

the **Federal Register** (88 FR 47650; Notice No. 23–10). Commenters were instructed to provide comments on or before October 23, 2023 (*i.e.*, 90 days from the date of publication of the NPRM). However, based on numerous requests to extend the comment period, the FAA extended the comment period on October 4, 2023 (88 FR 68507) to January 22, 2024 (*i.e.*, an additional 90 days for a total of 180 days from the date of publication of the NPRM).

Throughout the comment period, the rulemaking team assigned to this rulemaking project met to discuss the comments received. At a recent meeting of the rulemaking team, the FAA became aware of a conversation that was held between one of the members of the team and members of ASTM International (“ASTM”) regarding the contents of the NPRM during the ASTM International Fall Committee Week at a meeting of the ASTM International, Committee F37 on Light-Sport Aircraft. At the time, that team member recommended that the members of ASTM Committee F37 submit their comments to the docket. In the interest of transparency, the FAA is taking two steps. First, a Memorandum to the Docket (the “Memorandum”) summarizing the conversation between ASTM Committee F37 and the FAA has been placed on the docket as of February 1, 2024. Second, the FAA is reopening the comment period for thirty (30) days to allow the public an opportunity to review the contents of the Memorandum and an opportunity to respond if desired. Commenters should limit comments during this extension to the contents of the Memorandum.

### Reopening of Comment Period

Under the above circumstances, the FAA finds that an additional thirty (30) days will provide sufficient opportunity for the public to comment on the Memorandum. Therefore, the comment period for Notice No. 23–10 is reopened until March 11, 2024.

The FAA will not extend the comment period for this rulemaking further.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC.

### Brandon Roberts,

*Executive Director, Office of Rulemaking,  
Federal Aviation Administration.*

[FR Doc. 2024–02545 Filed 2–7–24; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**14 CFR Parts 3, 21, 43, 60, 61, 63, 65, 67, 89, 107, 111, 120, 121, 139, 142, 145, 413**

[Docket No.: FAA–2024–0021; Notice No. 24–07]

RIN 2120–AL84

### Falsification, Reproduction, Alteration, Omission, or Incorrect Statements

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to amend, restructure, and consolidate the falsification regulations presently located throughout title 14 of the Code of Federal Regulations. This proposal would (1) harmonize inconsistencies among the various falsification regulations and associated sanctions; (2) consolidate all existing falsification regulations into a general rule that standardizes the existing falsification regulations; and (3) ensure that falsification-related conduct not addressed by pertinent current regulations would be covered under the general rule. In addition, this proposal would create a falsification prohibition applicable to the regulations governing Commercial Space Transportation.

**DATES:** Send comments on or before April 8, 2024.

**ADDRESSES:** Send comments identified by docket number FAA–2024–0021 using any of the following methods:

- *Federal eRulemaking Portal:* Go to [www.regulations.gov/](http://www.regulations.gov/) and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

*Privacy:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal

information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

*Docket:* Background documents or comments received may be read at [www.regulations.gov](http://www.regulations.gov) at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** John C. Stuart, Jr., Senior Attorney, Aviation Litigation Division, AGC–300, Federal Aviation Administration, Office of the Chief Counsel, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–9958; email [mike.stuart@faa.gov](mailto:mike.stuart@faa.gov).

### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Executive Summary
  - A. Overview of Proposed Rule
  - B. Background
  - C. Statement of the Problem
  - D. Summary of the Costs and Benefits
- II. Authority for This Rulemaking
- III. Discussion of the Proposal
  - A. Applicability of the Proposed Rulemaking to 14 CFR Chapter I
  - B. Applicability of the Proposed Rulemaking to 14 CFR Chapter III
  - C. “Statements” in Proposed Sections 3.403(a), 3.405(a), 402.3(a), and 402.5(a)
  - D. Categories of “Any Document In Any Format” in Proposed Sections 3.403 and 3.405—14 CFR Chapter I
  - E. Categories of “Any Document In Any Format” in Proposed Sections 402.3 and 402.5—14 CFR Chapter III
  - F. Fraudulent or Intentionally False Statements in Proposed Sections 3.403(a) and 402.3(a)
  - G. Production, Reproduction, Alteration, for Fraudulent Purpose in Proposed Sections 3.403(b) and 402.3(b)
  - H. Knowingly Omitting or Causing To Be Omitted a Material Fact Under Proposed Sections 3.403(c) and 402.3(c)
  - I. Sanction Under Proposed Sections 3.403(d) and 402.3(d) for Conduct Described in Sections F, G, and H of this NPRM
  - J. Incorrect Statements, or Omissions under Proposed Sections 3.405 and 402.5.
  - K. Sanction Under Sections 3.405(b) and 402.5(b) for Incorrect Statements, or Omissions
- IV. Regulatory Notices and Analyses
  - A. Regulatory Evaluation
  - B. Regulatory Flexibility Act
  - C. International Trade Impact Assessment
  - D. Unfunded Mandates Assessment
  - E. Paperwork Reduction Act
  - F. International Compatibility
  - G. Environmental Analysis
- V. Executive Order Determinations
  - A. Executive Order 13132, Federalism

- B. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments
- C. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use
- D. Executive Order 13609, Promoting International Regulatory Cooperation
- VI. Additional Information
  - A. Comments Invited
  - B. Availability of Rulemaking Documents
  - C. Small Business Regulatory Enforcement Fairness Act

## I. Executive Summary

### A. Overview of Proposed Rule

The FAA and other relevant stakeholders rely on complete and accurate information in safety-related records. Indeed, the FAA and regulated persons make critical safety-related decisions based on the information, such as in FAA-required records, and necessarily rely on the veracity of that information. When a person provides falsified information or omits material information from records, that person creates a threat to aviation safety by inhibiting the ability of the FAA and other stakeholders to make critical safety-related decisions. Falsification regulations promote the integrity of information necessary to ensure aviation safety. They also serve as a basis for appropriate action when a person engages in falsification-related conduct.

The proposed rule would affect applicable parts in 14 CFR chapters I and III. Falsification prohibitions are currently found in 14 CFR chapter I, parts 3, 21, 43, 60, 61, 63, 65, 67, 89, 107, 111, 120, 121, 139, 142, and 145. The FAA proposes to remove the existing falsification regulations from parts 21, 43, 60, 61, 63, 65, 67, 89, 107, 111, 120, 121, 139, 142, and 145, and consolidate them in a new subpart in part 3. The proposed rule in part 3 would also apply to those parts of 14 CFR chapter I that do not currently have falsification regulations but for which such regulations are clearly warranted, as explained in the “Discussion of the Proposal Section” in this NPRM. Those parts are 5, 23, 25, 26, 27, 29, 31, 33, 34, 35, 36, 45, 47, 48, 49, 68, 77, 91, 93, 99, 101, 103, 105, 117, 119, 125, 129, 133, 135, 136, 137, 141, 147, and 183. As a result, the proposed rule in part 3 would create standardized falsification proscriptions and apply them to 14 CFR parts 5, 21, 23, 25, 26, 27, 29, 31, 33, 34, 35, 36, 43, 45, 47, 48, 49, 60, 61, 63, 65, 67, 68, 77, 89, 91, 93, 99, 101, 103, 105, 107, 111, 117, 119, 120, 121, 125, 129, 133, 135, 136, 137, 139, 141, 142, 145, 147, and 183.

The proposed rule would also remove the existing falsification regulations located in 14 CFR 413.17(c) and create

a new part—part 402—containing a falsification prohibition applicable to 14 CFR chapter III, subchapter C. Subchapter C consists of 14 CFR parts 413, 414, 415, 417, 420, 431, 433, 435, 437, 440, 450, and 460.

The proposed rules in part 3 and part 402 would proscribe: (1) intentionally false or fraudulent statements; (2) productions, reproductions, or alterations for fraudulent purpose; (3) knowingly omitting or causing to be omitted a material fact; and (4) incorrect statements. Each prohibition is described in the “Discussion of the Proposal” section of this NPRM. Also, the proposed rule would standardize sanctions for violations of the falsification regulations under 14 CFR, chapters I and III, cited in this NPRM.

### B. Background

#### 1. Definition of “falsification regulations” and Current Locations in 14 CFR

The term “falsification regulations” as used in this NPRM generically refers to a variety of provisions in 14 CFR parts 1–199 implemented over decades that variously prohibit the following: (1) fraudulent or intentionally false statements or entries; (2) any reproduction for fraudulent purpose; (3) any alteration, including alterations for fraudulent purpose; (4) knowingly concealing or causing to be concealed a material fact by omission; (5) concealing or causing to be concealed a material fact; (6) known omissions; (7) misleading statements; and (8) incorrect statements or entries upon which the FAA relied or could have relied. The term also refers to willful false statements prohibited in 14 CFR 413.17(c). A violation of these standards is referenced in this NPRM as “falsification-related” conduct. The proposed rulemaking would consolidate these nine categories of proscribed conduct into the four categories identified above.

A false statement is distinct from an intentionally false or fraudulent one. A false statement or entry<sup>1</sup> is one that is

<sup>1</sup> Over the years, the agency’s use of the terms “statement” and “entry” has varied. In the earliest falsification regulations (*i.e.*, in 1965), a clear dichotomy existed between statements and entries: a statement applied to an application while an entry applied to a “logbook, record, or report that is required to be kept, made, or used to show compliance” with a requirement (*i.e.*, 14 CFR 61.48 (currently § 61.59), 63.20, 65.20, and 67.20 (currently § 67.403)). Consistent with those earliest regulations, in 1978, 14 CFR 43.12(a)(1) proscribed fraudulent entries “in any record or report that is required to be kept, made, or used to show compliance” with a requirement. In 1992, the FAA continued applying the distinction between statements and entries when it issued 14 CFR 21.2.

incorrect. An incorrect statement or entry is made when a person unknowingly provides false (*i.e.*, incorrect) information upon which the agency relies. Incorrect statements or entries are prohibited by 14 CFR 60.33(c)(1)–(2) and 67.403. In contrast, an intentional false statement is comprised of three elements: a (1) false statement, (2) in reference to a material fact,<sup>2</sup> (3) that is made with knowledge of its falsity.<sup>3</sup> A fraudulent statement or entry consists of the preceding three elements plus two additional elements: (1) an intent to deceive and (2) with action taken in reliance upon the representation.<sup>4</sup> Intentionally false or fraudulent statements or entries are currently proscribed by 14 CFR 21.2(a)(1)–(2), 43.12(a)(1), 60.33(a)(1)–(2), 61.59(a)(1)–(2), 63.20(a)(1)–(2), 65.20(a)(1)–(2), 67.403(a)(1)–(2), 89.5(a)(1)–(2), 107.5(a)(1), 111.35(a)–(c), 120.103(e)(1)–(2), 121.9(a)(1)–(2), 139.115(a)(1)–(2), and 145.12(a)(1).

Reproductions for a fraudulent purpose and alterations, including alterations for a fraudulent purpose, are proscribed in falsification regulations. Most of the existing falsification regulations already prohibit reproductions and alterations. Such prohibitions are found at 14 CFR 21.2(a)(3)–(4), 43.12(a)(2)–(3), 60.33(a)(3), 61.59(a)(3)–(4), 63.20(a)(3)–(4), 65.20(a)(3)–(4), 67.403(a)(3)–(4), 89.5(a)(3), 107.5(a)(2), 120.103(e)(3), 139.115(a)(3)–(4), and 145.12(a)(2)–(3). While some of these regulations prohibit any alteration of the applicable document (*i.e.*, 14 CFR 21.2(a)(4), 61.59(a)(4), 65.20(a)(4), and 67.403(a)(4)), others prohibit only fraudulent alterations of the applicable document (*i.e.*, 14 CFR 43.12(a)(3), 60.33(a)(3), and 107.5(a)(2)).

Knowingly omitting or causing to be omitted a material fact results when a person knew that they failed to include the material fact in the document at

The clear dichotomy was blurred when the agency proscribed statements in connection with falsifying both applications and records or reports that are kept, made, or used to show compliance (*i.e.*, 14 CFR 21.2, as amended in 2009; 60.33 (2006); 121.9 (2013); and 111.35 (2021)). Conversely, in 14 CFR 145.12 (2014), the agency proscribed entries in connection with falsifying both applications and records and reports. However, during the same period, the FAA issued other falsification regulations that retained the dichotomy in the earliest falsification regulations (*i.e.*, 14 CFR 120.103 (2004); § 120.213 (2004); and § 139.115 (2013)).

<sup>2</sup> A false statement is “material” if it has the natural tendency to influence or is capable of influencing an agency decision. *Cassidy v. Helms*, 737 F.2d 545, 547 (6th Cir. 1984).

<sup>3</sup> See, *Pence v. United States*, 316 U.S. 332, 338 (1942); *Hart v. McLucas*, 535 F.2d 516, 519 (9th Cir. 1976).

<sup>4</sup> See *Pence*, 316 U.S. at 338.

issue.<sup>5</sup> The prohibition of known material omissions is currently found in (1) 14 CFR 89.5(b)(1)–(2) and 145.12(b)(1)–(2) (knowingly concealing or causing to be concealed, by omission, a material fact); (2) 14 CFR 60.33(a)(2) and 121.9(a)(2) (known omissions); and (3) 14 CFR 111.35(a)–(c) (concealing or causing to be concealed a material fact).

Misleading statements are prohibited by 14 CFR 21.2(a)(1)–(2). The agency previously stated that for purposes of that section, “a misleading statement requires a material representation or omission [*i.e.*, within the statement] that is likely to mislead a person when that person is acting with reasonable diligence under the circumstances.”<sup>6</sup>

Willful false statements are referenced in 14 CFR 413.17(c). Generally, for a false statement to be “willful,” it must be made deliberately and with knowledge.<sup>7</sup> Section 413.17(c) adds that such statements are punishable under 18 U.S.C. 1001 and by administrative sanction in accordance with 14 CFR part 405.

