

**CHANGE**

**U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION**

**ORDER  
8000.89  
CHG 2**

National Policy

Effective Date:  
August 02, 2022

**SUBJ: Designation of Voluntary Disclosure Reporting Program (VDRP) Information  
As Protected From Public Disclosure Under 14 CFR Part 193**

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- 1. Purpose.** This change amends FAA Order 8000.89 to clarify that protection from public disclosure in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 193 includes information received by the Agency in accordance with Advisory Circular (AC) 120-117, *Voluntary Disclosure Reporting Program for Apparent Violations of the Drug and Alcohol Testing Regulations*.
- 2. Who this change affects.** The change affects Aviation Safety (AVS) Office of Aerospace Medicine (AAM) and all entities listed as eligible to disclose under the guidance of AC 120-117, as amended.
- 3. Explanation of policy changes.** The FAA has issued AC 120-117, which provides guidance specific to employers and contractors regulated under 14 CFR part 120, for submitting and processing apparent noncompliance under the Drug Abatement Division's Voluntary Disclosure Reporting Program (VDRP).
- 4. Distribution.** This change is distributed to divisions and branches in Washington headquarters, regions, and centers, and to all field offices and facilities.
- 5. Disposition of Transmittal Paragraph.** Retain this transmittal sheet until the Order is cancelled by a new directive.

**PAGE CHANGE CONTROL CHART**

<b>Remove Pages</b>	<b>Dated</b>	<b>Insert Pages</b>	<b>Dated</b>
Pages 1- 6	10/1/2016	Pages 1- 7	08/02/2022
Appendix A and B	10/1/2016		08/02/2022

SUSAN ELIZABETH NORTHRUP  
Digitally signed by SUSAN ELIZABETH NORTHRUP  
Date: 2022.08.02 14:26:20 -04'00'

Susan Northrup, M.D.  
Federal Air Surgeon  
Office of Aerospace Medicine

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U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION

**ORDER  
8000.89  
CHG 1**

Effective Date:  
October 1, 2016

**SUBJ: Designation of Voluntary Disclosure Reporting Program (VDRP)  
Information As Protected From Public Disclosure Under 14 CFR Part 193**

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**PURPOSE.** This change to FAA Order 8000.89 provides protection from public disclosure in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 193 for information received by the Agency in accordance with Advisory Circular (AC) 00-68, from production approval holders (PAHs), design approval holders (DAHs), and design and manufacture organization designation authorization (D&M ODAs).

**WHO THIS CHANGE AFFECTS.** The change affects Aviation Safety (AVS) Aircraft Certification Service (AIR) and all entities listed as eligible to disclose under the guidance of AC 00-68, as amended.

**EXPLANATION OF POLICY CHANGE.** The FAA has issued AC 00-68, which provides guidance, specific to PAHs, DAHs, and D&M ODAs, for submitting and processing apparent noncompliances under the AIR Voluntary Disclosure Reporting Program (VDRP).

**DISPOSITION OF TRANSMITTAL PARAGRAPH.** Retain this transmittal sheet until the Order directive is cancelled by a new directive.

**ADMINISTRATIVE INFORMATION.** This Order change is distributed to divisions and branches in Washington headquarters, regions, and centers, and to all field offices and facilities.

**PAGE CHANGE CONTROL CHART**

Remove Pages	Dated	Insert Pages	Dated
Pages 1—6	8/17/2006	Pages 1-12	10/1/16
Appendix 1, Pages 1-4	8/17/2006	NA	

David W. Hempe, Deputy Executive Director,  
Aircraft Certification Service, AIR-2



U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION

**ORDER**  
**8000.89**

Effective Date:  
October 1, 2016

**SUBJ: Designation of Voluntary Disclosure Reporting Program (VDRP) Information  
As Protected From Public Disclosure Under 14 CFR Part 193**

