



AST Compliance and Enforcement Program Overview

Presented by

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Overview

- Introduction
- Compliance and Enforcement Documents and FAA Internal Process
- Types of Compliance and Enforcement Actions
- AST's Compliance and Enforcement Program





Introduction



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ASA- 300 Safety Assurance

Perform Inspections of Commercial Space Licensee/Permittee

- Allow access by, and cooperation with, Federal officers or other individuals authorized by the FAA to:
 - Observe any of its activities
 - Observe its contractors or subcontractors
- Provide the FAA with a console for monitoring (Situational Awareness)
- Provide communication network capability to communicate with licensee/permittee final approval authority

Perform Mishap Response

- Review applicant accident investigation/mishap plans
- AST monitors implementation of the launch operator's plans
- Mishap Response Coordinator initiates and coordinates Agency's response

Compliance and Enforcement

- Through inspections, determine possible non-compliances
- Complete Compliance Investigations; evidence/documentation



FAA Authority

Commercial Space Launch Amendments Act of 2004

- 51 U.S.C. Subtitle V, chapter 509
- 14 CFR 400-1199

Public Law 108-492: The Commercial Space Launch Amendments Act of 2004

FAA Order 2150.3C: FAA Compliance and Enforcement Program



AST Compliance and Enforcement

- The FAA Regulates and promotes Commercial Space Transportation safe operations to ensure public safety
- An Operator found to have violated a regulation, requirement or any term or condition of a license is liable for a civil penalty
- The FAA/AST rely strongly on voluntary compliance with federal regulations and applicable laws; however, inspections are conducted to observe any activity to verify compliance
- Enforcement is a tool used to address non-compliance by regulated entities and to promote a safety culture and ensure compliance.
- When deviations from regulatory standards occurs, resulting in a non-compliance, the FAA attempts to use the most effective means to return the regulated entity to full compliance and to prevent recurrence



FAA Responsibility

ALL FAA Employees

- Any FAA employee who becomes aware of an apparent violation by, or apparent lack of qualification of, any regulated person (or entity) must report such information to an appropriate FAA office.

AST Inspectors

- Must investigate and appropriately address EVERY apparent or alleged violation.

AST Vision: To be agile world leaders working to ensure safety while addressing the needs of the industry

- Educate operators and facilitate safe operations
- Promote and encourage Operators back into full compliance
- Consequences for purposeful or negligent non-compliance
- Enforcement action does not automatically equate to monetary penalties



Operator Responsibility

Licensed/Permitted Operators

- Operators of any FAA certificate or authorization has a statutory obligation to comply with regulatory standards
- Operators have a responsibility to develop and use processes and procedures that prevent deviations from regulatory standards
- Compliance is required – past compliance is not a mitigating circumstance



Voluntary Disclosure Reporting Program

FAA Order 2150.3C, Chapter 3(a)(1)

- AST currently does not have a Voluntary Disclosure Reporting Program

FAA Order 2150.3C, Chapter 3(a)(6)

- When an Operator voluntarily discloses an apparent violation, the FAA will investigate, analyze, review and report the facts and circumstances surrounding all reports involving the self-disclosure of apparent violations.
- AST views voluntary disclosure reporting for the operator as “willing and able” and takes this into consideration when applying enforcement actions.

AST currently does not have a voluntary disclosure program



A composite image of Earth from space, showing the sun rising over the horizon and the moon in the dark sky. The Earth is on the left, with the sun in the center, and the moon on the right. The background is a starry space.

Compliance and Enforcement Documents and FAA Internal Process



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Documents and FAA Internal Process

- **Inspection Letter** - Formal correspondence which will include documentation of compliance status following an inspection
- **Letter of Investigation** - Formal correspondence utilized to request additional information or notify of pending legal action
- **Request for Corrective Action Letter** - Formal correspondence utilized to request corrective actions
- **Letter of Correction** - Formal correspondence utilized to accept corrective actions; non-compliance will remain open until corrective actions can be verified
- **Warning Notice** - Formal correspondence utilized in administrative enforcement actions
- **Enforcement Investigation System (EIS)** - FAA internal electronic filing system for Administrative and Legal Enforcement Actions
- **Enforcement Investigation Report (EIR)** - Formal report referred to our legal council to recommend a Legal Enforcement Action



A space-themed background featuring a view of Earth from space on the left, with the Sun's bright glow and rays in the center, and a crescent moon in the upper right against a starry black sky.

Types of Compliance and Enforcement Actions



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Types of Enforcement Actions

Types of Enforcement Actions processed under FAA Order 2150.3C

- Compliance Enforcement Action
- Administrative Enforcement Action
 - Repeated Non-Compliance
 - Compliance Action is Insufficient
- Legal Enforcement Action
 - Required Legal Action
 - Warranted Legal Action
 - Emergency Action



Compliance Enforcement Actions

Note a compliance enforcement action may be warranted if the FAA safety inspector determines that an operator is both **willing** and **able** to comply with regulatory standards and will address the underlying root cause of the non-compliance.