## 2. Current Falsification Regulation Sanction Provisions and Locations in 14 CFR

As discussed in the section of this NPRM titled “Authority for this Rulemaking,” the FAA has statutory authority to take certificate action or civil penalty action for falsification regulation violations. In many parts of 14 CFR chapter I that contain falsification regulations, the FAA has elected to set forth sanction consequences for violating a falsification regulation (*i.e.*, 14 CFR 21.2(b); 43.12(b); 60.33(b)–(c); 61.59(b); 63.20(b); 65.20(b); 67.403(b)–(c); 89.5(c); 107.5(b); 121.9(b); 139.115(b); 142.11(e)(3); and 145.12(c)). Other falsification regulations contain no sanction provision (*i.e.*, 14 CFR 111.35, 120.103(e), and 120.213). The falsification regulations that contain sanction provisions lack consistency, as discussed in the “Statement of the Problem” section of this NPRM. Section

413.17(c) of title 14, chapter III, provides that willful false statements are punishable by fine and imprisonment and could result in “administrative sanctions.”<sup>8</sup>

### C. Statement of the Problem

The FAA implemented the first of its falsification regulations in 1965.<sup>9</sup> Since then, the agency has implemented various falsification regulations, most recently in 2021. The piecemeal publication of falsification regulations has contributed to two issues that this proposal seeks to remedy: (1) the type of conduct proscribed by the falsification regulations and prescribed sanctions referenced in the various falsification regulations are not consistent across the existing falsification regulations; and (2) many 14 CFR parts lack a falsification prohibition but warrant one.

#### 1. Inconsistencies in the Proscribed Conduct and Authorized Sanctions Under the Falsification Regulations

The type of activity proscribed as falsification-related conduct and sanction options for such conduct are

<sup>8</sup> In 14 CFR 413.17(c), willful false statements made in any application or document relating to an application, license, or permit are subject to administrative sanctions in accordance with 14 CFR part 405. In 2001, the FAA removed the civil penalty provisions from part 405 and added them to part 406. The FAA, however, inadvertently did not amend § 413.17(c) to reflect the recodification of the civil penalty provisions in part 406. This proposed rulemaking will restore the FAA’s ability to assess civil penalties for violations of the falsification regulations in proposed part 402.

<sup>9</sup> The Civil Aeronautics Act of 1938 (Act of 1938) provided criminal penalties for falsification of records by “[a]ny air carrier, or any officer, agent, employee, or representative thereof . . .” Act of 1938, § 902(e) (1938). However, the Act of 1938 authorized no administrative sanction for falsification, and the Civil Aviation Regulations (CARs) implemented under the Act of 1938 contained no falsification regulations.

Under the Federal Aviation Act of 1958, the Federal Aviation Agency issued an NPRM in 1964 acknowledging the absence of falsification proscriptions in its regulations. The FAA stated that it was “considering amending Parts 61, 63, 65, 67, and 143 [New] of the Federal Aviation Regulations to prohibit cheating on FAA written tests, falsifying applications for airman certificates, logbooks, records, or reports, or unauthorized reproducing or altering certificates or ratings.” 29 FR 4919 (Apr. 8, 1964). The FAA explained that “it has been unable to take appropriate corrective action” against those who cheat on written tests. *Id.* at 4920. The FAA continued, “[t]his was due to the absence in the regulations of a specific prohibition of the conduct involved in the particular case. Therefore, it is proposed to adopt regulations that will prohibit cheating activities in connection with written tests for airman certificate or ratings, or the falsification of applications for airman certificates, logbooks, records, and reports used to show compliance with the requirements for the certificates or ratings, or unauthorized reproduction or alteration of certificates or ratings.” *Id.* These first falsification regulations became effective March 20, 1965. 30 FR 2195 (Feb. 18, 1965).

not consistent across the existing falsification regulations. The agency issued the earliest falsification regulations in title 14 chapter I between 1965 and 1978. The FAA directed 14 CFR 61.48 (1965), 63.20 (1965), and 65.20 (1965) at the conduct of individuals.<sup>10</sup> These regulations generally prohibited individuals from making intentionally false or fraudulent statements or entries, reproductions for a fraudulent purpose, or alterations in applications or documents that are kept, made, or used to show compliance with a regulatory requirement specific to the part where the particular falsification regulation was published. The sanction provisions in §§ 61.48, 63.20, and 65.20 were consistent in the context of sanction: Each served as a basis for the suspension or revocation of “any” airman or ground instructor certificate or rating.<sup>11</sup>

Section 67.20 (1965), amended and recodified at § 67.403, prohibited individuals from making intentional false or fraudulent statements, reproductions for a fraudulent purpose, or alterations in connection with applications for FAA medical certification.<sup>12</sup> Such violation conduct formed a basis for suspending or revoking “all” airman, ground instructor, and medical certificates and ratings held by that person. In addition, unlike the falsification regulations referenced in the preceding paragraph, § 67.403 provided for certificate denials (which, in the context of part 67, involved the denial of an application for a medical certificate).<sup>13</sup>

The FAA issued 14 CFR 43.12 (1978) to proscribe individuals or entities from making fraudulent entries and reproductions and alterations for a

<sup>10</sup> On February 1, 1973, the falsification regulation at 14 CFR 61.48 was recodified at § 61.59 as part of the FAA’s amendments to parts 61 and 91. 38 FR 3168 (Feb. 1, 1973).

<sup>11</sup> Section 61.59(b) specifies “any airman certificate, rating, or authorization held by that person.” Sections 63.20(b) and 65.20(b) specify “any airman or ground instructor certificate or rating held by that person.” Although a ground instructor certificate is not an airman certificate as defined by statute or regulation, it is a type of authorization issued under part 61.

<sup>12</sup> The FAA issued 14 CFR 67.20 in 1965. 30 FR 2197 (Feb. 18, 1965). On March 19, 1996, the FAA amended § 67.20 and renumbered it as 14 CFR 67.403 as part of its revisions to airman medical standards and medical certification procedures. 61 FR 11238 (Mar. 19, 1996).

<sup>13</sup> Also, § 67.403(b) specified consequences that are unique to the medical certification process in part 67, namely, that falsification is a basis for denying all requests for an Authorization for Special Issuance of a Medical Certificate (Authorization) or Statement of Demonstrated Ability (SODA). Section 67.403(b) also provides for the withdrawal of an Authorization or SODA as a consequence of intentional falsification, fraud, or an alteration.

<sup>5</sup> The FAA prohibited knowingly concealing or causing to be concealed a material fact by omission in the 2014 amendments to 14 CFR part 145. See 14 CFR 145.12(b)(1)–(2). In the preamble of the final rule, the agency explained that a known omission under § 145.12(b)(1)–(2) “is triggered when a person knew that they failed to include the material fact in the document at issue.” 79 FR 46979 (Aug. 12, 2014).

<sup>6</sup> 74 FR 53377 (Oct. 16, 2009) (preamble of the final rule amending 14 CFR part 21).

<sup>7</sup> See, generally, *McClanahan v. United States*, 230 F.2d 919, 924 (5th Cir. 1956) (in a prosecution under 18 U.S.C. 1001 in connection with fraudulent mortgage loan applications, the judge appropriately instructed the jury that the word “willful” refers to a forbidden act that is done deliberately and with knowledge).

fraudulent purpose in documents kept, made, or used to show compliance with a regulatory requirement specific to part 43.<sup>14</sup> In 1982, the FAA amended § 43.12(a)(1) to include intentionally false entries.<sup>15</sup> In contrast to §§ 61.59, 63.20, and 65.20, sanction in the context of a § 43.12 violation was limited to suspension or revocation of “the applicable” certificate (*i.e.*, the certificate used during the commission of the violation conduct, which most frequently is a mechanic certificate issued under part 65.)<sup>16</sup>

In 1992, the FAA implemented 14 CFR 21.2 to address falsification-related conduct in the context of certification procedures for products and articles.<sup>17</sup> The agency explained that § 21.2 “was modeled after similar provisions found in [Federal Aviation Regulations] parts 43, 61, 63, 65, and 143 for certificates, authorizations, and ratings issued under those parts.”<sup>18</sup> Thus, § 21.2 was similar to the predecessor falsification regulations insofar as proscribing intentionally false and fraudulent statements, reproductions for a fraudulent purpose, and alterations. In 2009, the FAA amended § 21.2(a)(1)-(2) by proscribing misleading statements.<sup>19</sup> At that time, the FAA specified that § 21.2 applied to both entities and individuals.<sup>20</sup> Section 21.2 became inconsistent with the predecessor falsification regulations to the extent that it proscribed misleading statements while the predecessor falsification regulations did not.

Regarding sanction, § 21.2 was consistent with the predecessor regulations in that it provided for the suspension or revocation of certificates. In addition, § 21.2 also prescribed the suspension or revocation of approvals. The 2009 amendments to § 21.2 made it consistent with § 67.403 by including a provision specifying that falsification is a basis for denying issuance of any

certificate or approval under part 21.<sup>21</sup> However, the sanction in § 21.2 limited the scope of affected certificates. While the sanction in the predecessor falsification regulations affected “any” airman or ground instructor certificate (§§ 61.59, 63.20, and 65.20), or airman, ground instructor, and medical certificates (§ 67.403), 14 CFR 21.2 limited the falsification sanction of suspension or revocation to certificates or approvals issued under “this part.”<sup>22</sup>

Inconsistencies continued to emerge in falsification regulations issued or amended by the agency after § 21.2. For example, in 14 CFR 142.11(e)(3) (1996), the agency deviated from prior falsification regulations by proscribing “incomplete,” “inaccurate,” or “false information” (and not “intentionally false information”).<sup>23</sup> Consistent with the limited scope of affected certificates under §§ 21.2 and 43.12, but inconsistent with the broader scope under other predecessor falsification regulations, § 142.11(e)(3) affected certificates issued under “this part,” (*i.e.*, 14 CFR part 142).

Also, in 1996, the FAA amended the falsification regulations in 14 CFR part 67 to broaden the regulatory basis for action by proscribing the provision of incorrect statements or entries by an applicant or airman when applying for medical certification.<sup>24</sup> However, the agency did not amend other falsification regulations that existed prior to 1996 to add an incorrect statement or entry provision. In 2006, the FAA proscribed incorrect statements and entries in 14 CFR 60.33.<sup>25</sup> Following the publication of § 60.33, however, the FAA did not amend existing regulations to address incorrect statements and entries. It also did not add prohibitions against incorrect statements and entries in the subsequent falsification regulations in 14 CFR parts 89, 107, 111, 121, 139, and 145.

The FAA specified different sanctions in proscribing incorrect statements or entries in §§ 67.403(c) and 60.33 and incomplete, inaccurate, and false information in § 142.11(e)(3). The sanction in § 67.403(c) limits the scope of affected certificates to the medical certificate, authorization, or statement of demonstrated ability at issue rather than

“all” certificates as under § 67.403(b) for other falsification-related conduct under part 67. Under 14 CFR 60.33, the sanction for an incorrect statement or entry on which the FAA relied is removal of Flight Simulation Training Device (FSTD) qualification, including the withdrawal of approval for use of an FSTD or denying an application for a qualification.<sup>26</sup> As to the provision of “incomplete,” “inaccurate,” or “false information” referenced in § 142.11(e)(3), the regulation authorizes the denial, suspension, revocation, or termination of a part 142 certificate.

In 2004, the FAA added falsification provisions to the industry drug and alcohol testing regulations, which, at that time, were located at 14 CFR part 121, appendices I and J. Effective July 13, 2009, the FAA’s drug and alcohol testing regulations were recodified, without substantive change, at 14 CFR 120.103(e) and 120.213.<sup>27</sup> (These regulations will hereinafter be referred to as §§ 120.103(e) and 120.213.) Sections 120.103(e) and 120.213 are limited to proscribing intentional falsification and fraud, and reproductions and alterations for a fraudulent purpose, regarding applications for alcohol and drug testing programs, and reports or records required under those programs. These sections contain no sanction provisions.

The falsification proscriptions in the more recent falsification regulations (*i.e.*, 14 CFR 89.5 (2021), 107.5 (2016), 111.35 (2021), 121.9 (2013), 139.115 (2013), and 145.12 (2014)) similarly lack consistency in describing the scope of conduct. Sections 107.5 and 139.115 proscribe intentional falsification, fraud, reproductions for a fraudulent purpose, and alterations for a fraudulent purpose. Sections 89.5 and 145.12 contain those same proscriptions and also proscribe knowingly concealing or causing to be concealed, by omission, a material fact. Sections 111.35 and 121.9, while proscribing intentional falsification and fraud, do not proscribe reproductions and alterations. Section 111.35, similar to §§ 89.5 and 145.12, proscribes concealing or causing to be concealed a material fact. However, § 111.35 lacks the knowledge element and “omission” terminology that is present in §§ 89.5 and 145.12. Section 121.9 proscribes “known omissions.”

In the context of sanction provisions, 14 CFR 89.5, 107.5, 111.35, 121.9, 139.115, and 145.12 are largely inconsistent. Section 111.35 contains no sanction provision. The sanction provisions in §§ 89.5, 107.5, 121.9,

<sup>14</sup> 43 FR 22639 (May 25, 1978).

<sup>15</sup> 47 FR 41085 (Sept. 16, 1982).

<sup>16</sup> Section 43.12(b) specifies, “the applicable airman, operator, or production certificate, Technical Standard Order Authorization, FAA-Parts Manufacturer Approval, or Product and Process Specification.”

<sup>17</sup> 57 FR 41366 (Sept. 9, 1992).

<sup>18</sup> 57 FR 41366.

<sup>19</sup> 74 FR 53368 (Oct. 16, 2009).

<sup>20</sup> In the preamble to the final rule amending the part 21 certification procedures and adding the falsification prohibition, the FAA noted that the rule could apply to entities and individuals. *See* 74 FR 53381 (Oct. 16, 2009) (“This rule primarily directly affects all type certificate (TC) and production approval holders (PAHs), including holders of PCs, TSOs, and PMAs. Regional air cargo carriers and exporters of used aircraft and used engines, propellers, and other articles (primarily distributors and individuals) are also directly affected by this rule.”).

