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PART II

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Federal Aviation Agency

Proposed Recodification of Procedural Rules

FEDERAL AVIATION AGENCY

[14 CFR Parts 11 [New], 13 [New], 15 [New], 405, 406, 408, 409]

[Reg. Docket No. 1242, Draft Release No. 62-27]

PROCEDURAL RULES

Notice of Proposed Rule Making

Notice is hereby given that there is under consideration a proposal to recodify Parts 405, 406, 408, and 409 of the regulations of the Administrator. Chapter I of Title 14 of the Code of Federal Regulations would be amended by adding a Subchapter B—Procedural Rules [New] containing the proposed recodified regulations.

Interested persons are invited to participate in the proposed recodification by submitting such written information and views as they desire. Communications may be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room C-226, 1711 New York Avenue NW., Washington 25, D.C. All comments received before July 20, 1962 will be considered before taking action of the proposed recodification. The proposal may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Docket Section for examination by interested persons.

This proposal is a part of the program of the Federal Aviation Agency to recodify its regulatory material. It conforms to the "Outline and Analysis" for the proposed recodification contained in Draft Release 61-25 and published in the FEDERAL REGISTER on November 15, 1961 (26 F.R. 10698). The object of the new chapter is to restate existing regulations, not to make new ones. The pertinent provisions have been freely reworded and rearranged, subject to every precaution against disturbing existing rights, privileges, duties or functions. In addition, in cases where well established administrative practice or construction has established authoritative interpretations, the revised language reflects the interpretations.

Each proposed recodified section is followed by a note citing the present section of the regulations upon which it is based. A cross-reference table has been placed at the end of each recodified part to permit easy access from the old regulations to the new. Internal cross references to parts or sections that are not yet recodified contain a blank space for later insertion of the correct recodified number with the present number contained in brackets. When a part or section that is referred to in a cross reference is later recodified, the correct number will be inserted and the bracketed number will be dropped.

No substantive change has been made in the regulations, the purpose of the recodification project being simply to streamline and clarify present regulatory language and to delete obsolete or redundant provisions. It should be noted that the definitions, abbreviations, and rules of construction contained in Part 1 [New] published in the FEDERAL REGISTER on May 15, 1962 (27 F.R. 4587) would apply to proposed Subchapter B [New].

When finally adopted, the new subchapter will include the substance of any applicable rules or amendments adopted and effective during the period between the date of the notice and the effective date of the final rule, and may also include applicable rules on which individual notices of proposed rule making have been issued and the comment period has expired, but which have not been theretofore adopted.

Consideration is being given to splitting up current Part 406 by transferring the provisions applicable to the several types of certification to the parts relating to that type of certification. For example, if the transfers were made, those sections of Part 406 dealing with procedures for medical certification would be transferred to proposed Part 67—Medical Standards and Certification [New], now under notice of proposed rule making (see 27 F.R. 4175). Similarly, provisions of Part 406 relating to airman certification and airworthiness certification would be transferred to the basic parts relating to those subjects. As transferred, the pertinent provisions would be labeled as procedural material. Many provisions currently in Part 406 duplicate provisions in other parts and thus require the issuance of two amendments when a change is necessary. Further, an interested person today must obtain Part 406 in addition to that part which contains the substantive requirements for the certificate he seeks. Comment is particularly invited as to whether the changes proposed in this paragraph would be a convenience to the user or whether a recodification and continuation of present Part 406 (as set forth in this notice) would be more convenient. It is emphasized that the transfers of the provisions of Part 406 to other regulations would not result in substantive changes, but in its placement with other materials to which it is closely related.

Throughout the revised subchapter, the elimination of unnecessary and inconsistent regulatory materials has been done only in a manner which results, not in any increased regulatory burden on the public, but in lessening that burden.

In view of the foregoing, it is proposed to amend Chapter III of Title 14 of the Code of Federal Regulations by deleting Parts 405, 406, 408, and 409, and to amend Chapter I of Title 14 by adding Subchapter B [New] reading as hereinafter set forth.

This amendment is proposed under the authority of sections 303(d), 313(a), 501-505, 601-608, and 1001 of the Federal Aviation Act of 1958 (49 U.S.C. 1344(d), 1354(a), 1401-1405, 1421-1428, and 1481).

Issued in Washington, D.C., on June 8, 1962.

N. E. HALABY,
Administrator.

SUBCHAPTER B—PROCEDURAL RULES [New]

Part
11 General Rule-Making Procedures [New].
13 General Certification Procedures [New].
15 Enforcement Procedures [New].

PART 11—GENERAL RULE-MAKING PROCEDURES [New]

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Subpart A—General

§ 11.1 Applicability.

This part applies to the issue, amendment, and repeal of—

(a) Rules and orders for airspace assignment and use issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and

(b) Other substantive rules, including those applicable to a class of persons, and those addressed to and served on named persons whenever the Administrator decides to use public rule-making procedures in such a case.

[Revision note: Combines §§ 405.11(a) and 409.11(a)]

§ 11.11 Docket.

Official FAA records relating to rule-making actions, including proposals, notices of proposed rule making, written material received in response to notices, petitions for rule making, petitions for rehearing or reconsideration, petitions for modification or revocation, notices granting or denying exemptions, reports of proceedings conducted under § 11.47, notices denying proposals, and final rules or orders are maintained in docket form in the Office of the General Coun-

sel. Any interested person may examine any docketed material at that office, except material that is ordered withheld from the public under section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504), and may obtain a photostatic or duplicate copy of it upon paying the cost of the copy.

[Revision note: Combines §§ 405.28 (last sentence of (b)), 405.33, and 409.19]

Subpart B—Rules Other Than Airspace Assignment and Use

§ 11.21 Scope.

(a) Unless the Administrator, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, the FAA issues notices of proposed rule making and allows interested persons to participate in rule-making proceedings involving a substantive rule.

(b) Unless the Administrator determines that notice and rule-making procedures are to be followed, interpretive rules, general statements of policy, and rules of FAA organization, procedure, or practice are prescribed as final without notice or rule-making procedures.

(c) Whenever the Administrator so determines, the procedures prescribed in this subpart apply to exempting persons and classes from the requirements of a susbtantive rule.

[Revision note: Based on § 405.11 (less (a))]

§ 11.23 Initiating rule-making procedures.

The Administrator initiates rule-making procedures upon his own motion. However, in doing so, he considers the recommendations of other agencies of the United States and the petitions of other interested persons.

[Revision note: Based on § 405.12]

§ 11.25 Petitions for rule-making or exemptions.

(a) Any interested person may petition the Administrator to issue, amend, or repeal a rule whether or not it is a substantive rule within the meaning of § 11.21, or for an exemption from any rule issued under Title III or VI of the Federal Aviation Act of 1958.

(b) A petition filed under this section must—

(1) Set forth the text or substance of the rule or amendment proposed, or of the rule from whose requirements the exemption is sought, or specify the rule the petitioner seeks to have repealed, as the case may be;

(2) Contain information, views, and arguments that the petitioner considers support the action he seeks; and

(3) Indicate the interest of the petitioner in the action he seeks.

[Revision note: Combines §§ 405.13 and 405.19]

NOTE: §§ 405.13 (last sentence) and 405.19 (last sentence) are omitted as covered by § 11.25 of this chapter.

§ 11.27 Action on petitions for rule making or exemption.

(a) No public hearing, argument, or other formal proceeding is held directly on a petition filed under § 11.25, before its disposition by the FAA.

(b) If the Administrator determines that the petition discloses adequate reasons, he issues a notice of proposed rule making, or adopts a final rule, or, if it is in the public interest, grants the exemption.

(c) If the Administrator determines that the petition does not justify instituting rule-making procedures or granting the requested exemption, he notifies the petitioner to that effect.

[Revision note: Combines §§ 405.14 and 405.20]

§ 11.29 Notice of proposed rule making.

(a) Each general notice of proposed rule making is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the FEDERAL REGISTER or personally served, includes—

(1) A statement of the time, place, and nature of the proposed rule-making proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted and the required number of copies; and

(5) A statement of how and to what extent interested persons may participate in the proceeding, as prescribed by §§ 11.31 and 11.33.

[Revision note: Based on § 405.15]

§ 11.31 Participation of interested persons in rule-making procedures.

(a) Each interested person is entitled to participate in rule-making proceedings by submitting written information, views, or arguments. In addition, he may comment on the original information, views, and arguments submitted by other persons, if, after receiving them, the Administrator considers it desirable.

(b) In any appropriate case, the Administrator also allows interested persons to participate in the rule-making procedures described in § 11.33.

