

## CHAPTER 210 INTRODUCTION TO CONDUCTING ACCIDENT AND INCIDENT INVESTIGATIONS, PROCESSING A VIOLATION PACKAGE, AND RESPONDING TO A COMPLAINT

### 1. GENERAL

#### A. Definitions

(1) *Aircraft accident*: An occurrence associated with the operation of an aircraft that:

- Takes place between the time the first person boards the aircraft with the intention of flight and the last person has disembarked
- Results in death or serious injury
- Causes substantial damage to the aircraft

(2) *Aircraft incident*: An occurrence, other than an accident, associated with the operation of an aircraft that affects or could affect the safety of operations.

(3) *Serious injury*: Any injury that:

- Requires hospitalization for more than 48 hours, within 7 days from the date an injury was received
- Results in a fracture of any bone (except simple fractures of fingers, toes, or nose)
- Causes severe hemorrhages, and/or nerve, muscle, or tendon damage
- Involves second or third degree burns, or burns affecting more than 5 percent of the body surface
- Involves damage to any internal organ

(4) *Substantial damage*: Damage or failure that adversely affects the structural strength, performance, or flight characteristics of the aircraft, and that would normally require major repair or replacement of the affected component.

(a) For the purpose of this task, exceptions to this definition include:

- Engine failure or damage limited to an engine
- Bent fairings or cowling
- Dented skin or small puncture holes in the skin or fabric
- Ground damage to rotor or propeller blades
- Damage to landing gear, wheels, brakes, tires, flaps, engine accessories, or wing tips

(b) Aviation Safety Inspectors are urged to fully consider all aspects of these exceptions before making a final “substantial damage” determination that would classify the occurrence as an accident.

B. The FAA compliance and enforcement program promotes aviation safety and protects the public interest by seeking compliance with the regulatory requirements through the use of:

- Education
- Surveillance
- Enforcement

C. Agency actions, from investigation to disposition, must ensure fair and equal treatment for all involved individuals. This requires FAA employees to approach work objectively and pursue each step of the process without delay.

### 3. FAA COMPLIANCE AND ENFORCEMENT POLICY

A. *Compliance and Enforcement Differences*. Flight Standards is charged with the responsibility to investigate, report, and make sanction recommendations. In this connection, it is vital to keep in mind the difference between compliance and enforcement.

(1) Compliance consists of all regulations and safety standards being met. When compliance exists, there is no need for enforcement.

(2) Enforcement is the action necessary when compliance is not present. Enforcement requires legal or administrative action.

*B. Relating Compliance and Enforcement to Other Work Functions.* The FAA Compliance and Enforcement policy, as stated in the Administrator's Enforcement Policy and in Order 2150.3, Compliance and Enforcement Program, as amended, clearly relates the Compliance and Enforcement Program to the overall mission and job function of the agency.

(1) The ultimate goal of the Administrator's Enforcement Policy is to prevent the occurrence of violations, a goal primarily achieved through education and counseling designed to encourage voluntary compliance.

(a) Accident Prevention Specialists, even though they are not actively involved in enforcement, are very much involved in the compliance aspects of the program. An additional responsibility is to report any violation that comes to their attention to the appropriate Unit Supervisor for investigation.

(b) All inspectors must become involved in this educational and counseling process through:

- General contact with the aviation public
- Meetings with applicants, starting with the precertification meeting
- Day-to-day contact with certificate holders

(2) Instilling a positive attitude towards regulatory compliance and aviation safety is especially important during the certification job functions. Full understanding and compliance with the rules should be ensured before the certificate is issued. Therefore, inspectors must stress the importance of achieving the highest possible degree of safety.

(3) Surveillance is conducted to ensure continuing regulatory compliance that maintains the highest degree of safety by an air carrier. When suspected regulatory noncompliance is found during the performance of normal surveillance, the inspector must change emphasis from compliance to enforcement.

*C. Priorities.* Compliance and enforcement activities are among the highest priorities in the District Office

work program because of the inflexibility of prescribed submission times. To ensure the timeliness of enforcement investigations, the following guidelines should be followed:

(1) If, after conducting an accident/incident investigation, violations are suspected, immediately initiate an enforcement investigation in order to preserve evidence and locate and interview witnesses

(2) Start the documentation of evidence as soon as the investigation begins. This includes keeping legible written records of all telephone and verbal communications to help establish the continuity necessary in any follow-up actions.

(3) When an investigation indicates a violation by an identifiable person or FAA certificate holder, send a Letter of Investigation (LOI) to that party as soon as possible. It is not necessary to wait for a response to the Letter of Investigation, as it may never come.

**5. COMPLAINTS.** It is FAA policy to respond to all complaints that come to the attention of the Flight Standards, whether by mail, phone, or in person.

*A.* Persons employed in the aviation industry, private individuals, or organizations with an interest in aviation, can contact the FAA with a specific complaint or concern regarding an element of the industry regulated by the FAA.