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- 1. PURPOSE.** This order amends the prior designation of information received by the agency from a Voluntary Disclosure Reporting Program (VDRP) as protected from public disclosure in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 193.
- 2. DISTRIBUTION.** This order is distributed to the branch level in the Washington headquarters Flight Standards Service; Aviation System Standards; all Regional Administrators; Directors of the Mike Monroney Aeronautical Center and the Europe, Africa, and Middle East Area Office; the Regulatory Standards Division at the FAA Academy; the branch level in the regional Flight Standards Divisions; all Flight Standards District Offices; all International and Aeronautical Quality Assurance Field Offices; all Flight Standards Certificate Management Offices; all Aircraft Evaluation Groups; and all Office of Aerospace Medicine Divisions.
- 3. BACKGROUND.** Under Title 49 of the United States Code (49 U.S.C.) § 40123, certain voluntarily provided safety and security information is protected from disclosure in order to encourage persons to provide the information to the Federal Aviation Administration (FAA). The FAA must first issue an order that specifies why the agency finds that the information should be protected in accordance with 49 U.S.C. § 40123. The FAA's rules for implementing that section are in 14 C.F.R. part 193. If the Administrator issues an order designating information as protected under 49 U.S.C. § 40123, that information will not be disclosed under the Freedom of Information Act (Title 5 of the United States Code (5 U.S.C.) § 552) or other laws, except as provided in 49 U.S.C. § 40123, 14 C.F.R. part 193, and the order designating the information as protected. This order is issued under 14 C.F.R. § 193.11, which sets out the notice procedure for designating information as protected. In accordance with 14 C.F.R. section 193.11(d), this Order amends the prior designation by clarifying that information received by the Agency in accordance with Advisory Circular (AC) 120-117, *Voluntary Disclosure Reporting Program for Apparent Violations of the Drug and Alcohol Testing Regulations*, which was published after the prior designation became effective, will be covered by this Order. In addition, this Order amends paragraph 6.e. to provide clarity and specificity as to the circumstances under which withholding VDRP information would be consistent and inconsistent with the FAA's safety and security responsibilities.
- 4. APPLICABILITY.** This order is applicable to any FAA office that receives information covered under this designation from a VDRP. The order also is applicable to any other government agency that receives such information from the FAA. In order for any other government agency to receive VDRP information covered under this designation from the FAA, each such agency must first stipulate, in writing, that it will abide by the provisions of part 193 and this order.

## **5. SUMMARY OF THE VDRP VOLUNTARY INFORMATION SHARING PROGRAM, AS AMENDED**

**a. Qualified Participants.** Through this amended designation, regulated entities as provided in Advisory Circular (AC) 120-117, for Aerospace Medicine's Drug Abatement Division, are qualified participants. Regulated entities as provided in AC 00-58, as amended, for Flight Standards Service; AC 00-68, for Aircraft Certification Service; and AC 121-37, for Office of Hazardous Materials Safety, continue as qualified participants as provided in the prior designation.

**b. Voluntarily Provided Information Protected from Disclosure Under This Amended Designation.** Through this amendment, content of all submissions by a regulated entity that are accepted under the VDRP, including all of the following items, is protected from disclosure under 49 U.S.C. § 40123, 14 C.F.R. part 193, and this amended designation:

- (1) Information contained in an initial notification to the FAA.
  - (a) A brief description of the apparent violation, including an estimate of the duration of time that it remained undetected, as well as how and when it was discovered;
  - (b) Verification the noncompliance ceased after it was identified;
  - (c) A brief description of the immediate action taken after the apparent violation was identified, the immediate action taken to terminate the conduct that resulted in the apparent violation, and the person responsible for taking the immediate action;
  - (d) Verification that an evaluation is underway to determine if there are any systemic problems;
  - (e) Identification of the person responsible for preparing the comprehensive fix for disclosures under AC 00-58, as amended; AC 120-117; and AC 121-37, or the corrective action plan for disclosures under AC 00-68; and
  - (f) Acknowledgement that a detailed written report will be provided to the designated FAA official within the timeframe specified in AC 00-58, as amended; AC 00-68; AC 120-117; or AC 121-37.
- (2) Information contained in a detailed written report:
  - (a) A list of the specific FAA regulation(s) that may have been violated;
  - (b) A description of the apparent violation, including the duration of time it remained undetected, as well as how and when it was detected;
  - (c) A description of the immediate action taken to terminate the conduct that resulted in the apparent violation, including when it was taken, and who was responsible for taking the action;
  - (d) An explanation that shows the apparent violation was inadvertent;
  - (e) Evidence that demonstrates the seriousness of the apparent violation and the

regulated entity's analysis of that evidence;

