

The FAA Compliance Program: What is it and how does it apply to CFIs?

Lesson presentation time: 30 minutes

SUBJECT MATTER ELEMENTS

- What is the Compliance Program?
- Detailed discussion of FAA Order 8000.373A
- How the Compliance Program applies to Flight Instructors
- Guidance material for the Compliance Program

LESSON OBJECTIVE

At the completion of this lesson, the attendee will understand the FAA Compliance Program, including:

- The difference between compliance and enforcement;
- The reasons, and FAA's expectations, for the Compliance Program;
- Information on how the Compliance Program relates to the attendee's role as an instructor;
- Recognizing that the FAA's Compliance Program is part of Safety Management (and Risk Based Decision Making);
- An overview of Remedial Training, including the role flight instructors can play in this program
- Awareness of guidance material, pertaining to the Compliance Program, for further reading.

COMPLETION STANDARDS

Attendees will complete this lesson when:

- The lesson content is presented to, and is completed by, the attendee in its entirety;
- The attendee understands the FAA's Compliance Program and its application; and
- The attendee receives a score of no less than 70% on each of his or her exams.

TESTING PROCEDURE

Essay and/or multiple-choice closed book as part of end-of-day or final exams.

Lesson Outline and Discussion

Disclaimer: The information provided in this lesson is an overview of the FAA's Compliance Program. It is not intended to provide legal guidance or make a guarantee on how the FAA will respond to a particular situation. Every encounter between you or your student and the FAA is unique, and all instances will be handled on a case-by-case

basis.

NOTE: *This lesson can also be supplemented by the information in the FAA's Compliance Program Presentation. See the Resources section on the Compliance Program website: www.faa.gov/go/cp*

What is the FAA's Compliance Program?

In general, the FAA's Compliance Program:

- In an evolution in oversight to promote the highest level of safety and regulatory compliance;
- Is designed to manage risk through identification and control of existing or emerging safety issues;
- Places emphasis on effective compliance by focusing on how certificate holders (such as pilots and flight instructors) ensure compliance;
- Intends to foster an open exchange of information between the FAA and the aviation community to allow safety problems to be understood and appropriately addressed;
- Encourages a problem solving approach to finding and fixing problems in the National Airspace System (NAS);
- Expects NAS participants to utilize safety management system constructs to identify risks
- Establishes a difference between Compliance and Enforcement:
 - Compliance with the regulations and established standards is the goal.
 - Enforcement is one of the tools that the FAA may use in order to ensure compliance.

What the Compliance Program is *not*:

- A Kinder and Gentler FAA
- A 'Get-Out-of-Jail Free Card'

Detail Discussion of Order 8000.373A (Federal Aviation Administration Compliance Program)

[Display on screen or provide a copy of Order 8000.373A]

- The Compliance Program is an FAA wide policy originally signed into effect by former Administrator Michael Huerta in June 2015. As noted in the Order:
 - [The] Compliance Program [is] the overarching guidance for implementing the FAA's strategic safety oversight approach to meet the challenges of today's rapidly changing aerospace system.

- In other words, its overall purpose is to increase safety in the National Airspace System.

[Go through the elements in paragraph 4 and discuss how they apply to piloting and instruction.]

a. 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.

- Discuss the voluntary nature of adhering to the regulations. Begin by asking questions such as:
 - How many times have you been ramped checked by the FAA?
 - How often is someone of authority present when you conduct a preflight or post-flight?
 - Except for ATC, who is responsible for ensuring proper inflight procedures?
 - Note that even ATC is limited in what they are aware of.
 - Who is responsible for ensuring that pilots meet currency requirements?
 - Who is the only one that knows whether or not you are fit for flight on a particular day?
- These questions should lead the discussion to drive the point that the majority of regulatory compliance is voluntary.

b. 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.

