

THE ABCs OF FAA ENFORCEMENT ACTIONS HANDOUT



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THE STEPS IN THE FAA ENFORCEMENT PROCESS

- 1. An incident**
- 2. FAA's 10-day letter**
- 3. Pilot's Response to FAA's 10-day letter**
- 4. FAA's notice of proposed certificate action**
- 5. Resolution of certificate action:
1) trial; 2) agreed upon sanction;
3) dismissal; or 4) use of NASA
Form to block sanction**

WHAT IS AN INCIDENT?

- Take off from a closed runway
- Altitude busts
- Commercial operations
- Inappropriate money for a flight
- Flying without a medical
- Issues in the sale or purchase of an aircraft

WHAT IS AN INCIDENT?

- TFR violation
- Beautiful landing, but run out of fuel on the runway or taxiway.
- High speed exit of runway onto taxiway
- Entering Class B airspace without permission

WHAT IS AN INCIDENT?

- Entering Class B airspace without permission
- Fuel exhaustion – forced landing
- Ramp checks . . .
- Omission of material facts from FAA medical application
- Many other possibilities for incidents that trigger FAA scrutiny!

AFTER THE INCIDENT

Please call TOWER – ATC – FAA!

and/or

**FAA sends Pilot a 10-day letter
to Pilot's address on file with
the FAA**

THE CALL TO THE FAA

1. Be nice, courteous, careful, and a minimalist and take notes of what is said.
2. Remember: You have a right to say nothing, to remain silent, but what you do say must be truthful.
3. Remember: Anything you say will be misquoted and then used against you.

FAA OPTIONS AFTER AN INCIDENT

1. Informal correction of violation
2. Administrative Action
 - a. Warning notice letter
 - b. Letter of correction
 - c. Remedial training
 - d. 709 checkride

FAA OPTIONS AFTER AN INCIDENT

3. Legal enforcement action
 - a. Certificate suspension
 - b. Certificate revocation
4. Emergency order – surrender certificate now

DO NOT REPORT AIRCRAFT ACCIDENTS AND CRIMINAL ACTIVITIES ON THIS FORM.
ACCIDENTS AND CRIMINAL ACTIVITIES ARE NOT INCLUDED IN THE ASRS PROGRAM AND SHOULD NOT BE SUBMITTED TO NASA.
ALL IDENTITIES CONTAINED IN THIS REPORT WILL BE REMOVED TO ASSURE COMPLETE REPORTER ANONYMITY.

(SPACE BELOW RESERVED FOR ASRS DATE/TIME: 11AM)

IDENTIFICATION STRIP: Please fill in all blanks to ensure return of strip.
NO RECORD WILL BE KEPT OF YOUR IDENTITY. This section will be returned to you.

TELEPHONE NUMBERS where we may reach you for further details of this occurrence:

HOME Area _____ No. _____ - _____ Hours _____

WORK Area _____ No. _____ - _____ Hours _____

NAME _____

TYPE OF EVENT/SITUATION _____

ADDRESS/PO BOX _____

DATE OF OCCURRENCE _____

CITY _____ STATE _____ ZIP _____

LOCAL TIME (24 hr. clock) _____

PLEASE FILL IN APPROPRIATE SPACES AND CHECK ALL ITEMS WHICH APPLY TO THIS EVENT OR SITUATION.

REPORTER		FLYING TIME	CERTIFICATES/RATINGS		ATC EXPERIENCE	
<input type="checkbox"/> Captain	<input type="checkbox"/> First Officer	total _____ hrs	<input type="checkbox"/> student	<input type="checkbox"/> private	FPL	<input type="checkbox"/> Developmental
<input type="checkbox"/> pilot flying	<input type="checkbox"/> pilot not flying	last 90 days _____ hrs	<input type="checkbox"/> commercial	<input type="checkbox"/> ATP	radar _____ yrs.	
<input type="checkbox"/> Other Crewmember		time in type _____ hrs	<input type="checkbox"/> instrument	<input type="checkbox"/> CFI	non-radar _____ yrs.	
			<input type="checkbox"/> multiengine	<input type="checkbox"/> F/E	supervisory _____ yrs.	
					military _____ yrs.	