(f) A detailed description of the proposed comprehensive fix or corrective action plan, outlining the planned corrective steps, the responsibilities for implementing those corrective steps, and a time schedule for completion of the fix or plan; and

(g) Identification of the company official responsible for monitoring the implementation and completion of the comprehensive fix or corrective action plan.

(3) FAA-generated documentation and electronic information that is directly associated with an accepted VDRP submission, including, but not limited to:

(a) Acknowledgment of receipt of a VDRP submission;

(b) Notification of VDRP acceptance, request for modification, or rejection;

(c) Routine correspondence directly associated with a VDRP submission;

(d) FAA records directly associated with FAA monitoring of a comprehensive fix or corrective action plan;

(e) FAA Letter of Correction in accordance with AC 121-37 or, written notification in accordance with AC 00-58, as amended; AC 00-68; and AC 120-117 for an accepted VDRP submission; and

(f) A FAA electronic database of VDRP submissions and FAA responses.

(4) Information contained in a report submitted to the FAA under the informal voluntary disclosure reporting process described in AC 00-68, including, but not limited to:

(a) A description of the apparent violation;

(b) A causal analysis of the apparent noncompliance;

(c) The corrective action(s) taken or planned; and

(d) The date by which the regulated entity will complete the corrective action(s).

**Note:** The type of information or circumstances under which the information listed above would not be protected from disclosure is discussed in paragraph 6.e.(2) of this order.

**c. Ways to Participate.** Regulated entities may participate by submitting a voluntary disclosure in accordance with the procedures in AC 00-58, as amended, AC 00-68, AC 120-117, or AC 121-37.

**d. Duration of this Information-Sharing Program.** This information sharing program will continue in effect indefinitely, unless the FAA terminated the VDRP, or until the order of designation under 14 C.F.R. part 193 for VDRP is withdrawn by the FAA.

**6. FINDINGS.** The FAA designates information received from an accepted VDRP submission as

protected under 49 U.S.C. § 40123 and 14 C.F.R. § 193.7, based on the following findings:

**a. Summary of Why the FAA Finds that the Information Will Be Provided Voluntarily.**

As explained in the prior designation, the FAA finds that the information will be provided voluntarily. No regulated entity is required to participate in the VDRP. Initiation of submissions under the VDRP are indicative of the willingness of regulated entities to identify and correct their own instances of regulatory noncompliance, develop long term comprehensive fixes or corrective action plans, and foster safe operating practices.

**b. Description of the Type of Information that may be Voluntarily Provided Under the Program and a Summary of Why the FAA Finds that the Information is Safety or Security Related.**

(1) As described in the prior designation, information may be voluntarily provided as described in AC 00-58, as amended, AC 00-68, and AC 121-37. Under this amended designation, information may also be voluntarily provided as described in AC 120-117. VDRP information submitted by a regulated entity includes:

(a) Initial notification to the FAA of a VDRP submission.

1. A brief description of the apparent violation, including an estimate of the duration of time that it remained undetected, as well as how and when it was discovered;
2. Verification that noncompliance ceased after it was identified;
3. A brief description of the immediate action taken after the apparent violation was identified, the immediate action taken to terminate the conduct that resulted in the apparent violation, and the person responsible for taking the immediate action;
4. Verification that an evaluation is underway to determine if there are any systemic problems;
5. Identification of the person responsible for preparing the comprehensive fix or corrective action plan; and
6. Acknowledgment that a detailed written report will be provided to the designated FAA official within the time frame specified in AC 00-58, as amended, AC 00-68, AC 120-117, or AC 121-37.

