August 2020

AVIATION SAFETY

Actions Needed to Evaluate Changes to FAA's Enforcement Policy on Safety Standards

GAO Highlights

AVIATION SAFETY

Actions Needed to Evaluate Changes to FAA's Enforcement Policy on Safety Standards

Why GAO Did This Study

FAA supports the safety of the U.S. aviation system by ensuring air carriers, pilots, and other regulated entities comply with safety standards. In 2015, FAA announced a new enforcement policy with a more collaborative and problem-solving approach called the Compliance Program. Under the program, FAA emphasizes using compliance actions, for example, counseling or training, to address many violations more efficiently, according to FAA. Enforcement actions such as civil penalties are reserved for more serious violations, such as when a violation is reckless or intentional.

The FAA Reauthorization Act of 2018 included a provision that GAO review FAA's Compliance Program. This report examines (1) how FAA implemented and used the Compliance Program and (2) how FAA evaluates the effectiveness of the program. GAO analyzed FAA data on enforcement actions agency-wide and on compliance actions for three selected offices for fiscal years 2012 to 2019 (4 years before and after program start). GAO also reviewed FAA guidance and interviewed FAA officials, including those from the eight offices that oversee compliance with safety standards.

What GAO Recommends

GAO is making three recommendations including that FAA assign authority to oversee the Compliance Program and evaluate the effectiveness of the program in meeting goals. FAA concurred with the recommendations.

View GAO-20-642. For more information, contact Heather Krause at (202) 512-2834 or krauseh@gao.gov.

What GAO Found

The Federal Aviation Administration (FAA) directed individual offices to implement the Compliance Program, and FAA has increasingly used compliance actions rather than enforcement actions to address violations of safety standards since starting the Compliance Program. FAA revised agency-wide guidance in September 2015 to emphasize using compliance actions, such as counseling or changes to policies. Compliance actions are to be used when a regulated entity is willing and able to comply and enforcement action is not required or warranted, e.g., for repeated violations, according to FAA guidance. FAA then directed its offices—for example, Flight Standards Service and Drug Abatement Division—to implement the Compliance Program as appropriate, given their different responsibilities and existing processes. Under the Compliance Program, data show that selected FAA offices have made increasing use of compliance actions.

Total Number of Federal Aviation Administration Enforcement Actions and Number of Compliance Actions Closed for Selected Program Offices, Fiscal Years 2012-2019
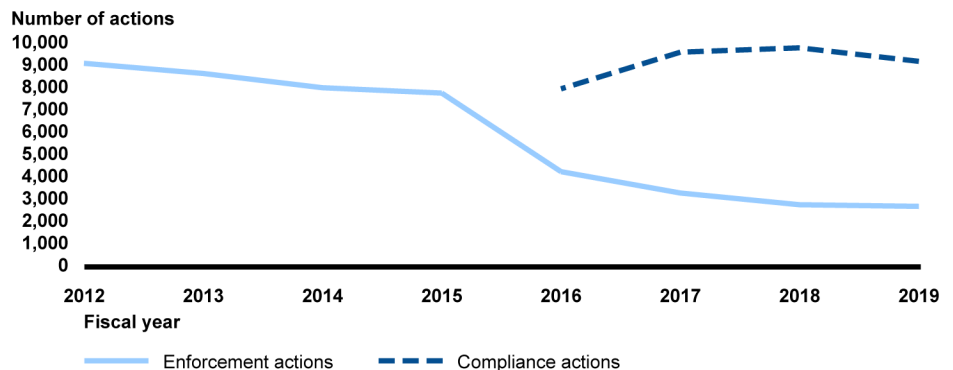
Sources: GAO analysis of FAA's Enforcement Information System, Program Tracking and Reporting Subsystem, Safety Assurance System, Certification and Compliance Management Information System, and Compliance and Enforcement Tracking System. | GAO-20-642

No specific FAA office or entity oversees the Compliance Program. FAA tasked a working group to lead some initial implementation efforts. However, the group no longer regularly discusses the Compliance Program, and no office or entity was then assigned oversight authority. As a result, FAA is not positioned to identify and share best practices or other valuable information across offices. FAA established goals for the Compliance Program—to promote the highest level of safety and compliance with standards and to foster an open, transparent exchange of data. FAA, however, has not taken steps to evaluate if or determine how the program accomplishes these goals. Key considerations for agency enforcement decisions state that an agency should establish an evaluation plan to determine if its enforcement policy achieves desired goals. Three of eight FAA offices have started to evaluate the effects of the Compliance Program, but two offices have not yet started. Three other offices do not plan to do so—in one case, because FAA has not told the office to. FAA officials generally believe the Compliance Program is achieving its safety goals based on examples of its use. However, without an evaluation, FAA will not know if the Compliance Program is improving safety or having other effects—intended or unintended.

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United States Government Accountability Office

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The Honorable Roger Wicker
Chairman
The Honorable Maria Cantwell
Ranking Member
Committee on Commerce, Science, and Technology
United States Senate

The Honorable Peter A. DeFazio
Chairman
The Honorable Sam Graves
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

The U.S. airspace system is one of the safest in the world. The Federal Aviation Administration (FAA), within the Department of Transportation (DOT), helps ensure the safety of the system by overseeing and enforcing safety standards for air carriers, pilots, airports, and other parts of the aviation system. In accordance with broader agency changes to a more proactive, data-driven approach to overseeing safety, FAA announced a change to its enforcement policy in June 2015 through the Compliance Program. According to FAA, the Compliance Program emphasizes an open, problem-solving approach to examine and address violations of safety standards in law and regulation.[1] As such, the program emphasizes collaboration and use of compliance actions, such as counseling or training, to address violations. However, FAA continues to use a range of more punitive enforcement actions, including assessing civil penalties and suspending a person's or entity's certificate, when warranted, to try to ensure that regulated entities comply with safety standards.

While FAA implemented this change to its enforcement policy to improve safety, recent events have raised questions about the effectiveness of FAA's enforcement efforts. For example, DOT's Office of Inspector

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[1]FAA, Order 8000.373, *Federal Aviation Administration Compliance Philosophy*, June 26, 2015. Initially known as the Compliance Philosophy, FAA renamed this change to its enforcement and compliance policy to the Compliance Program in 2018.

General reported that FAA allowed one airline to continue to operate aircraft for nearly 2 years, even though many of its aircraft were out of compliance with weight and balance regulations.[2]

The FAA Reauthorization Act of 2018 included a provision for GAO to review FAA's enforcement policy under the Compliance Program.[3] This report

- describes how FAA has implemented and used the Compliance Program, and
- examines how FAA monitors and evaluates the effectiveness of its Compliance Program.

To describe how FAA implemented and used the Compliance Program, we reviewed current and prior FAA-wide guidance on compliance and enforcement.[4] We also reviewed guidance and manuals for the eight program offices responsible for overseeing regulated entities' compliance with safety standards to understand how these offices applied the Compliance Program to their responsibilities. These program offices are listed in table 1 of the report.[5] We interviewed FAA officials from these program offices and the Enforcement Division in the Office of Chief Counsel to further understand implementation and use of the Compliance Program.

In addition, we analyzed FAA data to examine FAA's use of compliance and enforcement actions over time. Specifically:

- First, we analyzed Enforcement Information System (EIS) data on enforcement actions closed for fiscal years 2012 through 2019. We selected this time period to cover 4 years before and after the start of

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[2]DOT Office of Inspector General, *FAA Has Not Effectively Overseen Southwest Airlines' Systems for Managing Safety Risks*, AV2020019 (Washington, D.C.: Feb. 11, 2020).

[3]Pub. L. No. 115-254, § 324, 132 Stat. 3186, 3271. While FAA refers to its new approach as the Compliance Program, it is a change in the agency's enforcement policy.

[4]This includes versions FAA Order 2150, *FAA Compliance and Enforcement Program*.

[5]We did not include examining FAA's designee program or organization authorization designation program in our review. Through these programs, FAA authorizes individuals or organizations, respectively, to conduct exams, perform tests, and issue approvals and certificates on behalf of FAA. One example of organization delegation authorization is when the organization is responsible for managing the engineering and manufacturing approvals needed to issue type certificates or supplemental type certificates for aircraft.

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the Compliance Program and to include the most recent full fiscal year of available data.[6]

- Second, we analyzed data on compliance actions as well as informal actions (i.e., non-enforcement actions) for three selected program offices to examine the number of such actions closed for fiscal years 2014 through 2019. The program offices were Flight Standards Service, the Drug Abatement Division, and Airport Safety and Standards.[7] We chose these program offices to vary in terms of size (e.g., number of inspectors), number of enforcement actions taken in years prior to the Compliance Program, and availability of data, among other criteria.

We assessed the reliability of each data source by reviewing documents and interviewing knowledgeable agency officials, among other things. We determined that the data sources were sufficiently reliable for our purposes of describing the number and type of actions FAA used over time.

To examine how FAA monitors and evaluates the Compliance Program, we reviewed FAA-wide guidance and other information. We also interviewed FAA officials in the Enforcement Division and all eight program offices to understand efforts to monitor and evaluate the effectiveness of the Compliance Program. We compared FAA's efforts to (1) federal internal control standards for establishing structure, responsibility, and authority; designing control activities; and using quality information; and (2) key considerations for agency design and enforcement decisions.[8]

To inform both objectives, we interviewed 11 selected industry associations, two unions representing FAA inspectors in the selected

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[6]Data from EIS included several types of actions. These actions include legal enforcement actions, such as civil penalties; administrative actions, such as warning letters; referrals to other agencies; and no actions, meaning the collected evidence did not support the finding of a violation. We reported on all of these actions in EIS collectively as enforcement actions unless otherwise noted.

[7]Informal actions are non-enforcement actions that FAA could use to address less serious violations prior to the Compliance Program. Two selected program offices—Flight Standards and Airport Safety and Standards—used informal actions prior to the start of the Compliance Program. For these offices, we analyzed available data on informal actions for fiscal years prior to the Compliance Program.

[8]See GAO, *Federal Regulations: Key Considerations for Agency Design and Enforcement Decisions,* GAO-18-22 (Washington, D.C.: Oct.19, 2017) and *Standards for Internal Control in the Federal Government,* GAO-14-704G (Washington, D.C.: Sept. 20, 2014).

program offices, and eight selected regulated entities (e.g., air carriers, airports) to gather their views on the implementation and use of the Compliance Program. We selected industry associations to align with the operations overseen by the selected program offices and to cover a range of aviation operations. We selected regulated entities to also align with the selected program offices and to vary by size and location. The information and viewpoints obtained from these interviews cannot be generalized to all industry associations, FAA inspectors, or regulated entities but offer insight into understanding the issues examined in this report. Appendix I contains more information on our objectives, scope, and methodology.

We conducted this performance audit from June 2019 to August 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Over the last several decades, FAA has evolved its oversight of aviation safety in response to changes in the industry and technologies. Due to increasing complexity of the aviation system, FAA has stated that it cannot rely on traditional, enforcement-based oversight to further improve safety. In particular, FAA has stated that new technologies and users, such as unmanned aircraft system (i.e., drone) users, mean that it cannot wait for violations and accidents to occur but must take a more proactive approach to identify and address potential new safety hazards. More specifically, the low accident rate in the U.S. aviation system reflects the importance of analyzing less serious incidents and available data for causes and indicators of potential hazards, rather than identifying these hazards after the fact when investigating accidents. In 2005, FAA began implementing a data-driven and risk-based safety management system (SMS) oversight approach. SMS is a formalized process that involves collecting and analyzing data on aviation operations to identify emerging safety problems, determining risk severity, and mitigating that risk to an acceptable level.[9] In addition, FAA's transition to its more proactive

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[9]FAA started implementing SMS in 2005. This type of approach is recognized by aviation leaders and aligns with global standards for aviation. For more information on SMS, see GAO, *Aviation Safety: Additional Oversight Planning by FAA Could Enhance Safety Risk Management,* GAO-14-516 (Washington, D.C.: June 25, 2014).

oversight approach aligns with applicable global standards for safety management and the international aviation community.[10]

FAA describes the Compliance Program as a part of the agency's shift to a proactive, risk-based oversight approach. Under the Compliance Program, FAA aims to collaborate with regulated entities to address the root cause of any violations of safety standards upfront, using counseling, remedial training, or other compliance actions, when possible.[11] In this manner, FAA states that it aims to identify and correct violations as effectively, quickly, and efficiently as possible. FAA's goals for the Compliance Program, according to FAA, are to (1) promote the highest level of safety and compliance with regulatory standards and (2) foster an open and transparent exchange of data.[12] According to FAA guidance, when a regulated person is willing and able to comply with safety standards and the conduct does not meet the criteria for legal enforcement action, FAA will resolve the issue with a compliance action. However, according to this guidance, FAA will use enforcement actions when it finds evidence of reckless, intentional, or criminal behavior, such as a pilot deliberately flying into restricted airspace without clearance, or when FAA identifies a significant safety risk.[13]

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[10]The International Civil Aviation Organization (ICAO) adopted standards and recommended practices covering safety management and safety management systems between 2001 and 2007. ICAO encouraged civil aviation authorities, including FAA, to issue regulations to implement safety management systems across their service providers such as air carriers and maintenance organizations. ICAO is an agency of the United Nations that promotes the safe and orderly development of international civil aviation worldwide. ICAO has 193 member states.

[11]We use the term violation in this report, but FAA and other agencies often refer to violations as noncompliances or deviations. As outlined in FAA guidance, the Compliance Program also can be used to address any non-regulatory safety concerns. In particular, FAA personnel can use a compliance action to encourage regulated persons to adopt FAA-recommended best practices to address safety concerns that are not regulatory in nature. See FAA, Order 2150.3C. For the purposes of our report, we focused on FAA's actions to address violations.