<sup>21</sup> 14 CFR 21.2(b)(1) (74 FR 53368).

<sup>22</sup> 14 CFR 21.2(b)(2).

<sup>23</sup> Section 142.11(e)(3) provides: “The Administrator may deny, suspend, revoke, or terminate a certificate under this part if the Administrator finds that the applicant or the certificate holder . . . (3) Has provided incomplete, inaccurate, fraudulent, or false information for a training center certificate . . . .”

<sup>24</sup> 61 FR 11251 (Mar. 19, 1996).

<sup>25</sup> 71 FR 63426 (Oct. 30, 2006).

<sup>26</sup> 14 CFR 60.33(c).

<sup>27</sup> *See* 74 FR 22649 (May 14, 2009).

139.115, and 145.12 vary in consistency. Section 139.115 provides for suspension or revocation but does not provide for a civil penalty. Meanwhile, §§ 89.5, 107.5, 121.9, and 145.12 authorize suspension or revocation, civil penalty, and denial of an application.<sup>28</sup> Yet, the reach of suspensions, revocations, and denials vary among §§ 89.5, 107.5, 121.9, 139.115, and 145.12. Section 107.5(b) provides for suspension or revocation of “any certificate, waiver, or declaration of compliance issued or accepted by the Administrator under this part and held by that person . . .” and the denial of any application for a remote pilot certificate or certificate of waiver and declaration of compliance. Section 121.9 applies the suspension or revocation to “any certificate held by that person that was issued under this chapter” (*i.e.*, 14 CFR parts 1–199) and the denial of an application for any approval under this part. Section 139.115(b) provides for suspension or revocation of “any certificate or approval under this part and held by that certificate holder and any other certificate issued under this title” (*i.e.*, 14 CFR) but does not provide for a denial of an application. Section 145.12 allows the FAA to suspend or revoke “the repair station certificate and any certificate, approval, or authorization issued by the FAA and held by that person” and the denial of an application under part 145.

In § 89.5, the FAA articulated a broader approach to sanction. Under § 89.5(c), falsification is a basis for “[d]enial, suspension, rescission, or

revocation of any acceptance, application, approval, authorization, certificate, declaration, declaration of compliance, designation, document, filing, qualification, means of compliance, record, report, request for reconsideration, or similar instrument granted by the Administrator and held by that person” or a civil penalty. Regarding 14 CFR chapter III, 14 CFR 413.17(c) is the sole falsification regulation. It references only willful false statements and thus is limited in its application. It cites criminal sanctions under 18 U.S.C. 1001. It also provides that willful false statements may result in “administrative sanctions in accordance with part 405 of this chapter.”<sup>29</sup> Although the removal of § 413.17(c) would remove the reference to 18 U.S.C. 1001, this does not imply that 18 U.S.C. 1001 is inapplicable to false statements submitted to the FAA, nor does it restrict the FAA’s ability to refer possible criminal violations of 18 U.S.C. 1001 to the DOT Office of the Inspector General or the Department of Justice. Intentionally false statements currently covered by 14 CFR chapter I and the proposed 14 CFR 3.403 and 402.3 may still be subject to 18 U.S.C. 1001. However, FAA regulations do not generally refer to possible criminal consequences, and the FAA does not believe that the regulations should specifically mention 18 U.S.C. 1001.

2. Incomplete Application of the Falsification Regulations

Many parts of 14 CFR chapter I lack a falsification regulation but warrant one. In the absence of such falsification

regulations, the FAA is precluded from taking enforcement action for falsification-related conduct under those parts. As a result, there is no general or specific deterrent for those who might engage in such conduct. For example, the falsification regulation in part 121 applying to domestic, flag, and supplemental operations currently has no counterpart in part 135 pertaining to commuter and on-demand operations despite that both parts authorize commercial operations. Similarly, the falsification regulation in part 142 applying to training centers has no counterpart in part 141 or part 147. Part 47, which relates to aircraft registration, also contains no falsification prohibition despite instances of falsified aircraft registration applications.

Similarly, most of 14 CFR chapter III lacks falsification regulations but warrants them. In 14 CFR chapter III, only a single falsification regulation (*i.e.*, § 413.17(c)) exists. It addresses only willful false statements in the context of applications and documents relating to applications, licenses, or permits. Although some regulations in 14 CFR chapter III require licensees to ensure the continuing accuracy of representations contained in their application (*i.e.*, §§ 413.7(c), 414.13(d), 414.21, 414.27, 417.11, 431.73(a), and 450.211(a)), those regulations do not provide a comprehensive falsification prohibition.

Table 1 sets forth a brief history of the falsification regulations, including prohibitions and sanction for the year each regulation was implemented.<sup>30</sup>

TABLE 1—HISTORY OF FAA FALSIFICATION REGULATIONS

Year	Part(s)/section(s)	Prohibited conduct	Sanction
1965 .....	61.48 (presently codified at §§ 61.59), 63.20, 65.20.	Fraudulent or intentionally false statements and entries, reproductions for a fraudulent purpose, and alterations involving documents and records associated with parts 61, 63, and 65, respectively.	61.59—Suspending or revoking any airman certificate, rating, or authorization held by that person; 63.20, 65.20—Suspending or revoking any airman or ground instructor certificate or rating held by that person.
1965 .....	67.20 (presently codified at § 67.403).	Fraudulent or intentionally false statements and entries, fraudulent reproductions, alterations, and incorrect statements or entries involving documents and records under part 67.	(1) Suspending or revoking all airman, ground instructor, and medical certificates and ratings held by that person; (2) Withdrawing all Authorizations or SODAs held by that person; and (3) Denying all applications for medical certification and requests for Authorizations or SODAs. An incorrect statement or entry may serve as a basis for suspending or revoking a medical certificate; withdrawing an Authorization or SODA; or denying an application for a medical certificate or request for an authorization or SODA.

<sup>28</sup> In 2021, the FAA amended 14 CFR 107.5 to include the denial of a declaration of compliance as a sanction for falsification. 86 FR 4381 (Jan. 15, 2021).  
<sup>29</sup> See note 6, *supra*, regarding the removal of the civil penalty prescription from part 405.

<sup>30</sup> After implementation of the falsification regulations in 14 CFR parts 21 and 43, the FAA made the following amendments. In 1982, the FAA amended 14 CFR 43.12(a)(1) to include intentionally false entries. 47 FR 41085 (Sept. 16, 1982). In 2009, the FAA amended 14 CFR

21.2(a)(1)–(2) by proscribing misleading statements. 74 FR 53368 (Oct. 16, 2009). The 2009 amendments to 14 CFR 21.2 included denying issuance of any certificate or approval under part 21 as a sanction for falsification. 74 FR 53368 (Oct. 16, 2009).

TABLE 1—HISTORY OF FAA FALSIFICATION REGULATIONS—Continued

Year	Part(s)/section(s)	Prohibited conduct	Sanction
1978 .....	43.12 .....	Fraudulent entries and fraudulent reproductions and alterations involving records or documents associated with part 43.	Suspending or revoking the applicable airman, operator, or production certificate, Technical Standard Order Authorization, FAA-Parts Manufacturer Approval, or Product and Process Specification issued by the Administrator and held by that person.
1992 .....	21.2 .....	Fraudulent or intentionally false statements, fraudulent reproductions, and alterations involving documents associated with part 21.	Suspending or revoking any certificate or approval issued under part 21 part and held by that person.
1996 .....	142.11(e)(3) .....	Incomplete, inaccurate, fraudulent, or false information associated with training center certificates.	Denial, suspension, revocation, or termination of a certificate under part 142.
2004 .....	120.103(e) and 120.213 (formerly 121 app. I and J).	Fraudulent or intentionally false statements or entries and fraudulent reproduction or alteration involving records and documents associated with part 120.	None.
2006 .....	60.33 .....	Fraudulent or intentionally false statements, known omissions, fraudulent reproduction or alteration, and incorrect statements or entries upon which the FAA relied or could have relied involving records or documents associated with part 60.	One or any combination of the following: (1) A civil penalty; (2) Suspension or revocation of any certificate held by that person that was issued under 14 CFR chapter I; (3) The removal of FSTD qualification and approval for use in a training program. An incorrect statement or entry, upon which the FAA relied or could have relied, may serve as the basis for the removal of qualification of an FSTD, including the withdrawal of approval for use of an FSTD or denying an application for a qualification.
2007 .....	413.17(c) .....	Willful false statements made relating to applications, licenses, and permits.	Administrative sanctions in accordance with part 405 of 14 CFR chapter III.
2013 .....	121.9 .....	Fraudulent or intentionally false statements and known omissions involving records and documents under part 121.	One or any combination of the following: (1) A civil penalty; (2) Suspension or revocation of any certificate held by that person that was issued under 14 CFR chapter I; (3) The denial of an application for any approval under part 121; (4) The removal of any approval under part 121.
2013 .....	139.115 .....	Fraudulent or intentionally false statements or entries and fraudulent reproduction or alteration involving records or documents associated with part 139.	Suspension or revocation of any certificate or approval issued under part 139 and held by that certificate holder and any other certificate issued under 14 CFR and held by the person committing the act.
2014 .....	145.12 .....	Fraudulent or intentionally false entries, fraudulent reproduction or alteration, and omissions of a material fact involving records or documents associated with part 145.	One or any combination of the following: (1) Suspending or revoking the repair station certificate and any certificate, approval, or authorization issued by the FAA and held by that person; (2) A civil penalty; (3) The denial of an application under part 145.
2016 .....	107.5 .....	Fraudulent or intentionally false records or reports and fraudulent reproduction or alteration involving records or documents associated with part 107.	Any of the following: (1) Denial of an application for a remote pilot certificate or a certificate of waiver; (2) Suspension or revocation of any certificate, waiver, or declaration of compliance issued or accepted by the Administrator under part 107 and held by that person; or (3) A civil penalty.
2021 .....	89.5 .....	Fraudulent or intentionally false statements, fraudulent reproduction or alteration, and knowingly concealing or causing to be concealed a material fact involving records or documents associated with part 89.	(1) Denial, suspension, rescission, or revocation of any acceptance, application, approval, authorization, certificate, declaration, declaration of compliance, designation, document, filing, qualification, means of compliance, record, report, request for reconsideration, or similar instrument issued or granted by the Administrator and held by that person; or (2) A civil penalty.

TABLE 1—HISTORY OF FAA FALSIFICATION REGULATIONS—Continued

Year	Part(s)/section(s)	Prohibited conduct	Sanction
2021 .....	111.35 .....	Fraudulent or intentionally false statements and concealing or causing to be concealed a material fact involving records or documents associated with part 111.	None.

#### *D. Summary of the Costs and Benefits*

Falsification regulations promote aviation and commercial space safety by incentivizing participants in the National Aerospace System to provide accurate and truthful information in safety-related records. Through the proposed rule, the FAA intends to enhance aviation safety by standardizing the scope of conduct that the FAA intends to deter, proscribed by falsification regulations, across the applicable sections of 14 CFR parts 1 through 199 and 14 CFR parts 413 through 460 and extending this scope of conduct to parts that currently do not have—but should have—falsification provisions. The proposed rule also intends to standardize sanction provisions for this conduct and allow for more consistent sanction determinations as appropriate. The FAA has evaluated the cost impacts to the stakeholders involved in this proposed rulemaking and does not anticipate any new cost impact to the industry or the FAA as a result of this proposed rule.

The FAA has also determined that this proposed rule is not a “significant regulatory action” as defined in section 3(f) of Executive Order 12866 and is not “significant” as defined in DOT’s Regulatory Policies and Procedures.

#### **II. Authority for This Rulemaking**

The FAA’s authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency’s authority.

With respect to 14 CFR chapter I, this rulemaking is issued under 49 U.S.C. 44701(a)(5), which establishes the authority of the Administrator to prescribe regulations and minimum standards for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce and national security. It is also issued under 49 U.S.C. 44702–44709, which prescribe the FAA’s authority to issue different types of certificates to various individuals and entities and to amend, modify, suspend, or revoke those certificates as appropriate. This NPRM is within the scope of these sections because it would establish new

falsification regulations that consolidate all existing falsification regulations into a general rule that standardizes the existing falsification regulations and ensures that falsification-related conduct that is not, but should be, addressed by current regulations is covered under the general rule. This NPRM also falls within the scope of 49 U.S.C. 46301 since this section authorizes the assessment of civil penalties for noncompliance with the general falsification provision.

With respect to 14 CFR chapter III, this rulemaking is issued under the authority described in the Commercial Space Launch Act of 1984, as amended and recodified at 51 U.S.C. 50901–50923 (the Act). The Act authorizes DOT to oversee, investigate, license, and regulate commercial launch and reentry activities and the operation of launch and reentry sites as carried out by U.S. citizens or within the United States. *See* 51 U.S.C. 50904, 50905. The Act directs the DOT to exercise this responsibility consistent with public health and safety, safety of property, and the national security and foreign policy interests of the United States. *See* 51 U.S.C. 50901. This authority has been delegated to the FAA’s Associate Administrator for Commercial Space Transportation. *See* 14 CFR 401.3.

The proposed regulations fall within the scope of 51 U.S.C. 50901–50923 because they would establish comprehensive falsification proscriptions that currently do not exist in 14 CFR chapter III. They would promote the integrity of the information that the FAA relies on and would serve as a basis for regulatory action as appropriate, which is essential to the FAA’s statutory responsibility to promote continuous improvement of commercial space activities and ensure that such activities are consistent with public health and safety, safety of property, and national security and foreign policy interests. The proposed rulemaking is within the scope of 51 U.S.C. 50908, since this section authorizes the FAA, under delegated authority from the Secretary of Transportation, to modify, suspend, or revoke a license issued or transferred under 51 U.S.C. Subtitle V, chapter 509. It is within the scope of 51 U.S.C. 50917

since it authorizes the FAA, under delegated authority from the Secretary of Transportation, to assess a civil penalty for a violation of chapter 509, a regulation prescribed under chapter 509, or any term of a license issued or transferred under chapter 509.