[Revision note: Based on § 405.16]

§ 11.33 Additional rule-making proceedings.

(a) The rule-making procedure also includes any further procedural steps that best serve the purposes of a particular proceeding. For example, interested persons may be allowed to make oral arguments, participate in conferences between the Administrator or his representative and interested persons and organizations, appear at informal hearings presided over by a designated FAA official at which a stenographic transcript is made, or participate in any other procedure whenever it is desirable and appropriate to assure informed administrative action and adequate protection of private interests.

(b) Any appropriate combination of the procedures described in paragraph (a) of this section may be used in addition to the basic procedure of allowing interested persons to participate in rule-making proceedings by submitting written information, views, or arguments.

[Revision note: Based on § 405.17]

§ 11.35 Participation by Civil Aeronautics Board in rule-making proceedings.

(a) Under section 1001 of the Federal Aviation Act of 1958 (49 U.S.C. 1481), the Civil Aeronautics Board may appear and participate as an interested party in any proceeding conducted by the Administrator under Title III of that Act, and in any proceeding under Title VI of that Act that cannot be appealed to the Board.

(b) To indicate its intention to participate in any proceeding described in paragraph (a) of this section, the Board may file written information, views, or arguments in response to a notice of proposed rule making issued by the Administrator. The Board is entitled to the procedural privileges accorded other parties and is equally free to participate.

[Revision note: Based on § 405.18]

§ 11.37 Requests for informal appearances.

(a) Upon his request, any interested person may appear informally before an appropriate official of the FAA to present, adjust, or determine a question or controversy relating to a rule-making function of the FAA.

(b) A request for an appearance under this section must be sent in writing to the Federal Aviation Agency, Washington 25, D.C., or to the Regional or District Office nearest to the person making the request.

[Revision note: Based on § 405.21]

Subpart C—Processing of Rules Other Than Airspace Assignment and Use

§ 11.41 Scope.

(a) This subpart prescribes the supplemental procedures to be followed by the Offices and Services of the FAA in rule-making proceedings and in granting or denying exemptions from rules. It also designates the Office or Service that is authorized to act for the Administrator in connection with those proceedings and exemptions.

(b) This subpart does not apply to rule-making procedures under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)).

[Revision note: Based on § 405.25]

§ 11.43 Processing of petitions for rule making or exemptions from parts of this chapter, except Part 67.

Whenever the FAA receives a petition for rule making or for an exemption (other than from Part 67 of this chapter), a copy of the petition is referred for action, as provided in § 11.27 to the Office or Service having substantive responsibility for the subject involved.

[Revision note: Combines §§ 405.26 and 405.31(a) (1st two sentences)]

NOTE: §§ 405.26 (last sentence) and 405.31(a) (2d sentence) are omitted as covered by § 11.11 of this chapter.

§ 11.45 Issue of notice of proposed rule making.

Whenever he determines that a notice of proposed rule making is necessary or desirable, the head of the Office or Service concerned may, subject to the approval of the General Counsel with respect to form and legality, issue the notice provided for in § 11.29. In addition, he may grant or deny any request to extend the time specified in a notice for submitting information, views, or arguments in response thereto.

[Revision note: Based on § 405.27]

NOTE: § 405.27 (last sentence) is omitted as covered by § 11.11 of this chapter.

§ 11.47 Proceedings after notice of proposed rule making.

(a) Each person who submits written information, views, or arguments in response to a notice of proposed rule making, or during additional rule-making proceedings in connection with such a notice, must file the number of copies specified in the notice.

(b) Whenever the head of the Office or Service concerned determines that additional rule-making proceedings of the kind described in § 11.33 are necessary or desirable, he may designate representatives to conduct those proceedings.

[Revision note: Based on § 405.28 (less last sentence of (b))]

NOTE: § 405.28(a) (last sentence) is omitted since it is only internal FAA in effect.

§ 11.49 Adoption of final rules.

After the Office or Service concerned has completed its analysis and evaluation of the information, views, and arguments submitted with respect to a proposed rule, representatives of that Office or Service and the Office of the General Counsel prepare an appropriate rule, subject to the approval of the General Counsel as to form and legality. The rule is then submitted, with the recommendations of the head of the Office or Service concerned and the General Counsel, to the Administrator for his consideration. If he adopts the rule, it is published in the FEDERAL REGISTER.

[Revision note: Based on § 405.29]

NOTE: § 405.29 (last 10 words of last sentence) is omitted as covered by § 11.25 of this chapter.

§ 11.51 Denial of petition for rule making.

Whenever it is determined that a petition for rule making filed under § 11.25 should be denied, the Office or Service concerned prepares, subject to the approval of the General Counsel with respect to form and legality, a notice of denial for the Administrator's signature.

[Revision note: Based on § 405.30]

NOTE: § 405.30 (last sentence) is omitted as covered by § 11.11 of this chapter.

§ 11.53 Grant or denial of exemption, other than from Part 67.

(a) The head of the Office or Service concerned may, subject to the approval of the General Counsel with respect to form and legality, grant or deny any petition for an exemption (other than from Part 67 of this chapter). However, if the head of the Office or Service concerned finds that the grant or denial involves a technical or policy determination that should be made by the Administrator, he refers the petition and his recommendations and those of the General Counsel to the Administrator for final action.

(b) Whenever a petition is granted or denied under this section, the Office or Service concerned prepares, subject to the approval of the General Counsel with respect to form and legality, a notice to the petitioner informing him of the action taken.

[Revision note: Based on § 405.31 (less 1st two sentences of (a))]

NOTE: § 405.31(b) (last sentence) is omitted as covered by § 11.11 of this chapter.

§ 11.55 Exemptions from Part 67.

(a) A copy of each petition for an exemption from any provision of Part 67 of this chapter, and the medical information that the Aviation Medical Service has concerning the petitioner, is referred to an appropriate advisory panel of medical specialists for their recommendation.

(b) The function of the advisory panel of medical specialists is to examine the petitioner's medical condition and advise the Administrator whether it considers that the specific nature of the applicant's medical defect that makes him unable to meet the medical standards for his certificate is such that he can be exempted from those standards without endangering public safety during the period the medical certificate would be in effect. The panel shall obtain the views of the Civil Air Surgeon on the matters involved in each petition for exemption.

(c) If the advisory panel desires additional medical information or further medical examination of the petitioner, it shall so advise the Civil Air Surgeon who shall send the request to the petitioner. The Civil Air Surgeon shall give any information so obtained to the panel immediately after he receives it and shall send a copy to be placed in the official rule-making docket.

(d) The Civil Air Surgeon shall make the facilities of his Service available to the advisory panel to the extent it considers helpful, furnish it with such administrative services as it requests in connection with a petition for exemption, and advise the panel of his views on each petition.

(e) Based on the public interest and in light of the specific situation involved, the Administrator grants or denies the petition after receiving the panel's recommendation. A notice of the action taken by the Administrator is sent to the petitioner.

[Revision note: Based on § 405.32]

NOTE: § 405.32 (a) (1st and last sentences) and (e) (last sentence) is omitted as covered by § 11.11 of this chapter.

Subpart D—Rules and Procedures for Airspace Assignment and Use

§ 11.61 Scope.

(a) This subpart establishes procedures for initiating, processing, issuing, and publishing rules and orders issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), including—

(1) Designations of Federal airways, control zones, control areas, control area extensions, terminal control areas, positive control route segments, coded jet routes, transition areas, and antenna farm areas;

(2) Assignments of segments or parts of the navigable airspace for special use purposes, such as restricted areas, military climb corridors, and experimental flight test areas; and

(3) Special rules or orders relating to the assignment or use of navigable airspace.

(b) This subpart does not apply to emergency cases and cases in which the procedures described in paragraph (a) of this section are found to be impractical, unnecessary, or contrary to the public interest.

[Revision note: Based on § 409.11 (less (a))]

§ 11.63 Filing of proposals.

(a) Each proposal, except one arising in the FAA, for the designation of Federal airways or other areas for normal air traffic use, the assignment of navigable airspace for special use purposes, or the issue of a special rule or order relating to the use of navigable airspace, must be filed in writing, in triplicate, with a Regional Assistant Administrator or the Director of the Air Traffic Service.

(b) The director may, on his own motion, initiate the procedures prescribed in this subpart for proposals arising within the FAA.

(c) A proposal requesting the assignment of navigable airspace for special use purposes, or for the designation of an area for air traffic purposes, must include at least the following:

(1) The location and a description of the airspace desired for assignment or designation.