[12]FAA, Order 8000.373.

[13]FAA personnel are required in some circumstances and have discretion in other circumstances to refer matters to FAA's Enforcement Division to evaluate using legal enforcement action and, if appropriate, initiating a legal enforcement action. For example, FAA personnel are required to refer matters that arise from a regulated person's failure to complete corrective action, where legal enforcement action is required by law, and where a certificate holder lacks the care, judgment, or responsibility to hold the certificate. FAA personnel have the discretion to take legal enforcement action in other instances, such as where a person has committed repeated violations. FAA, Order 2150.3C, Chapter 5.

FAA is not unique in its decision to emphasize compliance over enforcement. In October 2017, we reported that federal agencies generally have the flexibility to tailor their compliance and enforcement strategies. In particular, we reported that selected agencies often adapted the appropriate mix of compliance assistance, together with monitoring and enforcement efforts, to ensure safety and other positive outcomes.[14] For example, we reported that when the Food and Drug Administration identifies a violation, it may not immediately use an enforcement action. Instead, it may begin with a meeting or call with the regulated entity to address the issue and gradually implement more serious measures as needed.

Although the Compliance Program emphasizes use of compliance actions in certain circumstances, FAA can still use enforcement actions to address instances of noncompliance (see fig. 1).

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[14]GAO-18-22. This report examined how selected federal agencies made decisions related to regulatory design, compliance and enforcement, and updating regulations.

Figure 1: Description of Compliance and Enforcement Actions Available to the Federal Aviation Administration (FAA)

Types of action	When used	Examples of actions
Compliance action	When FAA determines that a regulated entity is willing and able to comply with regulations, administrative action is not warranted, and legal enforcement action is not required.	• Counseling • Remedial training • Change to policy or procedure • On-the-spot correction
Administrative action (enforcement action)	When FAA determines that a compliance action will not remediate a violation and ensure future compliance, and legal enforcement action is not required or warranted.	• Warning letter (outlines the violation) • Letter of correction (outlines the violation and steps needed in response)
Legal enforcement action (enforcement action)	When required by law or FAA policy, including when a regulated entity intentionally violates a standard. At FAA's discretion, such as when a regulated entity has multiple violations of a safety standard.	• Civil penalty • Certificate action, such as suspending or revoking a certificate • Cease and desist order

Source: GAO analysis of FAA documents and interviews with FAA officials. | GAO-20-642

Note: FAA Order 2150.3 outlines the circumstances for which legal enforcement action is required. In such circumstances FAA personnel are required to refer matters to FAA's Enforcement Division for evaluation and, if appropriate, initiation of legal enforcement action against a regulated person. FAA personnel also have the discretion to refer matters for legal enforcement action for other circumstances detailed in guidance.

Inspectors and staff in eight program offices within FAA are responsible for overseeing regulated entities' compliance with safety standards (see table 1).

Table 1: Federal Aviation Administration Program (FAA) Offices, Oversight Responsibilities, and Inspection Staff

Program office	Examples of oversight responsibilities	Number of reported inspection staff[a]
Aircraft Certification Service	Provides oversight of persons involved in the production and manufacture of aircraft and aircraft parts.	818
Commercial Space Transportation	Regulates the U.S. commercial-space transportation industry, including protecting persons, property, and national security during commercial launch or reentry activities.	19
Drug Abatement Division, Office of Aerospace Medicine	Oversees the aviation industry's compliance with drug and alcohol testing laws and regulations, covering safety-sensitive employees such as pilots, mechanics, and flight dispatchers at aviation companies.	49
Flight Standards Service	Provides standards, certification, and oversight of a variety of persons, aircraft, and aircraft operations. For example, regulates air carriers, commercial and general aviation pilots, unmanned aircraft system (i.e., drone) users, and aviation mechanics.	3,267
Medical Certification Division, Office of Aerospace Medicine	Oversees airman medical certification and investigates cases involving an airman's medical qualifications, including issuing or denying applications based on whether an applicant meets medical standards set forth in regulation.	n/a[b]
Office of Airport Safety and Standards	Oversees airports that meet specific thresholds for scheduled and unscheduled air carrier operations. For example, inspects pavement conditions, runway lighting, and aircraft rescue and firefighting training at these airports.	57
Office of Hazardous Materials Safety	Oversees entities that offer, accept, or transport hazmat to, from, or within the United States or on U.S. registered aircraft. Regulated entities include the operators that transport hazmat, businesses that handle or offer hazmat, and individuals (e.g., passengers with hazmat in luggage).	95
Office of National Security Programs and Incident Response	Investigates the failure of pilots with certificates to timely provide reports of driving under the influence/driving while intoxicated motor vehicle actions and investigates intentional falsifications and incorrect statements on applications for medical certificates. Also provides assistance to federal, state, local, and other law enforcement agencies investigating areas that overlap with FAA regulatory responsibilities (e.g., transporting prohibited drugs by aircraft).	27

Source: GAO analysis of FAA documents and interviews with FAA officials. | GAO-20-642

[a]Number of inspection staff as reported to GAO by program offices in fall 2019.

[b]The Medical Certification Division does not employ inspector staff. Aviation medical examiners designated by the FAA evaluate applications and conduct physical examinations necessary for determining qualification for medical certificates, and may issue or defer medical certificates based on whether an applicant meets medical standards set forth in regulation. Cases involving potential falsifications or incorrect statements on applications for medical certification are referred to FAA's Enforcement Division.

All aviation stakeholders play a role in ensuring the safety of the aviation system. For example, regulated persons such as pilots, airlines, and airports are responsible for complying with applicable safety standards. FAA inspectors and other staff conduct inspections, investigations, and

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other means of surveillance to help ensure regulated entities understand and comply with standards. FAA also relies on regulated entities to share data and information on safety risks and violations to aid its efforts to improve aviation safety. Air traffic controllers and local law-enforcement officials provide FAA investigative personnel with information on possible violations, such as a pilot not following instructions from air traffic control, to prompt an FAA investigation. Figure 2 highlights some of these stakeholders and examples of FAA safety standards.

Figure 2: Examples of Federal Aviation Administration's Safety Standards and Aviation Stakeholders

Airlines[a]

Airlines must perform routine maintenance on their aircraft and ensure that the aircraft complies with rules such as load distribution and weight limits.

Airport[b]

Airports must comply with rules governing operations such as maintenance of paved areas, snow and ice control, wildlife management, and aircraft rescue and firefighting equipment and materials.

Pilot[c]

Pilots must comply with medical requirements for example, governing vision, blood pressure, and medication, as well as basic rules governing flight operations.

Inspector

Aircraft hanger

Runway

Aircraft

Air traffic control tower

Source: GAO presentation of Federal Aviation Regulations. | GAO-20-642

[a]14 C.F.R. Part 25 (larger aircraft), 14 C.F.R. Part 23 (smaller aircraft).
[b]14 C.F.R. Part 139.
[c]14 C.F.R. Part 61, 14 C.F.R. Part 91.

After an FAA inspector identifies and confirms a violation, the inspector is responsible for recommending the appropriate action to address the violation. The inspector's recommended compliance or enforcement

action and related information are to be reviewed by managers.[15] In addition, any proposed legal enforcement action is to be sent to FAA's Enforcement Division in the Office of the Chief Counsel. The Enforcement Division is responsible for evaluating and, if appropriate, initiating legal enforcement action.[16] Legal enforcement actions as well as administrative actions are tracked in FAA's enforcement database, EIS. During the manager's or legal counsel's review, the type of action and any related sanction, like the number of days to suspend a certificate, may change.[17] A decision that no action is warranted can also be made.

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[15]One FAA program office—the Office of Hazardous Materials Safety—does not use compliance actions to address violations involving non-certificated persons, such as shippers or freight forwarders. Instead, this office uses informal actions—typically oral or written counseling—or administrative and legal enforcement actions, to address violations involving non-certificated persons.

[16]FAA program offices are to create an enforcement investigative report for cases with a proposed legal enforcement action(s). This report is to be sent to the Enforcement Division and information on the case, violations, and proposed and final actions is entered into EIS.

[17]FAA changed its guidance on September 18, 2018, so that inspectors in most program offices would no longer propose a sanction amount. According to FAA officials, this change allowed the agency to speak with one voice about sanction amounts. In particular, FAA officials said the Enforcement Division selects the final sanction based on guidance in FAA Order 2150. One program office—Hazardous Materials Safety—retained the ability for its inspectors to recommend sanction amounts.

FAA Directed Individual Program Offices to Implement the Compliance Program, and Data Show an Increase in Use of Compliance Actions

FAA Updated Enforcement Policy and Guidance to Incorporate the Compliance Program

Adoption of the Compliance Program changed FAA's emphasis from enforcement to compliance actions to promote safety. When violations occur, FAA states that it aims to use the most effective means to return the regulated entity to full compliance and prevent recurrence. In addition, according to FAA documents, FAA believes that when violations occur due to, for example, flawed procedures or simple mistakes, compliance actions such as training or improvements to procedures can most effectively address the violation. The primary way FAA operationalized this was by changing guidance for FAA's inspectors on which type of actions to take in response to violations. For example, in September 2015, FAA's Enforcement Division updated the agency-wide guidance to outline the general circumstances under which the agency may use a compliance action, administrative action, and legal enforcement action. As noted above, the guidance describes that legal enforcement action is appropriate for cases involving, among other things, conduct that is intentional or reckless or that creates or threatens to create an unacceptable risk to safety.[18]

The Compliance Program gives inspectors more leeway to choose compliance actions over enforcement actions. Figure 3 summarizes changes to agency-wide guidance prior to and then under the Compliance Program.

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[18]FAA, Order 2150.3C, Chapter 5.

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Figure 3: Summary of the Federal Aviation Administration's (FAA) Enforcement Policy and Guidance Prior to and under the Compliance Program

Prior to the Compliance Program

Under the Compliance Program

Overall policy

More enforcement-based, with legal enforcement or administrative action as the primary means used to address a violation(s)

More focused on using compliance actions as the primary means to address a violation(s)

Role of agency-wide guidance

Included a specific process—the Enforcement Decision Process—for inspectors to use to determine what specific action to take to address an identified violation(s)

Provides high-level guidance about when each type of action should be used but removed Enforcement Decision Process for agency-wide use.

Source: GAO analysis of FAA guidance. | GAO-20-642

Although non-enforcement actions were previously allowed, the Compliance Program now encourages FAA inspectors to use non-enforcement actions to address violations when appropriate. Prior to the Compliance Program, agency-wide guidance permitted inspectors to use informal actions—which are non-enforcement actions—under certain conditions.[19] For example, an inspector could take an informal action, such as oral or written counseling, or an administrative action to address violations that presented a low risk of occurring or causing damage.

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[19]Prior to the Compliance Program, investigative personnel could take an administrative or informal action if the case met eight criteria: (1) legal enforcement action was not required by law; (2) administrative action would have been an adequate deterrent to future violations; (3) lack of qualification was not indicated; (4) the apparent violation was inadvertent, i.e., not the result of purposeful conduct; (5) a substantial disregard for safety or security was not involved; (6) the circumstances of the apparent violation were not aggravated; (7) the alleged violator had a constructive attitude toward compliance; and (8) a trend of noncompliance was not indicated. If all eight criteria were met, the inspector had to evaluate whether the risk of the apparent violation was high, medium, or low, per the potential severity and likelihood of the hazard. Investigators could take an informal action for apparent violations that presented a low risk. In addition, if a lack of qualification is evidenced by a lack of the care, judgment, and responsibility to hold that certificate, FAA personnel were to refer the matter for legal enforcement action evaluation.

However, officials in three of seven FAA field offices we interviewed said that it was difficult to use an informal action in the past as the Enforcement Decision Process pushed them to pursue enforcement actions.[20] Moreover, officials in five of seven FAA field offices said the Compliance Program now encourages inspectors to use compliance actions when appropriate. By encouraging use of compliance actions, officials in four of these offices said they have greater flexibility to better address the cause of a violation.[21] FAA officials in six of seven field offices said that it is easier to get a regulated entity's cooperation and attention under the Compliance Program. They said that this is because inspectors can work with the entity to take action to address potential or realized problems rather than to simply recommend an enforcement action.

In addition to updating agency-wide guidance, FAA leadership tasked a risk-based decision-making working group to guide initial implementation of the Compliance Program. During the spring of 2014, the working group, which was composed of staff from various program offices, began developing goals, drafting an Order outlining the Compliance Program, and creating a communications plan to announce it.[22]

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[20]We used open-ended questions to guide our interviews with officials in FAA field offices. Here and throughout the draft, we present the number of field offices for which a topic or view was raised during the discussion; the remaining field offices did not specifically comment on the topic or view.

[21]FAA Order 2150.3C requires a legal enforcement action when a regulated person's noncompliance arises from: (1) intentional conduct; (2) reckless conduct; (3) failure to complete a corrective action; (4) creating or threatening to create an unacceptable risk to safety; or (5) an act where the express terms of a statute or regulation require initiation of a legal enforcement action. In addition, if a lack of qualification is evidenced by a lack of the care, judgment, and responsibility to hold that certificate, FAA personnel refer the matter for legal enforcement action evaluation.

[22]According to FAA, this working group's meetings aimed to execute one part of the FAA's risk-based decision-making strategic initiative—to evolve the safety oversight model to leverage industry's use of safety management principles, and to exchange safety-management lessons learned and best practices. This strategic initiative covered several past and ongoing items, including implementing the Compliance Program, developing standardized safety oversight terminology for FAA, and conducting a gap analysis of FAA's oversight policies, processes, and tools.

