

VOLUME 3 GENERAL TECHNICAL ADMINISTRATION**CHAPTER 12 INTRODUCTION TO 14 CFR PART 91 RELATED TASKS****Section 3 Suspected Violations of 14 CFR § 91.17, Alcohol or Drugs**

3-351. GENERAL. The material in this section is a “quick reference guide” that summarizes the authority of Federal Aviation Administration (FAA) personnel in cases where an FAA employee suspects that a crewmember is violating or may violate Title 14 of the Code of Federal Regulations (14 CFR) Part 91, General Operating and Flight Rules, section (§) 91.17. This section also contains guidance for the FAA employee to follow in such cases. The guidance in this section applies to any crewmember of a civil aircraft, whether employed by an air carrier or conducting commercial or general aviation operations. This material supplements existing guidance in the most recent edition of FAA Order 2150.3.

3-352. RESPONSIBILITIES AND AUTHORITIES.

A. Air Carrier Responsibilities. Under Title 49 of the United States Code (49 U.S.C.), an air carrier is under a duty to perform its services with the highest possible degree of safety in the public interest. An air carrier and a crewmember of an aircraft primarily are responsible for conducting their operations safely and for ensuring compliance with 14 CFR. Allegations that a crewmember has violated, or may violate, FAA alcohol or drug regulations must be investigated with the highest priority. Prevention of these violations is critical to flight safety.

B. Authority to Prescribe Rules. Under 49 U.S.C. section 601, it is the FAA’s duty to prescribe regulations to promote the safety of flight of civil aircraft in air commerce. Title 14 CFR § 91.17, prohibits any person from acting or attempting to act as a crewmember of a civil aircraft under any of the following conditions:

- 1) Within 8 hours after the consumption of any alcoholic beverage
- 2) While under the influence of alcohol
- 3) While using any drug that affects the person’s faculties in any way contrary to safety
- 4) While having 0.04% by weight or more alcohol in the blood.

C. Authority to Suspend or Revoke Certificates of Airmen or Air Carriers. Under 49 U.S.C. section 609, the FAA may amend, modify, suspend, or revoke in whole or in part any certificate issued by the FAA, if, as a result of re-examination or investigation, the FAA determines that safety in air commerce or air transportation and the public interest require it. FAA must advise the certificate holder of the charges or reasons for the action and provide the certificate holder with an opportunity to respond; the exception is an emergency requiring immediate action.

D. Authority to Prohibit the Operation of Aircraft by a Crewmember in Violation of 14 CFR § 91.17. The FAA has full authority over the safety certification of air carrier

operations. The FAA may also issue orders, orally or in writing, as deemed necessary to carry out FAA powers and duties under 49 U.S.C. This includes the authority to make such orders immediately effective without notice in order to meet any emergency requiring immediate action in the interest of safety in air commerce.

3-353. SUBMISSION TO ALCOHOL TESTS. Revisions to 14 CFR sections (§§) 61.16, 63.12(a), and 91.17 of 14 CFR provide an additional enforcement tool and add deterrence to violation of 14 CFR pertaining to alcohol.

A. Alcohol Impairment. Studies have proved that alcohol consumption impairs a pilot's or crewmember's ability to perform. Indeed, the National Transportation Safety Board (NTSB) has determined that alcohol is a cause or factor in a significant number of aircraft accidents, many of which were fatal. The revised rules were, in part, a response to this NTSB determination.

B. Regulatory Requirement. An inspector has the authority to request a law enforcement officer to require a pilot or crewmember of a civil aircraft, in certain circumstances, to submit to testing which will indicate the percentage (by weight) of alcohol in the blood.

1) The request for such a test must be made by the FAA to a law enforcement officer who is authorized under state or local law to conduct the test or to have the test conducted.

2) The request for the test must be part of an investigation of a suspected violation of state or local law governing the same or substantially similar action prohibited by the FAA alcohol rules. However, the officer cannot enforce FAA rules. The law enforcement officer conducting or obtaining the test acts under his or her own state or local authority.

C. Reasonable Basis. There must be a reasonable basis for belief that a pilot or crewmember has unlawfully used alcohol in connection with his or her duties.

1) Compliance with the request for a test is required of the pilot or crewmember.

2) Failure to submit to the test could result in suspension or revocation of any airman certificate and denial of a new certificate or rating. Civil penalty action could also be taken.

3) Civil penalties will also be levied against flight attendants or other crewmembers who do not hold airman certificates.