AIRSPACE		WEATHER	LIGHT/VISIBILITY	ATC/ADVISORY SERV.			
<input type="checkbox"/> Class A (PCA)	<input type="checkbox"/> Special Use Airspace	<input type="checkbox"/> VMC	<input type="checkbox"/> ice	<input type="checkbox"/> daylight	<input type="checkbox"/> night	<input type="checkbox"/> local	<input type="checkbox"/> center
<input type="checkbox"/> Class B (TCA)	<input type="checkbox"/> airway/route	<input type="checkbox"/> IMC	<input type="checkbox"/> snow	<input type="checkbox"/> dawn	<input type="checkbox"/> dusk	<input type="checkbox"/> ground	<input type="checkbox"/> FSS
<input type="checkbox"/> Class C (ARSA)	<input type="checkbox"/> unknown/other _____	<input type="checkbox"/> mixed	<input type="checkbox"/> turbulence	<input type="checkbox"/> ceiling _____ feet		<input type="checkbox"/> apch	<input type="checkbox"/> UNICOM
<input type="checkbox"/> Class D (Control Zone/ATA)		<input type="checkbox"/> marginal	<input type="checkbox"/> storm	<input type="checkbox"/> visibility _____ miles		<input type="checkbox"/> dep	<input type="checkbox"/> CTAF
<input type="checkbox"/> Class E (General Controlled)		<input type="checkbox"/> rain	<input type="checkbox"/> windshear	RVR _____ feet		Name of ATC Facility: _____	
<input type="checkbox"/> Class G (Uncontrolled)		<input type="checkbox"/> fog	<input type="checkbox"/> _____				

AIRCRAFT 1			AIRCRAFT 2		
Type of Aircraft (Make/Model)	(Your Aircraft) _____	<input type="checkbox"/> EFIS <input type="checkbox"/> FMS/FMC	(Other Aircraft) _____	<input type="checkbox"/> EFIS <input type="checkbox"/> FMS/FMC	
Operator	<input type="checkbox"/> air carrier <input type="checkbox"/> commuter <input type="checkbox"/> military <input type="checkbox"/> private <input type="checkbox"/> corporate <input type="checkbox"/> other _____		<input type="checkbox"/> air carrier <input type="checkbox"/> commuter <input type="checkbox"/> military <input type="checkbox"/> private <input type="checkbox"/> corporate <input type="checkbox"/> other _____		
Mission	<input type="checkbox"/> passenger <input type="checkbox"/> cargo <input type="checkbox"/> training <input type="checkbox"/> pleasure <input type="checkbox"/> business <input type="checkbox"/> unk/other _____		<input type="checkbox"/> passenger <input type="checkbox"/> cargo <input type="checkbox"/> training <input type="checkbox"/> pleasure <input type="checkbox"/> business <input type="checkbox"/> unk/other _____		
Flight plan	<input type="checkbox"/> VFR <input type="checkbox"/> IFR <input type="checkbox"/> SVFR <input type="checkbox"/> DVFR <input type="checkbox"/> none <input type="checkbox"/> unknown		<input type="checkbox"/> VFR <input type="checkbox"/> IFR <input type="checkbox"/> SVFR <input type="checkbox"/> DVFR <input type="checkbox"/> none <input type="checkbox"/> unknown		
Flight phases at time of occurrence	<input type="checkbox"/> taxi <input type="checkbox"/> takeoff <input type="checkbox"/> climb <input type="checkbox"/> cruise <input type="checkbox"/> descent <input type="checkbox"/> approach <input type="checkbox"/> landing <input type="checkbox"/> missed apch/GAR <input type="checkbox"/> other _____		<input type="checkbox"/> taxi <input type="checkbox"/> takeoff <input type="checkbox"/> climb <input type="checkbox"/> cruise <input type="checkbox"/> descent <input type="checkbox"/> approach <input type="checkbox"/> landing <input type="checkbox"/> missed apch/GAR <input type="checkbox"/> other _____		
Control status	<input type="checkbox"/> visual apch <input type="checkbox"/> controlled <input type="checkbox"/> no radio <input type="checkbox"/> on vector <input type="checkbox"/> none <input type="checkbox"/> radar advisories <input type="checkbox"/> on SID/STAR <input type="checkbox"/> unknown		<input type="checkbox"/> visual apch <input type="checkbox"/> controlled <input type="checkbox"/> no radio <input type="checkbox"/> on vector <input type="checkbox"/> none <input type="checkbox"/> radar advisories <input type="checkbox"/> on SID/STAR <input type="checkbox"/> unknown		

If more than two aircraft were involved, please describe the additional aircraft in the "Describe Event/Situation" section.