FAA Program Offices Implemented the Compliance Program at Their Own Discretion

In addition to updating agency-wide guidance, FAA also directed each program office to implement the Compliance Program according to each office's differing oversight responsibilities and existing processes. FAA's program offices oversee regulated entities that vary from individuals to large companies. These offices also oversee compliance with rules that range from drug testing to record keeping to transporting hazardous materials. FAA officials said that each program office therefore implemented the Compliance Program at its own discretion consistent with agency-wide guidance.[23] According to these officials, the risk-based decision-making working group provided a forum for program office officials to share information during implementation. For example, during such meetings, program offices shared updates on the status of implementing the Compliance Program within their respective offices, according to officials from one program office.

Most program offices implemented the Compliance Program by creating or updating their guidance to align with the new enforcement policy in agency-wide guidance. Officials from seven of eight program offices told us they created or updated their guidance to incorporate the Compliance Program during fall 2015 or later.[24] However, the extent of changes made to guidance varied across program offices based on several factors, including the following:

- A few program offices frequently used informal actions prior to the Compliance Program. These program offices, therefore, already had language or processes in their guidance to account for using non-enforcement actions. For example, officials from one program office said they used informal actions in the past for violations that did not have a safety effect, such as signing a form with black rather than the required blue ink. Once the Compliance Program was implemented, this office further formalized guidance on when to use compliance actions. Other program offices that rarely used or did not use informal actions had to make more changes to guidance to reflect the new approach.

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[23]This agency-wide guidance is outlined in FAA Order 2150.3C, Chapter 5, as of May 2020.

[24]Officials from the Medical Certification Division said the office was excluded from the Compliance Program because it involves whether a medical standard is met. That is, the decision to issue or deny a medical certificate is based on whether a pilot meets the medical standards set forth in regulation, or whether limitations can be added to the medical certificate to allow issuance. Therefore, the office has not made any changes to its guidance or procedures.

- As FAA's agency-wide guidance shifted from the Enforcement Decision Process to broader, more flexible guidance, some program offices had to develop their own specific processes to replace the Enforcement Decision Process. For example, one program office created a new worksheet with steps for inspectors to use to identify the action to take for a violation. A second program office also created a worksheet with a decision tree to help inspectors determine the action to take based on the risk associated with a violation.

Table 2 below provides examples of how program offices updated their guidance to implement the Compliance Program.

Table 2: Examples of Federal Aviation Administration's (FAA) Program Office Guidance before and after the Start of the Compliance Program

Program office	Guidance prior to the Compliance Program	Guidance under Compliance Program
Drug Abatement Division	Inspectors were required to use either an administrative or legal enforcement action when they discovered a violation.	Inspectors may use a compliance action to address most violations that used to result in administrative actions.
Flight Standards	Inspectors could use an administrative action for violations that presented a moderate-risk or an informal action to address low-risk violations.	Inspectors can use a compliance action to address instances of violations as long as the person is willing and able to comply and the conduct does not meet criteria for using legal enforcement action.
Office of Airport Safety and Standards	Inspectors worked with airports to educate and assist them with compliance as required, and inspectors used an informal action (that took the form of a letter) to address any violations.	Inspectors can use a compliance action (that continues to take the form or a letter) to address any violations.

Source: GAO analysis of FAA documents and interviews with FAA officials. | GAO-20-642

Program offices took steps to communicate about the Compliance Program and changes in guidance to staff as they deemed appropriate, recognizing the varying size and purpose of their office. Seven program offices reported offering training to announce and implement the Compliance Program. In one program office, training on the Compliance Program was offered to managers before training was offered to all of the workforce. FAA officials said the program office did this because it believed that managers needed to first understand and support the Compliance Program for it to be successful. Four program offices also reported holding town hall or all-staff meetings to present the Compliance Program and new guidance to staff. One of these program offices supplemented these meetings with presentations to explain the Compliance Program and associated changes in guidance to staff.

Data Show That Enforcement Actions Have Decreased and Been Offset by Compliance Actions since 2015

Mix of Compliance Actions and Enforcement Actions

Our analysis of FAA data found that the total number of enforcement actions, counted by the fiscal year the actions were closed, decreased across the agency under the Compliance Program. At the same time, the number of compliance actions closed for three selected program offices has increased since the start of the Compliance Program (see fig. 4).[25] According to FAA officials, this shift aligns with what FAA officials expected would happen under the Compliance Program.

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[25]While data on enforcement actions are tracked centrally, individual program offices track data on compliance actions. We selected three program offices—Flight Standards Service, Drug Abatement Division, and Airport Safety and Standards—to examine the number and type of compliance actions taken by FAA. See appendix I for more information on how we selected program offices and the data we examined from these offices.

Figure 4: Total Number of Federal Aviation Administration (FAA) Enforcement Actions and Number of Compliance Actions Closed for Three Selected Program Offices, Fiscal Years 2012–2019
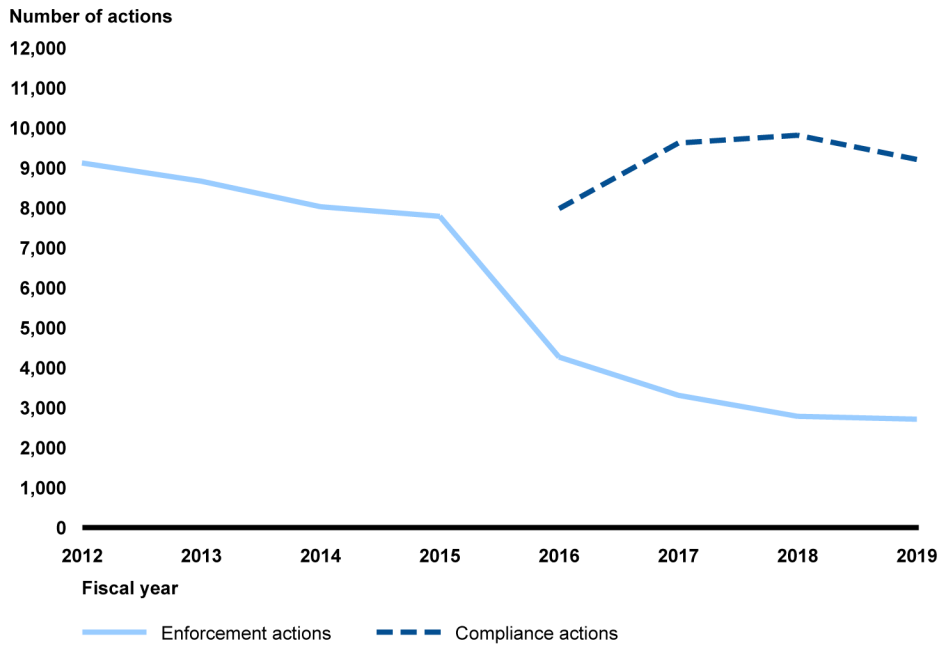
Sources: GAO analysis of FAA's Enforcement Information System, Program Tracking and Reporting Subsystem, Safety Assurance System, Certification and Compliance Management Information System, and Compliance and Enforcement Tracking System. | GAO-20-642

Notes: Enforcement actions includes (1) legal enforcement actions like civil penalties and suspending or revoking a regulated entity's certificate and (2) administrative actions like warning letters and letters of correction.

The number of compliance action are based on data for three selected program offices: Flight Standards Service, Airport Safety and Standards, and Drug Abatement.

Enforcement Actions

As noted above, the number of enforcement actions closed decreased after the start of the Compliance Program. The number of legal enforcement actions closed decreased slightly from fiscal year 2012 to fiscal year 2019 (see fig. 5). However, the number of administrative actions closed declined more substantially from above 6,000 to under 2,000 per year over this period. There was a notable decrease in administrative actions from 2015 to 2016 following the start of the Compliance Program.

Figure 5: Number and Type of Federal Aviation Administration (FAA) Enforcement Actions, by Fiscal Year Closed, 2012–2019

Number of actions

Fiscal year

— ■ — All enforcement actions

▢ Administrative actions

■ Legal enforcement actions
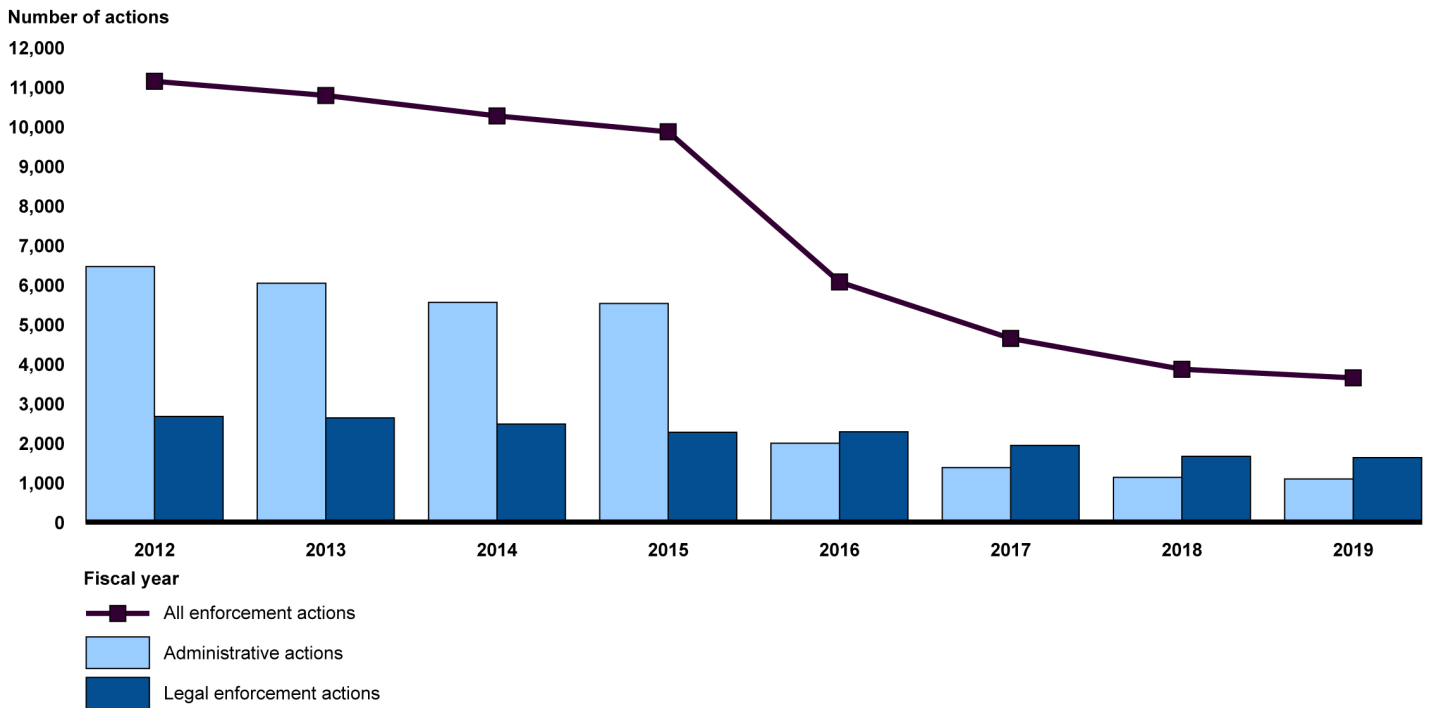
Source: GAO analysis of the FAA Enforcement Information System data. | GAO-20-642

Looking further at the change in enforcement actions, all but one of eight program offices had a decrease in the number of enforcement actions closed from fiscal year 2012 to 2019 (see table 3).[26] Flight Standards had the greatest decrease in the number of enforcement actions closed. This outcome is not a surprise as Flight Standards has historically initiated the most enforcement actions and is responsible for the majority of FAA's oversight. Only the Medical Certification Division saw an increase in the number of enforcement actions over this time period, mostly during the last 3 years. Officials from this program office said the increase is possibly due to changes associated with the start of BasicMed in 2017, a program that provides certain pilots that meet specific requirements

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[26]The count of enforcement actions in this section includes legal enforcement and administrative actions tracked in FAA's EIS database. See appendix I for further detail.

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potential relief from having to hold a medical certificate.[27]

Table 3: Number of Enforcement Actions Closed by Federal Aviation Administration (FAA) Program Offices, Fiscal Years 2012 and 2019

FAA program office[a]	2012[b]	2019	Percentage change
Aircraft Certification	280	28	(90)
Flight Standards	4,998	881	(82)
Hazardous Materials Safety	1,788	578	(68)
Airport Safety and Standards	3	0	(100)
Drug Abatement	1,289	345	(73)
National Security Programs and Incident Response	579	378	(35)
Medical Certification	142	451	218

Source: GAO analysis of FAA's Enforcement Information System database. | GAO-20-642

[a]Commercial Space is not included in the table as it did not take any enforcement actions during fiscal years 2012 through 2017, so we could not look at change over the 8-year period for this program office.
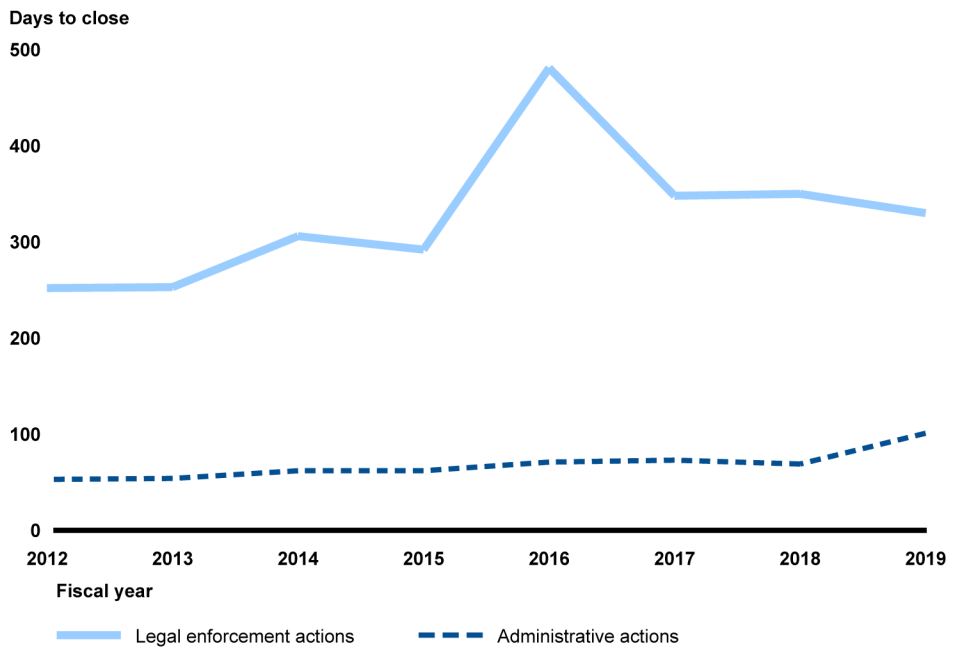
[b]Enforcement actions include (1) legal enforcement actions like civil penalties and suspending or revoking a regulated entity's certificate and (2) administrative actions like warning letters and letters of correction.