#### **III. Discussion of the Proposal**

The FAA proposes to amend and reorganize the current falsification regulations to create uniform and comprehensive falsification regulations for the applicable parts of 14 CFR chapter I and across 14 CFR chapter III, subchapter C. This proposed rulemaking would standardize the proscribed conduct and expand the proscription to the pertinent parts of 14 CFR chapters I and III as appropriate. It would also standardize sanction provisions.

##### *A. Applicability of the Proposed Rulemaking to 14 CFR Chapter I*

The proposed rulemaking would address the lack of standardization in current falsification regulations across the applicable parts of 14 CFR chapter I. In addition, the proposed rule would ensure that the falsification prohibition applies to the particular parts of 14 CFR chapter I that should have such a prohibition but currently do not. Under proposed § 3.401, the proposed rule would apply to any person subject to the requirements in 14 CFR chapter I, subchapter A (except parts 1 and 3), subchapter C (except part 39), subchapter D, subchapter E (except parts 71 and 73), subchapter F (except parts 95 and 97), subchapter G (except part 110), subchapter H, and part 183 of subchapter K.

##### **1. Application of Proposed Rule to 14 CFR Chapter I, Subchapter A (Except Parts 1 and 3)**

Subchapter A consists of 14 CFR parts 1, 3, and 5. The proposed rule would apply to 14 CFR part 5, which contains recordkeeping requirements regarding Safety Management Systems (SMS) that may be subject to falsification.<sup>31</sup> The proposed rule would not apply to 14 CFR parts 1 and 3. Part 1 contains definitions and abbreviations. Part 3

<sup>31</sup> *See* 14 CFR part 5, subpart F (“SMS Documentation and Recordkeeping”), 14 CFR 5.95 and 5.97.



currently consists of subparts A and B. Subpart A contains an independent falsification regulation governing statements about products, parts, and appliances, and materials that may be used on a type-certificated product and would remain unaffected by the proposed rule.<sup>32</sup> Subpart B prescribes security threat disqualification by the FAA following receipt of a notification from the Transportation Security Administration.<sup>33</sup> The proposed rule would be located in a new subpart D of part 3.

## 2. Applicability of Proposed Rule to 14 CFR, Chapter I, Subchapter C (Except Part 39)

Subchapter C consists of 14 CFR parts 21, 23, 25, 26, 27, 29, 31, 33, 34, 35, 36, 39, 43, 45, 47, 48, and 49. Existing falsification regulations are in 14 CFR 21.2 and 43.12. The proposed rulemaking would remove those sections and apply the proposed rule to parts 21 and 43. The proposed rule would also apply to 14 CFR parts 23, 25, 26, 27, 29, 31, 33, 34, 35, 36 (*i.e.*, “airworthiness requirements”) and 14 CFR parts 45, 47, 48, and 49 (*i.e.*, “registration requirements”).

Section 21.2 addresses falsification of information submitted under part 21 and the airworthiness requirements. A person seeking a certificate or approval, or a change thereto, under part 21 must first show compliance with the airworthiness requirements, as applicable.<sup>34</sup> The person shows such compliance by, among other things, submitting documentation relating to airworthiness requirements to the FAA. The FAA reviews the documentation and determines whether the person has met the applicable standards before issuing or amending a certificate or approval under part 21. Consequently, if a person falsifies a document and submits it to the FAA to show

compliance with the airworthiness requirements in the process of seeking a certificate, approval, or change under 14 CFR part 21, the FAA addresses the falsification under 14 CFR 21.2. Under the proposed rulemaking, the falsification prohibition in subpart D of part 3 would apply directly to the airworthiness requirements in addition to 14 CFR part 21.

The proposed rule would also apply to the registration requirements in 14 CFR parts 45, 47, 48, and 49. Parts 45, 47, 48, and 49 contain record requirements that may be subject to falsification. Due to the absence of a falsification regulation in part 47, the FAA has lacked a direct approach to addressing registration falsifications under that part. Hence, the proposed rulemaking would appropriately apply to parts 45, 47, 48, and 49.

The proposed rule would not apply to 14 CFR part 39 since it provides a legal framework for the FAA’s system of airworthiness directives. It does not contain requirements that are subject to falsification.

## 3. Applicability of Proposed Rule to 14 CFR, Chapter I, Subchapter D

Subchapter D (“Airmen”) consists of 14 CFR parts 60, 61, 63, 65, 67, and 68. Existing falsification regulations are in 14 CFR 60.33, 61.59, 63.20, 65.20, and 67.403. The proposed rulemaking would remove those sections and apply to parts 60, 61, 63, 65, and 67. The proposed rule would also apply to part 68, which does not have an existing falsification regulation.<sup>35</sup> Part 68 requires an individual to make representations, provide them to the FAA, and retain required documents in their logbook. Since these record requirements could be subject to falsification, the proposed rule would apply to part 68.

## 4. Applicability of Proposed Rule to 14 CFR, Chapter I, Subchapter E (Except Parts 71 and 73)

Subchapter E (“Airspace”) consists of 14 CFR parts 71, 73, and 77, none of which contain existing falsification regulations. The proposed rulemaking would apply only to part 77 since that part requires an individual to submit

documentation to the FAA that could be subject to falsification.<sup>36</sup> In contrast, parts 71 and 73 consist of FAA designations of airspace. Those parts are not subject to falsification.

## 5. Applicability of Proposed Rule to 14 CFR Chapter I, Subchapter F (Except Parts 95 and 97)

Subchapter F (“Air Traffic and General Operating Rules”) consists of 14 CFR parts 89, 91, 93, 95, 97, 99, 101, 103, 105, and 107. Existing falsification regulations are in 14 CFR 89.5 and 107.5. The proposed rulemaking would remove these sections and apply the proposed rule to parts 89 and 107. The proposed rule would also apply to 14 CFR parts 91, 93, 99, 101, 103, and 105. These parts contain requirements for applying for certificates, waivers, and other issuances or grants or for keeping or making records.<sup>37</sup> Since these documentary requirements are subject to falsification, the proposed rule would apply. The proposed rule would not apply to 14 CFR parts 95 and 97 since

<sup>36</sup> Part 77 establishes, among other things, “the requirements to provide notice to the FAA of certain proposed construction, or the alteration of existing structures” and “[t]he process to petition the FAA for discretionary review of determinations, revisions, and extensions of determinations.” 14 CFR 77.1(a) and (d). Sections 77.7, 77.9, and 77.11 describe the contents of such notices provided to the FAA. Following submission of the notice(s), “[t]he FAA will make a determination stating whether the proposed construction or alteration would be a hazard to air navigation, and will advise all known interested persons.” 14 CFR 77.31(a).

<sup>37</sup> The following are examples of such requirements.

Part 91—Subpart K of part 91 contains requirements for submitting an application for management specifications (14 CFR 91.1014) and for recordkeeping (14 CFR 91.1027). *See also*, 14 CFR 91.903(b) (application for a certificate of waiver) and 91.871 (waivers from interim compliance requirements).

Part 93—Section 93.325 requires that “[e]ach certificate holder must submit in writing, within 30 days of the end of each calendar quarter, the total number of commercial [Special Flight Rules Area] SFRA [Washington, DC Metropolitan Area Special Flight Rules Area] operations conducted for that quarter.” Section 93.323 requires a certificate holder to file a visual flight rules flight plan before conducting a commercial SFRA operations.

Part 99—Section 99.9(b)(1) provides that, “[n]o person may operate an aircraft into, within, or whose departure point is within an ADIZ unless— (1) The person files a DVFR flight plan containing the time and point of ADIZ penetration . . . .”

Part 101—Part 101 specifies the required contents of a notification to the FAA by a person who intends to operate an unshielded moored balloon or kite (14 CFR 101.15) or an unmanned free balloon (14 CFR 101.37).

Part 103—Section 103.3(b) requires the pilot or operator of an ultralight vehicle to, upon request of the Administrator, furnish satisfactory evidence that the vehicle is subject only to the provisions of part 103.

Part 105—Section 105.15(a) requires a person requesting an authorization to conduct a parachute operation over or into a congested area to submit a notification consisting of particular information.

<sup>32</sup> See 14 CFR 3.5 (prohibiting falsification regarding products, parts, and appliances).

<sup>33</sup> 14 CFR 3.200 and 3.205.

<sup>34</sup> Under 14 CFR part 21, the FAA issues and changes design approvals, production approvals, airworthiness certificates, and airworthiness approvals. 14 CFR 21.1(a)(1). Under 14 CFR 21.1(b)(4), a design approval “means a type certificate . . . or the approved design under a PMA, TSO authorization, letter of TSO design approval, or other approved design . . . .” The “Airworthiness Standards” (*i.e.*, 14 CFR parts 23–36) with the exception of part 34, (1) prescribe airworthiness standards for the issue of type certificates and changes to certificates and (2) require each person who applies under part 21 for such a certificate or change to show compliance with the applicable requirements of those parts. *See* 14 CFR 23.2000(a), 25.1(a)–(b), 26.1(a)–(b), 27.1(a)–(b), 29.1(a) and (g), 31.1(a)–(b), 33.1(a)–(b), 35.1(a)–(b), and 36.1(a)–(c). Part 34 sets forth fuel venting and exhaust emission requirements for turbine powered airplanes.

<sup>35</sup> Part 68 requires an individual to complete a medical education course (§ 68.3) and a comprehensive medical evaluation (14 CFR 68.5), which includes a comprehensive medical examination checklist (CMEC). The individual makes required representations on the medical education course information (§§ 68.3(b)(1), (3)–(5)), which is submitted to the FAA (§ 68.3(b)) and the CMEC (§ 68.7(a)(2)). Both the medical education course completion certificate and the CMEC must be kept in the individual’s logbook. (§ 68.3(b)(1) and 61.113(i)(3)).



they consist of FAA airspace and procedure designations. They do not contain documentation requirements subject to falsification.

#### 6. Applicability of Proposed Rule to 14 CFR Chapter I, Subchapter G (Except Part 110)

Subchapter G (“Air Carriers and Operators for Compensation or Hire: Certification and Operations”) consists of 14 CFR parts 110, 111, 117, 119, 120, 121, 125, 129, 133, 135, 136, 137, and 139. Existing falsification regulations are contained in 14 CFR 111.35, 120.103(e), 120.213, 121.9, and 139.115. The proposed action would remove those sections and apply the proposed rule to parts 111, 120, 121, and 139.

The proposed rule would also apply to 14 CFR parts 117, 119, 125, 129, 133, 135, 136, and 137, none of which contain an existing falsification regulation. Part 117 contains reporting requirements that may be subject to falsification, prompting the necessity for the application of the proposed rulemaking.<sup>38</sup> Although parts 119, 121, 125, 129, 133, 135, 136, and 137 require documents that are subject to falsification, only part 121 contains a falsification regulation. Accordingly, the proposed rulemaking would apply to those sections. The proposed action would not apply to 14 CFR part 110, as this part provides definitions only.

#### 7. Applicability of Proposed Rule to 14 CFR Chapter I, Subchapter H

Subchapter H (“Schools and Other Certificated Agencies”) consists of 14 CFR parts 141, 142, 145, and 147. Existing falsification regulations are in 14 CFR 142.11(e) and 145.12. The proposed action would remove those sections and apply the proposed rule to parts 142 and 145. The proposed rule would also apply to parts 141 and 147 since these parts have documentation requirements that may be subject to falsification. Part 142 contains operation and certification requirements and a falsification regulation, yet parts 141 and 147 do not proscribe falsification despite containing analogous operation and certification requirements in the context of aviation training.

#### 8. Applicability of Proposed Rule to 14 CFR Chapter I, Subchapter K, Part 183

Subchapter K (“Administrative Regulations”) consists of 14 CFR parts 183, 185, 187, 189, and 193. Subchapter K contains no existing falsification regulations. The proposed rulemaking

would apply solely to 14 CFR part 183 as parts 185, 187, 189, and 193 do not contain provisions subject to falsification.<sup>39</sup> Generally, intentional falsification by a delegee under part 183 would likely result in the FAA rescinding the delegation under 49 U.S.C. 44702(d)(2).<sup>40</sup> Under the proposed rule, the FAA would have the option of initiating an action against a delegee for intentional falsification, and it would be “a basis for . . . rescinding . . . any . . . designation.”<sup>41</sup>

#### 9. Other Subchapters of 14 CFR Chapter I to Which the Proposed Rule Would Not Apply

The proposed rulemaking would not apply to 14 CFR chapter I, subchapters B (“Procedural Rules”); I (“Airports”); J (“Navigational Facilities”); and N (“War Risk Insurance”). The application of the proposed rule to these subchapters would constitute an unnecessary or unwarranted expansion of the falsification prohibition at this time.

#### B. Applicability of the Proposed Rulemaking to 14 CFR Chapter III

The proposed rulemaking would address the lack of comprehensive falsification regulations across the applicable parts of 14 CFR chapter III by creating a new part 402, entitled “General Requirements and Falsification Prohibitions.” The proposed rule in part 402 would parallel the proposed rule in part 3, subpart D. It would apply to any person subject to the requirements in subchapter C of 14 CFR chapter III.