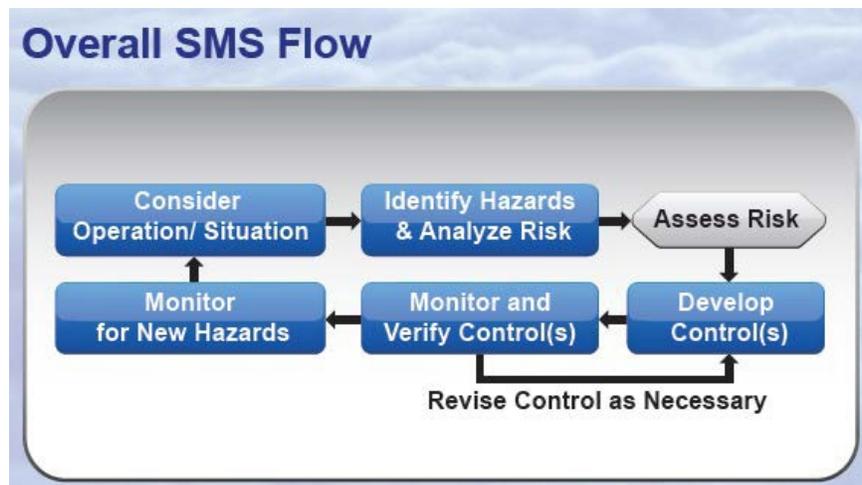
- Explain that this is an expectation from the FAA. Pilots and instructors need to comply with the regulations, and also have procedures in place to make sure that they do not deviate from these standards.
- Ask the following: What are some things that we do as pilots and instructors to ensure that we are not deviating from the standards? Potential answers:
 - Maintenance software, printed spreadsheets, posted tables with inspection times, etc. to ensure the airworthiness requirements are met
 - Electronic logbooks, calendar reminders, currency checklists, etc. to ensure that currency requirements are being met. This includes items such as the flight review, instrument currency, landing currency, etc.
 - Aircraft checklists
 - Aeronautical Decision Making aids:
 - IMSAFE (Illness, Medication, Stress, Alcohol, Fatigue, Eating)

- PAVE (Pilot, Aircraft, environment, External Pressures)
- 5 P (Plan, Plane, Pilot, Passengers, Programming)
- If the group does not bring them up, offer that engaging in regular training can also be considered as action to help prevent deviations. The following are examples that can keep one's skills and knowledge up to speed:
 - FAASTeam Seminars/Webinars
 - Online Courses from other providers
 - FAA Safety Briefing Magazine
 - FAA's Airman Testing website updates
 - NTSB Listserv Subscription
 - Other Aviation Group Newsletter Subscriptions
 - Regular FIRC attendance (perhaps on a yearly basis)

c. 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 program, supported by an established safety culture, is instrumental in ensuring both compliance with regulations and the identification of hazards and management of risk.

- Explain how Safety Management can apply to pilots

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- The following can be used as an expanded description of the above:
 - Consider Operation/Situation: Hazards aren't immediately identifiable as such; they don't have part numbers. Pilots have to look at the operation or situation and see what about it could cause us problems. Hazard identification flows out of that. Also, when looking in retrospect, trying to diagnose a problem that has

occurred in terms of future risk (root cause analysis, critical thinking) one needs to consider the operation or situation involved.

- Identify Hazards & Analyze Risk: Really parts of the same whole. The FAA defines a hazard as a, “condition that could cause or contribute to an aircraft accident”. This means that there is at least some possibility of causing harm due to the hazard. The risk analysis part involves how likely and how (potentially) bad the potential outcome could be.
- Assess Risk: This is actually a decision point in which the pilot decides what needs to be done about the risk that has been identified.
- Develop Control(s): General strategies for dealing with risk include: Transfer, Eliminate, Accept, Mitigate (TEAM choice).
- Monitor and Verify Control(s): This is actually two stages and the reason for the loop back. The monitoring part is can be anything from simple situational awareness to sophisticated auditing processes. Bottom line is that the pilot needs to do what is necessary to verify that the controls are working as expected. If the controls are not doing what is expected, the pilot will need to take action to revise them.
- Revise Control as Necessary: The same as the ‘Developing Controls’ step, using any new information gained from the Monitor and Verify Control(s) step.
- Monitor for New Hazards: This is the final feedback to make it a continuous process.
- Exchange of Information
 - While you are not required to speak with FAA personnel or share information, and while this may be intimidating, here are the main reasons why the FAA may ask you questions concerning a non-compliance event. Note that the intent of the Compliance Program is to address individual instances of non-compliance, as well as systemic issues, in order to increase safety with in the National Airspace System:
 - To determine if deviation from regulatory standards have occurred
 - Determine what course of action could be used to best restore compliance
 - Aggregate data to determine if there is a larger issue at hand, for example:
 - Is there an issue at an airport or with a particular aircraft?
 - Do training standards need to be changed (i.e., PTS/ACS, handbooks, knowledge tests, etc.)
 - Is there a need for a change in the regulations?

d. 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 following are ways that the FAA may work with pilots, instructors, pilot schools, etc. when addressing instances of non-compliance when enforcement action is not required:
 - Additional Training:
 - This includes, but is not limited to, Remedial Training (RT) conducted by the FAASTeam with the likely involvement of an instructor.
 - It also includes other training completed to help prevent reoccurrences of non-compliance.
 - Counseling
 - On-the-Spot Correction
 - Other Actions
 - An example would be changes to a pilot school's approved Training Course Outline

e. 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 following is a simplified version of the process used by Aviation Safety Inspectors in the performance of their duties. It summarizes the overall procedures used when addressing non-compliance:

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Compliance Action Decision Process



f. 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.