(b) Information contained in a detailed written report submitted by the regulated entity to the FAA:

1. A list of the specific FAA regulations that may have been violated;
2. A description of the apparent violation, including the duration of time it remained undetected, as well as how and when it was detected;
3. A description of the immediate action taken to terminate the conduct that resulted in the apparent violation, including when it was taken, and who was responsible for taking the action;
4. An explanation that shows the apparent violation was inadvertent;
5. Evidence that demonstrates the seriousness of the apparent violation and the regulated entity's analysis of that evidence;



6. A detailed description of the proposed comprehensive fix or corrective action plan outlining the planned corrective steps, the responsibilities for implementing those corrective steps, and a time schedule for completion of the fix or plan; and

7. Identification of the company official responsible for monitoring the implementation and completion of the comprehensive fix or corrective action plan.

(2) Because the Federal Aviation Regulations specify the minimum requirements for safety, and VDRP submissions entail possible violations of those regulations, the FAA finds that the information is inherently safety related.

**c. Summary of Why the FAA Finds that the Disclosure of the Information Would Inhibit Persons from Voluntarily Providing that Type of Information.**

(1) The FAA finds that disclosure of VDRP information would inhibit the voluntary provision of that type of information because regulated entities have stated that they are reluctant to voluntarily disclose instances of regulatory noncompliance if such submissions might be subject to public disclosure. A significant impediment to participation in the VDRP is concern over public disclosure of the information and, if disclosed, the potential for it to be used for other than the system safety enhancement purposes for which the VDRP was created. Withholding such information from disclosure is consistent with the FAA's safety and security responsibilities because, unless the FAA can provide assurance that it will not be disclosed, regulated entities will be reluctant to participate in the program.

(2) Although regulated entities have voluntarily disclosed information under the VDRP for several years, they did so after the FAA promised that such information would be de-identified in the Enforcement Information System (EIS), which is the FAA's central and national database of enforcement action information. The entities were reluctant to participate in the VDRP without this promise for fear that information they disclosed would be readily available to the public through FOIA request for records in the EIS. So that entities continue to use the VDRP, the FAA has not kept the identity of persons reporting, or detailed information about disclosure, under that program in the EIS or any other central database.

(3) The FAA finds that by virtue of designating information provided under the VDRP as protected under 14 C.F.R. part 193, the reluctance of regulated entities to participate due to concerns about possible disclosure of the information will be mitigated. In addition, FAA will be able to retain more information about the disclosures, including the identity of the reporters, in an FAA database, without negatively impacting participation in the VDRP. Disclosures under the VDRP enable the FAA to become aware of many more instances of regulatory noncompliance than it otherwise would and, moreover, the VDRP permits the FAA to ensure that appropriate corrective action is taken. If regulated entities do not participate, the FAA and the public will be deprived of the opportunity to make the system safety improvements that receipt of the information otherwise enables.

**d. Summary of Why the Receipt of that Type of Information Aids in Fulfilling the FAA's Safety and Security Responsibilities.** The FAA finds that receipt of VDRP information aids in fulfilling the FAA's safety and security responsibilities. A primary purpose of FAA regulations is to ensure public safety. Because the VDRP identifies and corrects instances of regulatory noncompliance of which the FAA may be otherwise unaware, the program offers significant potential for enhancement of public safety. Receipt of this otherwise unavailable information would also provide the FAA with an improved basis for modifying procedures, policies, and regulations to

improve safety and efficiency. Fostering the open and transparent exchange of data between industry and the FAA through the VDRP helps to ensure compliance with regulations, the identification of hazards, and the management of risk. The VDRP allows this exchange and acts as an effective means for the FAA to return an individual or entity that holds an FAA certificate, approval, authorization, permit, or license to full compliance and to prevent recurrence. This is in accordance with the approach presented under the FAA's Order 8000.373, *Federal Aviation Administration Compliance Program*.