While FAA is using fewer enforcement actions, our analysis of data found that the time needed to process and close these actions has not decreased. According to FAA, it expected that the greater use of compliance actions would help decrease the time it takes the agency to process all types of actions and allow it to target resources to more egregious cases. For enforcement actions, we found that it is taking FAA roughly the same amount of time to process administrative actions and

[27]The FAA Extension, Safety, and Security Act of 2016, Pub. L. No. 114-190, § 2307, 130 Stat. 615, 641, permits pilots who would normally be required to hold a third-class medical certificate to forego the process under certain conditions and instead fly under a new process and standards. FAA named this process and standards BasicMed. Pilots could use BasicMed if they held a driver's license, held a medical certificate after July 15, 2006, got a physical exam that used a specific checklist, and completed a medical education course, among other requirements. A pilot cannot use BasicMed if their medical certification application has ever been denied, suspended, revoked, or withdrawn. With the start of BasicMed, according to FAA officials, the FAA determined that it could not allow applications to remain open indefinitely without a decision while awaiting information needed from an applicant to determine if the applicant is medically qualified. The start of BasicMed provided a potential opportunity for these applicants to instead apply through BasicMed, because their application for medical certification had never been denied, suspended, revoked, or withdrawn.

more time to close legal enforcement actions since the start of the Compliance Program (see fig. 6).

Figure 6: Median Number of Days Taken to Close Federal Aviation Administration (FAA) Enforcement Actions, Fiscal Years 2012–2019

Days to close

Fiscal year

Legal enforcement actions   - - - Administrative actions

Source: GAO's analysis of FAA's Enforcement Information System database. | GAO-20-642

FAA officials said legal enforcement actions involve different steps and circumstances than administrative or compliance actions, and such steps can contribute to more time being needed to close legal enforcement actions. First, a legal enforcement action may require specific events to occur before it is closed, even after FAA issues the action. For example, the officials said that FAA will not close a civil penalty, one type of legal enforcement action, until all payments of the penalty are made. Second, Enforcement Division officials said the cases for legal enforcement action they have received in recent years are more complex. These cases, such as those involving illegal charter operations or requiring emergency action to suspend a pilot's medical or other certificate, take longer to process

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and close.[28] Finally, FAA officials said that other factors outside the agency's control, including appeals of legal enforcement actions, affect how long it takes to close an action. Regarding the sharp increase in fiscal year 2016, FAA officials said it is likely due to an internal initiative to clean up FAA's enforcement data system. For the initiative, Enforcement Division staff identified cases left in open or pending status in the system but requiring no further work and subsequently took steps to close them.

Also, while FAA is taking fewer enforcement actions, the amounts obtained in civil penalties and amounts of other sanctions associated with legal enforcement actions has not lessened according to our analysis of FAA data. For actions involving civil penalties, the median amount of the final civil penalty that FAA assessed fluctuated but generally ranged between $5,000 and $6,000 over the 8 years of data we analyzed.[29] In contrast, for actions involving certificate actions, mainly suspensions, the median number of days FAA suspended an entity's certificate has increased in recent years, from 60 days to 90 days.
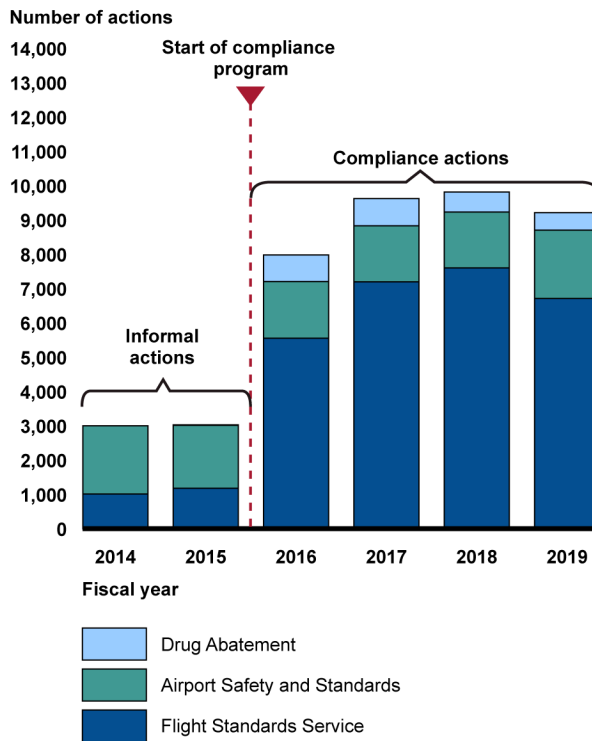
Compliance Actions

Based on data for the three selected program offices we reviewed, the number of non-enforcement actions—informal and compliance—increased since the start of the Compliance Program. Examining by fiscal year closed, the use of these actions increased overall after the start of the program, though year-to-year changes differed by program office. (See fig. 7.)

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[28]For example, due to BasicMed, the Enforcement Division initiates more emergency orders to suspend medical certificates than in the past, according to FAA officials. FAA officials said that these cases require the immediate surrender of medical certificates, but the suspension remains pending, or open, until the certificate holder provides the requested information and qualifies for an unrestricted airman medical certification. Therefore, FAA cannot close a case and the corresponding actions until the suspended medical certificate expires, which can take several years.

[29]The median amount of civil penalties recommended by the regional office and legal counsel decreased over the 8 years we analyzed. For the last 3 years, the median amount recommended by the regional office and legal counsel moved closer to the final median amount assessed for civil penalties. In September 2018, FAA changed its guidance so that most offices no longer propose a sanction amount; rather, legal counsel determine the sanction amount using tables on sanction amounts included in FAA guidance. See appendix II for more detail on civil penalties and other sanctions related to enforcement actions and additional analysis of FAA's EIS data.

Figure 7: Number of Non-enforcement Actions for Selected Federal Aviation Administration (FAA) Program Offices, Fiscal Years 2014-2019

Sources: GAO's analysis of FAA's Program Tracking and Reporting System, Safety Assurance System, Certification and Compliance Management Information System, and Compliance and Enforcement Tracking System databases. | GAO-20-642

Notes: The Drug Abatement Division did not use informal actions under FAA policy prior to the Compliance Program. For the other two program offices, data were available for informal actions for both offices for fiscal years 2014 and 2015.

Informal actions and compliance actions both represent non-enforcement action available to FAA. Compliance actions did not exist prior to the start of the Compliance Program.

The increase in non-enforcement actions, including the large increase in compliance actions closed by Flight Standards, was driven by the start of the Compliance Program, as well as other factors according to FAA officials. Officials from the three selected program offices identified factors beyond the start of the Compliance Program that influenced some year-to-year changes in the number of informal and then compliance actions closed. Airport Safety and Standards, for example, extensively used informal actions prior to the Compliance Program. However, an official from this program office said that the recent increase in compliance actions is primarily due to its new effort to identify emphasis areas for

inspections that started in 2017. Due to this new effort, FAA officials from this office said that inspectors tend to identify more violations in the emphasis areas and as a result have taken more compliance actions for these violations. FAA officials also said they have seen a decrease in the number of compliance actions in these areas in subsequent years as airports learn from and receive additional training to correct mistakes.

We also found the length of time it takes the three selected program offices to close compliance actions has not decreased over time. As shown in figure 8, the median number of days for these program offices to close these actions has not gone down, based on the fiscal year closed. Officials from one regulated entity we spoke with said that FAA and the entity had been taking a longer time to close compliance actions due to the higher volume of compliance actions it receives from FAA. According to FAA officials, inspectors can leave a compliance action open as long as needed to ensure a regulated entity has addressed the problem. However, according to FAA guidance, inspectors must also ensure that applicable time limits do not prevent FAA from taking further action, such as a legal enforcement action, if the regulated entity fails to address the problem to FAA's satisfaction.[30]

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[30]FAA guidance notes that it may consider a progressive response to repeated noncompliance. For example, if a corrective action does not remediate a noncompliance, it may be appropriate for FAA personnel to pursue legal enforcement action. However, FAA may be prevented from taking an enforcement action if it does not comply with certain time limits in regulation. For example, FAA must file a notice of proposed civil penalty within 2 years from the date of an apparent violation under 14 C.F.R. § 13.208(d). Failure to comply with these time limits could preclude the FAA from bringing legal enforcement action or result in the dismissal of a case.

Figure 8: Median Number of Days to Close Non-enforcement Actions for Selected Federal Aviation Administration (FAA) Program Offices, Fiscal Years 2016-2019

Median number of days

Drug Abatement
Airport Safety and Standards
Flight Standards Service
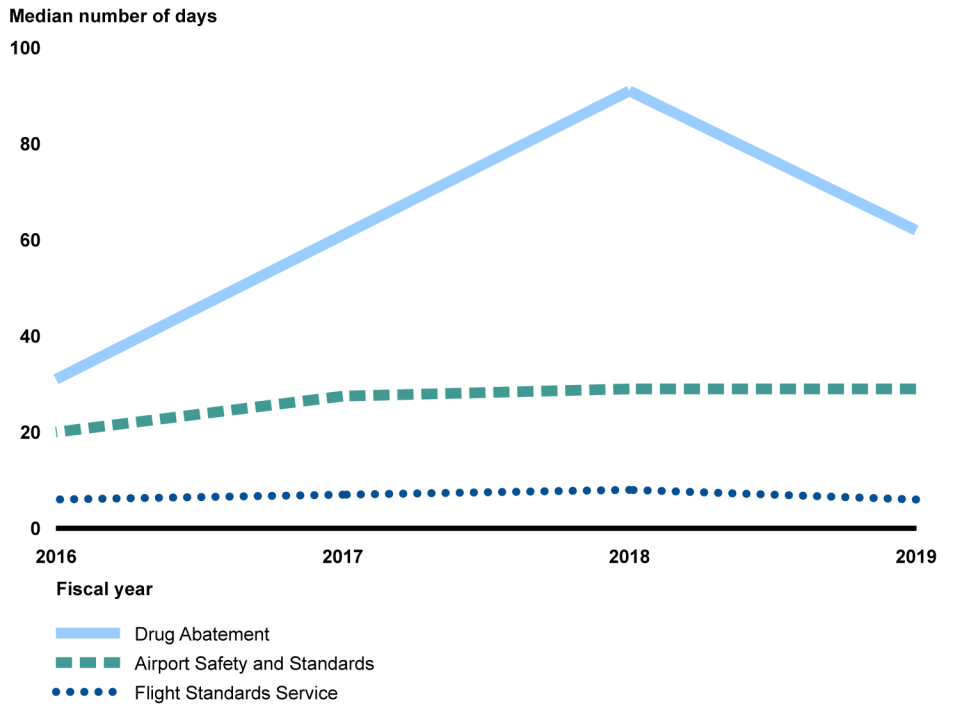
Sources: GAO analysis of FAA's Program Tracking and Reporting System, Certification and Compliance Management Information System, and Compliance and Enforcement Tracking System databases | GAO-20-642

Notes: The selected program offices track different dates that can be used to mark the start of an informal or compliance action. Therefore, the median number of days it took to close an informal or compliance action across offices cannot be directly compared.

The Drug Abatement Division tracks dates using month and year, so we tracked time to close actions in monthly increments.

Flight Standards' Safety Assurance System data we analyzed, which cover a limited number of actions closed in 2018 and 2019, did not include a date we could use to mark the start of a compliance action. Therefore, time to close actions for Flight Standards includes only actions from the Program Tracking and Reporting System.

FAA Has Taken Limited Actions to Monitor and Evaluate the Effectiveness of Its Compliance Program

FAA Has Not Assigned Authority to Oversee the Compliance Program

FAA implemented the Compliance Program in a decentralized manner, directing program offices to tailor it to their specific needs. FAA initially relied on a working group for centralized leadership during initial implementation. According to officials who participated in the group, the meetings served as an opportunity for program office officials to ask questions about the Compliance Program and better understand FAA's expectations for the program. Although the working group still meets regularly, according to the officials that lead this group, it is now focused on other efforts, and currently the group does not regularly monitor or discuss the Compliance Program.[31] While initially tasked with some aspects of its implementation, FAA officials said the working group is not directly responsible for the Compliance Program.