D. Additional Evidence. The alcohol test required under the revised 14 CFR is not the only way to prove an incident of flying "under the influence." As in the past, any alcohol test or other evidence, such as witness observation of suspicious behavior, may be used.

3-354. INSPECTOR AUTHORITY. Flight Standards inspectors are not authorized under 14 CFR to require a crewmember to submit to an alcohol test. They must have a local or state law enforcement officer request it.

A. State Laws. Not all states have enacted statutes prohibiting flying under the influence of alcohol or drugs or authorizing state or local law enforcement officers to request blood alcohol tests of crewmembers.

1) Each district office manager should work with regional counsel to become familiar with the laws of each state included in the district office's jurisdiction.

2) Managers should also provide written guidance to all inspectors in the district office for ready reference. The guidance should include specific procedures as to when, and under what circumstances, an inspector should involve state or local law enforcement.

B. Objective. Inspectors must recognize the fundamental objective of the guidance provided here: to use all available FAA resources to prevent any person from acting as crewmembers while that person is under the influence of alcohol or drugs.

1) Accomplishing this sometimes requires ingenuity and quick thinking, especially when time is short.

2) Prompt notification of flight standards management and the air carrier, using the resources of FAA communications centers, usually is the best way to obtain promptly the assistance needed to prevent operation of an aircraft in violation of FAA alcohol and drug regulations.

3-355. INSPECTOR ACTION.

A. Receipt of Information. Any FAA employee who receives information regarding a crewmember's operation of an aircraft in violation of FAA alcohol or drug regulations immediately must contact a flight standards inspector and transmit the information to the inspector.

1) If the inspector has reasonable cause to believe that a pilot or other crewmember is under the influence of or has used alcohol while performing or attempting to perform his or her crewmember duties, the inspector shall use the guidance in this section to determine the appropriate action to take.

2) To the extent possible, the inspector should coordinate with the regional administrator and counsel before taking action. If the circumstances and time do not permit prior coordination, the inspector should provide information as soon as possible to the regional administrator through the appropriate channels on all actions taken to address the situation.

B. Notification of Air Carrier Officials. If the crewmember is an employee of an air carrier, the inspector shall promptly contact an appropriate management official of the air carrier, who is immediately accessible by telephone. (The unofficial source for air carrier contact telephone numbers is the air carrier jump seat list. It is available to FAA personnel only on the Internet at <www.faa.gov/fsdo/orl>.)

- 1) The inspector shall inform the official of the following:
 - a) All pertinent information to enable an air carrier to conduct its own investigation.
 - b) The steps that the inspector intends to pursue based on the information.
- 2) In providing information to the air carrier, the inspector must protect any confidential source who has requested anonymity.
- 3) The inspector shall urge the air carrier to assist FAA in its investigation and, if appropriate, to take action to ensure that the flight crewmember does not serve on the flight.
- 4) the inspector should remind the air carrier official of the provisions of 14 CFR § 91.17(a) and the authority of the FAA to prohibit, where warranted, the operation of the aircraft in the event the carrier fails to take action on its own.
- 5) The inspector should also advise the air carrier official of 18 U.S.C., section 342, a criminal statute that provides for imprisonment and fines against whoever operates or directs the operation of an air carrier while under the influence of alcohol or drugs.

C. Notification of FAA Personnel. The inspector also immediately should notify his or her supervisor and, in the case of an air carrier crewmember, the certificate management unit that holds the air carrier's operating certificate, of the information and the action the inspector intends to pursue. These officials should contact appropriate Washington headquarters officials in their chain of command, as time permits.

D. Notification of Flight Standards Division and Regional Counsel. If the inspector does not receive a response from the air carrier that resolves satisfactorily the inspector's safety concerns, the inspector immediately shall notify flight standards management in his or her chain of command, who in turn shall notify the office of assistant chief counsel in the region. The inspector shall elevate the notification to the highest FAA management official (up to and including the administrator) as necessary to contact air carrier management and to address the agency's concern for flight safety.

E. Means of Notification. The inspector shall use the most expeditious means available to communicate with FAA personnel and air carrier management, normally through the FAA operations center in the field. If necessary, the inspector may contact the Washington headquarters operations center at (202) 267-3333.

F. Notification of State or Local Law Enforcement. Whether the crewmember is an employee of an air carrier or is conducting either commercial or general aviation operations, the inspector shall, as soon as possible, notify state or local law enforcement personnel, when appropriate, and request their assistance in the investigation or other appropriate action in accordance with FAA Order 2150.3.

