

including medical certificates, in the Administrator of the FAA. Under § 44702(d)(1), the Administrator may delegate, "to a qualified private person, . . . a matter related to . . . the examination, testing, and inspection necessary to issue a certificate under this chapter," and § 44702(d)(3) provides that "[a] person affected by [such] an action of a private person . . . may apply for reconsideration of the action by the Administrator."

The Federal Aviation Regulations ("FAR," codified at 14 C.F.R.) set forth the Administrator's delegation of authority with respect to the issuance of medical certificates, as follows:

§ 67.407 Delegation of authority.

(a) The authority of the Administrator under 49 U.S.C. 44703 to issue or deny medical certificates is delegated to the Federal Air Surgeon . . .

(b) Subject to limitations in this chapter, the ~~delegated functions of the Federal Air Surgeon to~~ examine applicants for and holders of medical certificates for compliance with applicable medical standards and to issue, renew, and deny medical certificates are also delegated to aviation medical examiners and to authorized representatives of the Federal Air Surgeon within the FAA.

(c) The authority of the Administrator, under 49 U.S.C. 44702, to reconsider the action of an aviation medical examiner is delegated to the Federal Air Surgeon; the Manager, Aeromedical Certification Division; and each Regional Flight Surgeon. Where the person does not meet the standards of §§ 67.107(b)(3) and (c), 67.109(b), 67.113(b) and (c), 67.207(b)(3) and (c), 67.209(b), 67.213(b) and (c), 67.307(b)(3) and (c), 67.309(b), or 67.113(b) and (c), any action taken under this paragraph other than by the Federal Air Surgeon is subject to reconsideration by the Federal Air Surgeon.

B. Final denial of medical certification by the Administrator and right to Board review thereof. 49 U.S.C. § 44703(a) provides that "[t]he Administrator . . . shall issue an airman certificate to an individual when [she] finds, after investigation, that the individual is qualified for, and physically able to perform the duties related to, the position to be authorized by the certificate." Under § 44703(d)(1), "an individual whose application for the issuance or renewal of an airman certificate has been denied [by the Administrator] may appeal the denial to the National Transportation Safety Board."

The regulatory provision relating to the FAA's administrative processing of medical certificate denials is FAR § 67.409, which reads (emphasis added):

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