No specific office or entity is responsible for overseeing the ongoing use of the Compliance Program across FAA. Federal standards for internal control state that an agency should establish structure, assign responsibility, and delegate authority to achieve the agency's objectives.[32] In particular, an agency should develop an organizational structure with an understanding of overall responsibilities, and assign these responsibilities to discrete units to enable it to operate in an efficient and effective manner. A sound internal control environment also requires that an agency consider how its units interact to fulfill their overall responsibilities and establishes appropriate lines of reporting. Based on our review of FAA documents and our prior review of FAA's enforcement policy, FAA's oversight used to be more centralized in the Enforcement

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[31]These other efforts include performing a comprehensive gap-analysis of FAA's oversight processes. The gap analysis involves FAA offices comparing their existing policies and procedures to the requirements of FAA's Integrated Oversight Philosophy. Once these gaps are identified, offices will update their policies and procedures to align with requirements.

[32]GAO-14-704G, Principle 3.

Division, where all administrative and legal enforcement actions were tracked in a single database.[33] Now, as FAA emphasizes compliance actions over enforcement actions, tracking of actions is less centralized and occurs more in individual program offices, according to FAA officials.

Without a centralized oversight entity, no one is looking across program offices to identify or share any best practices or lessons learned. We previously reported (1) that the independent nature of FAA offices creates challenges for implementing safety initiatives within FAA and (2) that the agency could improve internal communication to advance safety efforts.[34] This observation is also applicable for the Compliance Program, as individual offices have information that might benefit other offices. For example, Flight Standards surveyed its workforce to systematically collect feedback when initially implementing the Compliance Program. A centralized oversight entity could facilitate Flight Standards' sharing information on this practice with other offices, such as the survey methodology or any actions it took in response to what it learned from the survey. Further, officials from one FAA field office told us that the Compliance Program could be improved by better sharing information on its use across the agency. These officials noted that there are lessons to be learned from how other program offices are using this and other related safety programs.

In the past, FAA has assigned a single authority to coordinate other safety efforts, including efforts that cross FAA program offices. For example, in 2008, FAA established the SMS Committee to coordinate the implementation of SMS across the agency. Specific offices that oversaw the detailed implementation of SMS internally and externally then reported directly to the SMS Committee.[35] Besides the working group, FAA also has several options for offices or entities that could oversee the Compliance Program, such as the following:

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[33]GAO, *Aviation Safety: Better Management Controls are Needed to Improve FAA's Safety Enforcement and Compliance Efforts*, GAO-04-646 (Washington, D.C.: July 6, 2004)

[34]GAO, Aviation Safety: Additional FAA Efforts Could Enhance Safety Risk Management, GAO-12-898 (Washington, D.C.: Sept. 12, 2012) and GAO, *Aviation Safety: Opportunities Exist for FAA to Improve Airport Terminal Area Safety Efforts*, GAO-19-639 (Washington, D.C.: Aug. 30, 2019).

[35]GAO-12-898. Additionally, FAA established the SMS Executive Council, composed of high-level officials from each program office to oversee the implementation of SMS. The SMS Committee reported directly to the SMS Executive Council.

- Flight Standards, the largest of the eight program offices, created a team that continues to lead and oversee implementation of the Compliance Program in that program office.

- The Enforcement Division within the Office of Chief Counsel provides guidance on compliance and enforcement actions agency-wide and processes cases referred for civil penalties and other legal enforcement actions.

A centralized oversight entity could enable improved information sharing and direction across program offices that use the Compliance Program.

FAA Has Collected Limited Agency-Wide Data to Monitor Compliance Program

Program offices collect data and track some measures related to the Compliance Program, but FAA is no longer regularly collecting that data centrally as it did during initial implementation. FAA officials said that during the initial implementation of the Compliance Program, program offices discussed using data to help gauge how each office was using the Compliance Program during risk-based decision-making working group meetings. In particular, they discussed measures that could be used in presentations to the FAA Executive Council. FAA officials said that each program office individually determined what measures to track quarterly. Ultimately, the separate offices tracked data for many of the same measures. For example, seven program offices reported tracking the number of enforcement actions taken. Six program offices reported tracking the number of compliance actions taken. Program offices also chose to track data for other measures that ranged from the number of reports made by regulated entities to voluntarily disclose violations, to the time needed to close actions.[36]

Although most FAA program offices reported tracking data on the Compliance Program, no one office is collecting and analyzing the data on an ongoing basis to communicate a comprehensive picture of how the program is working across offices. FAA has not assigned an office or entity to continue to oversee the Compliance Program since the risk-based decision-making working group completed its implementation work.

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[36]FAA has several programs that allow voluntary self-disclosure reports through which regulated entities share information regarding an instance of non-compliance with FAA through a designated program. Submitting a report protects the entity from an enforcement action if the appropriate process is followed. For example, the Office of Hazardous Materials Safety operates its Voluntary Disclosure Reporting Program for air carriers to disclose violations of the Hazardous Materials Regulations without receiving a civil penalty, if the process is followed correctly.

Federal standards for internal control state that an agency should design control activities to achieve objectives and respond to risks.[37] A control activity could include, for example, a review at the functional or office level to compare actual performance to expected results and to analyze major differences. Federal standards for internal control also state that an agency should internally communicate the necessary quality information to achieve its objectives.[38] Currently, some program office data are assembled into agency-wide presentations to brief the executive council, inspector general, or other groups, but this activity is done as needed rather than on a regular basis. The presentations compile specific information on use of the Compliance Program, presenting it office by office. The presentations do not, however, look across offices to present a comprehensive message on the health of the program agency-wide based on the data collected.

FAA is missing the opportunity to use available program office data to monitor use of the Compliance Program across the agency. In the course of our review, we analyzed data from three program offices and identified changes over time. Some of these changes differed across the three offices, such as the number of compliance actions closed each year since the Compliance Program started. Other changes were similar across offices; for example, the time each office is taking to close compliance actions has not decreased over time. Monitoring such information across offices could help FAA manage the Compliance Program, such as determining if data suggests changes might be needed to agency-wide guidance or if program offices need to take additional action to train staff.[39] With a broader review of available data, FAA will also be better positioned to know if observations from data for the three program offices

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[37]GAO-14-704G, Principle 10.

[38]GAO-14-704G, Principle 14.

[39]In December 2019, the DOT Inspector General reported that FAA did not provide its inspectors with guidance and comprehensive training to ensure that an airline, Allegiant Air, took effective action to correct violations. Specifically, the Inspector General recommended that FAA revise its guidance to clarify how inspectors address recurring violations as a factor in considering whether to initiate compliance or enforcement actions. The Inspector General also recommended that FAA perform a comprehensive review of its root-cause analysis training for inspectors, as it found current training was insufficient. U.S. DOT Office of Inspector General, *FAA Needs to Improve Its Oversight To Address Maintenance Issues Impacting Safety at Allegiant Air*, AV202013 (Washington, D.C.: Dec. 17, 2019).

we examined hold true for other program offices as well.[40] Leadership officials of one program office said they need to examine similarities in how their and other program offices have implemented the Compliance Program, a process that could then help FAA find ways to summarize data across offices. Collecting and using this data for the Compliance Program across program offices would also align with FAA's broader strategic initiative to integrate and standardize data.[41]

By regularly collecting and monitoring data on use of the Compliance Program, FAA would also be positioned to use what is found or learned in additional ways, such as sharing information on the program with stakeholders outside the agency.[42] Officials from ten industry associations and organizations we spoke with stated they had not seen any data from FAA on the use of the Compliance Program. Officials from two associations noted that FAA had shared only limited data, such as counts of compliance and enforcement actions taken by a single program office. Moreover, officials from one industry association told us that FAA could share more information on the types of actions it takes, or on types of violations that lead to use of enforcement actions each year. The officials explained they could use such information in educational materials for their members.

FAA and Selected Stakeholders Generally Stated That the Compliance Program Has Improved Safety and Is Achieving Its Goals

FAA officials stated that the Compliance Program has contributed to safety improvements since it began in 2015. According to FAA officials, the agency now has a wider view into regulated entities since the Compliance Program encourages transparency and information sharing between FAA and regulated entities. As a result, they said FAA has an expanded ability to make aviation safer. FAA officials also pointed to a continued decrease in fatalities and fatal accidents in the aviation industry. Although FAA officials acknowledged that the Compliance Program is not solely responsible for this decrease, they believe it plays a large role. FAA officials also stated that they see regulated entities

[40]In presentations of program office data, each office's information is presented individually, but the data are not connected across offices for a look at the program's use agency-wide. Additionally, some program offices also face data limitations.

[41]FAA's 2019 strategic priorities include, as part of its systemic safety approach, specific initiatives to build on safety management principles and to improve the collection, management, and integration of safety data to enhance safety analysis across the agency. *FAA Strategic Plan FY 2019-2022.*

[42]In our October 2017 report on key considerations to strengthen agency decisions related to regulatory design and enforcement, we reported that transparency and availability of data are important to promoting compliance and achieving regulatory objectives. GAO-18-22.

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participating more in identifying the root cause of a violation and then taking action to address the issue under the Compliance Program.

Officials from FAA program offices and field offices we interviewed generally told us that the Compliance Program has been effective in achieving its goals—to promote the highest level of safety and compliance with regulatory standards and to foster an open and transparent exchange of data. For example, in interviews with officials in seven FAA field offices, officials from five field offices said they think the Compliance Program has improved regulated entities' compliance with safety standards. Officials from four field offices also said the Compliance Program has improved the open and transparent flow of information and data between FAA and the aviation industry. Officials from one field office expanded on this point saying the Compliance Program's biggest effect to date has been increased transparency and improved relationships with regulated entities. FAA officials provided examples where entities no longer felt the need to hide things from FAA, whereas previously these entities may have chosen not to engage with inspectors as any information shared could be used to initiate an enforcement action. With this increased transparency, regulated entities are more willing to work with FAA to focus on the root cause of a violation or event and work to address it, according to FAA officials.

Officials from most industry associations and organizations we interviewed also expressed support or positive feedback for the Compliance Program. Officials from 8 of the 13 industry associations and organizations we interviewed said they believe the Compliance Program has been effective in improving compliance with safety standards and improving transparency with industry.[43] For example, officials from one industry association said the Compliance Program allows FAA to address violations using tailored approaches that address the underlying issues and aim to prevent any repeat issues. Officials from some regulated entities we interviewed also told us there is more collaboration with FAA under the Compliance Program, since entities know they may not be fined or face an enforcement action.

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[43]Officials from one organization did not feel the Compliance Program has been effective in meeting its goals. The other two associations and one organization we interviewed did not have a specific view on the effectiveness of the Compliance Program toward achieving this goal.

FAA Has Not Evaluated the Effectiveness of the Compliance Program in Meeting Its Goals

Despite this overall positive impression of the Compliance Program from FAA and stakeholders, FAA has not evaluated the effectiveness of the Compliance Program agency-wide and does not plan to do so, according to FAA officials. This situation is consistent with findings and recommendations from our past work that FAA lacked an evaluative process for its prior enforcement policy and other safety programs and initiatives to determine their effect on safety.[44] FAA defined overall goals of the Compliance Program when it was announced—to improve compliance with safety standards and improve the open and transparent flow of information and data between it and regulated entities. However, it has not taken steps to evaluate if or determine how the program accomplishes those goals. According to FAA officials, each program office was directed to develop its own long-term measures to assess the effect of the Compliance Program, based on that specific office's roles and responsibilities. As noted above, FAA collects and updates these measures on an ad-hoc basis for presentations. However, FAA has not further directed program offices to evaluate the effect of the Compliance Program. The main reason FAA has not done so is because the agency has not charged an office or entity to oversee the program agency-wide.

Some program offices told us they have started to evaluate the effectiveness of their office's use of the Compliance Program, but these efforts vary in scope and depth. Specifically:

- Officials from three program offices we interviewed said they were evaluating the effectiveness of the Compliance Program, but their approaches varied. For example, in light of the Compliance Program, one office began calculating and tracking recidivism rates, total number of violations, and number of voluntary self-disclosure reports made by aviation stakeholders. In contrast, another office uses an annual process that predates the Compliance Program. Through this process, the office compares data on the number of compliance actions and the types of violations the actions sought to address to data from prior years. The office then uses this information to inform inspectors' training needs and future inspection efforts.

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[44]In September 2012, we reported that FAA had not yet established performance measures for its planning and implementation of SMS. As a result, we recommended that FAA develop a system to assess whether SMS meets its goals and objectives by identifying and collecting data on performance measures. In 2016, we confirmed that FAA had developed such a system for SMS. See GAO-12-898. We have made similar recommendations to FAA to evaluate the outcomes of other programs, including its enforcement policy and terminal area safety efforts. See GAO-04-646 and GAO-19-639, respectively. FAA has not taken action to address all these recommendations.

- Officials from two other program offices said they were not yet evaluating the Compliance Program but planned to do so in the future. For example, officials from one office said they would not be able to evaluate any outcomes until they replace their current data system with a new one starting in 2022.

- Officials from the remaining three program offices said they do not plan to evaluate the effectiveness of the Compliance Program. Officials from one program office said they do not plan to evaluate the Compliance Program because FAA has not told them to do so. Officials from another program office said they already understand the benefit of and need for using compliance actions, so an evaluation of the Compliance Program is not needed.

Without an evaluation, FAA does not know if the Compliance Program is improving safety, or having any other intended or unintended effects. Key considerations for agency design and enforcement decisions state that an agency should establish a performance evaluation plan for its enforcement policy to determine if it achieves desired outcomes.[45] In addition, in the 2016 *Evaluation Roadmap for a More Effective Government*, the American Evaluation Association stated that agencies should consistently use program evaluation to improve program design, implementation, and effectiveness and to assess what works, what does not work, and why.[46]

FAA field offices and external industry associations generally pointed to examples and anecdotes to demonstrate the effectiveness of the Compliance Program instead of data or other means to evaluate outcomes. For example:

- One association noted a case where a pilot made an error in crossing the hold-short line on a runway. The pilot collaborated with an FAA inspector to explain the reason for the violation and sought additional training. Association officials stated that prior to the Compliance Program the inspector would have conducted an investigation and suspended the pilot's certificate, and the pilot may not have received additional training to help ensure compliance going forward.