- Discuss with the group that the outcome of the event is not the main determining factor of the FAA's response under the Compliance Program. Rather, it is the pilot or instructor's willingness and ability to comply with the safety standards. This may be counter to our typical thinking, but is an integral part of Safety Management principals.

[The following, or similar, can be used as an example]

- Consider two parallel situations in which a private pilot takes passengers on a non-commercial flight. However, the pilot does not meet the takeoff and landing currency requirements in Section 61.57(a).
- In the first scenario, the flight is performed successfully and without incident. However, the FAA conducts a ramp inspection after the aircraft lands. In conversation with one of the passengers, they note the pilot expressed, prior to flight, that he/she "was not current but that it would be okay". A review of pilot's logbook confirmed that he/she was not current with respect to Section 61.57(a).
 - Although the flight did not have an adverse outcome, the FAA will find the intentional non-compliance to be unacceptable. Since the pilot has exhibited this behavior, it is possible they will continue to disregard the regulations and thus remain a threat to safety in the National Airspace System. The FAA is likely to take enforcement action.
- In the second scenario, the landing at the destination airport results in a flat tire and the runway is temporarily shut down while the aircraft is towed to the ramp. The FAA investigates the incident and discovers the non-currency with respect to landings in Section 61.57(a). The pilot is able to display a computerized tracking program that he/she uses to monitor recent experience, including landing currency. They explain that there was a mistake in using the program, which caused them to miss the fact they were not current prior to flight.
 - Although the outcome was adverse (the runway being shut down), the non-compliance was due to a simple mistake. The FAA is likely to address the issue using a Compliance Action.
- As noted before, the above example is a generalization used to illustrate the Compliance Program concepts and that all instances will be analyzed on a case by case basis.

g. Matters involving competence or qualification of certificate, license or permit holders will be addressed with appropriate remedial measures, which might include retraining or enforcement.

h. Regulatory violations involving law enforcement-related activities may be addressed with enforcement. In addition, legal enforcement will be taken when required by law.

- The following are instances where an Aviation Safety Inspector is required, or able, to take Enforcement Action:
 - Intentional or reckless behavior
 - Conduct that creates a significant risk to safety and alternative means would not be sufficient to effectuate compliance
 - Patterns of behavior or performance that represent an unacceptable risk to safety
 - Failure to implement or complete a prescribed corrective action.
 - Note that 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 Compliance Action for additional/revised corrective action(s) may be appropriate.
 - Matters involving qualification of the certificate holder
 - Repeated non-compliance involving:
 - Similar regulations
 - Common root cause
 - Violations involving criminal activity
 - Falsification of data

How the Compliance Program Applies to Instructors

a. General Concepts

- The Compliance Program applies to all certificate holders, including flight instructors.
- Your students (to include any person you are providing instruction to) may have heard about the Compliance Program through aviation media, blogs, social network, etc. They may have questions about the Compliance Program and you should be able to discuss the general topics offered in this lesson.
- You should provide means by which your students can develop procedures to ensure they do not deviate from the standards.
 - As discussed, the use of checklists, acronyms, computer programs are

examples of how this can be done every flight. These processes should be a part of every instructional flight, as your students are more likely to continue the practice if you are using/promoting these methods.

- You should discuss personal minimums with your students, including how they can develop their own minimums. The FAA has resources available, including the following:
https://www.faa.gov/news/safety_briefing/2015/media/SE_Topic_15_02.pdf
- [Other resources can be provided]
- Encourage your students to seek recurrent training above the minimum required by the regulations.
 - You should make certain that you strive to provide comprehensive flight reviews and instrument proficiency checks.
 - A good resource is Advisory Circular (AC) 61-98, Currency Requirements and Guidance for the Flight Review and Instrument Proficiency Check
 - [Other resources can be provided]
 - You should encourage those you fly with to seek proficiency training when their skills/knowledge may have diminished, or if they are flying in a different aircraft or environment from what they are used to.
 - AC 61-98, as well as AC 90-109, Transition to Unfamiliar Aircraft, provide great information on this concept.
 - [Other resources can be provided]
- You should promote staying engaged with updates affecting general aviation. One way to do this is to share with your student the resources that you use to stay current.
 - One good source of general aviation information is the FAA Safety Briefing, which can be downloaded at https://www.faa.gov/news/safety_briefing/
 - [Other resources can be provided]