(2) A complete description of the activity or use to be made of that airspace, including a detailed description of the type, volume, duration, time, and place of the operations to be conducted in the assigned or designated area.

(3) A description of the air navigation, air traffic control, surveillance, and communication facilities available and to be provided if the assignment or designation is made.

(4) The name and location of the agency, office, facility, or person to whom authority would be delegated to permit the use of the airspace during those times it would not be used for the purpose to which it would be assigned.

(d) Subject to the approval of the General Counsel with respect to form

and legality, the Director issues a notice of any rejected proposal.

[Revision note: Based on § 409.12]

§ 11.65 Issue of notice of proposed rule making.

(a) If it is determined that the subject matter of a proposal should be submitted to the rule-making process, or if rule-making action is to be taken on his own motion, the Director of the Air Traffic Service, subject to the approval of the General Counsel with respect to form and legality, issues a notice of proposed rule making.

(b) Normally, a notice of proposed rule making is issued within approximately 30 days after receipt of a proposal with respect to which it has been determined that action might be taken.

(c) Each notice of proposed rule making is published in the FEDERAL REGISTER and includes at least the following:

(1) A statement of the time, place, and nature of the public rule-making proceedings.

(2) A reference to the authority under which it is proposed.

(3) Either the terms or substance of the proposed action or a description of the subjects and issues involved.

(d) Approximately 30 days are allowed for submitting written information, views, or arguments on the notice.

(e) If a public hearing is to be held, either the original notice of proposed rule making or a revised notice gives approximately 30 days notice. The Director may grant or deny any request to extend the time specified in the notice for submitting written material and may change the date of any hearing previously noticed.

(f) Written information, views, and arguments submitted in response to a notice of proposed rule making, or that are requested after the notice, must be submitted in triplicate.

(g) Each interested person is entitled to discuss or confer informally with appropriate FAA officials concerning a proposed action. However, to become a part of the formal record for consideration, any information, views, or arguments presented during a conference must also be submitted in writing in accordance with the notice.

[Revision note: Based on § 409.13]

§ 11.67 Hearings.

(a) Sections 7 and 8 of the Administrative Procedures Act do not apply to proceedings used to formulate rules under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)). Whenever the Director of the Air Traffic Service, in his discretion, considers that a hearing is necessary to provide informed Administrative action and assure adequate protection of private or public interests, he may hold an informal public hearing. However, any rule or order issued in a case in which such a hearing is held is not based exclusively on the record of the hearing.

(b) The Director designates a presiding officer for each hearing and the General Counsel designates a legal adviser.

(c) Normally, hearings held under this section are held in the vicinity of the affected airspace. Interested persons are allotted time to make an oral presentation without interruption and a verbatim transcript is made of the proceedings by a certified court reporter.

(d) The procedure in hearings held under this section is as follows:

(1) The presiding officer makes an opening statement with particular reference to the notice of proposed rule making.

(2) The presiding officer designates interested persons or their authorized representatives to speak at the hearing.

(3) The presiding officer allots enough time to each interested person on an equal basis so that his position may be expressed fully and placed on the record, with those who favor it speaking first followed by those who oppose it, initial statements being made as far as possible without interruption, and questions permitted after initial statements have been made by all designated persons.

(4) Arguments and oral statements are limited to the subject named in the notice of proposed rule making.

(5) Written information, views, arguments, or briefs may be offered for the record, but may not be accepted after the hearing unless good cause is shown or the submission is requested by the presiding officer or the Director.

(e) The presiding officer of a hearing may deviate from the procedures prescribed in this section to assure a more complete and informative record.

[Revision note: Based on § 409.14]

§ 11.69 Adoption of rules or orders.

(a) After the closing date for submitting written comments on a notice or, if a hearing is held, after the hearing, the Airspace Utilization Division of the Air Traffic Service studies the entire matter of a proposed rule or order. It then recommends a rule, order, or notice of denial to the Director of the Air Traffic Service. If the Director approves it, he sends it, subject to the approval of the General Counsel with respect to form and legality, to the Administrator for his action.

(b) Each rule or order issued by the Administrator is published in the FEDERAL REGISTER and in such other publications as the Director considers desirable. Each notice of denial is sent to the person who made the proposal and to such other interested persons as the Director considers desirable.

(c) Each rule or order issued under this subpart becomes effective not less than 30 days after it is published, except in an emergency, or when it is impractical, unnecessary, or contrary to the public interest.

[Revision note: Based on § 409.15]

§ 11.71 Exemptions.

(a) A petition for an exemption from any rule or order issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) may be filed with the Director of the Air Traffic Service. Such a petition must be in triplicate and state clearly the nature of the requested exemption and the reasons why it should be granted.

(b) The Director may, subject to the approval of the General Counsel with respect to form and legality, grant or deny any petition filed under this section and shall notify the petitioner of his action.

[Revision note: Based on § 409.16]

§ 11.73 Petitions for rehearing or reconsideration of rules or orders.

(a) Any interested person may petition the Administrator for a rehearing on, or for reconsideration of, any rule or order issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)). Such a petition must be filed, in triplicate, within 30 days after the rule or order is published in the FEDERAL REGISTER. It must contain a brief statement of the complaint and an explanation as to how the rule or order is contrary to the public interest.

(b) If the petitioner requests the consideration of additional facts, he must state their nature and purpose, and the reason they were not presented at the hearing or in writing within the allotted time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator orders otherwise, the filing of a petition under this section does not stay the effect of a rule or order.

[Revision note: Based on § 409.17]

§ 11.75 Petitions for revoking or modifying rules or orders.

(a) Any interested person may petition to revoke or modify any rule or order covered by this subpart. Such a petition must be filed, in triplicate, with the Director of the Air Traffic Service and must clearly state the information, views, and arguments the petitioner considers necessary to support the requested action and must clearly indicate the effect the action would have on the use of navigable airspace.

(b) A petition filed under this section is processed in the same manner as an original proposal, or in any other manner that the Director considers necessary or desirable.

[Revision note: Based on § 409.18]

PART 11—DISTRIBUTION TABLE

Present section	Revised section	Present section	Revised section
405.1	[1]	405.29	11.49
405.11(a)	11.1	405.30	11.51
405.11 (less (a))	11.21	405.31(a) (1st two sentences)	11.43
405.12	11.23	405.31 (less 1st two sentences of (a))	11.53
405.13	11.25	405.32	11.55
405.14	11.27	405.33	11.11
405.15	11.29	409.1	[1]
405.16	11.31	409.11(a)	11.1
405.17	11.33	409.11 (less (a))	11.61
405.18	11.35	409.12	11.63
405.19	11.25	409.13	11.65
405.20	11.27	409.14	11.67
405.21	11.37	409.15	11.69
405.25	11.41	409.16	11.71
405.26	11.43	409.17	11.73
405.27	11.45	409.18	11.75
405.28 (less last sentence of (b))	11.47	409.19	11.11
405.28 (last sentence of (b))	11.11		

[1] Transferred to Part 1.

PART 13—GENERAL CERTIFICATION PROCEDURES

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Subpart A—General

§ 13.1 Applicability.

(a) This part prescribes the general procedures that apply to the issuance, by the FAA, of—

(1) Medical certificates;
(2) Airman certificates;
(3) Aircraft certificates;
(4) Air carrier certificates; and
(5) Air agency certificates.

(b) Specific requirements for the issuance of the certificates named in paragraph (a) of this section are set out in Subchapters C, D, and H of this chapter, and in this part.

[Revision note: Based on § 406.11(c)]

§ 13.3 Forms and documents.

Forms and documents prescribed in this part that refer to specific units of FAA organization are not affected by changes in the names of those units. Such a form or document continues in use until it is superseded or revoked.

[Revision note: Based on § 406.2]

§ 13.5 Applications.

Except as otherwise prescribed in this part, an application for a certificate named in § 13.1 may be obtained from, and should be submitted to, any representative of the FAA or any regional, district, or field office of the FAA.

[Revision note: Based on § 406.11(a)]

§ 13.7 Tests and medical examinations.

(a) A representative of the FAA gives each theoretical or written test that is required by this chapter. However, a flight instructor may test a student pilot on the regulations of this chapter.

(b) Written tests required by this chapter are given at FAA Flight Standards Service District Offices and at selected recognized airports. Itineraries of the inspectors who give the tests are posted at most airports or are mailed to any person at his request.

(c) Aviation medical examiners give the required medical examinations, as provided in Subpart B of this part.

[Revision note: Based on § 406.11 (less (a) and (c))]

Subpart B—Medical Certificates

§ 13.11 General.