The term “**willing**” may be demonstrated where:

- The Operator acknowledges responsibility for the event
- The Operator openly shares information with the FAA to determine the root cause of the event
- The Operator promptly implements, or agrees to implement through a corrective action plan, any necessary corrective action

The term “**able**” may be demonstrated where:

- The Operator has resources (e.g., personnel, financial, time) sufficient to implement any necessary corrective action
- The Operator has access to data, equipment, facilities, and similar resources necessary to comply with regulatory requirements and appropriately manage risk
- The Operator has, or has the ability to develop through corrective action, the knowledge and technical competence required of the certificate they hold

Compliance Enforcement Actions

Other considerations by FAA on Compliance Enforcement Actions:

- May include verbal counselling followed up with written correspondence
- Written correspondence of alleged non-compliance
 - Operator Inspection Letter
 - Email
- May require corrective action by the Operator
- Collaborative effort between AST and Operator
- Incident is recorded and can impact future enforcement action decisions if unsafe trend develops

Administrative Enforcement Actions

- **Repeated non-compliance:** A repeated non-compliance for which a legal enforcement action is not warranted and that will not be appropriately addressed with a compliance action.
- **Compliance Action is Insufficient-** evidence shows operator is unwilling or unable to comply with regulatory standards through compliance action



Legal Enforcement Actions

Two types of Legal Enforcement Actions:

- Civil Penalty:
 - AST documents the alleged non-compliance in an EIR
 - EIR assessed through FAA's Office of the Chief Counsel (AGC)
 - Sanction amount varies based on non-compliance
 - Notice of Proposed Civil Penalty (NPCP)
 - Legal Recourses / Appeals
- Emergency Action:
 - Suspension and/or revocation of a license or permit due to immediate threat to public safety
 - Processed through AST and AGC



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AST's Compliance and Enforcement Program



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Compliance Enforcement Actions

Reported to the Operator using the mission or site Inspection Letter following an inspection

- Inspection Letter delineates the alleged non-compliance
- Status of alleged non-compliance (open/closed)
- Informs the Operator if additional information is required
 - Corrective actions
 - Requested documentation

Once additional information is obtained, the Operator is informed of the closure of the compliance action (usually by letter via email).

Administrative Enforcement Actions

Written correspondence of alleged non-compliance

- Inspection Letter
 - Reference to a case number (2023WA9900xx)
 - Case number tracked in FAA EIS

May require corrective action by the Operator

Collaborative effort between AST and Operator

- Separate correspondence could be:
 - Warning Notice
 - Request for Corrective Actions Letter
 - Letter of Correction



Administrative Enforcement Actions

Administrative Enforcement Actions will remain open until one of the following:

- **Warning Notice** - Informs the Operator that the FAA has closed the administrative action
- **Request for Corrective Action Letter** – Requests to the operator on corrective actions
- **Corrective Action Letter** - Accepts or Denies Operators corrective actions
- **No Action Letter** –FAA has closed the administrative action with no further action required



Administrative Enforcement Actions

Effect of Administrative Enforcement Actions:

- Neither compliance actions nor administrative actions are adjudications and neither constitute a finding of violation
- FAA personnel will consider a regulated entity's prior compliance actions for regulatory non-compliance and administrative actions in deciding on the appropriate enforcement action in response to any future non-compliance
- Administrative enforcement actions can be elevated to legal enforcement actions if investigation yields results that meet legal enforcement action criteria

Legal Enforcement Actions

Required Legal Enforcement Actions:

- **Intentional Conduct:** A deliberate act (or failure to act) while knowing that such conduct is contrary to a regulation or statute or is otherwise prohibited
- **Reckless Conduct:** An act (or failure to act) demonstrating a gross disregard for or deliberate indifference to safety or a safety standard
- **Failure to Complete Corrective Action:** Failure to complete non-compliance corrective action on terms satisfactory to the FAA
- **Lack of Care, Judgment, or Responsibility:** The operator demonstrates a lack of care, judgment, or responsibility in holding their license/permit, including intentional falsification of records or application material
- **Unacceptable Risk to Safety:** Conduct that creates a high level in the likelihood and/or severity of significant risk to public safety



Legal Enforcement Actions

Warranted Legal Enforcement Actions:

- **Repeated Non-compliance:** A repeated non-compliance that will not be appropriately addressed with an administrative or compliance action. You should consider public safety risk when determining the appropriate response. Repeated non-compliances may include multiple regulations of the same type during a single inspection, recurring non-compliance of the same type during multiple inspections, or non-compliances of different regulations arising from a common root cause
- **Lack of Technical Qualification:** A lack of technical qualification occurs when the operator does not meet the technical eligibility requirements or there is incompetence relating to safety



Legal Enforcement Actions

Reported to the Operator using the Inspection Letter following an inspection

- Inspection Letter delineates the alleged non-compliance
- Legal (and Administrative) enforcement actions will generally remain open and will be addressed in separate correspondence
- Reference to a case number (2023WA9900xx)
 - Case number tracked in FAA EIS
- A Letter of Investigation is the correspondence used to request the Operator's evidence or statement concerning the alleged non-compliance



Letter of Investigation

- Intended to inform the Operator of the alleged non-compliance
- Requests additional information and/or documentation regarding the potential non-compliance
- Will include sufficient information (and may not include a specific CFR number) regarding subject matter of the investigation so the Operator may respond to the facts giving rise to an investigation of an apparent non-compliance
- The Operator is not required to respond to the Letter of Investigation, however it is highly recommended
 - Demonstrates the Operator's positive attitude towards compliance
 - Gives the Operator the opportunity to explain their position on the non-compliance
 - Provide an explanation of corrective actions



Letter of Investigation Response

- Must Include:
 - The root cause of the alleged non-compliance(s)
 - The nature and extent of any corrective action taken
 - Any mitigating circumstances that may be relevant to the case
- Any documents requested during the investigation are required



Legal Enforcement Action Process

AST forwards EIR Package to AGC-300 and transfers case to AGC

- Once this action has commenced, AST personnel will not communicate with the operator regarding this particular case



Civil Penalty Assessments

Commercial Space:

- Low \$10,000 - \$50,000
- Moderate \$40,000 - \$125,000
- High \$125,000 - \$175,000
- Maximum \$120,000 - \$262,666



Summary

- Compliance and Enforcement Program
- FAA Authority
- FAA Responsibility
- Operator Responsibility





Questions?



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