- Officials from one FAA office described how one air carrier self-reported a high number of instances where incorrect parts were

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[45]GAO-18-22.

[46]American Evaluation Association, *An Evaluation Roadmap for a More Effective Government* (Washington, D.C.: October 2016).

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installed in an aircraft, a type of action that officials said carriers are more willing to do under the Compliance Program. An FAA team examined the reports to find the root cause of the violations and worked with the air carrier to implement a solution targeted to one cause—an overly complicated parts catalog. The air carrier has since reported fewer instances of incorrect part installations and was also able to share this issue and solution with others in the industry.

At the same time, recent reports from the DOT Inspector General highlighted challenges that indicate the Compliance Program may not always be effective in ensuring the highest level of compliance with standards. For example, the Inspector General reported that one airline's maintenance provider did not complete its required inspections for 20 months, despite FAA inspectors issuing compliance actions for the violation. FAA did not pursue an enforcement action in this case, despite its own guidance to elevate such an action when a regulated entity demonstrates it is unwilling or unable to resolve identified issues.[47] In addition, the DOT's Office of the Inspector General named balancing collaboration with regulated entities and enforcement of regulations in air carrier safety oversight as one of the key challenges FAA currently faces.[48]

FAA will not know if the move to make greater use of compliance actions under the Compliance Program is meeting its goals without planning and conducting an evaluation. Officials from two program offices told us that it was difficult for them to assess the effectiveness of the Compliance Program. In particular, officials from these offices said it is hard to choose metrics. Such difficulties indicate that program offices' efforts could benefit from additional guidance or direction. Evaluating the effectiveness of the Compliance Program could also help FAA identify needed changes as it continues to emphasize a more risk-based approach to improving safety. As part of its implementation of SMS, FAA developed a system to measure safety performance and help the agency determine if its goals and objectives were being met. Moreover, officials from several industry associations and organizations we interviewed noted they would like to see FAA evaluate the Compliance Program to better understand its effect

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[47]U.S. Department of Transportation, Office of Inspector General, *FAA Needs To Improve Its Oversight To Address Maintenance Issues Impacting Safety at Allegiant Air* (2019), and *FAA Has Not Effectively Overseen Southwest Airlines' Systems for Managing Safety Risks* (2020).

[48]DOT, Office of Inspector General, *DOT's Fiscal Year 2020 Top Management Challenges*, PT2020003 (Washington, D.C.: Oct. 23, 2019).

on safety. An evaluation would also enable FAA to share information on the effectiveness of the program with Congress, industry associations, and other external stakeholders.

Conclusions

FAA views the Compliance Program as a necessary step to evolve the oversight of aviation safety. FAA undertook a concerted effort to explain the reasoning for this change, inside and outside FAA, and it charged a working group to implement the Compliance Program. Following implementation, however, this working group has moved on to other agency efforts, and FAA has not directed another office or entity to oversee the Compliance Program's use across the agency. With no central authority to serve in this role, FAA lacks some controls to ensure the Compliance Program is working as intended. First, no office regularly collects and monitors data on the use of the Compliance Program. As a result, FAA lacks information to help it holistically manage the day-to-day functioning of its compliance and enforcement efforts, as well as the means to communicate information to Congress and industry. Second, FAA has not evaluated this new approach to enforcement to determine whether the approach has met its goals. Without such an evaluation, FAA cannot know the true effect of the Compliance Program. An agency can always benefit from such information to adjust its policies and procedures. FAA could particularly benefit from an evaluation of the Compliance Program given the changes this new approach aims to accomplish agency-wide and the central role the Compliance Program plays in supporting the FAA's safety mission.

Recommendations for Executive Action

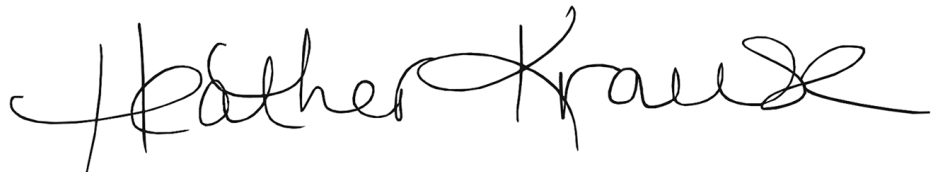We are making the following three recommendations to FAA:

- The FAA Administrator should assign authority to an office or other entity to oversee use of the Compliance Program across program offices. (Recommendation 1)

- The FAA Administrator should collect and analyze data to monitor use of the Compliance Program across all program offices. (Recommendation 2)

- The FAA Administrator should conduct an evaluation of the Compliance Program to assess the effectiveness of the program in meeting its goals. (Recommendation 3)

Agency Comments

We provided a draft of this report to DOT for review and comment. In its comments, reproduced in appendix III, DOT concurred with our three recommendations. DOT told us that it had no comments on the draft report.

We are sending copies of this report to the appropriate congressional committees, the Secretary of the Department of Transportation, and other interested parties. In addition, the report is available at no charge on the GAO website at https://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or krauseh@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

Heather Krause
Director, Physical Infrastructure Issues

Appendix I: Objectives, Scope, and Methodology

The FAA Reauthorization Act of 2018 included a provision for GAO to review the Federal Aviation Administration's (FAA) enforcement policy under the Compliance Program, including examining effects of the Compliance Program.[1] This report (1) describes how FAA has implemented and used the Compliance Program and (2) examines how FAA monitors and evaluates the effectiveness of its Compliance Program.

To describe how FAA implemented and used the Compliance Program, we reviewed current and prior FAA-wide guidance on compliance and enforcement, including Order 2150, *FAA Compliance and Enforcement Program*, and Order 8000.373, *Federal Aviation Administration Compliance Philosophy*.[2] We also reviewed orders, guidance, and manuals for the eight program offices responsible for overseeing compliance with safety standards to understand how these offices applied the Compliance Program to their responsibilities.[3] In addition, we interviewed FAA officials from these program offices and the Enforcement Division in the Office of Chief Counsel to further understand the implementation and use of the Compliance Program, including procedures that outline FAA's use of compliance and enforcement actions and key changes to guidance and procedures following the start of the Compliance Program.[4]

In addition, we analyzed FAA data to examine the agency's use of non-enforcement actions (e.g., compliance actions) and enforcement actions before and after the start of the Compliance Program. Specifically, we analyzed data from FAA's Enforcement Information System (EIS) on

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[1]Pub. L. No. 115-254, § 324, 132 Stat. 3186, 3271.

[2]As outlined in FAA guidance, the Compliance Program also can be used to address any non-regulatory safety concerns. In particular, FAA personnel can use a compliance action to encourage regulated persons to adopt FAA-recommended best practices to address safety concerns that are not regulatory in nature. See FAA, Order 2150.3C. For the purposes of our report, we focused on FAA's actions to address violations.

[3]The eight program offices are Aircraft Certification Service, Commercial Space Transportation, Drug Abatement Division, Flight Standards Service, Medical Certification Division, Office of Airport Safety and Standards, Office of Hazardous Materials Safety, and Office of National Security Programs and Incident Response.

[4]We did not examine FAA's designee program or organization designation authorization program in our review. Through these programs, FAA authorizes individuals or organizations, respectively, to conduct exams, perform tests, and issue approvals and certificates on behalf of FAA. One example of organization delegation authorization is when the organization is responsible for managing the engineering and manufacturing approvals needed to issue type certificates for aircraft.

cases involving enforcement actions for fiscal years 2012 through 2019—
representing 4 years before and after announcement of the Compliance
Program and including the most recent full fiscal year of available data.
We examined the number of enforcement actions by the fiscal year in
which FAA closed the action (i.e., FAA determined the action was
complete) as well as by type of action, initiating program office, time from
starting to closing an action, and other characteristics. We sorted the
types of actions tracked in EIS into the six following categories, based on
FAA guidance and discussions with FAA officials:[5]

- legal enforcement actions, such as civil penalties and certificate
  suspension;

- administrative actions, which include warning letters;

- referrals to other federal agencies or foreign governments;

- returned to the program office to take an informal or compliance
  action, whether before or after the start of the Compliance Program,
  respectively;

- no actions, meaning the collected evidence did not prove violations;
  and

- uncategorized.

In the report, we report collectively on these actions unless otherwise
noted. To assess the reliability of EIS data, we reviewed the EIS data
dictionary, interviewed knowledgeable agency officials, and conducted
data checks for obvious errors and missing values. Based on this work,
we determined that the data were sufficiently reliable for our purpose of
describing the number and type of enforcement actions taken by FAA
over time.

As individual program offices track data on non-enforcement actions (e.g.,
compliance actions), we selected three program offices—Flight Standards
Service, Drug Abatement Division, and Airport Safety and Standards—to
examine the number and type of these actions taken by FAA. We chose
these program offices to vary by size (e.g., number of inspectors), to vary
by number of enforcement actions taken in the 4 years prior to the
Compliance Program, and based on the availability of consistent data

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[5]We only included actions for which FAA entered a final date in our analysis. For the 8
years of data we analyzed, only three actions were uncategorized.

across fiscal years, among other criteria.[6] Non-enforcement actions
include informal actions (which FAA could use to address less serious
violations prior to the Compliance Program)[7] and compliance actions
(which FAA can use to address violations where the regulated entity is
willing and able to comply with regulations, administrative action is not
warranted, and legal enforcement action is not required). We analyzed
data on closed informal and compliance actions for the three selected
program offices as follows:

- **Flight Standards Service.** First, we analyzed data from the Program
  Tracking and Reporting Subsystem (PTRS) on all informal and
  compliance actions closed during fiscal years 2012 through 2019. We
  assessed the reliability of the PTRS data provided by FAA by
  reviewing them for anomalies, outliers, or missing information, and
  reviewing related documentation on PTRS. Based on these steps, we
  determined them to be sufficiently reliable for the purposes of
  describing the number and type of non-enforcement actions closed by
  fiscal year.

  Beginning in March 2018, Flight Standards began using the Safety
  Assurance System (SAS) to manage certificates and track
  inspections—which includes tracking compliance actions—for air
  carriers that operate under 14 C.F.R. parts 121 (scheduled service)
  and 135 (commuter or on-demand service), and for repair stations
  that operate under 14 C.F.R. part 145. Therefore, we analyzed data
  from SAS on compliance actions closed from March 2018 through the

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[6]Some program offices used informal actions, which are similar to compliance actions,
prior to the start of the Compliance Program. Therefore, we sought to examine the number
of compliance actions closed for fiscal years 2012 to 2019. However, due to data
availability and limitations, we were not able to examine data for all 8 fiscal years for each
of the three program offices.

[7]One FAA program office—the Office of Hazardous Materials Safety—does not use
compliance actions to address violations involving non-certificated persons, such as
shippers or freight forwarders. Instead, this office can use informal actions—typically oral
or written counseling—as well as enforcement actions, to address violations involving non-
certificated persons.

end of fiscal year 2019.[8] SAS tracks data on violations and resultant
actions on the following two levels:

1. Assessment, where an inspector assesses issues found through
    inspections and other surveillance activities conducted during the
    prior quarter. There are four options for the assessment, and an
    inspector could initiate a compliance action for two assessment
    options—non-systemic regulatory issues observed and
    regulatory/systemic issues observed.

2. Action, where an inspector specifies the one or many actions
    taken to correct issues found through the assessment. One option
    for the action is regulatory compliance action.

For its purposes, Flight Standards counts compliance actions at the
assessment level. According to FAA officials, some inspectors may
not have used the regulatory compliance action option to identify
compliance actions when initially using SAS, as the workforce started
to use the new database.

As it works to address these data quality issues, Flight Standards
therefore does not count compliance actions at the action level.[9] For
our purposes, we counted the number of closed compliance actions,
by fiscal year closed, for both the assessment and action levels to
create a high and low estimate. To assess the reliability of the SAS
data provided, we reviewed the data for anomalies and missing
information, reviewed related documentation, and interviewed agency
officials responsible for SAS. Based on these steps, we determined
the data to be sufficiently reliable for the purposes of counting the

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[8]In SAS, work is planned on a quarterly basis, including the assessments through which
an inspector determines whether to take a compliance, enforcement, or other action in
response to identified violations. FAA provided us with data on all assessments with a
regulatory noncompliance (i.e., violation) assigned for the first quarter of fiscal year 2018
through the fourth quarter of fiscal years 2019. Using these data, we only analyzed data
for assessments with closed actions.

[9]Flight Standards started a data-quality review program in April 2019 to review and
improve SAS and PTRS data on compliance actions. According to FAA, when analyzing
data on compliance actions to calculate a recidivism rate, Flight Standards found that
many records had insufficient information to determine why a compliance action was
taken. For the program, managers review compliance actions documented in PTRS and
SAS to identify any critical missing information (e.g., the who, what, when, where, and why
of a violation, the root cause of a violation). Managers then return the record to the
originating office for correction and/or awareness. Flight Standards expects the program to
run for approximately one year.

number of compliance actions closed by fiscal year for 2018 and
2019. However, given the data quality issues identified by FAA and
given that SAS data comprises a small part of our years of interest,
we did not use SAS data to describe other characteristics of
compliance actions, such as time to close an action.