(a) Medical certificates are issued on Form FAA—1004.1, "Medical Certificate", with the appropriate class named thereon.

(b) The specific medical requirements for medical certificates are set forth in Part 67 of this chapter.

[Revision note: Based on § 406.12 (a) (3) and (4), (b) (3) and (4), and (c) (3) and (4)]

§ 13.13 First class.

(a) Each applicant for an airline transport pilot certificate, and each holder of such a certificate who exercises its privileges, must have a current first class medical certificate.

(b) Any aviation medical examiner who is specifically designated for the purpose may give the examination for the first class certificate. Any interested person may obtain a list of these aviation medical examiners, in any area, from the FAA Assistant Administrator of the region in which the area is located.

[Revision note: Based on § 406.12(a) (1) and (2)]

§ 13.15 Second class.

(a) Each applicant for a commercial pilot certificate, air-traffic control-tower operator certificate, flight navigator certificate, or flight engineer certificate, and each holder of such a certificate who exercises its privileges, must have at least a current second class medical certificate, except as provided in section __ of this chapter [present § 20.102].

(b) Any aviation medical examiner may give the examination for the second class certificate. Any interested person may obtain a list of aviation medical examiners, in any area, from the FAA Assistant Administrator of the region in which the area is located.

[Revision note: Based on § 406.12(b) (1) and (2)]

§ 13.17 Third class.

(a) Each applicant for a student pilot certificate, private pilot certificate, or free balloon pilot certificate, and each holder of such a certificate who exercises its privileges, must have at least a current third class medical certificate, except as provided in section __ of this chapter [present §§ 20.82 and 20.92].

(b) Any aviation medical examiner may give the examination for the third class certificate. Any interested person may obtain a list of aviation medical examiners, in any area, from the FAA Assistant Administrator of the region in which the area is located.

[Revision note: Based on § 406.12(c) (1) and (2)]

§ 13.19 Delegation authority.

(a) The authority of the Administrator, under section 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1422), to issue or deny medical certificates is delegated to the Civil Air Surgeon, to the extent necessary to—

(1) Examine applicants for and holders of medical certificates for compliance with applicable medical standards; and

(2) Issue, renew, or deny medical certificates to applicants and holders based upon compliance or noncompliance with applicable medical standards.

Subject to limitations in this chapter, the authority delegated in subparagraphs (1) and (2) of this paragraph is also delegated to aviation medical examiners and to authorized representatives of the Civil Air Surgeon within the FAA.

(b) The authority of the Administrator, under subsection 314(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1355(b)), to reconsider the action of a medical examiner is delegated to the Civil Air Surgeon, and his authorized representatives within the FAA. However, any action taken under this paragraph by such a representative is subject to reconsideration by the Civil Air Surgeon.

(c) The authority of the Administrator, under section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429), to re-examine any civil airman, to the extent necessary to determine an airman's qualification to continue to hold an airman medical certificate, is delegated to the Civil Air Surgeon and his authorized representatives within the FAA.

[Revision note: Based on § 406.12(d)]

§ 13.21 Denial of medical certificate.

(a) Any person who is denied a medical certificate by an aviation medical examiner or a representative of the Civil Air Surgeon may, within 30 days after the date of the denial, apply in writing to the Civil Air Surgeon, Federal Aviation Agency, Washington 25, D.C., for reconsideration of that denial. He must send with his application a copy of it addressed to the aviation medical examiner, or representative of the Civil Air Surgeon, concerned. If he does not apply for reconsideration during 30 days after the date of denial, he is considered to have withdrawn his application for a medical certificate.

(b) The denial of a medical certificate by an aviation medical examiner or a representative of the Civil Air Surgeon is not a denial by the Administrator under section 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1422). The denial of a medical certificate by the Civil Air Surgeon is considered to be a denial by the Administrator under that section.

[Revision note: Based on § 406.12(e)]

§ 13.23 Medical certificates by senior flight surgeons of armed forces.

(a) The FAA has designated senior flight surgeons of the armed forces on specified military posts, stations, and facilities, as aviation medical examiners.

(b) An aviation medical examiner described in paragraph (a) of this section may give physical examinations to applicants for FAA medical certificates who are on active duty or who are, under Department of Defense medical programs, eligible for FAA medical certification as civil airmen. In addition, such an examiner may issue or deny an appropriate FAA medical certificate in accordance with the regulations of this chapter and the policies of the FAA.

(c) Any interested person may obtain a list of the military post, stations, and facilities at which a senior flight surgeon has been designated as an aviation medical examiner, from the Surgeon General of the armed force concerned or from the Chief of the Medical Certification Division, AM–30, Federal Aviation Agency, Washington 25, D.C.

[Revision note: Based on § 406.12 (less (a)–(f))]

§ 13.25 Medical records.

Whenever the Administrator finds that additional medical history is necessary to determine whether an applicant for or the holder of a medical certificate meets the physical standards for it, he requests that person to authorize any clinic, hospital, doctor, or other person to release to the Administrator any available information or records concerning that medical history. If the applicant, or holder, refuses to authorize the release, the Administrator may suspend, modify, or revoke any medical certificate that he holds or may, in the case of an applicant, refuse to issue a medical certificate to him.

[Revision note: Based on § 406.31]

Subpart C—Airman Certificates

§ 13.31 Applicability.

(a) This subpart describes the airman certificates that are issued to qualified applicants and the general procedures for obtaining those certificates.

(b) The specific requirements for airman certificates and the privileges they confer are set forth in Subchapter D of this chapter.

[Revision note: Based on § 406.13 (introductory paragraph), (a)(4), (b)(4), (c)(4), (d)(4), (e)(4), (f)(4), (g)(4), (h)(4), (i)(4), (j)(4), and (k)(4)]

§ 13.33 Kinds of certificates; authority; forms.

The kinds of airmen certificates issued by the FAA, the authority they confer upon the holders thereof, and the forms for their application and issue are as follows:

Kind of certificate	Authorizes holder to—	Apply on form—	Issued on form—
Student Pilot	Pilot aircraft in accordance with applicable provisions of this chapter and the limitations prescribed on the certificate.	FAA–355 "Application for Student or Private Pilot Certificate."	FAA–340
Private Pilot	do	FAA–355 "Application for Student or Private Pilot Certificate" or Form FAA–356 "Application on Basis of Military Competence."	FAA–1710
Commercial Pilot	do	FAA–342 "Application for Commercial Pilot or Flight Instructor Certificate or Rating" or Form FAA–356 "Application on Basis of Military Competence."	FAA–1710
Flight Instructor	Instruct in the piloting of aircraft, in accordance with applicable provisions of this chapter and the limitations prescribed on the certificate.	FAA–342 "Application for Commercial Pilot or Flight Instructor Certificate or Rating."	FAA–1710
Airline Transport Pilot	Pilot aircraft in accordance with the applicable provisions of this chapter and the limitations prescribed on the certificate.	FAA–342A "Application for Airline Transport Pilot Certificate or Rating Thereon."	FAA–1710
Lighter-than-air Pilot	Pilot lighter-than-air aircraft in accordance with applicable provisions of this chapter and the limitations prescribed on the certificate.	FAA–355 "Application for Student or Private Pilot Certificate."	FAA–1710
Special Purpose Pilot	Pilot aircraft in accordance with applicable provisions of this chapter and the limitations prescribed on the certificate.	FAA–355 or FAA–342, as appropriate.	
Free Balloon Pilot	Pilot free balloons in accordance with applicable provisions of this chapter and the limitations prescribed on the certificate.	FAA–355 "Application for Student or Private Pilot Certificate."	FAA–1710
Flight Engineer	Assist pilot in the mechanical operation of aircraft in accordance with applicable provisions of this chapter and the limitations prescribed on the certificate.	FAA–1863A "Application for a Flight Engineer Certificate."	FAA–1710
Flight Navigator	Navigate aircraft in accordance with applicable provisions of this chapter and the limitations prescribed on the certificate.	FAA–1863 "Application for a Flight Navigator Certificate."	FAA–1710
Air-traffic control-tower Operator	Control air-traffic in accordance with applicable provisions of the chapter and the limitations prescribed on the certificate.	FAA–374 "Application for Control-tower Operator or Aircraft Dispatcher Certificate and Rating."	FAA–1710
Aircraft Dispatcher	Exercise responsibility with the pilot in command in the operational control of aircraft in accordance with this chapter and the limitations prescribed on the certificate.	FAA–374 "Application for Control-tower Operator or Aircraft Dispatcher Certificate and Rating."	FAA–1710
Mechanic	Perform or supervise the maintenance or alteration of an aircraft, or part thereof, in accordance with this chapter and the limitations prescribed on the certificate.	FAA–363 "Application for Airman Mechanic, Repairman, or Parachute Rigger Certificate or Rating."	FAA–1710
Repairman	Perform or supervise the maintenance of an aircraft, or part thereof, in accordance with this chapter and the limitations prescribed on the certificate.	FAA–363 "Application for Airman Mechanic, Repairman, or Parachute Rigger Certificate or Rating."	FAA–1710
Parachute Rigger	Pack, maintain, or alter any parachute for which he is rated, in accordance with this chapter and the limitations prescribed on the certificate.	FAA–363 "Application for Airman Mechanic, Repairman, or Parachute Rigger Certificate or Rating."	FAA–1710

[Revision note: Based on § 406.13 (a) (less (4)), (b) (less (4)), (c) (less (4)), (d) (less (4)), (e) (less (4)), (f) (less (4)), (g) (less (4)), (h) (less (4)), (i) (less (4)), (j) (less (4)), and (k) (less (4))]

Subpart D—Aircraft Certificates

§ 13.41 Applicability.