b. Remedial Training

- If the Aviation Safety Inspector (ASI) determines that remedial training (RT) is the appropriate action to take regarding an apparent noncompliance with the regulations, the ASI will forward the case to a FAAS Team Program Manager (FPM). The FPM will then take the following actions:
 - Coordinate with the ASI to determine the scope and objectives of the training.
 - Develop the RT curriculum
 - Determine the necessary resources (e.g., a remedial training provider) to accomplish the RT curriculum

- As discussed further in the lesson, the provider can be a flight instructor.
- If so, the flight instructor will be named in the contract and will serve as a liaison between the airman and the FAA
- o Develop the RT agreement
- o Schedule/conduct the initial meeting with the airman
- The FPM and airman will discuss the RT curriculum and completion requirements. Before finalizing and signing the RT agreement, the FPM will solicit input from the airman to make the training experience more effective and efficient.
- When necessary, the FPM will send the agreed upon RT provider a blank completion certification letter template (example to follow)
 - o The provider will give the FPM periodic updates on the progress of the training
 - o The provider will return a signed copy after the airman has completed the RT.
- The following are RT providers (and/or resources) that the FPM will consider when developing the curriculum:
 - o FAASTeam Representative (more information to follow)
 - o Applicable online courses on www.FAASafety.gov
 - o Available online training from another respected source
 - o Available local training from an FAA-certificated school such as:
 - Part 141 Pilot Schools
 - Part 147 Maintenance Schools
 - o Available local training from an FAA-certificated airman actively engaged in testing or training such as:
 - Designated Pilot Examiner
 - Flight Instructor
 - Designated Mechanic Examiner;
 - o Any other appropriately rated individual specifically qualified to provide the desired training (i.e., experienced in the type of aircraft involved in the violation).

c. Example remedial training agreement

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Sample Remedial Training Agreement Letter

Note: The sample agreement letter and training curriculum enclosure are taken from [Order 8900.1, Volume 15, Chapter 6, Section 1](#). The copies below are from the version of that section dated 7/26/2017. FIRC providers and instructors should check for any updates to that section and adjust the following figures if needed.

[DATE]

[NAME]

[ADDRESS]

[CITY, STATE ZIP]

Subject: Remedial Training Agreement

[Title] [Name]

This remedial training (RT) agreement and curriculum was created by [FPM / Safety Liaison Team (SLT) Lead name], FAA Safety Team (FAASTeam) Program Manager (FPM) or Safety Liaison Team (SLT) Lead, on the basis of a referral received from Inspector [referring aviation safety inspector's (ASI) name], allowing you (aforementioned airman) to participate in the RT program. Accordingly, your signature on this agreement signifies your concurrence to complete the prescribed course of RT (enclosure) within the assigned period of time. To complete this RT program successfully, you must comply with the following:

1. You must obtain the required training from designated/approved source(s). The source(s) is approved/designated by the FPM/ SLT Lead who drafted your RT agreement.
2. All expenses/costs incurred by or as a result of the prescribed training must be borne by you.
3. Once training begins, you are required to make periodic progress reports to the FPM/ SLT Lead assigned to your RT program.
4. If you continue to conduct operations in the areas identified in this RT agreement and have a similar deviation, this may be deemed as unwillingness to comply and would result in RT being withdrawn.
5. You are required to complete all elements of the RT curriculum and meet acceptable completion standards no later than [Date RT to be completed by].
6. You are required to provide the FPM/ SLT Lead with written documentation indicating satisfactory completion of the prescribed RT. You must provide the original (or certified copy) of a written certification issued by the RT Provider(s). The written certification must describe each element

of the curriculum for which instruction was given and the level of proficiency you have achieved.

Any endorsements will include the Training Provider's name, authorizing signature, certificate number (as appropriate), date, scope and duration of training provided to include the number of hours accomplished (as applicable). A certificate of satisfactory completion will suffice for prescribed Web-based (online course) training (e.g., www.FAASafety.gov, Pilot Proficiency Program (WINGS), Aviation Maintenance Technician (AMT), Aircraft Owners and Pilots Association–Air Safety Foundation (AOPA-ASF), etc.).

