AIR-002-035
Aircraft Certification Service (AIR) Compliance and Enforcement Process

Purpose

This technical business process supplements the Compliance and Enforcement Program, Federal Aviation Administration (FAA) Order 2150.3, and provides specific guidance on how Aircraft Certification Service (AIR) will process Voluntary Disclosures and Compliance Actions. This process also provides specific guidance on how AIR determines the appropriate compliance and enforcement actions when noncompliant issues are found.

Scope

This technical business process applies to AIR personnel involved in compliance and enforcement activities.

The following documents support this process and are available on the FAA website or on the Dynamic Regulatory System (DRS) (https://drs.faa.gov) website:

FAA Order – 8000.373, *Compliance Program*
FAA Order – 2150.3, *Compliance and Enforcement Program*.
FAA Order – 8000.89, *Designation of VDRP Information as Protected from Public Disclosure under 14 CFR Part 193*
FAA Order – 8100.15, *Organization Designation Authorization Procedures*.
FAA Order – 8110.4, *Type Certification*.
FAA-Order – 8120.16, *Suspect Unapproved Parts*.
FAA Order – 8120.22, *Production Approval Procedures*.
FAA Order – 8120.23, *Certificate Management of Production Approval Holders*.
FAA Order – 8110.104, *Responsibilities and Requirements for Implementing Part 26 Safety Initiatives*.
FAA Order – 8110.107, *Monitor Safety Analyze Data*
Advisory Circular – 00-68, *Aircraft Certification Service Voluntary Disclosure Reporting Program.*

Approval: JOSEPH G D'ALESSANDRO Digitally signed by JOSEPH G D'ALESSANDRO Date: 2023.03.02 08:33:27 -05'00'

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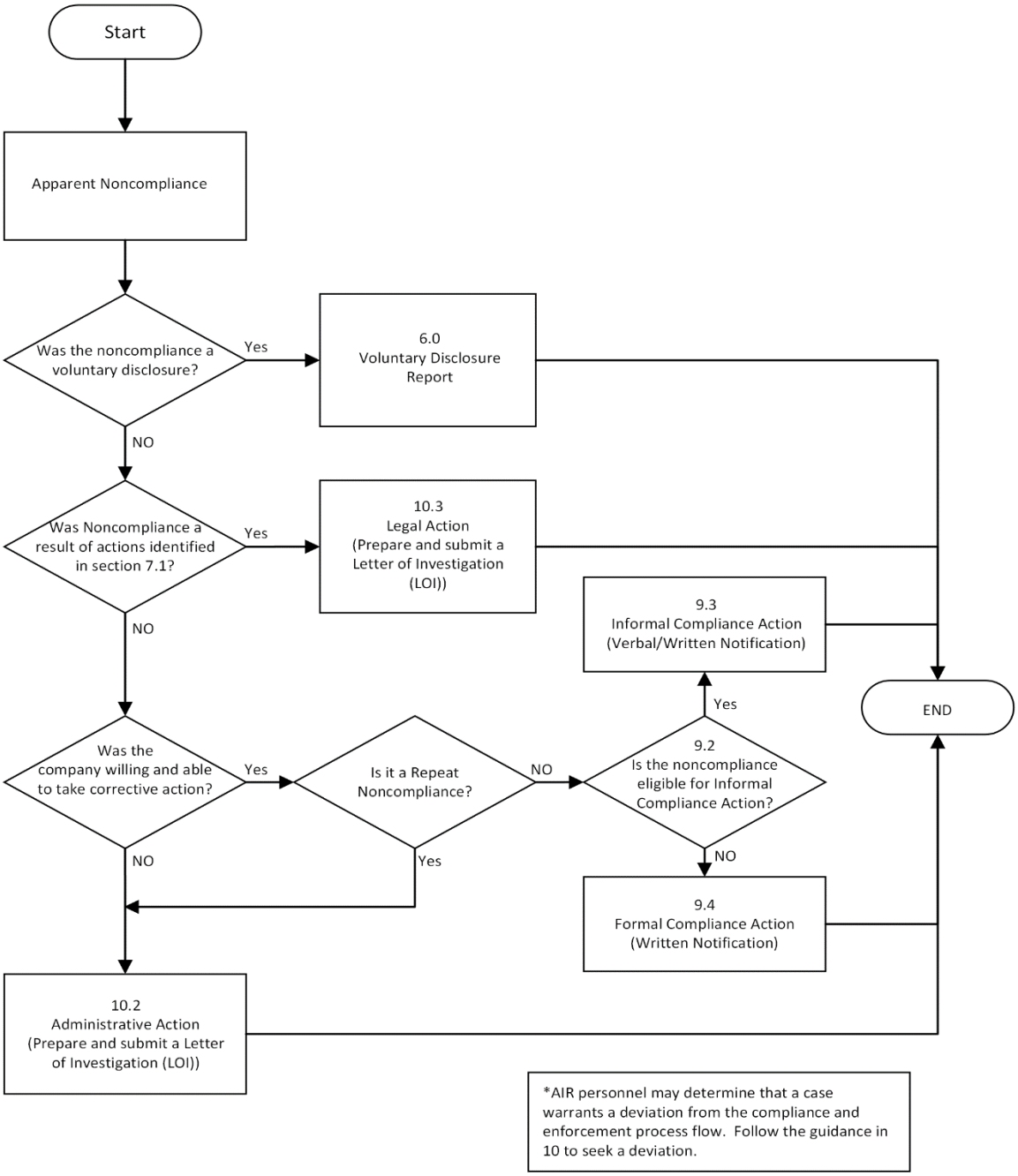
Revision History

Revision	Description of Change	Effective Date
0	Original: (cancelled AIR-002-035-WI)	January 30, 2015
1	Changes made to align with Order 2150.3 and Order 8000.373. Changes include: Adding Compliance Action and removing Informal Action; changing the determining factors for when compliance, administrative, or legal action is warranted. Adding a definition for repeat of noncompliance; updating the administrative action checklist. Adding more specific guidance for ODA noncompliant issues.	September 8, 2015
2	1-Moved VDRP to section 6 and added guidance for processing VDRP that aligns with AC 00-68; 2-Added more guidance for Known Noncompliance to section 5; 3-Added guidance for tracking all actions on the AIRCP SharePoint site; 4-Added guidance for tracking enforcement actions to section 10; 5-Revised the Compliance and Enforcement Determination Checklist; 6-Cleaned up miscellaneous errors noted by the field in Rev 1.	October 1, 2016
3	1 – Cancels and incorporates deviations dated October 7, 2019 and Deviation from AIR-002-035 (pdf) dated January 10, 2020, which revised the guidance as follows: a. Removed the use of AIR SharePoint Site and requires use of Aviation Safety Knowledge Management Environment Compliance and Enforcement Actions (ASKME CEA) Applications; b. Paragraph 6.2 - Revised guidance for the VDRP Office Tracking from the AIR SharePoint Site to the ASKME CEA; c. Paragraphs 6.3.4.5 and 6.4.7 - Personnel no longer retain Disclosure documents and files outside of the ASKME CEA. Personnel no longer enter required information in the AIR Compliance and Enforcement SharePoint site; d. Paragraphs 7, 9.2, 9.4.1, and 10, Appendix 1 - Personnel no longer document the action determination on the Compliance and Enforcement Action Determination Checklist (AIR-002-035-F1) and Corrective Action Checklist (AIR-002-035-F2). All requirements for using	March 2, 2023

