation is by the aircraft owner or an individual commanding that aircraft. A lien gives the federal government a financial interest in that aircraft. The amount of the lien is the amount of the civil penalty for the violation.

i. Seizures of Aircraft. 49 U.S.C. § 46304(b) authorizes seizure of an aircraft that is subject to a lien. Seizure is the taking of physical possession of an aircraft by the FAA. Only aircraft that were involved in the violation may be seized. Seizure of an aircraft ordinarily is considered only when the violation is particularly serious, for example, when an aircraft is being used in a continuing violation and all other efforts to stop it have failed. Seizure of an aircraft may be appropriate when the owner of an aircraft that was involved in the violation has a probable intent to move the aircraft out of FAA jurisdiction. When seizure action is appropriate, it may be recommended even if the EIR has not been opened or completed as long as there is credible evidence of the violation. Seizure action also may be recommended whether or not a lien has been perfected or a civil penalty has been proposed. FAA legal counsel issues written notice of seizure to the registered owner of the aircraft. The seizure of the aircraft may be made by a state or federal law enforcement officer or by an FAA safety inspector, if authorized to do so in an order of seizure issued by the Administrator, the Chief Counsel, or a Regional Administrator. The aircraft is taken to the nearest available adequate storage facility and physically restrained from moving. The equipment is photographed and the condition of the aircraft is carefully inventoried. When the aircraft is returned to its owner, it must be in the same physical condition as when it was seized. The aircraft may be released to its owner when the owner pays the civil penalty and costs of seizure, storage and maintenance, or posts a bond for that amount. Detailed procedures and guidance for the seizure of aircraft are found in chapter 6, paragraph 20.

j. Injunctions. Injunctions are court orders that may require a person to do something (mandatory) or not to do something (prohibitory). Failure to comply with an injunction may be punishable as contempt of court, which may result in fines or jail time. 49 U.S.C. § 46106 authorizes the FAA Administrator to bring a civil action against a person in U.S. district court to enforce provisions of 49 U.S.C. subtitle VII or regulations prescribed under those

provisions. For example, when an airman knowingly continues to operate an aircraft without the appropriate certificate, the FAA may bring such an action to request the court to issue an injunction. 49 U.S.C. § 5122 provides for civil judicial actions, including injunctions, to address imminent hazards involving hazardous materials.

k. Cease and Desist Orders, Orders of Compliance, and Other Orders. Whenever FAA investigative personnel determine that a continuing violation exists, the field office immediately brings it to the attention of the regional office for possible referral to FAA legal counsel. Certain statutory provisions, for example, 49 U.S.C. § 40113, provide authority for legal counsel to take action under appropriate circumstances to stop such conduct, sometimes on an emergency basis.

l. Airman Medical Certificate Denials. Aviation medical examiners have the authority to examine applicants for airman medical certificates and to issue, defer, or initially deny those certificates. When an aviation medical examiner denies issuance of a medical certificate, the airman may apply in writing within 30 days after the date of denial to the Federal Air Surgeon for reconsideration of the denial. Final denial by the Federal Air Surgeon or, in certain cases, by other FAA medical officers, gives the applicant the right to appeal the denial to the NTSB.

m. Other Airman Certificate Denials. When an application for an airman certificate is denied by the FAA under 49 U.S.C. § 44703, the applicant has a right to appeal that denial to the NTSB. The person applying for the certificate must prove that he or she has the qualifications to hold the certificate. If the NTSB finds that the applicant does have these qualifications, it will order the FAA to issue the certificate to the applicant.

personnel have any opinions or feelings about the case, they state them in section B and label them as opinions. FAA investigative personnel state a conclusion, a recommendation about sanction, as appropriate, and set out the reasons justifying their enforcement action recommendations and sanction recommendations. If FAA investigative personnel receive any information after they forward the EIR to the next reviewing official, they prepare an analysis and an amendment to the EIR and forward them with the information to that reviewing official. Their analysis indicates whether, based on the information, they have changed their conclusions or recommendations about the facts, the alleged statutory or regulatory violations, or sanction.

(4) Regional Program Office Sanction Recommendations. Regional program office personnel making a sanction recommendation about the amount of sanction, that is number of days or dollars, that should be sought in a case, prepare a separate written statement for such recommendation. In this written statement, Regional program office personnel state their specific sanction recommendation and the reasons supporting it. The written statement is included in section B of the EIR.

c. Section C. Items of Proof. Section C consists of the items of proof and a numerical index of those items. The items of proof consist of originals or certified copies of each piece of evidence gathered to prove the apparent violations. When the size or nature of physical evidence precludes including it in the EIR, FAA investigative personnel include appropriate photographs of such evidence in the EIR and an explanation of where the physical evidence is located. The numerical index of the items of proof provides a brief statement of each item's content. Each item of proof is numbered consecutively. The items of proof are listed in a logical order to facilitate review. Each piece of documentary evidence referenced in section B of the EIR is included as an item of proof. The items of proof might include records of interview, witness statements, relevant portions of maintenance manuals or operations manuals pertinent to the violation, aeronautical charts current on the date of the violation, copies of logbooks, and photographs. Printed material about violation history from the EIS or a program office-specific database, such as the Program Tracking and Reporting Subsystem (PTRS) is not included as an item of proof in section C. FAA investigative personnel summarize relevant information from such database records and include it in section B of the EIR.