Subchapter C (“Licensing”) consists of 14 CFR parts 413, 414, 415, 417, 420, 431, 433, 435, 437, 440, 450, and 460. Subchapter C currently has one falsification regulation in subchapter C, which is located at 14 CFR 413.17(c) (“Continuing Accuracy of Application; Supplemental Information; Amendment”). The proposed rulemaking would remove that

subparagraph and would apply the proposed rule in new part 402 to all parts of subchapter C. Subchapter C contains myriad requirements and procedures in connection with licenses, approvals, permits, and recordkeeping, and for demonstrating financial responsibility. The requirements involve submission of information to the FAA that could be subject to falsification.<sup>42</sup>

#### C. “Statements” in Proposed §§ 3.403(a), 3.405(a), 402.3(a), and 402.5(a)

Proposed §§ 3.403(a), 3.405(a), 402.3(a), and 402.5(a) apply to “statements.” Over the years, the falsification regulations have proscribed false statements and entries.<sup>43</sup> Regardless of whether one characterizes a particular representation as a “statement” or “entry,” when it is intentionally false or fraudulent, it is subject to the falsification proscription. The elimination of the word “entry” is intended to simplify the proposed rulemaking and is not intended to make a substantive change. The term “statement” references any information a person provides in a document. Accordingly, proposed §§ 3.403(a) and 402.3(a) would provide that “[n]o person may make or cause to be made any fraudulent or intentionally false statement” in any of the documents described in proposed §§ 3.403(a)(1)–(2) and 402.3(a)(1)–(2). Sections 3.405(a) and 402.5(a) would provide that “[n]o person may make or cause to be made a material incorrect statement” in any of the documents described in §§ 3.405(a)(1)–(2) and 402.5(a)(1)–(2).

#### D. Categories of “Any Document in Any Format” in Proposed §§ 3.403 and 3.405—14 CFR Chapter I

The proposed rulemaking in relation to 14 CFR chapter I applies to “any document in any format.” Documents “in any format” include hard copy or other tangible format (like a data plate, stamped marks on parts, and bar codes)

<sup>39</sup> Part 183 “describes the requirements for designating private persons to act as representatives of the Administrator in examining, inspecting, and testing persons and aircraft for the purpose of issuing airman, operating, and aircraft certificates. In addition, this part states the privileges of those representatives and prescribes rules for the exercising of those privileges, as follows:

(a) An individual may be designated as a representative of the Administrator under subparts B or C of this part.

(b) An organization may be designated as a representative of the Administrator by obtaining an Organization Designation Authorization under subpart D of this part.” 14 CFR 183.1(a)–(b).

<sup>40</sup> See 49 U.S.C. 44702(d)(2) (authorizing the FAA to “rescind a delegation under this subsection at any time for any reason the Administrator considers appropriate.”).

<sup>41</sup> Sections 3.403(d)(1) and 3.405(b) of the proposed rule.

<sup>42</sup> See requirements in 14 CFR 413.7 (an application for a license); 414.13 (an application for a safety approval); 415.13 (transfer of a launch license); 417.15 and 420.61 (maintaining all records necessary to verify that the operator conducts its operations in accordance with representations contained in its application); 431.25 (an application for a policy review); 433.3 (issuance of a license to operate a reentry site); 435.5 (obtaining policy and safety approvals concerning reentry of a reentry vehicle other than a reusable launch vehicle); 437.21 (obtaining an Experimental Permit); 440.15 (submitting to the FAA evidence of financial responsibility and compliance with allocation of risk requirements under part 440); 450.31 (obtaining a vehicle operator license); and 460.7 (maintaining records of crew training).

<sup>43</sup> See note 1, *supra*.

<sup>38</sup> See 14 CFR 117.11(c) (“Each certificate holder must report to the administrator within 10 days any flight time that exceeded the maximum flight time limits permitted by this section or § 117.23(b).”)

or electronic. The proposed rulemaking in relation to 14 CFR chapter I applies to two categories of documents. Proposed §§ 3.403(a)(1), 3.403(b)(1), 3.403(c)(1), and 3.405(a)(1) would consist of “[a]ny document in any

format submitted under any provision referenced in § 3.401 of [proposed subpart D of part 3], consisting of or related to any acceptance, application, approval, authorization, certificate, rating, declaration, designation,

qualification, record, report, request for reconsideration, or similar.” (“Category 1”). Table 2 contains examples of documents in Category 1.

TABLE 2—EXAMPLES OF CATEGORY 1 DOCUMENTS—14 CFR CHAPTER I

14 CFR chapter I—documents—proposed §§ 3.403(a)(1), 3.403(b)(1), 3.403(c)(1), and 3.405(a)(1)	
Category 1	Examples
Acceptance .....	Acceptance of aircraft engines and propellers (§ 21.500); Acceptance of Articles (§ 21.502).
Application .....	<i>See generally</i> , parts 61 ( <i>e.g.</i> , application for pilot certificate), 67 ( <i>e.g.</i> , application for a medical certificate), 119 ( <i>e.g.</i> , application for an Air Carrier Certificate or Operating Certificate).
Approval .....	Parts Manufacturer Approval (PMA) (Part 21, subpart K); Fatigue risk management system (§ 117.7); 121.141 Airplane Flight Manual (§ 121.141), Approval procedures of training courses (§ 141.13); SMS Implementation Plan, § 5.1.
Authorization .....	Authorization for Special Issuance of a Medical Certificate (§ 67.401); Letter of Authorization ( <i>e.g.</i> , part 91); Inspector Authorization (§ 65.95).
Certificate .....	<i>See generally</i> , parts 61 ( <i>e.g.</i> , private, commercial airline transport pilot certificates), 63 ( <i>e.g.</i> , flight engineer certificate), 67 ( <i>e.g.</i> , medical certificate), 145 ( <i>e.g.</i> , repair station certificate).
Rating .....	Instrument rating (§ 61.65).
Declaration .....	Declaration of compliance (§ 89.535).
Designation .....	Kinds of Designations (part 183, subpart C).
Qualification .....	Flight Simulator Training Device qualification (§ 60.4).
Record .....	Maintenance records ( <i>e.g.</i> , part 43); Pilot School Training Records (§ 141.101); Voting Trust Agreement and Affidavit (§ 47.8).
Report .....	Safety analysis (§ 33.75); Comprehensive Medical Examination Checklist (§ 68.7).
Request for reconsideration	Request for reconsideration (§§ 67.407(c) and 67.409(a)).
Or similar .....	Operations specifications (part 119); Product and Process specifications; Program Registrations (part 120); Waivers ( <i>e.g.</i> , part 107); Exemptions ( <i>e.g.</i> , part 139); Special Flight Permits (§ 21.197); Graduation Certificate (§ 141.95).

Proposed §§ 3.403(a)(2), 3.403(b)(2), 3.403(c)(2), and 3.405(a)(2) would consist of, “[a]ny document in any format that is kept, made, or used to show compliance with any requirement under the provisions referenced in § 3.401 of this subpart” (“Category 2”).

1. Scope of Category 1 in Proposed §§ 3.403(a)(1), 3.403(b)(1), 3.403(c)(1), and 3.405(a)(1)

The Category 1 documents in proposed §§ 3.403(a)(1), 3.403(b)(1), 3.403(c)(1), and 3.405(a)(1) may consist of an application, declaration, record, report, request for reconsideration, or similar, that a person submits to the FAA or a designee. The Category 1 documents that a person submits to the FAA or a designee may also be related to an acceptance, approval, authorization, certificate, rating, designation, qualification, or similar. For example, the FAA may request an airman seeking a medical certificate under part 67 to submit additional medical records related to qualification requirements under § 67.413. The “related to” language in the proposed rule would cover falsifications of the additional medical records. In either case, the intent of the proposed rule is to ensure that information the FAA is authorized to receive under statute and

regulation in connection with the listed items is covered.

2. Scope of Category 2 in Proposed Sections 3.403(a)(2), 3.403(b)(2), 3.403(c)(2), and 3.405(a)(2)

The Category 2 documents in proposed §§ 3.403(a)(2), 3.403(b)(2), 3.403(c)(2), and 3.405(a)(2) are consistent with the familiar prescription, “made, kept, or used, to show compliance with any requirement,” that is nearly ubiquitous in the falsification regulations.<sup>44</sup> Category 2 documents may include, for example, pilot logbook records and aircraft maintenance records. Such records are kept, made, or used to show compliance with applicable regulatory requirements. In contrast to Category 1 documents, Category 2 documents are not necessarily submitted to the FAA. Proposed §§ 3.403(a)(2), 3.403(b)(2), 3.403(c)(2), and 3.405(a)(2) would not include the words “developed” or “provided,” which is terminology used in 14 CFR 89.5(a)(2) and (b)(2). These terms are redundant of the terms “made,

kept, or used” in the proposed rulemaking. Their removal is not intended to narrow the scope of documents subject to the proposed rulemaking.

Consistent with many existing falsification regulations, Category 2 would not condition the applicability of the falsification prohibition on a requirement that the “document in any format” be kept, made, or used to show compliance. This approach reflects the FAA’s position in the 2014 amendments to part 145. In that rule, the FAA eliminated the phrase “required to be” with regard to any record or report made, kept, or used to show compliance. The FAA did so “to forestall an argument a falsifier could make that, although the falsification occurred in a record or report that was made, kept, or used to show compliance, it was not a record or report that was required by a regulation to be made or kept.”<sup>45</sup> The NTSB had already rejected that argument in addressing a violation of 14 CFR 43.12,<sup>46</sup> noting that

<sup>45</sup> 79 FR 46980 (Aug. 12, 2014).

<sup>44</sup> See 14 CFR 21.2(a)(2), 43.12(a)(1), 60.33(a)(2), 61.59(a)(2), 63.20(a)(2), 65.20(a)(2), 67.403(a)(2); 107.5(a)(1); 139.115(a)(2), 145.12(a)(1)(i); *see also*, 14 CFR 89.5(a)(2) (“developed, provided, kept, or used”); 111.35(c), 120.103(e)(2), 120.213(b) (“kept, made, or used”), and 121.9(a)(2) (“kept, made, or used”).

<sup>46</sup> *Adm’r v. Anderson*, NTSB No. EA-4564, 1997 WL 355350 at \*2 (June 26, 1997) (agreeing with the FAA’s “clearly reasonable position that the regulation reaches falsifications in any maintenance documents actually kept or used to show compliance with a requirement in part 43, whether or not they are records in a form or format the

the phrase should not be restricted to mean “required” by the FAA Administrator because the term can also be broadly construed to mean required by the circumstances for which compliance is sought or necessary.<sup>47</sup> The elimination of the phrase “required to be” is consistent with the falsification regulations that do not contain that phrase.<sup>48</sup>

*E. Categories of “Any Document In Any Format” in Proposed §§ 402.3 and 402.5—14 CFR Chapter III*

The proposed rulemaking in relation to 14 CFR chapter III, applies to two categories of “any document in any format,” as that terminology is defined in Section C. Proposed §§ 402.3(a)(1), 402.3(b)(1), 402.3(c)(1), and 402.5(a)(1)

would consist of “[a]ny document in any format submitted under any provision referenced in § 402.1 of [part 402], consisting of or related to any acceptance, application, approval, authorization, permit, license, waiver, record, report, or similar,” (“Category 1”). Table 4 contains examples of documents in Category 1.

TABLE 3—EXAMPLES OF CATEGORY 1 DOCUMENTS—14 CFR CHAPTER III

14 CFR Chapter I—Documents—Proposed §§ 402.3(a)(1), 402.3(b)(1), 402.3(c)(1), and 402.5(a)(1)	
Category 1	Examples
Acceptance .....	Acceptance of an application (§ 413.11); Acceptance of a means of compliance (§ 450.35).
Application .....	Application submission (§ 413.7).
Approval .....	Safety Element Approval (part 414); Policy Approval (§ 450.41).
Authorization .....	Certificate of Waiver or Authorization (§ 437.71(d)(2)); Authorization to conduct reusable launch vehicle missions (§ 431.3(a)).
Permit .....	Experimental Permit (part 437).
License .....	License Application Procedures (part 413); Launch License (part 415); Launch and Reentry of a Reusable Launch Vehicle (part 431); License to Operate a Reentry Site (part 433); Reentry of a Reentry Vehicle Other Than A Reusable Launch Vehicle (part 435); License to Operate a Launch Site (part 420); Launch and Reentry License Requirements (part 450).
Waiver .....	Filing a petition for waiver (14 CFR 404.5).
Record .....	Records under 14 CFR §§ 417.15, 431.77, 437.87, and 450.219.
Report .....	Reusable launch vehicle mission reporting requirements (§ 431.79); Anomaly reporting (§ 437.73); Mishap plan-reporting, response, and investigation requirements (§ 450.173); Pre-flight reporting (§ 450.213); Post-flight reporting (§ 450.215).
Or similar .....	Demonstration of Financial Responsibility and Compliance with Allocation of Risk Requirements Under part 440; Payload Determination (part 415); Demonstration of Compliance (§ 440.15).

Proposed §§ 402.3(a)(2), 402.3(b)(2), 402.3(c)(2), and 402.5(a)(2) would consist of, “[a]ny document in any format that is kept, made, or used to show compliance with any requirement under the provisions referenced in § 402.1 of [part 402]” (“Category 2”).

1. Scope of Category 1 in Proposed Sections 402.3(a)(1), 402.3(b)(1), 402.3(c)(1), and 402.5(a)(1)

Category 1 documents in proposed §§ 402.3(a)(1), 402.3(b)(1), 402.3(c)(1), and 402.5(a)(1) consist of the listed items (*i.e.*, “acceptance, application . . .”) or documents that are related to them. Listed items in these sections are specific to 14 CFR chapter III, subchapter C, and necessarily vary from the listed items in the proposed rulemaking as it applies to 14 CFR chapter I since these items are in the context of commercial space.

2. Scope of Category 2 in Proposed §§ 402.3(a)(2), 402.3(b)(2), 402.3(c)(2), and 402.5(a)(2)

Category 2 documents in proposed §§ 402.3(a)(2), 402.3(b)(2), 402.3(c)(2),

and 402.5(a)(2) are modeled upon, and consistent with, the terminology in Category 2 in the proposed rule as it applies to 14 CFR chapter I, albeit applicable to commercial space.

*F. Fraudulent or Intentionally False Statements or Entries in Proposed §§ 3.403(a) and 402.3(a)*

Proposed §§ 3.403(a) and 402.3(a) would prohibit fraudulent or intentionally false statements in the Category 1 and 2 documents described in Sections D and E of the “Discussion of the Proposal” section of this NPRM. Both fraud and intentional falsification have clear and long-standing definitions established in precedent. The elements of fraud and intentional falsification are defined in Section I. B. “Background” of this NPRM. The FAA would not deviate from these established definitions of fraud and intentional falsification in the proposed rule.