Revision	Description of Change	Effective Date
	the C&E Determination checklist in the AIR-002-035 are no longer relevant; e. Paragraph 9.1 - Revised guidance for Compliance Action tracking from the AIR SharePoint Site to the ASKME CEA; f. Paragraph 9.3 and 9.4 - Personnel no longer retain Compliance Action documents in files outside of the ASKME CEA. Compliance Actions are no longer tracked using the AIR Compliance and Enforcement SharePoint site; g. Paragraph 9.5 revised - Personnel must elevate all Compliance Actions using the ASKME CEA; h. Paragraph 10.1.1 - Revised guidance for Enforcement Action Tracking from the AIR SharePoint Site to the ASKME CEA; i. Paragraph 10.1.2 - Personnel no longer complete the 2150-5 worksheet for Enforcement Actions; j. Paragraph 10.1.3 - Personnel no longer use the auto-generated EIR number from the enforcement tracking section on the SharePoint site; k. Paragraph 10.2 - Personnel no longer retain Administrative Enforcement Action documents and files outside of the ASKME CEA. Enforcement Actions are no longer tracked using the AIR Compliance and Enforcement SharePoint site; l. Paragraph 10.3 - Personnel no longer retain Legal Enforcement Action documents and files outside of the ASKME CEA. Legal Enforcement Actions are no longer tracked using the AIR Compliance and Enforcement SharePoint site. 2 – Revised all references from Directorate(s) to Division(s). 3 – Renumbered paragraph 2.X definitions to 2.1.X. 4 – Revised all references from RGL to DRS. 5. – Removed Appendix 3 for office code listing due to inclusion in ASKME CEA.	

AIR-002-035
(AIR) Compliance and Enforcement Process Flowchart



1. **Overview.**

1.1. The principal objective of the FAA compliance and enforcement program is to improve aviation safety by promoting compliance with requirements and procedures. The program ranges from the use of the Voluntary Disclosure Reporting Program (VDRP) for noncompliant issues disclosed by the regulated entity, to the use of compliance or enforcement actions when the FAA finds noncompliant issues during certification and oversight activities. This process provides the primary guidance to AIR personnel for compliance and enforcement determination, compliance action tracking and processing, and voluntary disclosure reporting tracking and processing. It also provides supplemental guidance for how to track and process enforcement actions.

1.2. This process is directive in nature. The use of "must" in this process indicates the action(s) are mandatory.

1.3. The use of "may" or "should" in this process indicates a best practice (optional) process step to allow flexibility. You are encouraged to follow the best practices in this process.

1.4. All applicable offices must be in full compliance with this process 30 days after the effective date. Any action opened prior to the effective date of this revision should be processed in accordance with the previous revision to include any deviation memorandums that were in effect at that time.

2. **Definitions.**

2.1. The AVS QMS uses the ISO 9001 standard definitions for common terms used in this document. In addition, the following AIR compliance and enforcement terms are used and defined:

2.1.1. **Administrative Action:** A type of enforcement action used when the regulated entity was unwilling or unable to take appropriate corrective action or when compliance action was not sufficient to gain compliance. Administrative actions are processed in accordance with this process and FAA Order 2150.3.

2.1.2. **Aviation Safety Knowledge Management Environment Compliance and Enforcement Actions Application (ASKME CEA).** A software application used by AIR personnel to streamline the process of entering and managing noncompliant issues. In ASKME CEA the user is able to enter Actions, determine what kind of Action should be taken based on selected Criteria, input documents and manage the process from Determination through Closure.

2.1.3. **Causal Analysis:** A description of the main cause or reason behind why the noncompliance existed. A causal analysis is required for all noncompliant issues and should provide enough details in relation to the complexity of the noncompliance.

2.1.4. **Compliance Action:** A non-enforcement action used when a regulated entity is willing and able to take appropriate action and the noncompliance does not warrant administrative or legal action. Compliance actions are defined and processed in accordance with this process.

2.1.5. **Conduct Creating or Threatening to Create an Unacceptable Risk to Safety:** Conduct that creates or threatens to create the probability of a risk to safety or when the determination has been made that alternative means, outside of legal action, to address the noncompliance and to gain immediate and future compliance would not be sufficient. This legal action criterion is in place for special circumstance that otherwise would not have met any of the other legal criteria. This criterion can only be enacted when the Director, Aircraft Certification Service, AIR-1 makes the determination to do so.

2.1.6. **Corrective Action:** The action(s) taken by a regulated entity to eliminate the noncompliance and come into compliance. Corrective action can be either remedial and/or comprehensive depending on the severity and complexity of the noncompliance.

2.1.7. **Enforcement Action:** Enforcement action is used when it is determined compliance action is not sufficient to bring a regulated entity back into compliance. Enforcement actions are either administrative or legal and are processed under the requirements of FAA Order 2150.3.

2.1.8. **Enforcement Information system (EIS):** An FAA agency-wide database used to track administrative and legal enforcement actions.

2.1.9. **Enforcement Investigative Report (EIR):** A file containing documents related to an enforcement action investigation. See Chapter 8 of FAA Order 2150.3 for requirements of the EIR.

2.1.10. **Failure to Complete Corrective Action on Terms Satisfactory to the FAA:** A regulated entity's failure to implement corrective action as agreed upon by the FAA. Particularly if that failure was due to an unwillingness to take the corrective action after it was agreed upon; a disregard for compliance obligation; or failure to prioritize or invest appropriate resources to achieve compliance. Failure to complete corrective action is not the same as implementing an agreed-upon corrective action that does not achieve its intended purpose.

2.1.11. **Formal Compliance Action:** Used for noncompliance(s) that warrant compliance action, but due to the criticality or complexity of the noncompliance, a more robust process is necessary to document the noncompliance and corrective action plan in writing.

2.1.12. **Informal Compliance Action:** Used for noncompliance(s) that warrant compliance action but may be non-systemic or noncomplex. Notification can be either verbal or written.

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

2.1.14. **Internal Procedures Noncompliance:** A noncompliance with a regulated entity's self-imposed internal procedures included in their PAH quality manual that are not required by 14 CFR 21.137 or in their ODA procedures manual that are not required by 14 CFR 183.53.

2.1.15. **Legal Action:** A type of enforcement action taken when compliance or administrative actions are not sufficient to gain compliance, or when the noncompliance meets one or more of the criteria outlined in FAA Order 2150.3. Legal actions are processed in accordance with FAA Order 2150.3 and generally result in a civil penalty, certificate action, or approval/authorization action.

2.1.16. **Legal Enforcement Required by Law:** The express terms of a statute or regulation that require the initiation of a legal enforcement action. This usually includes transportation of hazardous material or criminal activity.

2.1.17. **Mandated Requirement Noncompliance:** A noncompliance with the requirements of 14 CFR. Within AIR, these are often noncompliant issues to parts 21, 26, 45, or 183 and consist of required information or steps that need to be taken or maintained for a certificate/approval/authorization, or specific actions that must not be taken.

2.1.18. **Noncompliance:** As used in this process, describes any condition or discrepancy found that is not in compliance with the regulations or with any FAA-approved processes/procedures for which compliance is required.

2.1.19. **Non-Systemic Occurrence of a Noncompliance:** Isolated act/occurrence not indicative of a system deficiency and/or unrelated noncompliant issues in a system or an organization that occur infrequently.

2.1.20. **Quality Escape:** As defined for the use of VDRP, products or articles that have left the quality system that do not conform to type design.

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

2.1.22. **Regulated Entity:** Any applicant or holder of an FAA approved certificate, approval, or authorization.

2.1.23. **Relative Ease:** When the means of achieving compliance can be accomplished at the time the noncompliance is identified or where action(s) taken to achieve compliance may be accomplished in a short time frame normally within 30 days.