This subpart describes the aircraft certificates that are issued to qualified applicants and the general procedures for obtaining those certificates.

[Revision note: Supplied]

§ 13.43 Type certificate.

(a) A type certificate certifies that an aircraft, aircraft engine, propeller, or appliance specified in the regulations in this chapter as eligible for a type certificate is of proper design, material, specifications, construction, and performance for safe operation, and meets the requirements of this chapter.

(b) An application for a type certificate is made on Form FAA–312 "Application for a Type Certificate" obtained from, and submitted to, the Engineering and Manufacturing Branch of the FAA regional office for the area in which the manufacturer's plant is located. The certificate is issued on Form FAA–331.

(c) The specific requirements for a type certificate are set forth in Part __ of this chapter [present Part 1].

[Revision note: Based on § 406.14(a) (less (4))]

§ 13.45 Production certificate.

(a) A production certificate certifies that a manufacturing facility is adequate for producing duplicates of a product for which a type certificate is in effect.

(b) An application for a production certificate is made on Form FAA–332 "Application for Production Certificate" obtained from, and submitted to, the Engineering and Manufacturing Branch of the FAA regional office for the area in which the manufacturer's plant is located. A person who desires an amend-

ment to a production certificate also applies to that regional office. The certificate is issued on Form FAA-333 and includes a Form FAA-333A "Production Limitation Record" that sets forth the applicable type certificate.

(c) The specific requirements for a production certificate are set forth in Part __ of this chapter [present Part 1].

[Revision note: Based on § 406.14(b) (less (4))]

§ 13.47 Aircraft registration certificate.

(a) An aircraft registration certificate satisfies the provisions of the Federal Aviation Act of 1958 that require that an aircraft be registered by its owner before it is operated or navigated.

(b) An application for a registration certificate is obtained from any Flight Standards Service District Office and is made on Form FAA-500, consisting of three Parts: Part A "Certificate of Registration"; Part B "Application for Registration"; and Part C "Bill of Sale". The applicant must mail the original and duplicate of Part A, the original of Part B, and the original of Part C (or any other bill of sale or form of conveyance described in section __ of this chapter [present § 501.4(b)(2)]), and a fee of $4.00 to the FAA Aircraft Registration Branch, Oklahoma City, Oklahoma. If he also submits a contract of conditional sale, he must send an additional fee of $4.00 for recording it. The certificate is issued on Form FAA-500, Part A "Certificate of Registration".

(c) The specific requirements for the registration certificate are set forth in Part __ of this chapter [present Part 501].

[Revision note: Based on § 406.14(c)]

NOTE: § 406.14(c)(2) (last sentence) is omitted as covered by section __ of this chapter [present § 501.3(a)(4)]

§ 13.49 Dealer's aircraft registration certificate.

(a) A dealer's aircraft registration certificate provides an alternate form of registration to permit the operation, demonstration, and merchandising of civil aircraft moving in ordinary trade channels from a manufacturer, distributor, or dealer to an ultimate buyer.

(b) An application for a dealer's aircraft registration certificate is obtained from any Flight Standards Service District Office and is made on Form FAA-1706 "Application for Issuance of Dealer's Aircraft Registration Certificate(s)". It requires a statement of the dealer's citizenship and information concerning his status as a bona fide dealer in aircraft. He must submit an application each time he requests certificates, for as many certificates as he needs at that time. The application is obtained from, and returned to, the Engineering and Manufacturing Branch of the FAA regional office for the area in which the applicant's business is located. The fee is $5.00 for the first certificate and $1.00 for each later certificate issued to the same dealer. The certificate is issued on Form FAA-1707 "Dealer's Aircraft Registration Certificate", and is valid for 12 months. The FAA does not issue duplicates.

(c) The specific requirements for the dealer's registration certificate are set forth in Part __ of this chapter [present Part 502].

[Revision note: Based on § 406.14(d)]

§ 13.51 Aircraft airworthiness certificate.

(a) An aircraft airworthiness certificate certifies that the aircraft identified thereon is airworthy when maintained and operated in accordance with applicable requirements of this chapter.

(b) An application for an aircraft airworthiness certificate is made on Form FAA-305 "Application for Airworthiness Certificate and/or Annual Inspection of an Aircraft." Ordinarily, the aircraft manufacturer obtains the certificate, and it thereafter remains with the aircraft. If the manufacturer does not obtain it, the registered owner of the aircraft, or his agent, may apply for it. The certificate is issued on Form FAA-1362A or FAA-1362B "Certificate of Airworthiness," whichever is applicable.

(c) The specific requirements for an airworthiness certificate are set forth in Part __ of this chapter [present Part 1].

[Revision note: Based on § 406.14(e)]

§ 13.53 Special flight permits.

(a) A special flight permit is an airworthiness certificate that authorizes the flight of an aircraft that may not meet the applicable airworthiness requirements of this chapter, but is capable of safe flight.

(b) An application for a special flight permit is made, in duplicate, on Form FAA-1779 "Application and Authorization for Ferry Permit" by the registered owner of the aircraft or his agent. It consists of two parts. The applicant completes Part I, giving a description of the aircraft and details of the proposed flight. The permit is issued by completion of Part II of the form by the Administrator, prescribing the conditions and limitations under which the flight is to be made. However, in appropriate cases, an application for, and the issuing of the permit, may be made by telephone or telegraph.

(c) The specific requirements for a special flight permit are set forth in Part __ of this chapter [present Part 1].

[Revision note: Based on § 406.14(f)]

§ 13.55 Export certificate of airworthiness.

(a) An export certificate of airworthiness certifies that the type-certificated product concerned meets certain general and special requirements for export to a particular foreign citizen or country.

(b) An application for an export certificate of airworthiness is made on Form FAA-306 "Application for Export Certificate of Airworthiness." It is issued on Form FAA-26 "Export Certificate of Airworthiness."

[Revision note: Based on § 406.14(g)]

Subpart E—Air Carrier Certificates

§ 13.61 Applicability.

This subpart describes the air carrier certificates that are issued to qualified applicants and the general procedures for obtaining those certificates.

[Revision note: Supplied]

§ 13.63 Air Carrier operating certificates.

(a) An air carrier operating certificate describes the operations authorized for an air carrier. It is required for all air carriers engaged in scheduled, supplemental, or air taxi, operations.

(b) An application for a scheduled air carrier operating certificate is made by letter. An application for a supplemental or air taxi air carrier operating certificate is made on Form FAA-1602 "Application for Certificates under CAR 42, 45, or 47". Each person applying for a certificate under this section shall send the application to the FAA regional office or the appropriate Air Carrier or General Aviation District Office for the area in which the applicants' principal office is located.

(c) The specific requirements for air carrier operating certificates are set forth in Parts __, __, __, and __ of this chapter [present Parts 40, 41, 42 and 47].

[Revision note: Based on § 406.15]

Subpart F—Air Agency Certificates

§ 13.71 Applicability.

(a) This subpart describes the air agency certificates and ratings that are issued to qualified applicants and the general procedures for obtaining those certificates.

(b) The specific requirements for air agency certificates are set forth in Subchapter H of this chapter.

[Revision note: Based on § 406.16 (a)(5), (b)(5), (c)(5), (d)(5), (e)(5), (f)(5), (g)(4), (h)(5), (i)(4), (j)(4), and (k)(4)]

§ 13.73 Kinds of certificates; authority; forms; reports.