4. Preparation of Form 2150-5.

a. EIR Number. FAA investigative personnel enter the report number, which identifies a specific EIR, in the appropriate block on Form 2150-5. The report number is a 12-digit code consisting of the year, the region, the field office, and a sequential number as explained in chapter 9 (for example, 2005WP010001). The block identified as *related number* refers to the report number for another EIR associated with the underlying incident. FAA investigative personnel enter the report number for the related EIR in the same code form. If there is more than one related case, FAA investigative personnel select a case to be the *lead* case and enter that case as the related EIR case number for all related cases.

(31) Block 31. Recommended sanction. Same as instructions for block 26, except, for all EIRs, the regional office enters a specific amount of sanction (that is, specific number of dollars or days).

(32) Block 32. Date. Enter the date signed by the regional division (for example, 2005 03 07).

(33) Block 33. Region. Enter two-letter identifier for the reporting region (for example, GL, NM, SO).

5. Entry of Information in the EIS to Track Enforcement Actions Against Small Business Concerns. FAA enforcement personnel complete the field “business concern” on the violator information screen in the EIS to track enforcement actions against small business concerns. FAA enforcement personnel use one of the following codes to complete the “business concern” field: 1=small business concern, 2=large business concern, 3=individual, or 4=other concern. If an alleged violator is a business concern, then FAA investigative personnel gather evidence, such as website information and financial reports, to determine the apparent violator’s number of employees or annual receipts. FAA investigative personnel compare that information to the guidelines in Appendix B to decide whether the apparent violator is a small or large business concern.

6. Sections of EIR Required for Types of Action.

a. Legal Enforcement Action. For legal enforcement action, FAA investigative personnel complete all sections of the EIR, that is, sections A, B, and C.

b. Administrative Action.

(1) General. When administrative enforcement action is taken, FAA investigative personnel complete section A of the EIR, that is, Form 2150-5. FAA investigative personnel also include a copy of the warning notice or letter of correction in the EIR. The program office field or regional office may decide to prepare or have prepared a complete EIR in cases involving complex or sensitive investigations even if administrative action is recommended.

(2) Streamlined No Action and Administrative Action Process (SNAAP). FAA inspectors for the Flight Standards Service and FAA special agents in the Office of Security and Hazardous Materials Safety DUI/DWI program may, with the approval of their program office, issue warning notices or letters of correction using the SNAAP process to remediate noncompliance that does not require extensive investigation, that satisfies the criteria for administrative action, and does not otherwise warrant legal enforcement action. FAA inspectors may not use the SNAAP for remedial training, voluntary disclosures under the Voluntary Disclosure Reporting Program, or cases where further corrective action must be taken.

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Figure A-16. Voluntary Surrender of Certificate Form.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

[Insert Name of FAA Office]

[Insert Address]

VOLUNTARY SURRENDER OF CERTIFICATE

I, _____ [Name of Certificate holder] _____, the holder of a _____ [Note 1] _____ certificate,
No. _____ [Certificate Number] _____, issued by the Federal Aviation Administration
(FAA), request that the FAA accept the voluntary surrender of that certificate for
_____ [Note 2] _____. This request is made voluntarily and I acknowledge
that my _____ [Note 3] _____ may not be reissued unless I
again meet the requirements prescribed for its issuance.

[Name of certificate holder]

Date

ACKNOWLEDGMENT OF ACCEPTANCE AND COORDINATION

I, _____ [Name of FAA employee accepting the surrender] _____, an _____ [Title of FAA
employee] _____, accept the specified certificate and acknowledge that _____ [Name of certificate
Holder] _____ freely and voluntarily surrendered the specified FAA certificate to the FAA on
_____ Insert Date _____. I further acknowledge that this certificate holder's request for this voluntary
surrender has been coordinated and concurred with, by other FAA offices, as appropriate.

[Name of FAA employee]

Date

Notes:

1. Enter the type of certificate surrendered, for example Private Pilot, Commercial Pilot, Type Certificate, etc.
2. Briefly describe the reason for the surrender, such as: cancellation / issue of a certificate of lower grade / issue of a certificate with specific ratings deleted.
3. Briefly describe specifically what is being surrendered.

- If the certificate is being surrendered for cancellation, enter the type of certificate.
- If the certificate is surrendered for issuance of a certificate of lower grade, enter the privileges surrendered.
- If the certificate is surrendered for issuance of another certificate with specific rating(s) deleted, enter the rating(s) deleted.

SAMPLE