2.1.24. **Remote Risk to Safety:** As used in VDRP, a noncompliance that poses a compromise to safety that is unlikely to occur or would seldom occur.

2.1.25. **Root Cause Analysis:** A description of the main cause or reason behind why the noncompliance existed. A root cause analysis usually consists of identifying a data point (the highest level of cause) and the single most root cause of the problem (why did the data point exist). Root cause analysis should be detailed and support all noncompliant issues identified as part of an administrative enforcement action.

2.1.26. **Safety Related Noncompliance:** A noncompliance which directly compromises continued operational safety.

2.1.27. **Systemic Occurrence of a Noncompliance:** Similar interconnected problems seen throughout a system/organization and/or similar problem that occur frequently.

2.1.28. **Voluntary Disclosure Reporting Program (VDRP):** Used to promote regulated entities to self-identify, disclose, and correct noncompliance, in lieu of the FAA finding and initiating action. Guidance for VDRP is found in this process and Advisory Circular (AC) 00-68.

3. Investigative Responsibilities

3.1. Management Responsibilities. Section and Branch Managers are responsible for ensuring compliance with FAA Order 8000.373, FAA Order 2150.3, and this process when reviewing compliance and enforcement actions.

3.2. Investigative Personnel Responsibilities. AIR personnel assigned to investigate apparent noncompliant issues are responsible for following FAA Order 2150.3 and this process when determining the appropriate type of compliance or enforcement action required for noncompliant issues, processing these actions and verifying completed corrective actions. The following AIR personnel normally involved in investigating apparent noncompliant issues are referred to collectively as "investigative personnel."

3.2.1. FAA Aviation Safety Engineer (ASE).

3.2.2. FAA Aviation Safety Inspector (ASI).

3.2.3. FAA Flight Test Pilot/Flight Test Engineer (FTP/FTE).

3.2.4. FAA Organization Management Team (OMT) lead and members.

3.3. Coordination Responsibilities.

3.3.1. **Organization Designation Authorization (ODA) Holder Coordination Responsibilities.** Compliance and enforcement actions involving an ODA holder must be processed by the OMT lead or delegate(s). The OMT lead's office is the primary office responsible for initiating and tracking compliance and enforcement actions, including noncompliant issues disclosed under VDRP, associated with the ODA holder. If the OMT lead's office is a part of AIR, this process will be used. If an AIR OMT member is a part of a Flight Standards (AFS) lead ODA, the AFS process will be used. OMT members will send any noncompliant issues found to the OMT lead or delegate(s) for processing. For the noncompliant issues identified by OMT members, the members will remain engaged and work with the OMT lead or delegate throughout the compliance and enforcement process.

3.3.2. **Design and Production Approval Holder Coordination Responsibilities.** Compliance and Enforcement actions should be processed by the primary issuing office of a design approval holder (DAH) or the primary office responsible for the oversight of a production approval holder (PAH). If the noncompliance is found by an office other than the Primary office, investigative personnel should send supporting documentation for the noncompliance to the primary office for processing.

3.3.3. **AFS Coordination Responsibilities.** For noncompliant issues initially identified by AIR but require action taken by AFS, AIR investigative personnel will contact the appropriate AFS office to coordinate processing the noncompliance and ensuring corrective action is implemented and effective.

4. **Sources and Types of Potential Noncompliant issues.** Within AIR, noncompliant issues are typically found as a result of surveillance and oversight activities, including certificate management or oversight of delegated organizations. Other examples of where noncompliant issues may be found include operational safety reporting, discovery of falsification of records, or discovery of failures to comply with specific rules addressing aging aircraft.

4.1. Mandated Requirement Noncompliant issues by Production Approval Holders (PAHs). These noncompliant issues are typically noncompliant issues to § 21.146, § 21.316, or § 21.616, tied to a quality system element found in § 21.137, and are found during certificate management oversight or other surveillance activity. They may be related to the quality system requirements with which a PAH is required to comply once the approval is granted.

4.2. Noncompliant issues by Organization Designation Authorization (ODA) Holders.

4.2.1. **Mandated Requirement Noncompliance by an ODA holder**. These noncompliant issues are typically noncompliant issues to part 183 that are found during delegated organization inspection program (DOIP) inspections or supervision activity, and are typically a result of noncompliant issues to procedures in the ODA holder's FAA-approved procedures manual.

4.2.2. **ODA Discrepancies.** These noncompliant issues may include technical discrepancies, procedures manual discrepancies, FAA policy discrepancies, issues with special emphasis items, and any other condition requiring correction identified on either a Supervision Record or on a Discrepancy Record as part of the DOIP inspection report.

4.2.3. **Known Noncompliance to Airworthiness Standards.** If an ODA unit approved certificate results in a potentially unsafe product or a product not meeting the airworthiness standards, the noncompliance will first be assessed using the Monitor Safety/Analyze Data (MSAD) process found in Order 8110.107. If the noncompliance does not warrant an airworthiness directive (AD) action, the compliance and enforcement process outlined in this document will be used to obtain appropriate corrective action.

Note: *See the guidance in Order 8100.15 for further information about processing ODA Unit Member performance problems.*

4.3. Mandated Requirement Noncompliant issues by Design Approval Holders (DAH). These noncompliant issues typically result from a DAH's failure to meet certain reporting or notification requirements under part 21, such as failure to report under § 21.3 or failure to provide the agency information in accordance with § 21.97 for a major change.

4.3.1 **Noncompliant issues After the issuance of a type design.** When a noncompliant type design is found after the issuance of a certificate/approval, corrective action should be taken. These noncompliant issues typically result from a DAH's failure to properly show compliance per § 21.20 to an airworthiness standard (parts 23, 25, 27, 29, 31, 33, 35), even if this failure was due to omission or oversight. Noncompliant design issues should be initially evaluated using the process in Order 8110.107 to determine whether an AD needs to be issued. For noncompliant issues where a potentially unsafe condition is identified, the AD process should be followed. For noncompliant issues that do not result in an AD, corrective action should be requested using compliance action process identified in section 9 of this process. Investigative personnel should use judgment on what level of action is needed to correct the noncompliance. For example, corrective action may require the design to be corrected for future production but may not require product in the field to be corrected due to the remote safety impact.

4.3.2 **Noncompliant issues of aging airplane rules.** These noncompliant issues typically result from a DAH's failure to comply with the requirements of part 26.

4.4. Other Mandated Requirement Noncompliant issues. In addition to the types of noncompliant issues listed above, investigative personnel may come across other types of noncompliant issues during their oversight and surveillance activities. The following are a few, but not the only, examples of other types of noncompliant issues:

4.4.1. **Falsification of Records.** These noncompliant issues are typically related to an act or omission and/or alteration of factual data under § 21.2.

4.4.2. **Producing Parts without an FAA Production Approval.** These noncompliant issues are typically related to suspected unapproved parts (SUP) investigations or are found during certificate management activities and are noncompliant issues to § 21.9.

4.4.3. **Making a Fraudulent or Intentionally False Statement.** These noncompliant issues are typically related to making a false statement of airworthiness during a sale of a part or product or fraudulently reproducing a part as outlined in 14 CFR 3.5(b).

4.5. Internal Procedure Noncompliance. A noncompliance within a regulated entity's self- imposed internal procedures. Internal procedure noncompliant issues primarily include:

4.5.1. Noncompliant issues with a PAH's internal procedures that are not required by § 21.137 to be included in the quality system.