*G. Production, Reproduction, Alteration, for Fraudulent Purpose in Proposed §§ 3.403(b) and 402.3(b)*

Proposed §§ 3.403(b) and 402.3(b) prohibit any production, reproduction, or alteration for a fraudulent purpose of the Category 1 and 2 documents described in Sections D and E of the “Discussion of the Proposal” section of this NPRM. Reproductions for a fraudulent purpose and alterations, including alterations for a fraudulent purpose, are proscribed in various falsification regulations.<sup>49</sup> While some of these regulations prohibit any alteration of the applicable document (*i.e.*, 14 CFR 21.2(a)(4), 61.59(a)(4), 65.20(a)(4), and 67.403(a)(4)), others prohibit only fraudulent alterations of the applicable document (*i.e.*, 14 CFR 43.12(a)(3), 60.33(a)(3), 107.5(a)(2), and 145.12(a)(3)).

Proposed §§ 3.403(b) and 402.3(b) would standardize this prohibition to those reproductions and alterations that are for a fraudulent purpose. These proposed sections would also prohibit a “production” for a fraudulent purpose

Administrator specifically requires an individual to use or keep for that purpose”).

<sup>47</sup> *Anderson*, NTSB No. EA-4564 at \*3.

<sup>48</sup> See 14 CFR 21.2(a)(2), 60.33(a)(2), 67.403(a)(2), 111.35(c), 120.103(e)(2), 120.213(b), 121.9(a)(2), 145.12(a)(1)(i) and (b)(2).

<sup>49</sup> Such prohibitions are found at 14 CFR 21.2(a)(3)–(4), 43.12(a)(2)–(3), 60.33(a)(3), 61.59(a)(3)–(4), 63.20(a)(3)–(4), 65.20(a)(3)–(4), 67.403(a)(3)–(4), 89.5(a)(3), 107.5(a)(2), 120.103(e)(3), 121.9(a)(2), 139.115(a)(3)–(4), and 145.12(a)(2)–(3). A “fraudulent purpose” consists of

the three elements of an intentional false statement plus an intent to deceive. See *Adm’r v. Coomber*, NTSB Order No. EA-4283 (1994). It does not require action taken in reliance. See *id.*

of the Category 1 or 2 documents. This provision is meant to capture those instances where an individual or entity creates a document, such as a certificate or authorization, rather than altering an authentic existing document. In that case, the false document would be neither a reproduction nor an alteration. In the context of 14 CFR chapter I, this provision would apply, for example, to persons that create a certificate (e.g., an airman certificate or an airworthiness certificate) for a fraudulent purpose.

*H. Knowingly Omitting or Causing To Be Omitted a Material Fact Under Proposed §§ 3.403(c) and 402.3(c)*

Proposed §§ 3.403(c) and 402.3(c) would prohibit a person from knowingly omitting, or causing to be omitted, a material fact in the Category 1 or 2 documents described in Sections D and E under the “Discussion of the Proposal” in this NPRM. These proposed sections would correct inconsistencies in the “omission” prohibitions in the falsification regulations.

The falsification regulations that address omissions do so inconsistently by prohibiting (1) “knowingly concealing or causing to be concealed, by omission, a material fact” (14 CFR 89.5(b)(1)–(2) and 145.12(b)(1)–(2)); (2) “concealing or causing to be concealed a material fact” (14 CFR 111.35(a)–(c)); and (3) “known omissions” (14 CFR 60.33(a)(2) and 121.9(a)(2)). The “concealment” terminology is unnecessary. When the FAA amended 14 CFR part 145 in 2014, it explained that a knowing concealment of a material fact is triggered when a person knew that they failed to include the material fact in the document at issue.<sup>50</sup> Whether a person knowingly conceals a material fact by an omission or knowingly omits a material fact, the result is the same: the person knew that they omitted a material fact.<sup>51</sup> The “known omission” prohibition in 14 CFR 60.33 and 121.9 lacks a materiality element. Regarding § 60.33, the FAA previously stated that it had “added the word ‘material’ to the phrase ‘known omission’ to clarify that only important, known omissions (i.e., from a statement or writing) would constitute a violation” on par with a fraudulent or intentionally false statement or entry.<sup>52</sup> A knowing omission of a material fact can have a detrimental impact on aviation and public safety to the same degree as an

affirmative falsification. Accordingly, the FAA would incorporate this prohibition into the proposed rulemaking for 14 CFR chapter I and chapter III.

*I. Sanction Under Proposed §§ 3.403(d) and 402.3(d) for Conduct Described in Sections F, G, and H of This NPRM*

Proposed §§ 3.403(d) and 402.3(d) would contain the sanction provision respectively applicable to violations of proposed §§ 3.403(a)–(c) and 402.3(a)–(c). It would provide for two categories of sanction: (1) FAA actions (i.e., denial, suspension, modification, revocation, recension, removal, or withdrawal) involving any issuance or grant by the Administrator under 14 CFR chapter I or III; or (2) a civil penalty. Consistent with longstanding FAA sanction policy, the termination of an FAA issuance or grant of the type of item referenced in the proposed rule, such as a certificate revocation, remains the appropriate consequence for violating proposed §§ 3.403(a)–(c) and 402.3(a)–(c).<sup>53</sup> Such violations seriously impact the integrity of the records on which the FAA’s safety oversight depends. If the reliability of these records is undermined, the FAA’s ability to promote aviation and public safety is compromised.

Some of the current falsification regulations limit the scope of sanction to items issued under the part where the falsification regulation is located. For instance, § 21.2(a)(2) limits the suspension or revocation of any certificate or approval issued under part 21. Proposed §§ 3.403(d) and 402.3(d) would generally allow for the extension of those consequences to any issuance or grant by the FAA and held by the falsifier. This is consistent with FAA sanction guidance, which provides that violation of the falsification regulations is an offense that generally warrants the revocation of *all* certificates held by the certificate holder if allowed by the scope of the regulation.<sup>54</sup> This proposal

ensures that such consequences are not limited to certificates and extend to any issuance or grant the falsifier holds.

Under proposed §§ 3.403(d)(2) and 402.3(d)(2), the proscribed conduct may in certain circumstances warrant imposition of a civil penalty against an individual or entity, either in addition to or in combination with an action against a certificate, license, or other issuance or grant. For example, a civil penalty may be appropriate for uncertificated persons that commit a falsification. The appropriate sanction or combination of sanctions is within the prosecutorial discretion of the FAA in accordance with agency sanction guidance policy in publicly available FAA Order 2150.3C, as amended.

*J. Incorrect Statements, or Omissions Under Proposed §§ 3.405 and 402.5*

Proposed §§ 3.405(a)(1)–(2) and 402.5(a)(1)–(2) would prohibit persons from making or causing to be made a material incorrect statement or omitting or causing to be omitted a material fact, in the Category 1 or 2 documents described in Sections D and E under the “Discussion of the Proposal” in this NPRM. Currently, incorrect statements or entries upon which the FAA relied may serve as a basis for an FAA action under 14 CFR 60.33(c)(1)–(2) (e.g., removal of a qualification) and 67.403(c)(1)–(2) (e.g., revocation of a medical certificate). Proposed §§ 3.405(a)(1)–(2) and 402.5(a)(1)–(2) would prohibit material incorrect statements or entries without prescribing reliance by the FAA. Material incorrect statements or entries, i.e., incorrect statements or entries that are capable of influencing an agency decision, may have an adverse impact on safety under 14 CFR chapters I and III. Proposed §§ 3.405(a)(1)–(2) and 402.5(a)(1)–(2) would provide a basis for appropriate action, as explained in Section K. below, when a person unknowingly provides material incorrect information, whether or not the FAA relied upon it.

Proposed §§ 3.405(a)(1)–(2) and 402.5(a)(1)–(2) would also prohibit omissions of material facts from the Category 1 or 2 documents described in Sections D and E under the “Discussion of the Proposal” in this NPRM. Those proposed sections would apply to unknowing omissions of material fact, in contrast to the proscription of knowing omissions of material fact in proposed §§ 3.403(c)(1)–(2) and

certificates. Further, an intentional falsification on an application for a certificate issued under 14 CFR part 61 is a basis for revoking any airman certificate, rating, or authorization.

<sup>50</sup> See 79 FR 46971 (Aug. 12, 2014).

<sup>51</sup> See *id.*

<sup>52</sup> See 71 FR 63422 (Oct. 30, 2006). Although the FAA stated that it was adding “material” to “known omissions,” it appears that this change was never incorporated into the regulatory text.

<sup>53</sup> See FAA Order 2150.3C, chap. 9, para. 8.

<sup>54</sup> See Order 2150.3C, chap. 9, para. 8.a.(2)(i)–(ii), which states:

(i) Not only is revocation appropriate for conduct demonstrating a lack of care, judgment, or responsibility, the scope of the certificates affected by the revocation generally includes all certificates held regardless of which certificate (if any) was used at the time of the conduct.

\* \* \* \* \*

(ii) For certain violations demonstrating a lack of care, judgment, or responsibility, the scope of certificates affected is dictated by statute or regulation. For example, the scope of certificates affected by making a fraudulent or intentional false statement on an application for an airman medical certificate in violation of 14 CFR 67.403 is broad; this regulation provides a basis to revoke all airman (including medical) and ground instructor

402.3(c)(1)–(2). An unknowing omission of a material fact can have a detrimental impact on aviation and public safety to the same degree as a knowing omission of material fact. Accordingly, the FAA would incorporate this prohibition into the proposed rulemaking for 14 CFR chapter I and chapter III.

Proposed § 3.405(a)(1)–(2) would ensure coverage of the scope of prohibited conduct in 14 CFR 142.11(e)(3) that deviated from prior falsification regulations (*i.e.*, “incomplete,” “inaccurate,” or “false information” (and not “intentionally false information”)).<sup>55</sup> Proposed § 3.405(a)(1)–(2) would cover (1) “incomplete” information submitted under 14 CFR 142.11(e)(3) as an omission of a material fact (so long as the person unknowingly omitted it), and (2) “inaccurate” and unintentionally “false” information submitted under 14 CFR 142.11(e)(3) as a material incorrect statement or entry.<sup>56</sup>

Proposed § 3.405(a)(1)–(2) would create consistency by expanding the prohibition to the parts of 14 CFR chapter I that contain falsification regulations but do not currently prohibit such conduct, and to the applicable parts of 14 CFR chapter I generally, which are referenced in proposed § 3.401.<sup>57</sup>

#### *K. Sanction Under Proposed §§ 3.405(b) and 402.5(b) for Incorrect Statements, or Omissions*

Proposed §§ 3.405(b) and 402.5(b) would permit the agency to deny, suspend, modify, revoke, rescind, remove, or withdraw any issuance or grant by the Administrator under 14 CFR chapter I or III for conduct described in Section J of the “Discussion of the Proposal” in this NPRM. The intent behind proposed §§ 3.405(b) and 402.5(b) would not be punitive, but rather remedial and preventive in an effort to cure unintended defects in documents under proposed §§ 3.403, 3.405, 402.3, and 402.5. A material incorrect statement or entry, or omission of a material fact, generally warrants an action against the issuance or grant in response to the document(s) containing an incorrect statement, entry, or omission. For example, generally, the appropriate sanction for an incorrect statement on

an application for an airman medical certificate is revocation of that certificate. The individual impacted would then be able to submit a new corrected application. Proposed §§ 3.405(b) and 402.5(b) do not require the FAA to take action against a person for an incorrect statement, entry, or omission of material fact. The FAA would use its prosecutorial discretion to determine whether such action was appropriate based on the totality of the circumstances of a particular case.

#### **IV. Regulatory Notices and Analyses**

Federal agencies consider impacts of regulatory actions under a variety of executive orders and other requirements. First, Executive Order 12866 and Executive Order 13563, as amended by Executive Order 14094 (“Modernizing Regulatory Review”), direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify the costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. The current threshold after adjustment for inflation is \$177 million using the most current (2022) Implicit Price Deflator for the Gross Domestic Product. This portion of the preamble summarizes the FAA’s analysis of the economic impacts of this rule.

In conducting these analyses, the FAA has determined that this proposed rule: is not a “significant regulatory action” as defined in section 3(f) of Executive Order 12866; will not have a significant economic impact on a substantial number of small entities; will not create unnecessary obstacles to the foreign commerce of the United States; and will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector.

#### **Regulatory Evaluation**

##### **1. Need for the Regulation**

Falsification regulations promote aviation and commercial space safety by incentivizing the provision of accurate and truthful information to the FAA. Through the proposed rule, the FAA intends to enhance aviation safety by standardizing the scope of conduct proscribed by falsification regulations that the FAA intends to deter across the applicable sections of 14 CFR parts 1 through 199 and 14 CFR parts 413 through 460 and extending this scope of conduct to the requirements of 14 CFR parts 1 through 199 and 14 CFR parts 413 through 460 that currently do not have—but should have—falsification provisions. The proposed rule would also standardize sanction provisions for this conduct and allow for more consistent sanction determinations as appropriate.

##### **2. Benefits**

The proposed rulemaking would benefit the safety of the public by ensuring that information made, kept, or used to show compliance with regulatory requirements or provided to the FAA is accurate and complete. The proposed rulemaking also benefits private industry by standardizing sanction provisions and providing consistent sanction determinations. Additional benefits to private industry include a more reliable aviation system that contains less risk and requires less mitigation and corrective action to address situations where a person has falsified a document.

##### **3. Costs**

The FAA has evaluated the cost impacts to the stakeholders involved in this proposed rulemaking and does not anticipate any new cost impact to industry and the FAA as a result of this proposed rule.

##### **4. Regulatory Alternatives**

The FAA considered no action as an alternative to this proposed rulemaking. However, taking no action would not achieve the needed harmonization and consolidation of the falsification regulations and standardization of the scope of conduct proscribed by falsification regulations.