- **Drug Abatement Division.** We analyzed data on closed compliance
  actions from the Compliance and Enforcement Tracking System
  (CETS). Drug Abatement did not use informal actions prior to the start
  of the Compliance Program, so we only analyzed data for fiscal years
  2016 through 2019. The data from CETS track each violation as an
  individual entry, but Drug Abatement issues a compliance action—in
  the form of a letter—to cover all eligible violations from an inspection.
  Therefore, we examined the number of compliance actions, by fiscal
  year closed, and several characteristics of compliance actions using
  the inspection as the unit of analysis. However, as actions needed to
  address different violations from a single inspection could be closed at
  different times, we examined the time to close a compliance action
  using the violation as the unit of analysis. To assess the reliability of
  the CETS data provided, we reviewed the data for anomalies, outliers,
  and missing information, reviewed related documentation, and
  interviewed knowledgeable agency officials. FAA could provide data
  on compliance actions that resulted from inspections, but could not
  provide data on any compliance actions resulting from investigations
  of employers due to limitations with CETS. FAA officials said that it is
  rare, however, for an investigation of an employer to result in a
  compliance action. Therefore, we determined the data to be
  sufficiently reliable for the purposes of describing the number and type
  of compliance actions closed by fiscal year.

- **Airport Safety and Standards.** We analyzed data on closed informal
  and compliance actions from the Certification and Compliance
  Management Information System (CCMIS). Due to a change in the
  contractor that manages CCMIS, FAA could not provide data for
  inspections (from which any violations and actions would initiate) for
  fiscal year 2012. FAA provided data on informal and compliance
  actions initiated from inspections started in fiscal years 2013 through
  2019; however, as it can take months for an entity to take steps to
  close an action, we analyzed data on actions closed for fiscal years
  2014 to 2019 to ensure more complete data. We assessed the
  reliability of the CCMIS data provided by FAA by reviewing them for
  anomalies, outliers, or missing information; interviewing
  knowledgeable agency officials; and reviewing related documentation.
  Based on these steps, we determined the data to be sufficiently

reliable for the purposes of describing the number and type of non-enforcement actions closed by fiscal year.

For each program office, we examined informal and compliance actions by location, type of operation or certificate, and time to close the action. The three selected program offices track different dates that can be used as the start date to determine time to close an action. Therefore, the number of days to close actions across program offices is not directly comparable.

We did not seek to attribute any changes in FAA's use of enforcement and non-enforcement actions identified in our analysis to specific causes.[10] We did interview FAA officials, as well as industry stakeholders as described below, to obtain views on factors that could affect use of actions over time.

To examine how FAA monitors and evaluates the Compliance Program, we reviewed FAA-wide guidance for the Compliance Program. We also interviewed FAA officials in the Enforcement Division to understand its role in monitoring and evaluating FAA's enforcement policy before and after the start of the Compliance Program. We also reviewed presentations on the Compliance Program given to FAA leadership and prepared for GAO. We interviewed officials and reviewed documents from all eight program offices to understand their efforts to monitor and evaluate the effectiveness of the Compliance Program, including what direction or guidance was given to the offices. For our three selected program offices, we conducted interviews with officials to further understand these offices' efforts to monitor or evaluate the Compliance Program, including use of measures or information, relevant reports or presentations, or direction from FAA leadership or working groups. We assessed information collected on FAA's efforts through these means against two sets of criteria: (1) key considerations for agency design identified in our prior work, in particular to identify compliance and enforcement objectives, to assess the optimal mix of compliance and enforcement, and to establish a performance evaluation plan for chosen

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[10]We chose to assess FAA's past and future plans to evaluate the effectiveness of the Compliance Program rather than conduct an analysis to assess the effects of the program (e.g., an econometric analysis) given the time elapsed since the Compliance Program began and due to differences in data across program offices. As a result, we sought to identify key issues FAA may want to examine for the Compliance Program in the future.

compliance and enforcement options,[11] and (2) federal standards for internal control, specifically principles 10 and 12 to design and implement internal control activities, principle 14 to internally communicate necessary quality information, and principle 16 to establish and operate monitoring activities.[12]

To inform both objectives, we interviewed 11 selected industry stakeholders—industry associations, unions, and regulated entities—to gather their views on the implementation and use of the Compliance Program. We selected industry associations to align with the aviation operations overseen by the three selected program offices and to cover a variety of operations. We interviewed two unions that represent FAA inspectors who work in selected program offices. Finally, we selected 8 regulated entities to also align with the selected program offices as well as to vary by size and location. Table 4 lists the industry stakeholders we interviewed.

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[11]GAO, *Federal Regulations: Key Considerations for Agency Design and Enforcement Decisions,* GAO-18-22 (Washington, D.C.: Oct.19, 2017)

[12]GAO, *Standards for Internal Control in the Federal Government,* GAO-14-704G (Washington, D.C.: Sept. 20, 2014).

**Table 4: List of Industry Associations, Unions, and Regulated Entities Interviewed
by GAO**

Industry associations
Aeronautical Repair Station Association
Aircraft Owners and Pilots Association
Airlines for America
Airports Council International-North America
American Association of Airport Executives
Cargo Airline Association
Flight Safety Foundation
Helicopter Association International
National Air Transportation Association
National Business Aviation Association
Regional Airline Association
Unions
National Air Traffic Controllers Association
Professional Aviation Safety Specialist, AFL-CIO
Regulated entities
Air Wisconsin Airlines
Alaska Airlines
American Airlines
FedEx Express
Cleveland Airport System
King County International Airport/Boeing Field
Syracuse Hancock International Airport
United Airlines

Source: GAO. | GAO-20-642

Appendix II: Additional Analysis of Federal Aviation Administration's Enforcement Data

This appendix includes additional analysis of data from the Federal Aviation Administration's (FAA) Enforcement Information System (EIS). EIS tracks data on cases for which program offices initiated one or more enforcement actions. Figure 9 below describes the number of cases for which FAA initiated an enforcement action(s), while figures 10 through 13 and tables 5 through 7 describe the actions resulting from these cases. The actions that result from these cases are as follows:

- legal enforcement actions, such as civil penalties and certificate suspensions;

- administrative actions, such as warning letters;

- referrals to other agencies (e.g., Department of Defense) or foreign governments to investigate or take action;

- returned to the program office to take an informal or compliance action, whether before or after the start of the Compliance Program, respectively; and

- no action, meaning the collected evidence did not prove violations.

Unless otherwise noted, the figures below present counts of all actions by the fiscal year in which FAA determined the action was closed or completed.

Figure 9: Number of Federal Aviation Administration (FAA) Cases That Initiated an Enforcement Action, by Fiscal Year Closed, 2012–2019

Number of cases
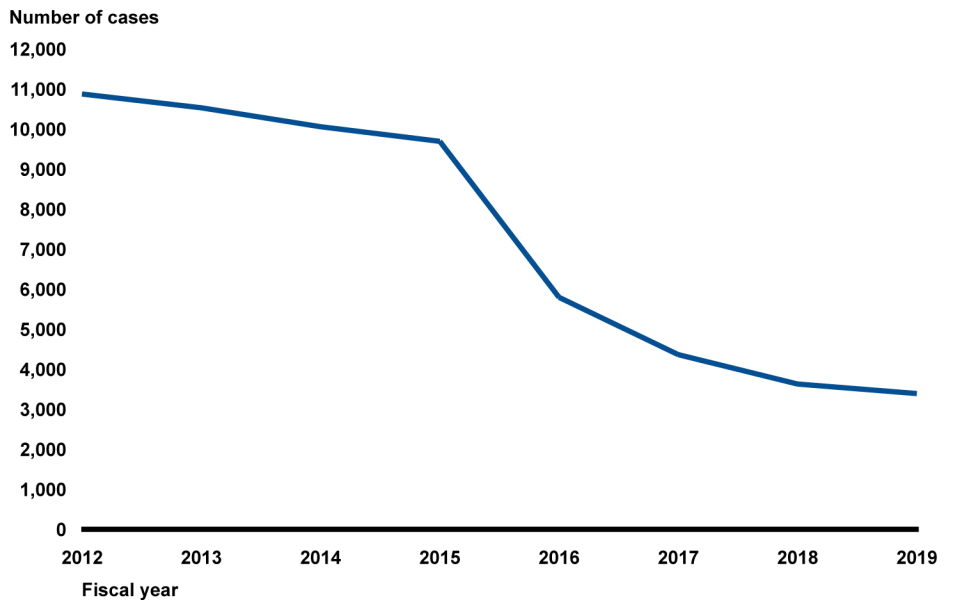
Source: GAO analysis of the FAA Enforcement Information System data. | GAO-20-642

Notes: A case involving an enforcement action may include one or more actions. For cases with one action, we used the date FAA entered to note the action was complete to determine fiscal year closed. For cases with more than one action, we used the date FAA entered for the most severe action to determine fiscal year closed.

For each case, FAA initiated an enforcement action. While the final action in many cases was an enforcement action—administrative action or legal enforcement action—some cases resulted in, for example, no action or a case being returned to a program office for a compliance action.

Figure 10: Number and Type of Actions Resulting from Federal Aviation Administration (FAA) Cases That Initiated an Enforcement Action, by Fiscal Year Closed, 2012–2019

Source: GAO analysis of the FAA Enforcement Information System data. | GAO-20-642

Note: Referrals are actions FAA referred to other federal agencies or foreign governments for investigation. Returned to the program office to take an informal or compliance action are actions FAA's Office of Chief Counsel sent back for a non-enforcement action before or after the start of the Compliance Program, respectively. No actions are actions for which the collected evidence did not prove violations or where legal enforcement action was otherwise not warranted.

**Figure 11: Number of Actions from Cases That Initiated an Enforcement Action by Federal Aviation Administration (FAA)
Program Office, by Fiscal Year Closed, 2012–2019**

Number of actions

Types of program offices

- 2012
- 2013
- 2014
- 2015
- 2016
- 2017
- 2018
- 2019
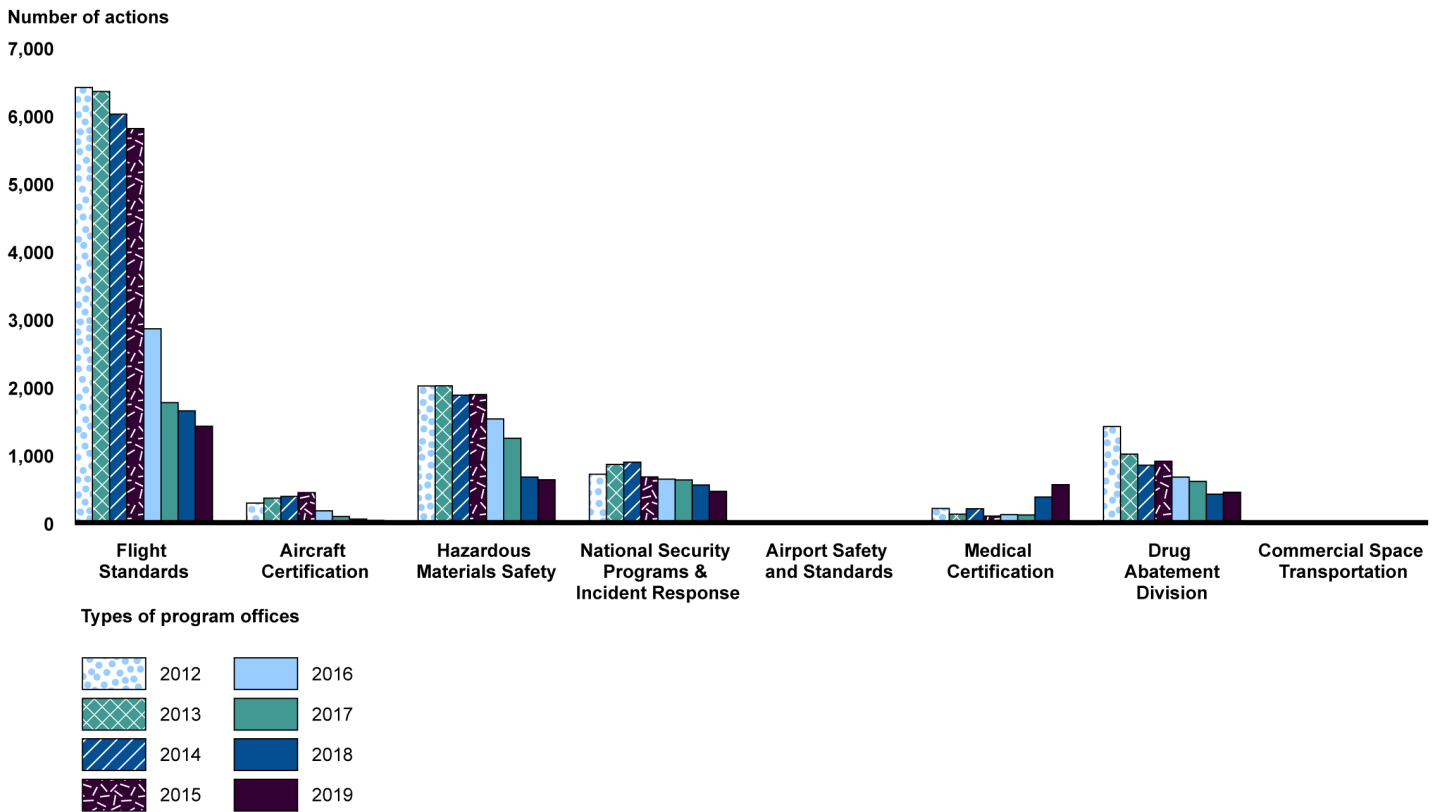
Source: GAO analysis of the FAA Information System data. | GAO-20-642

Notes: Actions include (1) legal enforcement actions, such as civil penalties; (2) administrative
actions, such as warning letters; (3) referrals to other federal agencies or foreign governments to
investigate or take action; (4) returned to the program office to take an informal or compliance action,
whether before or after the start of the Compliance Program, respectively; and (5) no action, meaning
the collected evidence did not prove violations.

Relative to other program offices, Airport Safety and Standards and Commercial Space
Transportation had 10 or fewer actions each year.