(1) Individuals who complain via telephone should be encouraged to submit their specific complaint(s) in writing.

(2) While information provided anonymously may be useful in planning surveillance, response to an anonymous complaint is limited to the procedures covered in the section on hotline complaints.

*B.* Complaints and concerns should receive prompt handling including a written FAA response. The written response, either in final form as an answer or acknowledgement, should be sent within 10 working days from the time of receipt.

(1) If the complaint investigation does not result in a finding of regulatory noncompliance, there must still be a response in writing to the complainant explaining the results of the investigation.

(2) If the complaint investigation does result in a finding of regulatory noncompliance, an EIR must be initiated. Advise the complainant in writing that the FAA has received the complaint and is investigating the matter.

(3) The complaint investigation may prompt the FAA to work with an operator or certificate holder in order to prevent a recurrence of the action or incident that brought about the complaint. Advise the complainant in writing that action is being taken to change the practice(s) in question.

(4) The final letter of reply should respond directly to the concerns or issues cited in the complaint. A final response should be courteous, concise, and free of generalities.

(5) Before replying to complaints concerning sensitive or significant issues, the responsible field office should discuss the form and manner of response with the appropriate regional office personnel.

(6) Due to the provisions of the Privacy Act, specific information regarding possible or pending enforcement actions should not be discussed within a response.

C. When investigating a complaint the inspector should:

- Gather any data or information that may be pertinent to the case
- Analyze how safety may have been affected and the possible impact on life or property
- Analyze and report any mitigating or aggravating circumstances involved in the complaint

D. The information gathered during the complaint investigation may indicate the need for an enforcement action. The methods for information gathering, spoken to in Vol. 2, Ch. 213, apply as equally well to the process of investigating complaints.

**7. COMPLAINT HOTLINE.** Order 1200.1, Aviation Standards Procedures for Processing FAA Hotline Action Items, identifies the procedures and guidelines to be used in responding to FAA Hotline items requiring Aviation Standards action.

A. Three hotlines are currently in operation in the FAA Hotline Center. Offices reporting to the Associate Administrator for Aviation Standards may be required to respond to action items from any of these hotlines.

(1) *Administrator's Hotline.* This hotline was established for FAA employees who find that the normal channels cannot satisfactorily resolve an issue. Use of this hotline can bring operational safety items to the attention of high-level management.

(2) *Safety Hotline.* This hotline is managed by the Office of Aviation Safety. The safety hotline receives telephone calls from public and industry sources concerning possible safety violations and allows those with knowledge of unreported violations to alert the FAA without fear of recrimination. Concerns of the aviation public, aviation organizations, aviation corporations, and others must be pursued aggressively to ensure proper action.

(3) *Consumer Hotline.* This hotline is managed by the Office of Public Affairs. Consumer problems and concerns relating to FAA services and response come in through this hotline.

B. *Hotline Operation.* Complaints are forwarded to the office of primary responsibility for evaluation and assignment to the appropriate office, region, or individual for investigation and reply.

(1) Confidentiality is a significant feature of hotline operations.

(a) Action items may be received with or without caller identity. In addition, caller identification may be given with the stipulation that it not be divulged outside the Hotline Center. When requested, confidentiality must be retained.

(b) Inspectors should guard against inadvertent exposure of confidential sources during investigation of action items.

(c) Investigative reports provided to management should be limited to objective findings and appropriate verification of complaints.

(2) Response times are established by the administrator to ensure effective and timely reaction to hotline complaints.

(a) The Administrator's Hotline has a completion time of 14 calendar days following receipt of the complaint.

(b) The Safety Hotline completion time is 30 days following receipt of the complaint.

(c) Callers to the Consumer Hotline should be contacted within 2 working days with either a reply or an

explanation for continuance. Completion time is 30 calendar days following receipt of the complaint.

*C. Responsibilities*

(1) The Office of Program and Regulation Management is the designated focal point for all Aviation Standards-oriented hotline calls.

(2) Offices reporting to the Office of the Associate Administrator for Aviation Standards are responsible for assigning hotline items and coordinating directly with the responsible offices to assure effective action.

(a) Aviation Standards managers assigned hotline action are responsible for responding in a thorough and timely manner.

(b) Identified response times are the maximum time limits. When possible, complaints should be resolved in less than the prescribed times.

(c) In lengthy or complex investigations, interim replies should be provided to the responsible office(s) in advance of the time limit.

(3) Aviation Standards shall transmit to the Office of Program and Regulation Management all reports of investigations and resolutions of hotline items received over the Administrator's or Safety Hotlines, as well as safety related complaints received through the Consumer Hotline.

(a) No formal written reply is necessary for non-safety related consumer complaints.

(b) The Aviation Standards office should correspond directly with the consumer and resolve the complaint as informally as possible, preferably by telephone. In such cases, verbal notification of resolution or contact should be provided to the Office of Program and Regulations Management.