4.5.2. Noncompliant issues with an ODA holder's internal procedures that are not required by § 183.53.

4.6. Certification Related Issues. Any noncompliance to the quality system certification basis found after the issuance of a production approval. For example, lack of procedures for a § 21.137 Quality System requirement or lack of a PAH's approved quality manual as required by § 21.138.

4.7. Repeat Noncompliance. A repeat noncompliance is by definition, a noncompliance similar in nature to a noncompliance that has been found during a separate oversight activities. Due to the vast range and uniqueness of the regulated entities that AIR oversees, determining a repeat noncompliance should always be scalable to the specific entity. When evaluating the repeatability of a noncompliance, you should consider:

4.7.1. The similarity of the section or subsection of a regulation the noncompliance is associated with;

4.7.2. The location or system in which the noncompliance occurred;

4.7.3. The cause identified in the previous occurrence of the noncompliance;

4.7.4. The corrective action taken for the previous occurrence of the noncompliance.

Note: *In all cases, investigative personnel should use due diligence when evaluating the similarities of the noncompliance before determining a repeat is present.*

5. Non-Regulatory Concerns. There may be times during oversight activities, investigative personnel find issues or hazards that are non-regulatory in nature, but may require notification to encourage and recommend action(s) by the regulated entity in order to prevent a safety concern. Investigative personnel should always use discretion when recommending action for non-regulatory concerns. The ASKME CEA should not be used to address business practice concerns or issues with processes/procedures that are opinion-

based. If non-regulatory concerns are noted, investigative personnel may make recommendations and notify the regulated entity of the concern via compliance action (see section 9), or in conjunction with an enforcement action (see section 10). When making a non-regulatory concern recommendation, investigative personnel must coordinate with their office manager or delegate.

> **Note***: When non-regulatory recommendations are made in conjunctions with an enforcement action taken for other noncompliant issues, the recommendations and suggestions must be clearly identified as non-regulatory in nature and set apart from other identified noncompliant issues.*

The regulated entity is not subject to enforcement action if they elect not to take corrective action pertaining to the non-regulatory concern. If corrective action is not taken, investigative personnel should continue to encourage the regulated entity to acknowledge the concern.

If recommendations are going to be made via compliance action, the ASKME CEA Compliance and Enforcement Determination Checklist does not need to be used (unless required by office policy). Investigative personnel must indicate in the compliance tracking system that compliance action being documented is for a non-regulatory concern, as to not get it confused with other compliance actions that are a result of a regulatory noncompliance.

6. Voluntary Disclosure. One of the FAA's primary goals is to promote the highest level of safety and compliance with regulatory standards by using the most effective means to return a regulated entity to full compliance. The FAA believes aviation safety is well served by incentives for regulated entities to identify and correct their own instances of noncompliance and to invest more resources in efforts to preclude their recurrence. One of the incentives the FAA has established is the VDRP, which allows a regulated entity the ability to forgo compliance and enforcement actions when they detect noncompliant issues, promptly disclose them to the FAA, meet the criteria set forth in AC 00-68, and take prompt corrective action that is acceptable to the FAA to ensure the same or similar noncompliant issues do not recur. This incentive is designed to encourage compliance with regulations, foster safe operating practices, and promote the development of internal evaluation programs.

6.1. VDRP Eligibility. The FAA believes that the open and sharing of information regarding noncompliant issues, and a cooperative and advisory approach to solving problems, will enhance and promote aviation safety. When a noncompliance is discovered and disclosed, the regulated entity and the investigative personnel should work together to identify the most appropriate means to gain compliance.

Under AIR's VDRP, there are two means by which a regulated entity can disclose a noncompliance, either through the informal voluntary disclosure reporting process (see section 6.3) or the formal voluntary disclosure reporting process (see section 6.4). The appropriate disclosure process for a particular noncompliance depends on the type of the noncompliance being disclosed.

To be eligible for VDRP, whether disclosing under the informal or the formal disclosure process, the disclosure must meet the following requirements:

6.1.1. **The FAA Was Notified.** The regulated entity has notified the FAA of the noncompliance promptly after detecting it, or in accordance with their approved informal agreement, and before the FAA has learned of it by other means.

6.1.2. **The Noncompliance Was Inadvertent.** The noncompliance was the result of inattention and did not result from a purposeful choice made by the regulated entity.

6.1.3. **The Noncompliance Does Not Reflect a Lack of Qualification.** The noncompliance does not indicate a lack, or reasonable question, of qualification of the regulated entity.

6.1.4. **Immediate Action Satisfactory to the FAA Was Taken.** Immediate action, satisfactory to the FAA, was taken upon discovery to cease the conduct that resulted in the noncompliance.

6.1.5. **Corrective Action Plan (CAP).** The regulated entity has developed, is developing, or has committed to develop, a CAP satisfactory to the FAA. For formal disclosures, the CAP should include a follow-up self-audit to ensure the action taken corrects the noncompliant issues. This self-audit is in addition to any audits conducted by the FAA.

Note: *If there are minor deficiencies in the disclosure, the investigative personnel may work with the regulated entity to correct those prior to making a determination of acceptance.*

6.2. VDRP Office Tracking. Both informal and formal disclosures, once accepted, must be tracked using a unique identifier as follows:

Prefix: VDR
Year: YYYY
Regional Code: RR
Office Code: OO
Sequence Number: NNNN.

Example: VDR2016SW420099.

Note: *Each office has a unique Regional and Office code that is predefined and listed in ASKME CEA. For example, the LA MIDO unique identifier is NM46.*

A unique identifier must be assigned to each disclosure received. This unique identifier will be auto generated once an item is created in the VDRP tracking section on the Aviation Safety Knowledge Management Environment Compliance and Enforcement Actions (ASKME CEA) Application. For informal disclosures, a single unique identifier is issued for each disclosure notification regardless of how many noncompliant issues are disclosed at that specific time. Each noncompliance disclosed under the informal VDRP should be referenced in the VDRP tracking section, but each one does require a separate entry.

All disclosures must be tracked in accordance with the ASKME CEA and each data element identified on the ASKME CEA must be completed and maintained for each disclosure initiated and closed by the local office. All data elements identified in the VDRP tracking section must be maintained for a period of five years after the disclosure has been closed and must be protected in accordance with part 193 and Order 8000.89.

6.3. Informal Voluntary Disclosure Reporting Process. The informal disclosure process is a streamlined means for a regulated entity to voluntarily disclose certain noncompliant issues, and for investigative personnel to process such disclosures. The goal of this program is to create greater transparency between the FAA and industry, while putting the primary responsibility of identifying and self-correcting noncompliant issues on the regulated entity. This helps shift the focus of AIR resources to oversight activities and monitoring more critical issues.

6.3.1. **Accepting a disclosure under the informal VDRP.** Investigative personnel may accept a disclosure under the informal VDRP when:

6.3.1.1. The disclosure meets the requirements of section 6.1 of this document;

6.3.1.2. The regulated entity and the managing office must have executed an Informal Disclosure Agreement in accordance with section 6.3.3; and

6.3.1.3. The disclosure does not involve:

a. A noncompliance that poses more than a remote risk to safety;

b. A quality escape for articles and parts other than cosmetic flaws (flaws that do not affect fit/form/function or cause a direct risk to safety); or

c. A systemic discrepancy to production quality system procedural requirements.