The kinds of air agency certificates issued by the FAA, the authority they confer on the holders thereof, the forms for their application and issue, and the reports required under them are as follows:

Kind of certificate or rating—	Authorizes holder to—	Apply on Form—	Issued on Form—	Reports required—
Basic ground school rating.	Operate as a basic ground school.	FAA-387 "Application for Airmen Agency Certificate and Rating, and Inspection Report" (a new application is required at least every 2 years).	FA-390 "Air Agency Certificate."	Form FAA-1784 "Air Agency Activity Report," whenever holder is able to report on 32 students, but at least each 6 months.
Advanced ground school rating.	Operate as an advanced ground school.			
Primary flying school rating.	Operate as a primary flying school.			
Commercial flying school rating.	Operate as a commercial flying school.			
Instrument flying school rating.	Operate as an instrument flying school.			
Flight Instructor school rating.	Operate as a flight instructor flying school.			
Repair station certificate.	Perform and approve for return to service, maintenance and alterations on airframes, powerplants, propellers, instruments, radios, or accessories for which rated.	FAA-394 Parts I and II "Application for Repair Station Certificate and Rating."	FAA-390 "Air Agency Certificate" (Form FAA-390.1 "Repair Stations Operations Specifications" is a part of the certificate).	
Mechanic school certificate.	Operate as a mechanic school.	FAA-614 "Mechanic School Application and Inspection Report."	FAA-390 "Air Agency Certificate."	
Parachute loft certificate.	Perform maintenance and alterations on parachutes for which rated.	FAA-1371 "Application for a Parachute Loft Certificate and Rating."	FAA-390 "Air Agency Certificate."	
Ground Instructor Certificate and Rating.	Serve as a ground instructor.	FAA-360 "Application for Ground Instructor Certificate or Rating."	FAA-1710	
Commercial operator certificate.	Serve as a commercial operator.	FAA-1602 "Application for a certificate under CAR 42, 45, or 47."	FAA-1603	

[Revision note: Based on § 406.16 (a) (less (5)), (b) (less (5)), (c) (less (5)), (d) (less (5)), (e) (less (5)), (f) (less (5)), (g) (less (4)), (h) (less (5)), (i) (less (4)), (j) (less (4)), and (k) (less (4))]

Subpart G—Air Navigation Certificates and Notices

§ 13.81 Applicability.

This subpart describes the air navigation certificates that are issued to qualified applicants, the notices of construction or alteration affecting air navigation that are required, and the general procedure for obtaining those certificates and notices.

[Revision note: Based on § 406.17 (less (a) and (b))]

§ 13.83 Authority to operate a true light.

(a) An applicant who certifies that he will, in accordance with applicable requirements of the FAA, establish, maintain, and operate a light as an aid to air navigation is entitled to an authorization to operate that light as a "true light".

(b) An application for authority to operate a true light is made on Form FAA-114 "Certification and Lawful Authority To Operate a True Light".

[Revision note: Based on § 406.17(a)]

§ 13.85 Notice of construction or alteration of structures or establishment, alteration, or deactivation of an airport.

(a) Each person who proposes to construct or alter certain structures, as set forth in Part __ of this chapter [present Part 626], that may affect navigable airspace, shall send a notice to the Administrator, in the manner required by that part, on Form FAA-117 "Notice of Proposed Construction or Alteration."

(b) Each person who proposes to establish, alter, or deactivate an airport shall send a notice to the Administrator, in triplicate, in the manner prescribed in Part __ of this chapter [present Part 625], on Form FAA-2681 "Notice of Proposed Establishment, Alteration, or Deactivation of Landing Area".

[Revision note: Based on § 406.17(b)]

Subpart H—Crewmember Certificate

§ 13.91 Applicability.

This subpart describes the certificates that are issued to United States citizens who are employed by air carriers or commercial operators as flight crewmembers or crewmembers on United States registered aircraft engaged in international air commerce. The purpose of the certificate is to facilitate the entry and clearance of those members into ICAO contracting states. They are issued under Annex 9, as amended, to the Convention on International Civil Aviation.

[Revision note: Based on § 406.19(a)]

§ 13.93 Application and issue.

(a) An application for a crewmember certificate is made on Form FAA-2116 "Application for Crewmember Certificate", to the Air Carrier District Office in charge of the air carrier or commercial operator by whom the applicant is employed. The certificate is issued on Form FAA-2116.1 "Crewmember Certificate".

(b) The holder of a certificate issued under this subpart, or the air carrier or commercial operator by whom he is employed, shall surrender the certificate for cancellation at the nearest Air Carrier District Office at the end of the holder's assignment in international air commerce with that carrier or operator.

[Revision note: Based on § 406.19 (less (a))]

PART 13—DISTRIBUTION TABLE

Present section	Revised section
406.1	(1)
406.2	13.3
406.11(a)	13.5
406.11(c)	13.1
406.11 (less (a) and (c))	13.7
406.12(a) (1) and (2)	13.13
406.12 (a) (3) and (4), (b) (3) and (4), and (c) (3) and (4)	13.11
406.12(b) (1) and (2)	13.15
406.12(c) (1) and (2)	13.17
406.12(d)	13.19
406.12(e)	13.21
406.12(f)	(2)
406.12 (less (a)–(f))	13.23
406.13 (introductory paragraph), (a)(4), (b)(4), (c)(4), (d)(4), (e)(4), (f)(4), (g)(4), (h)(4), (i)(4), (j)(4), and (k)(4)	13.31
406.13 (a) (less (4)), (b) (less (4)), (c) (less (4)), (d) (less (4)), (e) (less (4)), (f) (less (4)), (g) (less (4)), (h) (less (4)), (i) (less (4)), (j) (less (4)), and (k) (less (4))	13.33
406.14(a) (less (4))	13.43
406.14(a)(4)	(3)
406.14(b) (less (4))	13.45
406.14(b)(4)	(3)
406.14(c)	13.47
406.14(d)	13.49
406.14(e)	13.51
406.14(f)	13.53
406.14(g)	13.55
406.15	13.63
406.16(a)(5), (b)(5), (c)(5), (d)(5), (e)(5), (f)(5), (g)(4), (h)(5), (i)(4), (j)(4), and (k)(4)	13.71
406.16(a) (less (5)), (b) (less (5)) (c) (less (5)), (d) (less (5)), (e) (less (5)), (f) (less (5)), (g) (less (4)), (h) (less (5)), (i) (less (4)) (j) (less (4)), and (k) (less (4))	13.73
406.17(a)	13.83
406.17(b)	13.85
406.17 (less (a) and (b))	13.81
406.19(a)	13.91
406.19 (less (a))	13.93
406.31	13.25

[1] Transferred to Part 1.
[2] Surplusage.
[3] Transferred to Part 21.

PART 15—ENFORCEMENT PROCEDURES [New]

Subpart A—Enforcement Processes

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15.1 Reports of violations.
15.3 Investigations.

Subpart B—Enforcement Actions

15.11 Reports for record.
15.13 Reprimands.
15.15 Civil penalties.
15.17 Seizure of aircraft.
15.19 Certificate action.
15.21 Military aircraft.
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15.33 Appearances.
15.35 Request for hearing.
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15.57 Subpoenas and witness fees.
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15.61 Argument and submittals.
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15.65 Federal Rules of Civil Procedure.
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Subpart A—Enforcement Processes

§ 15.1 Reports of violations.

(a) Any person who knows of a violation of the Federal Aviation Act of 1958, or of any regulation or order issued under it, may report it to appropriate personnel of an FAA regional or district office.

(b) Each report made under this section is investigated by FAA personnel. The results of that investigation are the basis for determining the enforcement action that the FAA will take.

[Revision note: Based on § 408.11]

§ 15.3 Investigations.

(a) Under section 313 of the Federal Aviation Act of 1958 (49 U.S.C. 1354), the Administrator may conduct public hearings or investigations and take evidence and depositions, issue subpoenas, and compel testimony as provided in section 1004 of the Act (49 U.S.C. 1484).

(b) For the purpose of investigating alleged violations of the Act, or any regulation or order issued under it, the Administrator's authority under sections 313 and 1004 has been delegated to the General Counsel, the Deputy General Counsel, each Associate General Counsel, and each Regional Counsel.

[Revision note: Based on § 408.12]

Subpart B—Enforcement Actions

§ 15.11 Reports for record.

If, after his investigation, it appears to the reporting inspector that a violation of the Federal Aviation Act of 1958, or an order or regulation issued under it, was so minor and unintentional as not to require disciplinary or remedial action, he may, in accordance with standard Agency practices file a report of that violation for the record or may terminate the report by a letter of correction. The Regional Flight Standards Office and the Regional Counsel concerned may review each action under this section.

