

## Title 14—AERONAUTICS AND SPACE

### Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 11626, Amdt. 13]

#### PART 13—ENFORCEMENT PROCEDURES

##### Cease and Desist Orders; Exercise of Certain Other Authority

The purpose of these amendments to Part 13 of the Federal Aviation Regulations is to implement section 1005(a) of the Federal Aviation Act of 1958 with respect to the issuance of cease and desist orders in emergencies, and to state the general course and method by which this and certain other authority is exercised.

Under section 1005(a) of the Act, whenever the Administrator is of the opinion that an emergency requiring immediate action exists in respect of safety in air commerce, he may, either upon complaint or his own initiative without complaint, at once, if he so orders, without answer or other form of pleading by the interested person or persons, and with or without notice, hearing, or the making or filing of a report, make such just and reasonable orders, rules, or regulations, as may be essential in the interest of air commerce to meet the emergency.

These amendments to Part 13 reflect the authority of the Administrator under section 1005 to issue a cease and desist order in an emergency situation requiring immediate action in respect of safety in air commerce. As stated in these amendments, this authority is also exercised by the General Counsel, the Associate General Counsel for Operations and Evaluation, each Regional Director, the Director, Aeronautical Center, and Regional and Aeronautical Center Counsel where their respective Directors delegate the authority to them.

Section 1005(a) also provides that the Administrator shall immediately initiate proceedings relating to the matters embraced in the order and shall, insofar as practicable, give preference to those proceedings over all others. These amendments specifically implement this provision, and also state that under Section 1006 of the Act any person disclosing a substantial interest in the order has a right to seek judicial review in a court of appeals of the United States or the U.S. Court of Appeals for the District of Columbia.

These amendments further reflect certain delegations of other authority to exercise functions in enforcement proceedings under Part 13. They state that, in addition to the General Counsel and the Regional Counsel concerned, the Associate General Counsel for Operations and Evaluation may make or accept offers to compromise civil penalties (§ 13.15 (b) and (c)). They change § 13.17 to reflect the authority of the General Counsel, in addition to the

Regional Directors, to issue orders of seizure of aircraft, and to eliminate references to Area Managers whose positions and titles have been abolished. They state that the authority of the Administrator to issue certificate action orders, now delegated to the General Counsel and the Regional Counsel, is also exercised by the Associate General Counsel for Operations and Evaluation and, as to the suspension or revocation of Certificates of Aircraft Registration by the Aeronautical Center Counsel (§ 13.19 (b)).

In addition, these amendments reflect the current practice, as indicated in the enclosures of Notices of Proposed Certificate Action, of allowing an alleged violator to choose among five alternatives following receipt of a notice. The fifth alternative added to § 13.19(c) by these amendments is that the certificate holder may request that an order be issued in accordance with the Notice of Proposed Certificate Action so that he may appeal to the National Transportation Safety Board.

Since these amendments are procedural in nature, represent implementation of existing statutory authority, and do not impose a burden on any person, notice and public procedure thereon is not required and the amendments may be made effective less than 30 days after publication.

In consideration of the foregoing, Part 13 of the Federal Aviation Regulations is amended, effective February 11, 1972, as follows:

##### § 13.15 [Amended]

1. By inserting the phrase "the Associate General Counsel for Operations and Evaluation," after the words "the General Counsel" in the second sentence in paragraph (b), and in the second sentence in paragraph (c), in § 13.15.

##### § 13.17 [Amended]

2. By amending § 13.17 as follows:

a. By striking out the phrase "Area Manager of the area in which the aircraft is located" in paragraph (a) and substituting the words "by the General Counsel" therefor.

b. By striking out the words "Area Manager" in the lead-in portion of paragraph (c) and substituting the words "General Counsel" therefor.

c. By inserting the words "General Counsel or" before the words "Regional Counsel" in paragraph (d).

d. By striking out the words "Area Manager" in the lead-in portion of paragraph (e) and substituting the words "General Counsel" therefor.

e. By striking out the words "Assistant Administrator" in subparagraph (e) (3) and substituting the words "Regional Counsel or the General Counsel" therefor.

3. By amending § 13.19 as follows:

a. By amending paragraph (b) to read as set forth below;

b. By inserting the phrase "the Associate General Counsel for Operations and Evaluation," after the words "the General Counsel," in the first and last sentences in paragraph (c);

c. By striking out subparagraphs (3) and (4) in paragraph (c) and substituting the following subparagraphs (3), (4), and (5) therefor:

##### § 13.19 Certificate action.

(b) If, as a result of such a reinspection, reexamination, or other investigation made by him under section 609 of the Act, the Administrator determines that the public interest and safety in air commerce requires it, he may issue an order amending, suspending, or revoking, all or part of any type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate, or air agency certificate. This authority is also exercised by the General Counsel, the Associate General Counsel for Operations and Evaluation, and the Regional Counsel concerned. If the Administrator finds that any aircraft registered under Part 47 of this chapter is ineligible for registration, or if the holder of a Certificate of Aircraft Registration has refused or failed to submit Part 1, AC Form 8050-73, as required by § 47.44 of this chapter, the Administrator issues an order suspending or revoking that certificate. This authority as to aircraft found ineligible for registration is also exercised by the Aeronautical Center Counsel.

(c) \* \* \*

(3) Request that an order be issued in accordance with the Notice of Proposed Certificate Action so that he may appeal to the National Transportation Safety Board;

(4) Request an opportunity to be heard in an informal conference with the FAA counsel; or

(5) Request a formal hearing if the charges concern a matter under title V of the Act.

4. By inserting a new § 13.20 after § 13.19 to read as follows:

##### § 13.20 Cease and desist orders.

(a) Under section 1005(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1485(a)), whenever the Administrator is of the opinion that an emergency requiring immediate action exists in respect of safety in air commerce, the Administrator is authorized, either upon complaint or his own initiative without complaint, at once, if he so orders, without answer or other form of pleading by the interested person or persons, and with or without notice, hearing, or the making or filing of a report, to make such just and reasonable orders, rules, and regulations as may be essential in the interest of safety in air commerce to meet the emergency. This authority includes the authority to issue a cease and desist order. Under section 1006 of the Act (49 U.S.C. 1486), any persons disclosing a substantial interest in the cease and desist order may seek judicial review of the order by the courts of appeals of the United States or the U.S. Court of Appeals for the District of Columbia.

(b) Whenever a cease and desist order is issued under section 1005(a) of the Act, the Administrator immediately initiates formal or informal proceedings as appropriate relating to the matters embraced in the order, giving preference to those proceedings over all others insofar as practicable.

(c) The authority of the Administrator under section 1005(a) of the Act is also exercised by the General Counsel, the Associate General Counsel for Operations and Evaluation, each Regional Director, and the Director, Aeronautical Center. This authority is also exercised by Regional and Aeronautical Center Counsel where their respective Directors delegate the authority to them.

**§ 13.21 [Amended]**

5. By inserting the phrase "the Associate General Counsel for Operations and Evaluation," after the words "the General Counsel" in § 13.21.

(Secs. 313(a), 601, 609, 1005(a), 1006, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1429, 1465(a), 1486; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c); sec. 1.47(a), regulations, Office of the Secretary of Transportation)

Issued in Washington, D.C., on January 4, 1972.

**J. H. SHAFFER;**  
*Administrator.*

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