6.3.2. **Establishing an Informal VDRP agreement.** A regulated entity may disclose eligible noncompliant issues under the informal process only if an informal disclosure agreement with the responsible investigative personnel's office has been executed. This agreement must contain the following:

6.3.2.1. An agreement to the type of noncompliant issues that the regulated entity may disclose informally. No noncompliant issues that resulted in the items listed in section 6.3.1.3 can be included as a part of the informal agreement. Examples of noncompliant issues disclosed under an informal agreement may include:

a. Non-systemic noncompliant issues;

b. Quality escapes due to cosmetic flaws;

c. Issues that can be fixed quickly and the risk to safety is remote;

d. Noncompliant issues identified as a part of a self-audit that are not unsafe conditions; or

e. Internal procedure noncompliant issues.

Investigative personnel may use their discretion on what items listed above will be included in the informal VDRP agreement and disclosed under the informal VDRP.

6.3.2.2. The FAA and regulated entity must agree to the timeframe by which the regulated entity will disclose noncompliant issues to the FAA (e.g., daily, weekly quarterly). The timeframe must not exceed a quarterly disclosure period.

Investigative personnel should use discretion when establishing a timeframe. Areas to consider when establishing a timeframe are:

a. The type, size, complexity, and quantity of product produced by the regulated entity (e.g., a timeframe of weekly maybe appropriate for larger more complex entity, where a quarterly timeframe may be appropriate for a smaller entity).

b. The entity's compliance disposition and their ability to be transparent and adequately correct noncompliant issues (e.g., an entity who has proven to be proactive in identifying issues and promptly fixing them may have a timeframe of bi-monthly to disclose, while a company who struggles to fix issues may be on shorter timeframe and require a weekly disclosure to ensure issues are being addressed).

Once a timeframe is established, the regulated entity must adhere to it. If informal disclosures are submitted that exceed the timeframe committed to in the informal VDRP agreement, without prior approval from the FAA, investigative personnel will not accept the informal disclosure and must initiate the appropriate compliance and enforcement action for the noncompliant issues disclosed.

6.3.2.3. The regulated entity must report to the FAA at the time the noncompliance(s) is disclosed. At a minimum, the regulated entity must report the following information:

a. A description of the noncompliance;

b. A causal analysis of the noncompliance;

c. A corrective action taken/planned; and

d. A date by which the regulated entity completed or will complete the corrective action.

6.3.2.4. An agreement on how informal disclosures will be sent by the regulated entity to the FAA and an agreement on how the FAA will acknowledge acceptable disclosures. Investigative personnel and the regulated entity will agree to a standard means by which the informal disclosures will be made (i.e., spreadsheet, the regulated entity's SharePoint, email, etc.). Investigative personnel and the regulated entity will also agree to a standard means by which the FAA will issue acceptance of the informal disclosures and communicate any issues with the disclosure (i.e., letter, email, regulated entity's SharePoint, etc.).

6.3.3. **Informal agreement approval and maintenance.** Once an informal agreement has been established, the agreement must be approved by the manager of the responsible FAA office and the point of contact (POC) identified by the regulated entity (i.e., the accountable manager, ODA administrator). Revisions to the informal agreement may be made at the request of either the FAA or the regulated entity. All revisions must be coordinated with the responsible investigative personnel and approved by the responsible office manager, as well as the entity's POC.

All initial agreements or any major change (i.e., substantive changes to the type of noncompliance eligible or the timeframe for informal disclosures) to an existing agreement must be sent to the Compliance System Section, AIR-634, Compliance and Enforcement Program Manager for coordination. AIR-634 may also coordinate initial informal agreements with the Office of Chief Counsel (AGC) when appropriate.

Once an informal agreement is approved it must be maintained as a part of the entity's established DAH, ODA, or PAH project file. The informal agreement may also be included as a part of an ODA's procedures manual or a PAH's Quality Manual if the regulated entity and the investigative personnel agree that is the most appropriate place for the agreement to be maintained. Investigative personnel should review the informal agreement periodically to ensure it is still current.

6.3.4. **Processing Informal Disclosures.** In addition to the guidance in AC 00-68, AIR personnel must process informal disclosures in the following manner:

6.3.4.1. The investigative personnel will review each disclosure to ensure each noncompliance disclosed is eligible for informal VDRP. If there are noncompliant issues that are not eligible within the disclosure, the investigative personnel will communicate with the regulated entity and process those disclosures in accordance with either the formal process outlined in section 6.3 or the appropriate compliance and enforcement process (sections 9 and 10).

6.3.4.2. If the informal disclosure is acceptable, investigative personnel will input disclosure in the ASKME CEA in accordance with the guidance in section 6.2 of this document. Regardless of the number of noncompliant issues disclosed, only one VDRP tracking number will be auto generated in the ASKME CEA for each single informal disclosure received.

6.3.4.3. Investigative personnel will issue acknowledgment of the disclosure in accordance with the approved informal disclosure agreement (see section 6.3.2.4).

6.3.4.4. Investigative personnel must ensure that any corrective action outlined in the informal disclosure has been completed, and a percentage of each completed corrective action must be verified. Not every completed corrective action needs to be verified by the investigative personnel. Rather the percentage of verification should be scalable to the number of corrective actions taken for the noncompliant issues disclosed. A minimum of 15% of noncompliant issues and associated corrective actions should be verified to ensure implementation and effectiveness. Investigative personnel should use a risk-based approach when determining which completed corrective actions to verify.

Investigative personnel must ensure that the regulated entity indicates, either with their initial disclosure or with a follow-up notification, that they have completed corrective action and self-verified the effectiveness of the corrective action for all noncompliant issues disclosed.

6.3.4.5. Investigative personnel will enter all required VDRP information into the ASKME CEA and they must:

a. Enter the company information into the general information section of the ASKME CEA.

b. Enter all noncompliant issues, CFRs, and any other relevant information into the submittal section of the ASKME CEA.

c. Upload all required correspondence as identified in this process.

d. Upload and review all corrective actions or corrective action plan(s) received from the regulated entity in the corrective action section of the ASKME CEA.

e. Verify corrective action and provide a verification summary as required in the corrective action section of the ASKME CEA.

f. Route the disclosure for closure in accordance with office policy.

g. Ensure all fields are complete and the disclosure is successfully marked closed in the ASKME CEA.

6.4. Formal Voluntary Disclosure Reporting Process. If the disclosed noncompliance does not meet the informal VDRP eligibility requirements as outline in section 6.3.1, the formal VDRP outlined in this section and AC 00-68 must be used.

6.4.1. The formal VDRP employs a six-stage process. Responsibility for each stage is assigned either to the regulated entity or the investigative personnel as described below (see AC 00-68 for full requirements):

6.4.1.1. Stage I - Initial notification by the regulated entity to the FAA of a noncompliance.

6.4.1.2. Stage II - FAA Response to the regulated entity.

6.4.1.3. Stage III - Written Report of the regulated entity's noncompliance.

6.4.1.4. Stage IV - Written Report Review and Corrective Action Plan Agreement.

6.4.1.5. Stage V - Regulated entity's Implementation of a Corrective Action Plan.

6.4.1.6. Stage VI - FAA Verification of Completed Corrective Action Plan.

Note: *All formal disclosures must be tracked in accordance with section 6.2 of this process.*

6.4.2. **Closing and elevating a formal disclosure.** At any time through the voluntary disclosure process, if corrective action is not being conducted as agreed upon, or is not being implemented in a timely fashion (this is discretionary, use your best judgment based on the complexity and criticality of the disclosure), investigative personnel can close the disclosure and pursue appropriate compliance and enforcement action. When closing a formal disclosure for insufficient corrective action, investigative personnel will update the entry in the ASKME CEA indicating the disclosure is closed and reference the new appropriate action in the comment section.

7. Compliance and Enforcement Action Determination. If investigative personnel have identified a noncompliance as part of certification and oversight activity (see section 4), the next step is to determine the type of action necessary to resolve the noncompliance. To make a determination, investigative personnel must evaluate the following:.