[Revision note: Based on § 408.21]

§ 15.13 Reprimands.

The General Counsel or the Regional Counsel concerned may send a letter of reprimand to any person who commits a minor violation of the Federal Aviation Act of 1958, or any rule or order issued under it. A letter of reprimand terminates the action, but the violation will be considered in determining the action to be taken on any future violation committed by that person.

[Revision note: Based on § 408.22]

§ 15.15 Civil penalties.

(a) Under section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471), a person who violates any provision of Title III, V, VI, or XII of that Act, or any regulation or order issued under one of those titles, is subject to a civil penalty of not more than $1,000 for each violation.

(b) The Administrator may compromise any civil penalty. If a civil penalty is contemplated and it is considered advisable to compromise it, the General Counsel or the Regional Counsel concerned sends a letter to the person charged with the violation, advising him of the charges against him and the law, regulation, or order that he is charged with violating, and offering to compromise the penalty. The person charged with the violation may present, to the official who signed the letter, any oral or written material or information in answer to the charges, explaining, mitigating, or denying the violation, or showing extenuating circumstances. Material or information so presented is considered in making the final determination as to probable liability for a civil penalty, or the amount for which it will be compromised.

(c) If the person charged with the violation offers to compromise for a specific amount, he shall send a certified check or money order for that amount, payable to the Federal Aviation Agency. The General Counsel or the Regional Counsel concerned may accept or refuse it.

(d) If the compromise amount is accepted, the person charged with the violation is notified, by letter, that the acceptance is full settlement of the civil penalty for the violation.

(e) If a compromise settlement of the civil penalty cannot be made, the Administrator may instigate proceedings in a United States District Court, under section 903 of the Act (49 U.S.C. 1473), to collect the penalty.

[Revision note: Based on § 408.23]

§ 15.17 Seizure of aircraft.

(a) Under section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473), a State or Federal law enforcement officer, or a Federal Aviation Agency safety inspector, authorized in an order of seizure issued by the Assistant Administrator of the region in which the aircraft is located, may summarily seize an aircraft that is involved in a violation for which a civil penalty may be imposed on its owner or operator.

(b) Each person seizing an aircraft under this section shall place it in the nearest available and adequate public storage facility in the judicial district in which it was seized.

(c) The Assistant Administrator, without delay, sends a written notice and a copy of this section, to the registered owner of the seized aircraft, and to each other person shown by FAA records to have an interest in it, stating the—

(1) Time, date, and place of seizure;

(2) Name and address of the custodian of the aircraft;

(3) Reasons for the seizure, including the violations believed, or judicially determined, to have been committed; and

(4) Amount that may be tendered as—

(i) A compromise of a civil penalty for the alleged violation; or

(ii) Payment for a civil penalty imposed by a Federal court for a proven violation.

(d) The Regional Counsel of the region in which an aircraft is seized under this section immediately sends a report to the United States District Attorney for the judicial district in which it was seized, requesting him to institute proceedings to enforce a lien against the aircraft.

(e) The Assistant Administrator directs the release of a seized aircraft whenever—

(1) The alleged violator pays a civil penalty or an amount agreed upon in compromise, and the costs of seizing, storing, and maintaining the aircraft;

(2) The aircraft is seized under an order of a Federal Court in proceedings in rem to enforce a lien against the aircraft, or the United States Attorney for the judicial district concerned notifies the FAA that he refuses to institute those proceedings; or

(3) A bond in the amount and with the sureties prescribed by the Assistant Administrator is deposited, conditioned on payment of the penalty, or the compromise amount, and the costs of seizing, storing, and maintaining the aircraft.

[Revison note: Based on § 408.24]

§ 15.19 Certificate action.

(a) Under section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429), the Administrator may reinspect any civil aircraft, aircraft engine, propeller, appliance, air navigation facility, or air agency, and may re-examine any civil airman.

(b) If, as a result of such a re-inspection, re-examination, or other investigation made by him, 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.

(c) Before issuing an order under paragraph (b) of this section, the General Counsel or the Regional Counsel concerned advises the certificate holder of the charges or other reasons upon which the Administrator bases the proposed action and, except in an emergency, allows the holder to answer any charges and to be heard as to why the certificate should not be amended, suspended, or revoked. The holder may elect to—

(1) Admit the charges and surrender his certificate;

(2) Answer the charges in writing;

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

(4) Have a formal hearing, either in place of or in addition to the informal conference, before a Hearing Officer appointed by and representing the Administrator.

Unless the holder has submitted a request for a formal hearing, the General Counsel or the Regional Counsel concerned, after considering the answer and information submitted by the holder, issues the order of the Administrator. If the holder requests a formal hearing,

the Hearing Officer shall issue an oral or written Order of the Administrator after holding a hearing in accordance with this part.

(d) Any person whose certificate is affected by an order issued under this section may appeal to the Civil Aeronautics Board. If the certificate holder files an appeal with the Board, the Administrator's order is stayed unless he advises the board that an emergency exists and safety in air commerce requires that the order becomes effective immediately. If he so advises the Board, the order remains effective and the Board shall finally dispose of the appeal within 60 days after the date of the advise.

[Revision note: Based on § 408.25]

§ 15.21 Military aircraft.

If a report made under this Part indicates that, while performing his official duties, a member of the armed forces, or a civilian employee of the Department of Defense who is subject to the Uniform Code of Military Justice (10 U.S.C. Ch. 47), has violated the Federal Aviation Act of 1958, or a regulation or order issued under it, the General Counsel or the Regional Counsel concerned sends a copy of the report to the appropriate military authority for such disciplinary action as that authority considers appropriate and a report to the Administrator thereon.

[Revision note: Based on § 408.26]

§ 15.23 Criminal penalties.

(a) Sections 902 and 1203 of the Federal Aviation Act of 1958 (49 U.S.C. 1472 and 1523), provide criminal penalties for any person who knowingly and willfully violates specified provisions of that Act or any regulation or order issued under those provisions.

(b) If an inspector or other employee of the FAA becomes aware of a possible violation of any criminal provision of that Act (except a violation of section 902 (i) through (m) which is reported directly to the Federal Bureau of Investigation), he shall report it to the Office of the General Counsel or the Regional Counsel concerned. If appropriate, that office refers the report to the Department of Justice for criminal prosecution of the offender. If such an inspector or other employee becomes aware of a possible violation of a Federal statute that is within the investigatory jurisdiction of another Federal Agency, he shall immediately report it to that agency according to standard Agency practices.

[Revision note: Based on § 408.27]

Subpart C—Rules of Practice for Hearings in FAA Certificate Proceedings

§ 15.31 Applicability of rules.

This subpart applies to all proceedings before a Hearing Officer of the FAA in which the holder of an airman certificate requests a hearing in response to a Notice of Proposed Certificate Action that proposes to amend, suspend, or revoke his certificate.

[Revision note: Based on § 408.31]

§ 15.33 Appearances.

Any party to a proceeding under this subpart may appear and be heard in person or by attorney.

[Revision note: Based on § 408.32]

§ 15.35 Request for hearing.

(a) If, after a Notice of Proposed Certificate action is issued, the certificate holder concerned elects to have a formal hearing, he shall request it by checking the appropriate box on the form that is sent to him with the Notice of Proposed Certificate Action. He shall return the form, and his answer to the allegations in the Notice, to the FAA counsel. He must return the form, and, except as provided in § 15.49, his answer, with a postmark of not later than 15 days after the date he received the notice.

(b) If the certificate holder submits a Request for a Hearing after that 15-day period, but before an order is issued, the FAA counsel shall send it to the Hearing Officer. If, in the opinion of the Hearing Officer, there was good cause for the failure to request a hearing within the 15-day period he may, in his discretion, order a hearing.

(c) If, upon request, the certificate holder has an informal conference with FAA counsel, he then has 10 days from the date of the conference within which to request a formal hearing. The FAA counsel shall forward the Request and Answer to the Hearing Officer, together with a copy of the Notice of Proposed Certificate Action. The Hearing Officer shall docket the Notice, Request, and Answer, as of the time he receives them.

[Revision note: Combines §§ 408.33, 408.37, and 408.38 (1st sentence)]

§ 15.37 Hearing officer's powers.