Table 5: Number of Actions Resulting from Cases That Initiated an Enforcement Action for Federal Aviation Administration (FAA) Certificate Types That Comprise a Majority of all Actions, Fiscal Years 2012 to 2019

Certificate	Number of actions	Percentage of all actions for certificated entities
Private pilot	7,192	16
Airline transport pilot	5,655	13
Commercial pilot	5,547	13
Repair station	3,807	9
Scheduled air carrier part 121 and/or 135	3,495	8
On-demand air carrier part 135	3,393	8
Mechanic airframe-powerplant	3,385	8

Source: GAO analysis of FAA Enforcement Information System data. | GAO-20-642

Notes: FAA categorized data on actions using 52 certificate types, as well as by those with no certificate and by other. The seven types of certificates in this table account for 73 percent of all actions closed during fiscal years 2012 to 2019 involving regulated entities with certificates (32,474 of 44,339). An additional 15,733 actions were closed involving regulated entities with no certificate.

Actions include (1) legal enforcement actions, such as civil penalties; (2) administrative actions, such as warning letters; (3) referrals to other federal agencies or foreign governments to investigate or take action; (4) returned to the program office to take an informal or compliance action, whether before or after the start of the Compliance Program, respectively; and (5) no action, meaning the collected evidence did not prove violations.

Figure 12: Number of Actions Resulting from Federal Aviation Administration (FAA) Cases That Initiated an Enforcement Action by Violation Category, by Fiscal Year Closed, 2012–2019
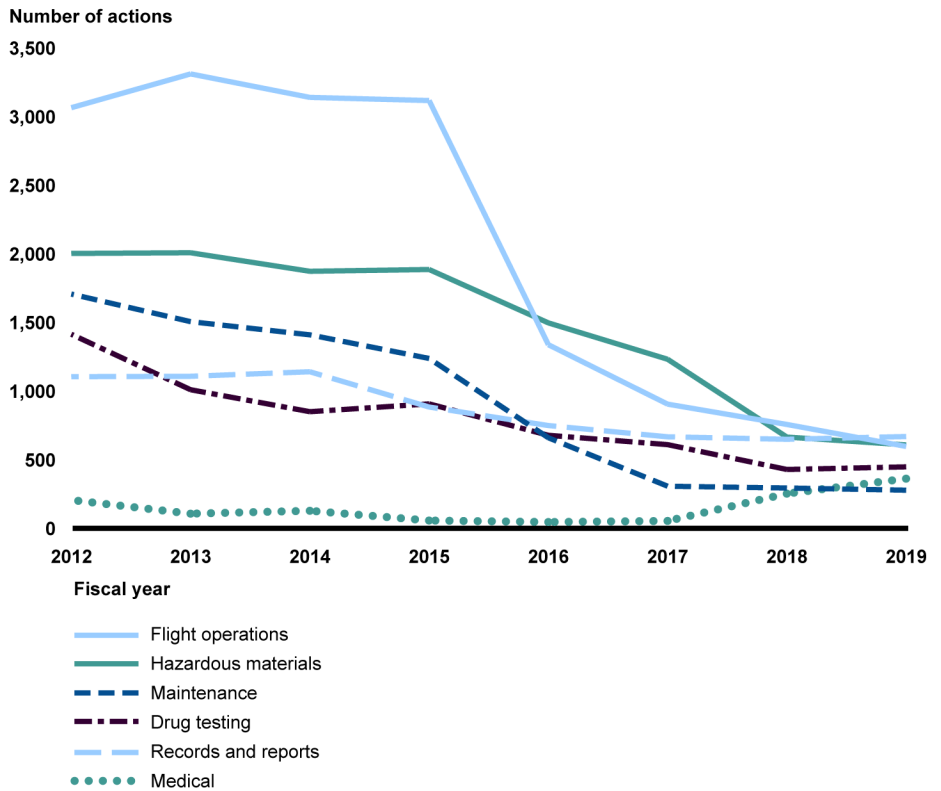
Source: GAO analysis of FAA's Enforcement Information System data. | GAO-20-642

Notes: FAA categorized data on actions using 34 violation categories. The six FAA violation categories in this figure are those that made up the top five categories for each fiscal year we examined; medical was in the top five categories only for fiscal year 2019. In total, violations in these categories accounted for 83 percent of all actions closed during fiscal years 2012 through 2019.

Actions include (1) legal enforcement actions, such as civil penalties; (2) administrative actions, such as warning letters; (3) referrals to other federal agencies or foreign governments to investigate or take action; (4) returned to the program office to take an informal or compliance action, whether before or after the start of the Compliance Program, respectively; and (5) no action, meaning the collected evidence did not prove violations.

Table 6: Number of Actions Resulting from Cases That Initiated an Enforcement Action by Type and by Regional Office, by Fiscal Year Closed, 2012–2019

| Regional Office	Administrative action	Legal enforcement action	No action	Returned for compliance action	Other outcome	Total
Alaskan	523	353	243	6	61	**1,186**
Central	2,285	677	532	39	64	**3,597**
Eastern	3,257	1,844	1,325	137	370	**6,933**
Great Lakes	3,146	1,287	883	110	86	**5,512**
New England	812	488	87	7	2	**1,396**
Northwest Mountain	2,881	1,769	945	55	86	**5,736**
Southern	5,313	2,756	2,525	100	344	**11,038**
Southwest	4,537	1,940	1,437	121	171	**8,206**
Western Pacific	4,377	2,396	1,447	74	336	**8,630**
Washington Headquarters	1,174	1,133	628	11	23	**2,969**
Aeronautical Center	662	2,309	635	3		**3,609**
Office of the Chief Counsel	1	342	233			**576**
Total	**28,968**	**17,294**	**10,920**	**663**	**1,543**	**59,388**

Source: GAO analysis of the (FAA) Federal Aviation Administration's Enforcement Information System data. | GAO-20-642

Notes: FAA uses additional categories to describe the regional office that initiated an enforcement action. For instance, some actions are categorized generally to Flight Standards, European office, or Office of National Security Programs and Incident Response. We excluded 684 actions tied to these offices.

Referrals are actions FAA referred to other federal agencies or foreign governments for investigation. Returned to the program office to take an informal or compliance action are actions FAA's Office of Chief Counsel sent back for a non-enforcement action before or after the start of the Compliance Program, respectively. No actions are actions for which the collected evidence did not prove violations or where legal enforcement action was otherwise not warranted.

Table 7: Amounts of Proposed and Final Civil Penalties for Enforcement Actions by Fiscal Year Closed, 2012–2019

	Region Recommendation Civil Penalties				Legal Recommendation Civil Penalties				Final Sanction Civil Penalties			
	Entries	Median	Mean	Total	Entries	Median	Mean	Total	Entries	Median	Mean	Total
2012	1,243	10,000	42,713	**53,092,699**	1,109	9,000	23,477	**26,036,338**	964	5,000	29,347	**28,290,951**
2013	1,246	11,000	62,542	**77,927,834**	1,084	10,000	33,622	**36,446,200**	945	5,000	24,058	**22,735,008**
2014	1,188	11,000	1,526,597	**1,813,596,987**	975	10,200	22,949	**22,375,147**	871	5,500	17,183	**14,966,141**
2015	1,171	11,000	52,131	**61,045,694**	1,022	11,000	24,802	**25,347,931**	922	6,500	18,878	**17,405,406**
2016	1,237	11,000	469,760	**581,092,954**	1,031	10,900	30,844	**31,800,552**	765	7,700	93,244	**71,331,333**
2017	962	6,121	66,511	**63,983,187**	876	5,500	18,855	**16,517,300**	736	5,000	47,229	**34,760,386**
2018	694	8,750	41,454	**28,768,859**	602	9,038	24,359	**14,663,904**	542	5,960	16,535	**8,961,937**
2019	497	5,500	29,272	**14,548,149**	471	6,600	28,213	**13,288,344**	400	5,000	25,453	**10,181,335**
Total	8,238	10,588	327,028	**2,694,056,363**	7,170	9,000	26,008	**186,475,716**	6,145	5,500	33,952	**208,632,497**

Source: GAO analysis of the (FAA) Federal Aviation Administration's Enforcement Information System data. | GAO-20-642

Notes: The amounts in the table are nominal amounts that have not been adjusted for inflation.

In September 2018, FAA changed its guidance so that program offices (i.e., regional offices in the Enforcement Information System) no longer proposed a sanction amount, except for the Office of Hazardous Materials Safety. According to FAA officials, with the change in guidance, the program office staff's focus on providing details about a violation that FAA's Office of Chief Counsel can use to determine the amount of the sanction using tables on sanction amounts included in FAA guidance. The change is reflected in FAA Order 2150.3C issued September 18, 2018.

Figure 13: Median Number of Days for Proposed and Final Sanctions for Federal Aviation Administration (FAA) Enforcement Actions Involving Certificates by Fiscal Year Closed, 2012–2019

Median number of days
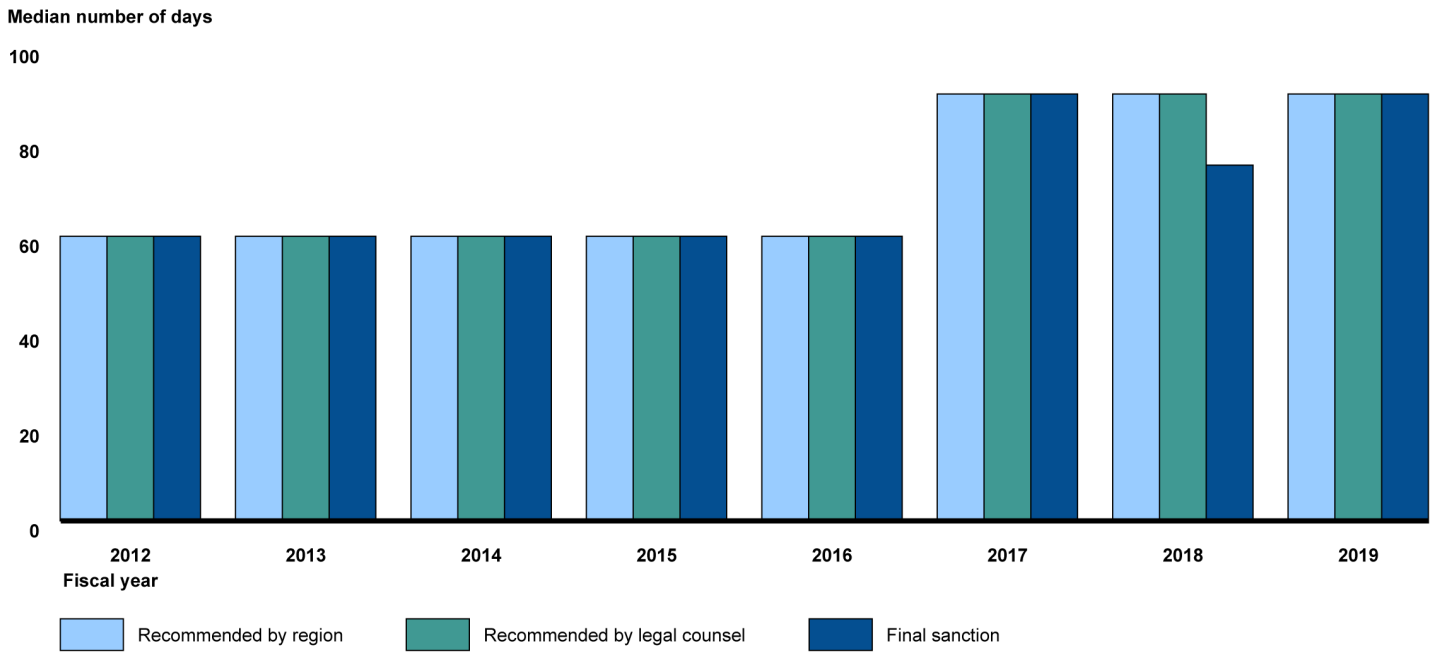
Source: GAO analysis of the FAA Enforcement Information System data. | GAO-20-642

Appendix III: Comments from the Department of Transportation

U.S. Department of Transportation

Office of the Secretary
of Transportation

Assistant Secretary
for Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

August 3, 2020

Heather Krause
Director, Physical Infrastructure
U.S. Government Accountability Office (GAO)
441 G Street NW
Washington, DC 20548

Dear Ms. Krause:

The Federal Aviation Administration (FAA), the aviation community, and the public at large, continue to benefit from the Compliance Program. Since the program's inception in 2015, the FAA has taken significant actions to implement the program throughout the agency. The Compliance Program is a natural evolution from the voluntary safety programs and risk management activities the FAA has undertaken through the years. These programs and activities provide the foundation for the strong safety record that the FAA and the aviation community have achieved. The FAA agrees with the conclusion of the Government Accountability Office (GAO) that agency-wide oversight and measurement of program effectiveness is necessary to ensure the FAA is meeting Compliance Program goals.

The FAA is committed to the Compliance Program and has reviewed the draft report carefully. The FAA concurs with the three recommendations cited in the draft report and will provide a detailed response to each recommendation within 180 days of the issuance of GAO's final report.

We appreciate the opportunity to respond to the GAO draft report. Please contact Madeline Chulumovich, Audit Relations and Program Improvement, at (202) 366-6512 with any questions or if GAO would like to obtain additional details about these comments.

Sincerely,

Keith Washington
Deputy Assistant Secretary for Administration

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact	Heather Krause, (202) 512-2834 or krauseh@gao.gov.
Staff Acknowledgments	In addition to the individual named above, Heather MacLeod (Assistant Director); Joanie Lofgren (Analyst-in-Charge); David Hooper; Haley Klosky; Bonnie Pignatiello Leer; Grant Mallie; Malika Rice; Amy Rosewarne; and Kelly Rubin made key contributions to this report.