7.1. Does the noncompliance meet the criteria for legal action? If the noncompliance was a result of one of the following, legal action must be considered:

7.1.1. Intentional conduct.

7.1.2. Reckless conduct.

7.1.3. Failure to complete corrective action on terms accepted by the FAA.

7.1.4. Conduct creating or threatening to create an unacceptable risk to safety.

7.1.5. Legal enforcement is required by law.

7.1.6. Lack of qualification as evidenced by a lack of the care, judgment, and responsibility.

7.2. Is the regulated entity willing and able to take the necessary corrective action(s) to gain compliance? For the purposes of this document and as defined by FAA Order 2150.3, willing and able means the following:

7.2.1. The term “willing” means:

a. The entity acknowledges responsibility for the event;

b. The entity openly shares information with the FAA to determine the root cause of the event; and

c. The entity promptly implements or agrees to implement through a corrective action plan, any necessary corrective action.

7.2.2. The term “able” means:

a. The entity has resources (e.g., personnel, financial, time) sufficient to implement any necessary corrective action(s);

b. The entity has the ability to develop thorough corrective action and the knowledge and technical competence required of the certificate/approval/ authorization they hold; and

c. The entity has access to data, equipment, facilities, and similar resources necessary to comply with regulatory requirements and appropriately manage risk.

7.3. Is the noncompliance classified as a repeat noncompliance per section 4.7? If a noncompliance has been determined to be a repeat noncompliance, administrative or legal action, as appropriate, must be taken. For example, if compliance action has been used, administrative action should now be used. Or, if administrative action was used previously, legal action may now be warranted. As indicated in section 4.7, investigative personnel should use their discretion, knowledge, and experience to determine if a noncompliance is a repeat.

7.4. Compliance Action Determination. Investigative personnel will use compliance action if legal action is not required per 7.1, the criterion is met in 7.2 and the answer to 7.3 is no.

7.5. Administrative Action Determination. Investigative personnel will use administrative action if legal action is not required per 7.1 and the criterion is not met in 7.2; or if legal action is not required per 7.1 and the criterion is met in 7.2, but the answer to 7.3 is yes.

7.6. Legal Action Determination. Investigative personnel will use legal action if one or more of the criteria are met per 7.1 and a deviation is not granted. To document the action determination, it must be completed in the Compliance and Enforcement Determination Checklist in the ASKME CEA, for all actions, except informal compliance actions.

8. Multiple Noncompliant issues. When investigative personnel find multiple noncompliant issues during a single oversight activity, the following guidance should be used:

For multiple noncompliant issues found during a single oversight activity, for which the most serious noncompliance warrants formal compliance action (as described in section 9.5), only a single written notification should be issued for all noncompliant issues found.

For multiple noncompliant issues found during a single oversight activity, for which the most serious noncompliance warrants administrative action, a single letter of investigation (LOI) will be issued. It is at the discretion of the local office whether or not noncompliant issues that warrant compliance action are included in the LOI.

For multiple noncompliant issues during a single oversight activity, for which the most serious noncompliance(s) warrants legal action, the investigative personnel must follow section 10.3 of this process. Only the noncompliance(s) warranting legal action are included in the sanction calculations; all other noncompliant issues are included in EIR, Section B, "factors affecting sanction" as aggravating factors as required in the FAA Order 2150.3.

9. Compliance Action. Within AIR, compliance action is the primary action investigative personnel will use to return a regulated entity back into compliance. Compliance actions are appropriate when the regulated entity is willing and able to take corrective action to fix the noncompliance, even if the noncompliance is systemic or a safety issue. If investigative personnel have determined compliance action is appropriate, the guidance in this section will be followed for processing compliance actions.

9.1. Compliance Action Tracking. Both informal and formal compliance actions must be tracked using a unique identifier as follows:

Prefix: CMP
Year: YYYY
Regional Code: RR
Office Code: OO
Sequential Number: NNNN
Example: CMP2016SW420099

A unique identifier must be assigned to each compliance action initiated. This unique identifier will be auto generated once an item is created in the compliance action tracking section in the ASKME CEA.

All compliance actions must be tracked in accordance with the ASKME CEA and each data element identified on the ASKME CEA must be completed and maintained for each compliance action initiated and closed by the local office. All data elements identified in the ASKME CEA must be maintained for a period of five years after the compliance action has been closed. AIR's Compliance System Section (AIR-634) will analyze the compliance action data located on the ASKME CEA site annually to identify national trends and ensure FAA level metrics are met.

9.2. Informal Compliance Action Determination. Within compliance action, different levels of action(s) may be needed depending on the type of noncompliance. If a noncompliance is determined to be eligible for compliance action, is not a safety concern, and meets one or more of the following criteria, the informal compliance action outlined in section 9.3 may be used:

9.2.1. Noncompliance is not systemic in nature;

9.2.2. Compliance can be achieved with relative ease;

9.2.3. Noncompliance was to an internal procedure;

9.2.4. The noncompliance was found and requires correction prior to the issuance of a production or type certificate, parts manufacturer approval, or technical standard order authorization

If the noncompliance does not meet the criteria for informal compliance action, the formal compliance action process in section 9.4 must be followed.

9.3. Informal Compliance Action. If the informal compliance action criteria are met, investigative personal can use either verbal or written compliance action to notify and ensure the regulated entity takes corrective action.

9.3.1. **Verbal Informal Compliance Actions.** Investigative personnel must discuss the condition found with the regulated entity and require that corrective action and a causal analysis be conducted to obtain compliance. Investigative personnel must verify the corrective action has been satisfactorily completed before closing the action. Once completed, the closure action and must be documented in the ASKME CEA.

9.3.2. **Written Informal Compliance Actions.** The investigative personnel must initiate written notification (letter/email) to the regulated entity documenting the condition found and require that corrective action and causal analysis be conducted to obtain compliance. Investigative personnel must verify the corrective action has been satisfactorily completed before closing the action.

9.4. Formal Compliance Action. When the criteria for compliance action are met, but informal compliance action is not sufficient, the formal compliance action process must be used. This process may be used to gain compliance for systemic noncompliant issues, as well as safety concerns. When investigative personnel determine formal compliance action process is necessary, they must:

9.4.1. Complete the Compliance and Enforcement Determination Checklist in the ASKME CEA.

9.4.2. Enter the company information into the general information section of the ASKME CEA.

9.4.3. Enter all noncompliance, CFR, and any other relevant information into the noncompliance section of the ASKME CEA.

9.4.4. Upload all required correspondence as identified in sections 9.3 and 9.4 of this process.

9.4.5. Upload and review all corrective action or corrective action plan(s) received from the regulated entity in the corrective action section of the ASKME CEA.

9.4.6. Verify corrective action and provide a verification summary as required in the corrective action section of the ASKME CEA.

9.4.7. Route the action for closure in accordance with office policy.

9.4.8. Ensure all fields are complete and the action is successfully marked closed in the ASKME CEA.

9.4.9. Notify the regulated entity, in writing (email/letter), of the condition found and request them to respond within the timeframe established by the investigative personnel. The regulated entity's response must be in writing and contain a causal analysis and a proposed corrective action plan.

9.4.10. Review the regulated entity's corrective action plan and either accept or reject the plan. If the plan is rejected, investigative personnel will notify (verbally/email/letter) the regulated entity but may continue to work with the regulated entity to achieve an acceptable plan.

9.4.11. Communicate in writing the acceptance of the corrective action plan with the regulated entity. If the corrective action was complete and also verified at the time of acceptance, this communication will also close the compliance action.