The FAA has, therefore, determined that this proposed rule would have no new costs but positive benefits and does not warrant a full regulatory evaluation. The FAA has also determined that this proposed rule is not a “significant regulatory action” as defined in section 3(f) of Executive Order 12866 and is not

<sup>55</sup> 14 CFR 142.11(e)(3).

<sup>56</sup> Proposed § 3.403(a)–(c) would cover “fraudulent” or (intentionally) “false” information submitted under 14 CFR 142.11(e)(3).

<sup>57</sup> The falsification regulations that prohibit incorrect statements or entries are 14 CFR 60.33(c) and 67.403(c). Those that do not are 14 CFR 21.2, 43.12, 61.59, 63.20, 65.20, 120.103(e), 120.213, 121.9, 139.115, 142.11(e)(3), and 145.12.

“significant” as defined in DOT’s Regulatory Policies and Procedures.

#### *B. Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980, Public Law 96–354, 94 Stat. 1164 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857, Mar. 29, 1996) and the Small Business Jobs Act of 2010 (Pub. L. 111–240, 124 Stat. 2504 Sept. 27, 2010), requires Federal agencies to consider the effects of the regulatory action on small businesses and other small entities and to minimize any significant economic impact. The term “small entities” comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000.

The FAA has not identified any small entities that would be affected by the proposed rule because this proposed standardization of the scope of conduct proscribed by falsification regulations does not add any new costs to regulated entities. Therefore, the FAA certifies that the proposed rule will not have a significant economic impact on small entities. The FAA welcomes comments on the basis for this certification.

#### *C. International Trade Impact Assessment*

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has determined that this proposed rule is not considered an unnecessary obstacle to trade.

The FAA has assessed the potential effect of this proposed rule and determined that it ensures the safety of the American public and does not exclude imports that meet this objective. As a result, the FAA does not consider this proposed rule as creating an

unnecessary obstacle to foreign commerce.

#### *D. Unfunded Mandates Assessment*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. The FAA determined that the proposed rule will not result in the expenditure of \$177 million or more by State, local, or tribal governments, in the aggregate, or the private sector, in any one year.

This proposed rule does not contain such a mandate; therefore, the requirements of title II of the Act do not apply.

#### *E. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there would be no new requirement for information collection associated with this proposed rule.

#### *F. International Compatibility*

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

#### *G. Environmental Analysis*

FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5–6.6(f) for regulations and involves no extraordinary circumstances.

### **V. Executive Order Determinations**

#### *A. Executive Order 13132, Federalism*

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order (E.O.) 13132, Federalism. The FAA has determined

that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have federalism implications.

#### *B. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments*

Consistent with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and FAA Order 1210.20, American Indian and Alaska Native Tribal Consultation Policy and Procedures, the FAA ensures that Federally Recognized Tribes (Tribes) are given the opportunity to provide meaningful and timely input regarding proposed Federal actions that have the potential to affect uniquely or significantly their respective Tribes. At this point, the FAA has not identified any unique or significant effects, environmental or otherwise, on tribes resulting from this proposed rule.

#### *C. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use*

The FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The FAA has determined that it would not be a “significant energy action” under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### *D. Executive Order 13609, Promoting International Regulatory Cooperation*

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this proposed action under the policies and agency responsibilities of E.O. 13609 and has determined that this proposed action would have no effect on international regulatory cooperation.

### **VI. Additional Information**

#### *A. Comments Invited*

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that might

result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

*Proprietary or Confidential Business Information:* Do not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER**

**INFORMATION CONTACT** section of this document and marked as proprietary or confidential. If submitting information on a disk or CD ROM, mark the outside of the disk or CD ROM, and identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under § 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

#### *B. Availability of Rulemaking Documents*

An electronic copy of a rulemaking document may be obtained by using the internet—

1. Search the Federal eRulemaking Portal ([www.regulations.gov](http://www.regulations.gov));
2. Visit the FAA's Regulations and Policies web page at [www.faa.gov/regulations\\_policies/](http://www.faa.gov/regulations_policies/); or
3. Access the Government Printing Office's web page at [www.GovInfo.gov](http://www.GovInfo.gov).

Copies may also be obtained by sending a request (identified by notice

or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267-9680.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the internet through the Federal eRulemaking Portal referenced in item (1) above.

#### *C. Small Business Regulatory Enforcement Fairness Act*

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit [www.faa.gov/regulations\\_policies/rulemaking/sbre\\_act/](http://www.faa.gov/regulations_policies/rulemaking/sbre_act/).

#### **List of Subjects**

##### *14 CFR Part 3*

Aircraft, Aviation safety, Fraud.

##### *14 CFR Part 5*

Administrative practice and procedure, Air carriers, Aircraft, Aviation safety, Reporting and recordkeeping requirements.

##### *14 CFR Part 21*

Aircraft, Aviation safety, Exports, Imports, Reporting and recordkeeping requirements.

##### *14 CFR Part 43*

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

##### *14 CFR Part 45*

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

##### *14 CFR Part 47*

Aircraft, Reporting and recordkeeping requirements.

##### *14 CFR Part 48*

Aircraft, Reporting and recordkeeping requirements.

##### *14 CFR Part 60*

Airmen, Aviation safety, Reporting and recordkeeping requirements.

##### *14 CFR Part 61*

Airmen, Alcohol abuse, Aviation safety, Drug abuse, Recreation and

recreation areas, Reporting and recordkeeping requirements, Security measures, Teachers.

##### *14 CFR Part 63*

Aircraft, Airman, Alcohol abuse, Aviation safety, Drug abuse, Navigation (air), Reporting and recordkeeping requirements, Security measures.

##### *14 CFR Part 65*

Air traffic controllers, Aircraft, Airmen, Airports, Alcohol abuse, Aviation safety, Drug abuse, Reporting and recordkeeping requirements, Security measures.

##### *14 CFR Part 67*

Airmen, Authority delegations (Government agencies), Health, Reporting and recordkeeping requirements.

##### *14 CFR Part 68*

Aircraft, Airmen, Aviation safety, Health, Reporting and recordkeeping requirements.

##### *14 CFR Part 77*

Air traffic control, Aircraft, Aviation safety, Navigation (air).

##### *14 CFR Part 89*

Air traffic control, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Security measures, Unmanned aircraft.

##### *14 CFR Part 91*

Afghanistan, Agriculture, Air carriers, Air taxis, Air traffic control, Aircraft, Airmen, Airports, Alaska, Aviation safety, Canada, Charter flights, Cuba, Drug traffic control, Ethiopia, Freight, Iraq, Libya, Mexico, Noise control, North Korea, Political candidates, Reporting and recordkeeping requirements, Security measures, Somalia, Syria, Transportation, Yugoslavia.

##### *14 CFR Part 93*

Air traffic control, Aircraft, Aviation safety, Navigation (air).

##### *14 CFR Part 99*

Air traffic control, Aircraft, Aviation safety, Security measures.

##### *14 CFR Part 101*

Aircraft, Aviation safety, Balloons, Rockets.

##### *14 CFR Part 103*

Aircraft, Airmen, Aviation safety.

##### *14 CFR Part 105*

Aircraft, Aviation safety, Parachutes, Recreation and recreation areas,



Reporting and recordkeeping requirements.

*14 CFR Part 107*

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Security measures.

*14 CFR Part 111*

Administrative practice and procedure, Air carriers, Air operators, Air taxis, Aircraft, Airmen, Alcohol abuse, Aviation safety, Charter flights, Drug abuse, Public aircraft, Reporting and recordkeeping requirements.

*14 CFR Part 117*

Airmen, Aviation safety, Reporting and recordkeeping requirements.

*14 CFR Part 119*

Administrative practice and procedure, Air carriers, Aircraft, Airmen, Aviation safety, Charter flights, Reporting and recordkeeping requirements.

*14 CFR Part 120*

Air carriers, Air traffic controllers, Airmen, Alcohol abuse, Alcoholism, Aviation safety, Drug abuse, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

*14 CFR Part 121*

Air carriers, Aircraft, Airmen, Alcohol abuse, Aviation safety, Charter flights, Drug abuse, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

*14 CFR Part 125*

Aircraft, Airmen, Aviation safety, Safety, Reporting and recordkeeping requirements.

*14 CFR Part 129*

Air carriers, Aircraft, Aviation safety, Reporting and recordkeeping requirements.

*14 CFR Part 133*

Aircraft, Airmen, Aviation safety, Helicopters.

*14 CFR Part 135*

Air taxis, Aircraft, Airmen, Alcohol abuse, Aviation Safety, Drug abuse, Drug testing, Reporting and recordkeeping requirements.

*14 CFR Part 136*

Air transportation, Aircraft, Aviation safety, National parks, Recreation and recreation areas, Reporting and recordkeeping requirements.

*14 CFR Part 137*

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

*14 CFR Part 139*

Air carriers, Aircraft, Airports, Aviation safety, Reporting and recordkeeping requirements.

*14 CFR Part 141*

Air transportation, Aircraft, Aircraft pilots, Airmen, Aviation safety, Education, Educational facilities, Helicopters, Reporting and recordkeeping requirements, Rotorcraft, Schools, Students, Teachers, Transportation.

*14 CFR Part 142*

Aircraft, Airmen, Aviation safety, Educational facilities, Reporting and recordkeeping requirements, Schools, Students, Teachers.

*14 CFR Part 145*

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

*14 CFR Part 147*

Aircraft, Airmen, Aviation safety, Education, Educational facilities, Reporting and recordkeeping requirements, Schools.

*14 CFR Part 183*

Aircraft, Airmen, Authority delegations (Government agencies), Aviation safety, Reporting and recordkeeping requirements.

*14 CFR Part 402*

Fraud, Reporting and recordkeeping requirements, Rockets, Safety, Space transportation and exploration.

*14 CFR Part 413*

Confidential business information, Reporting and recordkeeping requirements, Rockets, Safety, Space transportation and exploration.

*14 CFR Part 414*

Aviation safety, Confidential business information, Rockets, Safety, Space transportation and exploration.

*14 CFR Part 415*

Aviation safety, Environmental protection, Reporting and recordkeeping requirements, Safety, Space transportation and exploration.

*14 CFR Part 417*

Aviation safety, Reporting and recordkeeping requirements, Rockets, Safety, Space transportation and exploration.

*14 CFR Part 420*

Airspace, Aviation safety, Environmental protection, Reporting and recordkeeping requirements, Space transportation and exploration.

*14 CFR Part 431*

Aviation safety, Environmental protection, Investigations, Reporting and recordkeeping requirements, Rockets, Safety, Space transportation and exploration.

*14 CFR Part 433*

Aviation safety, Environmental protection, Investigations, Reporting and recordkeeping requirements, Rockets, Safety, Space transportation and exploration.

*14 CFR Part 435*

Aviation safety, Environmental protection, Investigations, Reporting and recordkeeping requirements, Rockets, Space transportation and exploration.

*14 CFR Part 437*

Airspace, Aviation safety, Rockets, Safety, Space transportation and exploration.

*14 CFR Part 440*

Indemnity payments, Insurance, Reporting and recordkeeping requirements, Space transportation and exploration.

*14 CFR Part 450*

Aircraft, Aviation safety, Environmental protection, Investigations, Reporting and recordkeeping requirements, Safety, Space transportation and exploration.

*14 CFR Part 460*

Reporting and recordkeeping requirements, Rockets, Space safety, Space transportation and exploration.

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR as follows:

**PART 3—GENERAL REQUIREMENTS**

■ 1. The authority citation for part 3 is revised to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701–44709, 46111, and 46301.

■ 2. Revise § 3.1(a) introductory text to read as follows:

**§ 3.1 Applicability.**

(a) This subpart applies to any person who makes a record regarding:

\* \* \* \* \*

■ 3. Add subpart D, consisting of §§ 3.401, 3.403, and 3.405, to part 3 to read as follows:

## Subpart D—Falsification, Reproduction, Alteration, Omission, or Incorrect Statements

Sec.

3.401 Applicability.

3.403 Falsification, reproduction, alteration, or omission.

3.405 Incorrect statement, or omission.

### § 3.401 Applicability.

This subpart applies to any person subject to the requirements in subchapter A (except parts 1 and 3), subchapter C (except part 39), subchapter D, subchapter E (except parts 71 and 73), subchapter F (except parts 95 and 97), subchapter G (except part 110), subchapter H, and subchapter K (except parts 185, 187, 189 and 193), of this chapter.

### § 3.403 Falsification, reproduction, alteration, or omission.

(a) No person may make or cause to be made any fraudulent or intentionally false statement in:

(1) Any document in any format, submitted under any provision referenced in § 3.401, consisting of or related to any acceptance, application, approval, authorization, certificate, rating, declaration, designation, qualification, record, report, request for reconsideration, or similar; or

(2) Any document in any format that is kept, made, or used to show compliance with any requirement under the provisions referenced in § 3.401.

(b) No person may make or cause to be made any production, reproduction, or alteration, for fraudulent purpose, of:

(1) Any document in any format, submitted or granted under any provision referenced in § 3.401, consisting of or related to any acceptance, application, approval, authorization, certificate, rating, declaration, designation, qualification, record, report, request for reconsideration, or similar; or

(2) Any document in any format that is kept, made, or used to show compliance with any requirement under the provisions referenced in § 3.401.

(c) No person may knowingly omit, or cause to be omitted, a material fact in:

(1) Any document in any format, submitted under any provision referenced in § 3.401, consisting of or related to any acceptance, application, approval, authorization, certificate, rating, declaration, designation, qualification, record, report, request for reconsideration, or similar; or

(2) Any document in any format that is kept, made, or used to show compliance with any requirement under the provisions referenced in § 3.401.

(d) The commission by any person of an act prohibited under paragraphs (a) through (c) of this section is a basis for:

(1) Denying, suspending, modifying, revoking, rescinding, removing, or withdrawing any acceptance, application, approval, authorization, certificate, rating, declaration, designation, qualification, request for reconsideration, or similar, issued or granted by the Administrator and held by that person; or

(2) A civil penalty.