If the objectives of this RT agreement cannot be successfully reached, you may be referred back to Inspector [referring ASI's name] to be withdrawn from the RT program.

I, [Insert Airman's Name], agree to comply with the terms and conditions specified in this remedial training (RT) agreement. I understand that failure to complete any element of this agreement within the prescribed period of time may result in my removal from the RT program and administrative or legal enforcement action and/or reexamination under Title 49 of the United States Code (49 U.S.C.) § 44709(a).

[Signatures]

Sample Remedial Training Curriculum Enclosure

Objective: To improve the airman's knowledge and pilot proficiency in flight planning with emphasis on fuel management, cross-country flight planning, the use of navigation charts, and the use of the GNS 430 for cross-country navigation.

Content:

A. A minimum of 4 hours of ground instruction on the following subjects:

1. FAASafety.gov Learning Center Course, "The Art of Aeronautical Decision Making" by AFS-800 (online course). (1.0 hours)
2. Cross-country flight planning with emphasis on Cirrus SR-22 performance/fuel consumption charts. (1.5 hours)
3. Programming and use of the GNS 430 for visual flight rules (VFR) cross-country operations. (1.0 hours)
4. Cirrus SR-22 emergency procedures – engine failure/loss of power. (0.5 hours)

B. A minimum of 4 hours of flight instruction to include:

1. Flight Task Activity Number A100125-09 (Airplane Single-Engine Land (ASEL)-Navigation) found in the Pilot Proficiency Program (WINGS) on FAA Safety.gov. Activity to be demonstrated using appropriate navigation charts and the GNS 430 when applicable.
2. Demonstrate proficiency utilizing the GNS 430 during flight to include in-flight changes and the ability to find the nearest airports.
3. Cirrus SR-22 emergency procedures – engine failure/loss of power.

Completion Standards: The training will have been successfully completed when the assigned remedial training (RT) provider, by oral testing and practical demonstration, certifies that the airman has completed instruction in the above mentioned tasks in accordance with the RT curriculum. When applicable, the above mentioned tasks will be completed to the level of proficiency stated in the Private Pilot Practical Test Standards (PTS) (the current edition of FAA-S-8081-14) [insert applicable FAA PTS reference]. Documentation must be provided to the FAA Safety Team (FAASTeam) Program Manager (FPM) as stated in the RT agreement.

I agree to comply with the terms and conditions specified in this letter. I understand that failure to complete any element of this agreement within the prescribed period of time may result in my removal from the RT program and administrative or legal enforcement action and/or reexamination under Title 49 of the United States Code (49 U.S.C.) § 44709(a). If legal enforcement action is taken, I waive my right under section 821.33 of the National Transportation Safety Board's (NTSB) Rules of Practice (Title 49 of the Code of Federal Regulations (49 CFR) part 821, § 821.33), to move to dismiss the FAA's complaint as stale.

[Insert Name and Date]

d. Information about FAASTeam Representatives

- FAASTeam Representatives are individuals dedicated to the promotion of aviation safety through the following means:
 - They voluntarily serve as assistants to the FAASTeam Program Manager and FAASTeam organization.
 - They provide their community with advice, counsel, technical knowledge, aviation experience, and a communication link with the local Flight Standards District Office (FSDO).
 - FAASTeam Representatives act as advisors to the aviation community in support of aviation safety, and do so without designated regulatory authority.
- Representatives are selected for their interest in aviation safety, their professional knowledge, their personal reputation in the community, and their ability to donate freely of their time and talents on behalf of the FAASTeam. Representatives are a vital link in the overall mission of the FAASTeam.

- FAAS Team Representatives have some general responsibilities. For example:
 - Representatives must be willing to be of service to the aviation community.
 - Representatives will conduct activities professionally and in a manner that reflects favorably on the FAAS Team, thereby enhancing the relationship between the FAA and the aviation industry.
 - Representatives receive guidance and support from the FAAS Team and the FAAS Team Program Manager. Products designed to enhance aviation safety are available to Representatives at www.FAASafety.gov.
- Additional information on becoming a FAAS Team Representative can be found on the following website: <https://www.faasafety.gov/about/mission.aspx>

Guidance Material for the Compliance Program

- FAA's Compliance Program Website
 - www.faa.gov/go/cp
 - In particular, see Resources section on the right had of the page
- FAA Order 8900.1, Volume 14, Chapter 1, Sections 1 and 2
- FAA Order 8900.1, Volume 15, Chapter 6
- FAA Order 2150.3C, Chapter 5
- FAA Order 8000.373A