9.4.12. Verify the agreed upon corrective action was implemented. If corrective action was not implemented, the investigative personnel should evaluate the reasons why it was not implemented. If implementation was not effective or failed implementation as a result of an omission, the investigative personnel may work with the regulated entity to adjust the corrective action plan. If investigative personnel determine there was failed corrective action, they will follow the guidance in section 9.5 of this process for elevating the compliance action.

9.4.13. Inform the regulated entity, in writing, that corrective action was verified and satisfactorily implemented and the compliance action is being closed.

Throughout the process, if a noncompliance determination is not substantiated, investigative personnel can close the compliance action with no action. If this is the case, investigative personnel should send notification to the regulated entity and indicate it is closed in the ASKME CEA.

9.5. Elevating Compliance Action. Compliance Action should be the first tool used to bring a regulated entity back into compliance, but there are some instances where compliance cannot be gained through compliance action and requires elevation to enforcement action to gain compliance. All Compliance Action(s) are processed and tracked through the ASKME CEA.

9.5.1. **Elevating Repeat Compliance Action Noncompliance(s).** When determining if a repeat noncompliance requires elevation, investigative personnel should use discretion and account for the severity of the noncompliance, the size of the entity, as well as the entity's attitude towards compliance. If a repeat noncompliance is determined for a past compliance action and compliance has not been gained using compliance action, the noncompliance must be elevated to administrative action and investigative personnel will follow the guidance in section 10 of this process.

9.5.2. **Elevating Failed Corrective Action under Compliance Action.** If compliance has not been gained through compliance action, investigative personnel should continue to work with the regulated entity to try and gain compliance. If compliance still cannot be gained or if during verification, corrective action is found to have not been implemented, investigative personnel should pursue the appropriate enforcement action (see section 10) for the failure to complete the corrective action, citing the initial noncompliance(s) as evidence.

Investigative personnel need to distinguish between corrective action(s) that was not effective in mitigating the noncompliance versus corrective action(s) that was not implemented. Corrective action that was implemented as agreed to, but was not effective in gaining compliance does not require elevation. When corrective action is not effective, investigative personnel should work with the regulated entity to revise their causal analysis and corrective action plan to establish an effective means to gain compliance.

9.5.3. **Elevating Non-regulatory Concerns.** Non-regulatory noncompliant issues and concerns, as well as ODA discrepancies, may not be elevated to administrative actions as a stand-alone finding. Investigative personnel may, in some instances, elevate non- regulatory concerns or ODA discrepancies if an uncooperative attitude or an attitude of disregard is present. For example, if an ODA holder repeatedly failed to take corrective action for a technical discrepancy that was found during a DOIP audit, investigative personnel can use § 183.57(d) as the regulatory basis to take compliance and enforcement action for failure to cooperate during oversight of the holder.

10. Enforcement Action. Enforcement actions are those processed under the requirements of FAA Order 2150.3. Enforcement actions can be used when compliance could not be gained through compliance action, or when a noncompliance is intentional or reckless in nature. Enforcement action can be either administrative or legal. Investigative personnel will use the guidance in section 7 to determine whether legal or administrative action is required. If based on the determination process legal action is required, the division manager may approve a deviation from legal action if it is justified. The compliance and enforcement action determination checklist in ASKME CEA must be maintained as part of the EIR for administrative and legal actions.

Note: *When legal action is required by law, such as noncompliant issues related to counterfeit parts and sabotage, a deviation cannot be granted. Also, there may be instances where a noncompliance may require legal action even if all administrative criteria are met. When this happens, investigative personnel must follow the deviation process to justify the legal action.*

10.1 Initiating an Enforcement Action. When initiating an enforcement action, the investigative personnel or assigned individual must do the following:

10.1.1 **Enforcement Action Tracking.** Both Administrative and Legal actions must be tracked using a unique identifier. This unique identifier is based on the guidance found in FAA Order 2150.3 and is as follows:

Prefix: EIR
Year: YYYY
Regional Code: RR
Office Code: OO
Sequential Number: NNNN
Example: EIR2016SW420099

A unique identifier must be assigned to each enforcement action initiated. This unique identifier will be auto generated once an item is created in the ASKME CEA. All enforcement actions must be tracked in accordance with the ASKME CEA and each data element identified on the ASKME CEA must be completed and maintained for each enforcement action initiated and closed by the local office. All data elements identified in the ASKME CEA tracking system must be maintained for a period of five years after the enforcement action has been closed. AIR's Compliance System Section (AIR-634) will analyze the enforcement action data located on the ASKME CEA annually to identify national trends and ensure FAA level metrics are met.

10.1.2 **Complete the 2150-5 form.** This form documents certain factual information, such as regulated entity's name and information, what CFRs were violated, and the type of action needed. The 2150-5 is considered section A of an EIR and is required for both administrative and legal enforcement actions. Information regarding filling out the 2150-5 and how that information is used to input data into EIS can be found in Chapter 8 of FAA Order 2150.3. The investigative personnel must make sure the ASKME CEA tracking number is entered into EIR as soon as possible to ensure both numbers match.

10.1.3 **Issue a Letter Of Investigation (LOI).** The LOI documents the alleged noncompliance(s) or noncompliance(s) and requests a reply from the regulated entity. Investigative personnel will use the auto-generated EIR number from the ASKME CEA, to use for tracking documentation related to the case. The LOI must be signed by the section/branch manager or delegate. See Chapter 4 of FAA Order 2150.3 for more detail on issuing an LOI. The investigative personnel must send the LOI by certified mail, return-receipt requested (or registered mail for persons outside the U.S.) to establish a record of notice to the regulated entity under investigation.

10.1.4 **Entry into EIS.** In addition to the information tracked in the ASKME CEA, the factual information cited on FAA Form 2150-5 must be entered into EIS using the EIR number assigned to the case.

When processing an enforcement case, whether it is legal or administrative, investigative personnel should be cognizant of the timeliness goals and the statute of limitation outlined in Chapter 4 of FAA Order 2150.3.

10.2 Administrative Action. The purpose of the administrative action is to provide FAA investigative personnel with an administrative means for addressing noncompliant issues where compliance action is not sufficient and legal action is not warranted. Administrative action brings the noncompliance to the attention of the entity involved through the issuance of an LOI. It also documents corrective action, encourages future compliance with the regulations, and provides a source of information for agency use (i.e., metrics).

10.2.1 If, after using the compliance and enforcement action determination checklist in the ASKME CEA (see appendix 1), administrative action is found to be the appropriate type of enforcement action, investigative personnel must:

10.2.1.1 Enter the company information into the general information section of the ASKME CEA.

10.2.1.2 Enter all noncompliance, CFR, and any other relevant information into the noncompliance section of the ASKME CEA.

10.2.1.3 Upload all required correspondence as identified in sections 10.1 and 10.2 of this process.

10.2.1.4 Upload and review all corrective action or corrective action plan(s) received from the regulated entity in the corrective action section of the ASKME CEA.

10.2.1.5 Verify corrective action and provide a verification summary as required in the corrective action section of the ASKME CEA.

10.2.1.6 Route the action for review in accordance with office policy.

10.2.1.7 Route the action for closure to the field office and regional office managers.

10.2.1.8 Ensure all fields are complete and the action is successfully marked closed in the ASKME CEA.

Note: *The type of action needed is determined on a case-by-case basis and AIR investigative personnel must use the guidance under each of the sections below to determine the action needed:*

10.2.2 **Corrective Action Assessment.** Investigative personnel must assess the regulated entity's immediate corrective action, as well as the proposed long term corrective action, based on the noncompliance(s) and identified root cause(s), as well as the status of any nonconforming fielded product as outlined in their corrective action plan. Each corrective action should directly relate to the root cause of the noncompliance. If the investigative personnel determine that the regulated entity's response lacks adequate corrective action, they may work with the regulated entity to develop satisfactory corrective action.