LOCATION	CONFLICTS
Altitude _____ <input type="checkbox"/> MSL <input type="checkbox"/> AGL	Estimated miss distance in feet: horz _____ vert _____
Distance and radial from airport, NAVAID, or other fix _____	Was evasive action taken? <input type="checkbox"/> Yes <input type="checkbox"/> No
Nearest City/State _____	Was TCAS a factor? <input type="checkbox"/> TA <input type="checkbox"/> RA <input type="checkbox"/> No
	Did GPWS activate? <input type="checkbox"/> Yes <input type="checkbox"/> No

AVIATION SAFETY REPORTING SYSTEM

Section 91.25 of the Federal Aviation Regulations (14 CFR 91.25) prohibits reports filed with NASA from being used for FAA enforcement purposes. This report will not be made available to the FAA for civil penalties or certificate actions for violations of the Federal Air Regulations. Your identity strip, stamped by NASA, is proof that you have submitted a report to the Aviation Safety Reporting System. We can only return the strip to you, however, if you have provided a mailing address. Equally important, we can often obtain additional useful information if our safety analysts can talk with you directly by telephone. For this reason, we have requested telephone numbers where we may reach you.

The information you provide on the identity strip will be used only if NASA determines that it is necessary to contact you for further information. THIS IDENTITY STRIP WILL BE RETURNED DIRECTLY TO YOU. The return of the identity strip assures your anonymity.

Thank you for your contribution to aviation safety.

NOTE: AIRCRAFT ACCIDENTS SHOULD NOT BE REPORTED ON THIS FORM. SUCH EVENTS SHOULD BE FILED WITH THE NATIONAL TRANSPORTATION SAFETY BOARD AS REQUIRED BY NTSB Regulation 830.5 (49CFR 830.5).

Please fold both pages (and additional pages if required), enclose in a sealed, stamped envelope, and mail to:



NASA AVIATION SAFETY REPORTING SYSTEM
POST OFFICE BOX 189
MOFFETT FIELD, CALIFORNIA 94035-0189

DESCRIBE EVENT/SITUATION

Keeping in mind the topics shown below, discuss those which you feel are relevant and anything else you think is important. Include what you believe really caused the problem, and what can be done to prevent a recurrence, or correct the situation. (USE ADDITIONAL PAPER IF NEEDED)

CHAIN OF EVENTS

- How the problem arose
- Contributing factors
- How it was discovered
- Corrective actions

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HUMAN PERFORMANCE CONSIDERATIONS

- Perceptions, judgments, decisions
- Actions or inactions
- Factors affecting the quality of human performance

**NASA Form Prerequisites
Excerpted from Advisory
Circular 00-46E, dated 12/16/2011:**

“Accordingly, although a finding of violation may be made, neither a civil penalty nor certificate suspension will be imposed if:

- 1. The violation was inadvertent and not deliberate.**
- 2. The violation did not involve a criminal offense, accident ...**

3. The person has not been found in any prior FAA enforcement action to have committed a violation ... of any regulation ... for a period of 5 years before the date of occurrence.

4. The person proves that, within 10 days after the violation, or date when the person became aware or should have been aware of the violation, he or she completed and delivered or mailed a written report of the incident or occurrence to NASA."

5. Incident was not an accident.

Used to be a hard and fast 10 days, whether or not aware of the violation or not.

Important change in 12/2011.

SANCTION FACTORS

1. Nature of Violation?

- punishment must fit the violation

2. Careless or reckless conduct?

- warrants more severe sanctions

3. Violation inadvertent or deliberate?

- inadvertent = inattention and lack of purposeful choice

SANCTION FACTORS

- 4. Certificate holder's level of expertise?**
- 5. Attitude of the violator**
 - **good compliance attitude?**
- 6. Degree of hazard?**
- 7. Action taken by employee or other authority?**

SANCTION FACTORS

- 8. Use of certificate – how used in violation?**
- 9. Violation history?**
- 10. Ability to absorb sanctions?**
- 11. Violation reported voluntarily?**
- 12. Corrective Action.**

TIPS FROM THE LAWYER

The "Plane" Truth

- BE COURTEOUS AND POLITE TO ATC, RAMP FOLK, LINEMAN, THE FAA, AND OTHERS
- If you decide to talk at anytime, make sure it's accurate, truthful, and candid.
- If you decide to submit documents to the FAA or anyone else (your insurer, NTSB, others, make sure they are genuine and accurate.

Tips from the Lawyer (continued)

- Consider grounding yourself after an incident until you speak with an aviation lawyer.
- Make a NASA report every time you are involved in an incident.
- Join AOPA's legal services plan and get a lawyer at no cost to you for up to 10 hours regarding your incident.
- Consider remedial training with a CFI or CFII or MEI concerning the issue giving rise to the incident.

Tips from the Lawyer

- Be mindful of the FAA's sanction penalty guidance chart.
- Tell your attorney the truth and what you told the FAA and ATC or others.
- I called ATC and asked about the TFR. No tape of the pilot's call to ATC.