Any Hearing Officer may—

(a) Give notice concerning, and hold, prehearing conferences and hearings;

(b) Administer oaths and affirmations;

(c) Examine witnesses;

(d) Issue subpoenas and take depositions or cause them to be taken;

(e) Rule on offers of proof;

(f) Receive evidence;

(g) Regulate the course of the hearing;

(h) Hold conferences, before and during the hearing, to settle and simplify issues by consent of the parties;

(i) Dispose of procedural requests and similar matters; and

(j) Issue an order.

[Revision note: Based on § 408.34]

§ 15.39 Disqualification of Hearing Officer.

The Hearing Officer shall withdraw from a case if, at any time, he considers himself to be disqualified.

[Revision note: Based on § 408.35]

§ 15.41 Pleadings.

(a) In cases sent to the Hearing Officer, the Notice of Proposed Certificate Action constitutes the statement of the facts upon which the action is proposed.

(b) The certificate holder's Answer must be responsive to the allegations set out in the Notice. Any allegation that is not denied is considered to be admitted.

(c) Averments in an Answer, or other pleading, to which no responsive pleading is required, are considered to be denied.

[Revision note: Based on § 408.36]

NOTE: § 408.36(b) (1st sentence) is omitted as covered by § 15.35 of this chapter.

§ 15.43 Service and filing of pleadings, motions, and documents, other than Answer.

Each pleading, motion, or document, other than an Answer, must at the time of filing, be served on each other party, by delivering a copy to him or by mailing a copy to him at the last address filed with the FAA by the certificate holder as required by this chapter. However, if a party is represented by an attorney, the service shall be made upon him.

[Revision note: Based on § 408.38 (less 1st sentence)]

§ 15.45 Amendment of Notice and Answer.

At any time more than 10 days before the date of hearing, any party may amend his Notice, Answer, or other pleading, by filing the amendment with the Hearing Officer and serving a copy of it on each other party. After that time, he may amend it only in the discretion of the Hearing Officer. If an amendment to an initial pleading has been allowed, the Hearing Officer shall allow the other parties a reasonable opportunity to answer. A pleading may be amended at any time to conform to the evidence.

[Revision note: Based on § 408.39]

§ 15.47 Withdrawal of Notice or Request for hearing.

At any time before hearing, the FAA counsel may withdraw the Notice of Proposed Certificate Action and the certificate holder may withdraw his Request for Hearing.

[Revision note: Based on § 408.40]

§ 15.49 Motions.

(a) *Motion to dismiss.* A respondent may, in place of his Answer, file a motion to dismiss, for failure of the allegations of the Notice to state a violation of this chapter, or for lack of qualification of the respondent. If the Hearing Officer denies the motion, the respondent shall file his Answer within 10 days.

(b) *Motion for judgment on the pleadings.* After the pleadings are closed, either party may move for a judgment on the pleadings.

(c) *Motion to strike.* Upon motion of either party, the Hearing Officer may order stricken, from any pleading, any insufficient allegation or defense, or any immaterial, impertinent, or scandalous matter.

(d) *Motion for more definite statement.* The certificate holder may, in place of his Answer, file a motion that the allegations in the Notice be made more definite and certain. If the Hearing Officer grants the motion, the Agency

counsel shall comply within 10 days after the date it is granted. If the Hearing Officer denies the motion the certificate holder shall file his Answer within 10 days after the date it is denied.

(e) *Motion for production of documents.* Upon motion of any party showing good cause, the Hearing Officer may, in the manner provided by Rule 34, Federal Rules of Civil Procedure, order any party to produce any designated document, paper, book, account, letter, photograph, object, or other tangible thing, that is not privileged, that constitutes or contains evidence relevant to the subject matter of the hearing, and that is in the party's possession, custody, or control.

(f) *Consolidation of motions.* A party who makes a motion under this section shall join with it all other motions that are then available to him. Any objection that he does not so raise is considered to be waived.

[Revision note: Based on § 408.41]

§ 15.51 Intervention.

Any person may move for leave to intervene in a proceeding and may become a party thereto, if the Hearing Officer, after the case is sent to him for hearing, finds that the person may be bound by the order to be issued in the proceeding or has a property or financial interest that may not be adequately represented by existing parties, and that the intervention will not unduly broaden the issues or delay the proceedings. Except for good cause shown, a motion for leave to intervene may not be considered if it is filed less than 10 days before the hearing.

[Revision note: Based on § 408.42]

§ 15.53 Depositions.

After the respondent has filed a Request for Hearing and an Answer, either party may take testimony by deposition in accordance with section 1004 of the Federal Aviation Act of 1958 (49 U.S.C. 1484) or Rule 26, Federal Rules of Civil Procedure.

[Revision note: Based on § 408.43]

§ 15.55 Notice of hearing.

The Hearing Officer to whom the case is assigned shall give the parties adequate notice of the date of the hearing and the place where it will be held. The Hearing Officer may hold the hearing at the city in which there is located the Regional Headquarters of the FAA, the originating FAA office, or the Flight Standards District office nearest to the residence of the certificate holder, or at any other location that the Hearing Officer directs.

[Revision note: Based on § 408.44]

§ 15.57 Subpoenas and witness fees.

(a) The Hearing Officer to whom a case is assigned may, upon application by any party to the proceeding, issue subpoenas requiring the attendance of witnesses or the production of documentary or tangible evidence at a hearing or for the purpose of taking depositions. However, the application for producing evidence must show its general relevance and reasonable scope. This paragraph does not apply to the attendance of FAA employees or to the production of documentary evidence in the custody of such an employee at a hearing.

(b) A person who applies for the production of a document in the custody of an FAA employee must follow the procedure in § 15.49(e). If he applies for the attendance of an FAA employee, he must send the application, in writing, to the Hearing Officer, setting forth the need for that employee's attendance.

(c) A witness in a proceeding under this subpart is entitled to the same fees and mileage as is paid to a witness in a court of the United States under comparable circumstances. The party at whose instance the witness is subpoenaed or appears shall pay the witness his fees.

[Revision note: Based on § 408.45]

§ 15.59 Evidence.

(a) Each party to a hearing may present his case or defense by oral or documentary evidence, submit evidence in rebuttal, and conduct such cross-examination as may be needed for a full disclosure of the facts.

(b) Except with respect to affirmative defenses, the burden of proof is upon the FAA counsel.

[Revision note: Based on § 408.46]

§ 15.61 Argument and submittals.

The Hearing Officer shall give the parties adequate opportunity to present arguments in support of motions, objections, and the final order. The Hearing Officer may determine whether arguments are to be oral or written. At the end of the hearing, each party is entitled to submit, in writing, proposed findings and conclusions and supporting reasons for them.

[Revision note: Based on § 408.47]

§ 15.63 Record.

The testimony and exhibits presented at a hearing, together with all papers, requests, and rulings filed in the proceedings are the exclusive basis for the issuance of an order. Either party may obtain a transcript from the official reporter upon payment of the fees fixed therefor.

[Revision note: Based on § 408.48]

§ 15.65 Federal Rules of Civil Procedure.

The Federal Rules of Civil Procedure, where applicable, govern any situation arising in a hearing that is not provided for or controlled by this subpart.

[Revision note: Based on § 408.49]

§ 15.67 Order of Hearing Officer.

(a) The Hearing Officer shall include in the Order a statement of findings and conclusions upon all material issues of fact and law presented in the record and the appropriate sanction or denial thereof.

(b) If the order is issued in writing, it shall be served upon the parties.

(c) The order of the Hearing Officer may amend, suspend, or revoke the respondent's certificate as proposed, or in a lesser degree, may rescind the Notice of Proposed Certificate Action, or may, if the Hearing Officer considers it to be equitable and in the public interest, terminate the action upon agreement by the parties for the payment of a civil penalty in an agreed amount.

(d) If the order amends, suspends, or revokes the respondent's certificate, the Hearing Officer shall state in the order that the respondent has a right of appeal to the Civil Aeronautics Board.

[Revision note: Based on § 408.50]

NOTE: § 408.50(a) is omitted as covered by § 15.19 of this chapter.

PART 15—DISTRIBUTION TABLE

Present section	*Revised section*	*Present section*	*Revised section*
408.11	15.1	408.38 (1st sentence)	15.35
408.12	15.3	408.38 (less 1st sentence)	15.43
408.21	15.11	408.39	15.45
408.22	15.13	408.40	15.47
408.23	15.15	408.41	15.49
408.24	15.17	408.42	15.51
408.25	15.19	408.43	15.53
408.26	15.21	408.44	15.55
408.27	15.23	408.45	15.57
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408.33	15.35	408.48	15.63
408.34	15.37	408.49	15.65
408.35	15.39	408.50	15.67
408.36	15.41		
408.37	15.35		

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