10.2.3 **Letter of Correction (LOC).** An LOC is used to close administrative action cases when the regulated entity has agreed to an acceptable corrective action plan and implementation has been verified by the FAA. The case is closed in EIS with a "letter of correction." If corrective action has not been verified, issuing the LOC accepts the corrective action plan and indicates verification will be conducted once the corrective action is complete. The case remains open until corrective action verification is complete.

10.2.4 **Letter Acknowledging Completion of Corrective Action (LACCA).** If corrective action verification could not be done at the time the LOC was issued, the investigative personnel must perform verification of the corrective action plan once complete. If the investigative personnel find that corrective action has been satisfactorily implemented and is effective, they must issue a LACCA to close the case. The case is then closed in EIS with a "letter of correction."

10.2.5 **Letter of Failed Corrective Action (LOFCA).** When the investigative personnel find, during verification, the corrective action is not implemented as agreed to, a LOFCA is issued to the regulated entity indicating that the case is being closed and a new case is being initiated for both past and present noncompliant issues. A new EIR case must be opened and elevated to legal action. The old EIR is closed in EIS as "No Action."

10.2.6 **Letter of No Action (LON).** In the event the investigation did not substantiate a noncompliance, a letter of no action must be issued indicating the case is being closed and the guidance in Order 2150.3 was followed. The case is closed in EIS as "No Action."

10.3 Legal Action. Legal action may be in the form of a civil penalty, certificate action or action against an approval/authorization.

10.3.1 For legal actions, investigative personnel must perform the following steps:

10.3.1.1 Enter the company information into the general information section of the ASKME CEA.

10.3.1.2 Enter all noncompliant issues, CFRs, and any other relevant information into the noncompliance section of the ASKME CEA.

10.3.1.3 Upload all required correspondence as identified in section 10.3 of this process.

10.3.1.4 Upload statement of case (section b) and all items of proof (section c).

10.3.1.5 Route the action for review in accordance with office policy.

10.3.1.6 Route the action for closure to the field office and regional office managers.

10.3.1.7 Ensure all fields are complete and the action is successfully marked closed in the ASKME CEA.

10.3.2 When legal action is found to be the appropriate enforcement action, the following actions are taken:

10.3.2.1 **Prepare EIR.** Prepare Sections B and C of an EIR. Investigative personnel must compile a legal EIR in accordance with FAA Order 2150.3, Chapter 8. Investigative personnel should not discuss the details of the case with the regulated entity while the case is pending legal review and resolution.

10.3.2.2 **District Office/Branch Manager Review.** After ensuring that the EIR contains all the required elements, investigative personnel must submit the EIR to the appropriate district office/branch manager or delegate for review. After review, the district section/branch manager prepares the EIR for office manager review.

10.3.2.3 **Office Manager Review.** The manager reviews the EIR and completes the recommended sanction portion of the EIR. The office manager may also coordinate the case with the division manager, as applicable. They then ensure EIS has been updated and must forward the case to legal counsel (AGC).

10.3.2.4 **Legal Review Support.** Once the EIR has been forwarded to legal counsel, the responsible investigative personnel may continue to provide support until a settlement has been reached or the case has been resolved.

10.3.2.5 **Civil Penalty.** For legal EIRs, which results in the issuance of a civil penalty or monetary fine, office managers should follow the sanction guidance found in FAA Order 2150.3, Appendix B, to make a recommendation on the appropriate sanction amount.

10.3.2.6 **Certificate Action.** For legal EIRs that result in certificate action, investigative personnel follow the guidance in FAA Order 2150.3, Chapter 7.

10.3.2.7 **Approval/Authorization Action.** For legal EIRs that result in suspension/revocation of an approval/authorization, investigative personnel must notify the holder, in writing, that their approval/authorization is pending suspension or revocation (cancellation) and allow them the opportunity to respond or comply. There are no previsions under § 13.20 to allow for an emergency revocation; therefore, investigative personnel must ensure the approval/authorization holder has been given due process before taking any further action to suspend or revoke. If regulated entity fails to respond, comply, or voluntarily surrender their approval/ authorization, their approval/authorization may be revoked.

For ODA suspensions and terminations, investigative personnel must use the guidance found in FAA Order 8100.15.

Note: *Investigative personnel are to use their discretion when considering revocation. For example, if the noncompliance is a result of falsification, revocation may be necessary even if the holder corrects the noncompliance.*

Appendix 1

Compliance and Enforcement Action Determination Checklist This Compliance and Enforcement Action Determination Checklist is optional and may be used as an aid (according to office policy). Place a check mark in the corresponding box indicating the noncompliance meets each criterion. This checklist does not need to be retained for informal compliance actions, but acknowledgement that the criteria were met must be documented in the Compliance Action Tracking section in the ASKME CEA.

Tracking Number :_____

1)	Was the noncompliance a result of one or more of the following criteria? If yes, place a check in the appropriate criterion. ☐ A. Intentional conduct. ☐ B. Reckless conduct. ☐ C. Failure to complete corrective action on terms satisfactory to the FAA. ☐ D. Result of conduct creating or threating to create an unacceptable risk to safety. ☐ E. Legal enforcement is required by law. ☐ F. Lack of qualification is evidenced by a lack of the care, judgment, and responsibility. **Note:** If a criterion above is met, annotate an explanation in the space provided below. In cases where the answer is "Yes" legal action is required, unless a deviation is granted in accordance with block 4 below.	☐ Yes	☐ No
	If "Yes" explain:		

2)	Is the regulated entity willing and able to take corrective action to gain compliance?	☐ Yes	☐ No
3)	Has this noncompliance been determined to be a repeat noncompliance that requires enforcement action?	☐ Yes	☐ No
4)	Are you requesting a deviation from the legal criteria outcome?	☐ Yes	☐ No

	If yes, describe and justify the reason for the deviation:	

5)	**Compliance and Enforcement Action Determination (check box below)**		
	☐ **Compliance Action** (must indicate "No" in block 1 and "Yes" in block 2 and "No" in block 3)	☐ **Administrative Action** (must indicate "No" in block 1 and "No" in block 2 **or** "Yes" in block 3)	☐ **Legal Action** (must indicate "Yes" in block 1 and "No" in block 4)

	Investigative Personnel Signature:	Date:
6)	**Division Manager must complete this section if a deviation was requested.**	

	Deviation Request:	☐ Approved	☐ Disapproved
	Division Manager Signature:		Date:

Appendix 2

Corrective Action Assessment Worksheet

This corrective action assessment worksheet may be used (according to office policy) to assist in determining the acceptability of the corrective action statements from the regulated entity. The worksheet may be modified when multiple noncompliant issues have been identified, or to add additional corrective action steps as determined by the office processing the action.

Tracking Number: _____

Corrective Action Steps	Description
1. Immediate Corrective Action. What immediate action was taken to correct the specific noncompliance(s)?	
2. Causal Analysis. What was the primary cause(s) of the noncompliance(s)?	
3. Long Term Corrective Action. What was the long-term corrective action taken to prevent a reoccurrence of the noncompliance(s)? Does the long term corrective action address the primary cause?	
4. Affected Products/Articles. What action was taken to ensure that products/articles have been corrected before shipment or delivery? What action has been taken with regard to nonconforming product/parts already in service?	