G. Legal Enforcement Action. If necessary to protect the safety of the travelling public and in furtherance of the public interest, the Administrator, the Chief Counsel, the Deputy Chief

Counsel, the Assistant Chief Counsel for Regulations and Enforcement, and each regional Assistant Chief Counsel may issue an emergency order, either orally or in writing, to prohibit an air carrier from operating a specific flight with a particular crewmember or crewmembers or to suspend an airman certificate to ensure the safety of flight of civil aircraft in air commerce.

- 1) The assistant chief counsel for the region shall consult with the regional administrator where possible if consultation will not delay action necessary to protect aviation safety.
- 2) Any order shall be in writing if time permits. The contents of a written order may be communicated orally by the inspector to the crewmember, the air carrier, or both. An order may be issued orally by counsel and communicated by the inspector if necessary to prevent operations detrimental to aviation safety, but the oral order must be followed up in writing as soon as possible.
- 3) Each oral or written order must state the grounds for issuance and must notify the respondents of any right of appeal.
- 4) Any order, whether written or oral, shall be served at the earliest possible time on the crewmember, the air carrier, or both, as named in the order.

H. Scenarios. Following are some situations an inspector may encounter. Time is a critical factor in determining intoxication, since alcohol is dissipated from the blood as time passes.

- 1) An inspector observes a pilot or crewmember who appears to be intoxicated while performing his or her duties.
 - a) The inspector must request to see the airman's certificate, medical certificate, and other identification.
 - b) The inspector shall advise the pilot or crewmember not to fly or perform other crewmember duties.
 - c) The inspector must contact the local law enforcement office and request the presence of a qualified officer who has the authority to conduct the alcohol test.
 - d) When the law officer arrives, the inspector must direct the officer to the suspected pilot or crewmember, and provide the crewmember's identification. The officer then asks the individual to submit immediately to an alcohol test in accordance with 14 CFR. (A positive field test is usually the basis for an additional Breathalyzer test and blood test.)
 - e) If the pilot or crewmember is taken to a hospital for a blood test, the local law officer obtains the test results under local law. The inspector must then obtain the results from the local law enforcement office or request that the pilot or crewmember provide the test results under the authority of 14 CFR § 91.17(c)(2). The inspector should ask the pilot or crewmember to sign a medical release form, FAA Form 8500-21 (Figure 3-63) to assist in obtaining test

results. The FAA can request all results of tests taken within 4 hours after acting or attempting to act as a pilot or crewmember.

f) If the pilot or crewmember refuses to consent to an alcohol test, advise him or her that enforcement action will be taken in accordance with 14 CFR § 61.16 or § 63.12(a). Successful enforcement action may result in revocation or suspension of any airman certificates and denial of an application for additional rating or certificates for a year. The inspector should take either normal or emergency enforcement action depending on the circumstances and severity of the incident. (See Related Task in Volume 7 Chapter 6, Conduct an Investigation of FAA Flight Operations To Determine Compliance. If the airman wishes to voluntarily surrender any airman certificate, refer to Volume 5, Chapter 2, Section 5, Miscellaneous Part 61 Certification Information.) In all cases the district office should consult a regional specialist and regional counsel as soon after the incident as possible to assist in identifying what evidence should be gathered. When the pilot or crewmember refuses to take a test, but other evidence is sufficient to prove the case, enforcement action can still be taken.

g) If the pilot or crewmember tries to leave the scene, the inspector must not attempt to detain the airman. The inspector shall request appropriate action from airport security, if available, or a local law enforcement officer.

h) If the pilot or crewmember refuses to present identification, a description of the pilot or crewmember and any vehicle he or she used (including automobile license plate number) should be noted for use in apprehending the individual. If the pilot or crewmember attempts to leave the scene in an aircraft, notify air traffic control.

i) Upon refusal to provide identification, the inspector shall advise the pilot or crewmember of the requirement to show airman and medical certificates in accordance with 14 CFR § 61.3(h) or 63.3(c). If he or she still refuses to provide identification, the inspector should attempt to identify the individual by contacting the local fixed base operator or other airport personnel. If possible the inspector should determine the name and address of the registered owner of the aircraft involved to assist in identifying the pilot or crewmember.