### § 3.405 Incorrect statement, or omission.

(a) No person may make or cause to be made a material incorrect statement, or omit or cause to be omitted a material fact, in:

(1) Any document in any format, submitted under any provision referenced in § 3.401, consisting of or related to any acceptance, application, approval, authorization, certificate, rating, declaration, designation, qualification, record, report, request for reconsideration, or similar; or

(2) Any document in any format that is kept, made, or used to show compliance with any requirement under the provisions referenced in § 3.401.

(b) A material incorrect statement, or omission of a material fact, in any document described in § 3.405(a)(1) and (2) may serve as a basis for denying, suspending, modifying, revoking, rescinding, removing, or withdrawing any acceptance, application, approval, authorization, certificate, rating, declaration, designation, qualification, request for reconsideration, or similar, issued or granted by the Administrator and held by that person.

## PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND ARTICLES

■ 4. The authority citation for part 21 continues to read as follows:

**Authority:** 42 U.S.C. 7572; 49 U.S.C. 106(f), 106(g), 40105, 40113, 44701–44702, 44704, 44707, 44709, 44711, 44713, 44715, 45303.

### § 21.2 [Removed and reserved]

■ 5. Remove and reserve § 21.2.

## PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

■ 6. The authority citation for part 43 continues to read as follows:

**Authority:** 42 U.S.C. 7572; 49 U.S.C. 106(f), 106(g), 40105, 40113, 44701–44702, 44704, 44707, 44709, 44711, 44713, 44715, 45303.

### § 43.12 [Removed and reserved]

■ 7. Remove and reserve § 43.12.

## PART 60—FLIGHT SIMULATION TRAINING DEVICE INITIAL AND CONTINUING QUALIFICATION AND USE

■ 8. The authority citation for part 60 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40113, and 44701; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note).

### § 60.33 [Removed and Reserved]

■ 9. Remove and reserve § 60.33.

### Appendix A to Part 60

■ 10. In Appendix A to part 60:

■ a. In the table of contents, remove and reserve entry 22., and

■ b. Remove and reserve section “22. Applications, Logbooks, Reports, and Records: Fraud, Falsification, or Incorrect Statements (§ 60.33)”

### Appendix B to Part 60

■ 11. In Appendix B to part 60:

■ a. In the table of contents, remove and reserve entry 22., and

■ b. Remove and reserve section “22. Applications, Logbooks, Reports, and Records: Fraud, Falsification, or Incorrect Statements (§ 60.33).”

### Appendix C to Part 60

■ 12. In Appendix C to part 60:

■ a. In the table of contents, remove and reserve entry 22., and

■ b. Remove and reserve section “22. Applications, Logbooks, Reports, and Records: Fraud, Falsification, or Incorrect Statements (§ 60.33).”

### Appendix D to Part 60

■ 13. In Appendix D to part 60:

■ a. In the table of contents, remove and reserve entry 22., and

■ b. Remove and reserve section “22. Applications, Logbooks, Reports, and Records: Fraud, Falsification, or Incorrect Statements (§ 60.33).”

## PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

■ 14. The authority citation for part 61 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40113, 44701–44703, 44707, 44709–44711, 44729, 44903, 45102–45103, 45301–45302.

### § 61.59 [Removed and reserved]

■ 15. Remove and reserve § 61.59.

## PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

■ 16. The authority citation for part 63 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

**§ 63.20 [Removed and reserved]**

- 17. Remove and reserve § 63.20.

**PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS**

- 18. The authority citation for part 65 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

**§ 65.20 [Removed and reserved]**

- 19. Remove and reserve § 65.20.

**PART 67—MEDICAL STANDARDS AND CERTIFICATION**

- 20. The authority citation for part 67 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45303.

- 21. Revise § 67.401(f)(5) to read as follows:

**§ 67.401 Special issuance of medical certificates.**

\* \* \* \* \*

(f) \* \* \*

(5) The holder makes or causes to be made a statement or entry that is the basis for withdrawal of an Authorization, including a SODA, under subpart D of part 3 of this chapter.

\* \* \* \* \*

**§ 67.403 [Removed and reserved]**

- 22. Remove and reserve § 67.403.

**PART 89—REMOTE IDENTIFICATION OF UNMANNED AIRCRAFT**

- 23. The authority citation for part 89 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40101(d), 40103(b), 44701, 44805, 44809(f); Section 2202 of Pub. L. 114–190, 130 Stat. 629.

**§ 89.5 [Removed and reserved]**

- 24. Remove and reserve § 89.5.

**PART 107—SMALL UNMANNED AIRCRAFT SYSTEMS**

- 25. The authority citation for part 107 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 40101 note, 40103(b), 44701(a)(5), 46105(c), 46110, 44807.

**§ 107.5 [Removed and reserved]**

- 26. Remove and reserve § 107.5.

**PART 111—PILOT RECORDS DATABASE**

- 27. The authority citation for part 111 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40101, 40113, 44701, 44703, 44711, 46105, 46301.

**§ 111.35 [Removed and reserved]**

- 28. Remove and reserve § 111.35.

**PART 120—DRUG AND ALCOHOL TESTING PROGRAM**

- 29. The authority citation for part 120 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40101–40103, 40113, 40120, 41706, 41721, 44106, 44701, 44702, 44703, 44709, 44710, 44711, 45101–45105, 46105, 46306.

- 30. Remove and reserve § 120.103(e).

**§ 120.213 [Removed and reserved]**

- 31. Remove and reserve § 120.213.

**PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS**

- 32. The authority citation for part 121 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95, 126 Stat. 62 (49 U.S.C. 44732 note); Pub. L. 115–254, 132 Stat. 3186 (49 U.S.C. 44701 note).

**§ 121.9 [Removed and reserved]**

- 33. Remove and reserve § 121.9.

**PART 139—CERTIFICATION OF AIRPORTS**

- 34. The authority citation for part 139 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40113, 44701–44706, 44709, 44719, 47175.

**§ 139.115 [Removed and reserved]**

- 35. Remove and reserve § 139.115.

**PART 142—TRAINING CENTERS**

- 36. The authority citation for part 142 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40113, 40119, 44101, 44701–44703, 44705, 44707, 44709–44711, 45102–45103, 45301–45302.

**§ 142.11 [Removed and reserved]**

- 37. Remove and reserve § 142.11(e)(3).

**PART 145—REPAIR STATIONS**

- 38. The authority citation for part 145 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701–44702, 44707, 44709, 44717.

**§ 145.12 [Removed and reserved]**

- 39. Remove and reserve § 145.12.

- 40. Add part 402 to subchapter A to read as follows:

**PART 402—GENERAL REQUIREMENTS**

Sec.

402.1 Applicability.

402.3 Falsification, reproduction, alteration, or omission.

402.5 Incorrect statement, or omission.

**Authority:** 51 U.S.C. 50101–50923.

**§ 402.1 Applicability.**

This part applies to any person subject to the requirements in subchapter C of this chapter.

**§ 402.3 Falsification, reproduction, alteration, or omission.**

(a) No person may make or cause to be made any fraudulent or intentionally false statement in:

(1) Any document in any format, submitted under any provision referenced in § 402.1 of this part, consisting of or related to any acceptance, application, approval, authorization, permit, license, waiver, record, report, or similar; or

(2) Any document in any format that is kept, made, or used to show compliance with any requirement under the provisions referenced in § 402.1.

(b) No person may make or cause to be made any production, reproduction or alteration, for fraudulent purpose, of:

(1) Any document in any format, submitted or granted under any provision referenced in § 402.1, consisting of or related to any acceptance, application, approval, authorization, permit, license, waiver, record, report, or similar; or

(2) Any document in any format that is kept, made, or used to show compliance with any requirement under the provisions referenced in § 402.1.

(c) No person may knowingly omit or cause to be omitted a material fact in:

(1) Any document in any format, submitted under any provision referenced in § 402.1, consisting of or related to any acceptance, application, approval, authorization, permit, license, waiver, record, report, or similar; or

(2) Any document in any format that is kept, made, or used to show compliance with any requirement under the provisions referenced in § 402.1.

(d) The commission by any person of an act prohibited under paragraphs (a) through (c) of this section is a basis for:

(1) Denying, suspending, modifying, revoking, rescinding, removing, or withdrawing any acceptance, application, approval, authorization, permit, license, waiver, or similar, issued or granted by the Administrator and held by that person; or

(2) A civil penalty.

**§ 402.5 Incorrect statement, or omission.**

(a) No person may make or cause to be made a material incorrect statement, or omit or cause to be omitted a material fact, in:

(1) Any document in any format, submitted under any provision referenced in § 402.1, consisting of or related to any acceptance, application, approval, authorization, permit, license, waiver, record, report, or similar; or

(2) Any document in any format that is kept, made, or used to show compliance with any requirement under the provisions referenced in § 402.1.

(b) A material incorrect statement, or omission of a material fact, in a document described in § 402.5(a)(1) and (2) may serve as a basis for denying, suspending, modifying, revoking, rescinding, removing, or withdrawing any acceptance, application, approval, authorization, permit, license, waiver, or similar, issued or granted by the Administrator and held by that person.

**PART 413—LICENSE APPLICATION PROCEDURES**

■ 41. The authority citation for part 413 continues to read as follows:

**Authority:** 51 U.S.C. 50901–50923.

■ 42. Remove and reserve § 413.17(c).

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC.

**Marc A. Nichols,**  
Chief Counsel.

[FR Doc. 2024–00872 Filed 2–7–24; 8:45 am]

**BILLING CODE 4910–13–P**

**FEDERAL TRADE COMMISSION****16 CFR Part 1**

**RIN 3084–AB79**

**Horseracing Integrity and Safety Authority Oversight**

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice of proposed rule; request for comment.

**SUMMARY:** The Federal Trade Commission (“FTC” or “Commission”) announces proposed rules regarding oversight of the Horseracing Integrity and Safety Authority (“Authority”). The proposed rules include new oversight provisions to ensure that the Authority remains publicly accountable and operates in a fiscally prudent, safe, and effective manner.

**DATES:** Comments must be received by April 8, 2024.

**ADDRESSES:** Interested parties may file a comment online or on paper by

following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “HISA Oversight Rulemaking, Matter No. P222100” on your comment and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex H), Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Sarah Botha (202–326–2036, [sbotha@ftc.gov](mailto:sbotha@ftc.gov)), Office of the Executive Director, Federal Trade Commission.

**SUPPLEMENTARY INFORMATION:****Background**

The Horseracing Integrity and Safety Act of 2020 (“HISA” or “the Act”), Public Law 116–260, Title XII, 134 Stat 1182, 3252 (2020) (codified as amended at 15 U.S.C. 3051–3060), recognizes the Authority as a self-regulatory nonprofit organization charged with developing and enforcing rules relating to racetrack safety, anti-doping, and medication control. *See* 15 U.S.C. 3052. The Act expressly provides for Commission oversight of several aspects of the Authority’s operations. For example, the Commission must approve any proposed rule or rule modification by the Authority relating to the Authority’s bylaws, racetrack safety standards, anti-doping and medication control, and the formula or methodology for determining assessments. *See id.* In December 2022, Congress amended HISA to expand the Commission’s oversight role over the Authority. *See* Consolidated Appropriations Act, 2023, Public Law 117–328, Sec. 701, 136 Stat. 4459, 5231 (2022). As amended, the Act gives the Commission the power to issue rules under the procedures set forth in the Administrative Procedure Act, 5 U.S.C. 553, “as the Commission finds necessary or appropriate to ensure the fair administration of the Authority . . . or otherwise in furtherance of the purposes of this Act.” 15 U.S.C. 3053(e).

In light of the Commission’s experience in overseeing the Authority’s operations to date, the Commission is exercising its rulemaking authority to propose several new rule provisions to ensure effective Commission oversight over the Authority. The proposed new provisions are designed to ensure that the Authority is promoting transparency and integrity in its operations. For example, new rule sections would require the Authority to submit and

publish annual and midyear reports about its performance and financial position. The proposed rules would also require the Authority to develop, maintain, and publish a multi-year strategic plan, after taking public comments on the draft plan. The proposed rules would require the Authority to effectively manage risk and take steps to prevent conflicts of interest, waste, fraud, embezzlement, and abuse. The proposed rules would also mandate other operational requirements and identify best practices for the Authority to follow, as explained in the section-by-section analysis below. The Commission would add the proposed new rules as 16 CFR 1.153 through 1.156 in Subpart U of part 1 of its Rules of Practice. Subpart U would be renamed “Oversight of the Horseracing Integrity and Safety Authority” to reflect more accurately the content of the amended subpart.

**Section by Section Analysis**

**§ 1.153 Submission of the Authority’s annual reports, midyear reports, and strategic plans.** This proposed new section imposes certain requirements on the Authority to report on its finances for the preceding calendar year by May 15. This includes a complete accounting of the Authority’s budget (as audited by a qualified, independent, registered public accounting firm and in accordance with Generally Accepted Accounting Principles), a discussion of budgetary line items, a summary of travel expenses, and a summary of any new or continuing risks or issues raised by audits or other reviews. The proposed section also imposes certain requirements on the Authority to report by March 31 on its performance for the prior calendar year, with such report to include efforts made to carry out the requirements of the Act, a description of the cooperation with the states as set forth in 15 U.S.C. 3060(b), a summary of final civil sanctions, an assessment of the Authority’s progress in meeting or not meeting its performance measures contained in its strategic plan per § 1.153(d), a summary of Board of Directors committee recommendations and activities, information about any changes in the composition of the Authority’s Board of Directors or standing committees, information about the relationship between the Authority and the anti-doping and medication control enforcement agency, a summary of all litigation to which the Authority is a party (including actions commenced by the Authority under 15 U.S.C. 3054(j)), a summary of all subpoenas issued by the Authority under 15 U.S.C.