2) A district office receives a telephone or other complaint of a person flying while intoxicated or attempting to operate an aircraft while under the influence of alcohol.

a) If an inspector is unable to go to the scene, the nearest law enforcement office should be called for assistance.

b) The test should be conducted and the evidence obtained as in subparagraph 3-355H1 above.

3) A local law enforcement officer observes an apparently intoxicated pilot or crewmember during the officer's normal course of duty. In the event of this occurrence, the district office should advise all local and state law enforcement offices of the alcohol/drug regulations and give a copy of this section and 14 CFR § 61.31(h), 63.3(c), 61.16, 63.12(a), and 91.17. The district office should emphasize to law enforcement personnel that they will be acting in accordance with their local statutes and not under FAA authority. The district office

must request them to provide a copy of the results of any tests given an airman to the nearest FAA district office.

I. Legal Process. Inspectors must make certain all evidence is preserved. It is essential that inspectors make a record of all conversations with the suspected pilot or crewmember. Furthermore, the inspector must record names and addresses of any witnesses to those conversations or to the suspicious behavior.

1) In non-emergency cases, the pilot or crewmember will be notified with the usual letter of investigation and allowed to respond to charges.

2) In a case involving the 0.04% rule, the inspector should have in hand the results of the alcohol test, showing 0.04% or more weight of alcohol in the blood, before sending the letter of investigation.

3) In emergency cases the pilot or crewmember will be advised that the severity of the circumstances endangers life and property and warrants emergency action against his or her airman certificate. The individual should be advised not to exercise the privileges of that certificate. Depending upon the specific incident, the inspector can ask the pilot or crewmember to surrender the certificate to the inspector voluntarily.

J. Privacy Act. Because of the sensitivity of the test results, it is important that the results not be released. As in any enforcement investigation, all evidence must be confidential. Request for release of the information will be handled in accordance with FAA Order 1200.23, Public Availability of Information. An enforcement report or any part of a report can only be released by regional counsel.

K. Summary. It must be reemphasized that the state or local law enforcement officer acts under state or local laws, not under FAA authority.

1) Nearly two-thirds of the 50 states currently have “flying while impaired” rules, and most states have laws and procedures for obtaining alcohol tests. District offices should contact state and local law enforcement offices to obtain information and appropriate statute numbers.

2) District office personnel should advise local and state law enforcement officials of the new federal regulations and procedures in order to encourage a spirit of cooperation in obtaining evidence as quickly as possible.

3) Law enforcement officers should be advised to contact their local flight standards district office when they apprehend a pilot or crewmember involved in operating an aircraft under the influence.

RESERVED. Paragraphs 3-356 through 3-370.

Figure 3-63, FAA Form 8500-21, Medical Release Form



U.S. Department
of Transportation
**Federal Aviation
Administration**

**AUTHORIZATION FOR THE RELEASE OF MEDICAL INFORMATION
TO THE FEDERAL AVIATION ADMINISTRATION (FAA)**

TO WHOM IT MAY CONCERN, PLEASE PRINT:

I, _____
 (FIRST) (MIDDLE) (LAST)
 born on _____, at _____
 Month Day Year (City)
 _____, presently residing _____
 (State or Country) (Current Residence)

 Address) (City) (State) (Zip Code)

Hereby authorize any physician or other person who has attended, examined, or treated me, or any clinic, hospital, institution, company, or Federal, State, or municipal agency, office, or bureau which may have information concerning my medical history, to release to the Administrator of the FAA, or the Administrator's medical representative, any available information or records concerning my medical history in their knowledge or possession.

This authorization is given pursuant to Title 14 of the Code of Federal Regulations (CFR), 67.413, which relates to the acquisition of medical information and airman medical certification (14 CFR 67). Alternatively, this authorization is given pursuant to Title 5 U.S.C. 3301 which relates to applicant positions covered by medical standards found in Appendix 1 of FAA Order 3930.3, Air Traffic Control Specialist Health Program. This information is necessary to determine whether I meet the applicable medical standards for an airman medical certificate or alternatively, FAA medical clearance I hold or for which I have made application.

I have also been known by the following names(s): _____ (If none, state "None").

A reproduction of this authorization shall be deemed as effective and valid as the original.

(Signature) _____ (Date) _____

SEND INFORMATION TO:

- Aeromedical Certification Division, AAM-300
 FAA, Civil Aeromedical Institute
 Mike Monroney Aeronautical Center
 P.O. Box 26080
 Oklahoma City, OK 73126-0080
- Other Addressee:

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