**e. Consistencies and Inconsistencies with FAA Safety and Security Responsibilities.** The FAA finds that withholding VDRP information provided to the FAA is consistent with the FAA's safety responsibilities. There are also circumstances where withholding such information would be inconsistent with the FAA's security and safety responsibilities. Under the VDRP, the FAA fulfills its safety and security responsibilities with provisions that allow for the withholding of information and the disclosure of information as appropriate.

(1) Withholding VDRP information from disclosure is consistent with the FAA's safety and security responsibilities because, unless the FAA can provide assurance that it will not be disclosed, the FAA will likely not receive the information. If the FAA does not receive the information, the FAA will be hampered in efforts to understand safety-related issues within an entity's operational environment and ensure safety improvements that receipt of the information otherwise enables. In addition, corrective action under VDRP can be accomplished without the disclosure of protected information. For example, for acceptance of a submission under the VDRP, the reporting entity must develop a comprehensive fix and schedule of implementation satisfactory to the FAA. If the FAA determines that the steps taken by the entity are not those documented in the written report of the comprehensive fix, the submission may be excluded from the VDRP, and appropriate legal enforcement action may be initiated. Such action serves to remediate or deter future noncompliance.

(2) The FAA may disclose information submitted to the agency that is designated as protected under part 193 when withholding it would not be consistent with the FAA's safety and security responsibilities under the circumstances described in 14 C.F.R. § 193.9(a)(1)-(4). For example, to explain the need for changes in FAA policies, procedures, and regulations, the FAA may disclose de-identified (*i.e.*, the identity of the source of the information and the names of the regulated entity, employees, and other persons, as well as any other information that could be used to ascertain the identity of the submitter have been redacted), summarized information that has been derived from VDRP information or extracted from the protected information listed under paragraph 5.b., above. The FAA may disclose such information when it identifies a systemic problem in the aviation system of which other people need to be advised in order to take corrective action.

(3) As provided under 14 C.F.R. § 193.9(b), the FAA may find that there are additional circumstances under which withholding information provided under part 193 would be inconsistent with the FAA's safety and security responsibilities. In accordance with paragraph 5.b., above, VDRP reports that are not accepted are not protected from disclosure under this designation. When a VDRP report is not accepted, the FAA may proceed with an enforcement action, as appropriate, in accordance with FAA Order 2150.3, as amended. The FAA may use as evidence any material disclosed under the excluded VDRP report as, or if, provided in AC 00-58, as amended, AC 00-68, AC 120-117, or AC 121-37. In that regard, the information generally is not protected from disclosure in that the investigation and enforcement process could result in disclosure.



**f. Summary of How the FAA will Distinguish Information Protected under Part 193 from Information the FAA Receives from Other Sources.** In accordance with AC 00-58, as amended, AC 00-68, AC 120-117, or AC 121-37, all VRDP submissions must be clearly identified as such by the regulated entity making the submission. Any other information received by the FAA from the regulated entity concerning the content of a VDRP submission must be clearly labeled as follows to be eligible for protection under this designation: “WARNING: The Information in this Document is Protected from Disclosure under 49 U.S.C. § 40123 and 14 CFR part 193.” If the information is submitted electronically, the warning notice must be appropriately embedded in the electronic submission in a fashion that assures the visibility of the warning to any viewer.

**7. DESIGNATION.** The FAA designates the information described in paragraph 5.b. of this order to be protected from disclosure in accordance with 49 U.S.C. § 40123, and 14 C.F.R. part 193, when obtained by the FAA pursuant to an accepted VDRP submission.

**Appendix C. Directive Feedback Information**

Please submit any written comment or recommendation for improving this directive, or suggest new items or subjects to be added to it. Also, if you find an error, please tell us about it.

Subject: Order Click here to enter text.

To: [9-AWA-AVS-AIR-DMO@faa.gov](mailto:9-AWA-AVS-AIR-DMO@faa.gov) or  
complete the form online at <https://ksn2.faa.gov/avs/dfs/Pages/Home.aspx>

*(Please mark all appropriate line items.)*

☐ An error (procedural or typographical) has been noted in paragraph Click here to enter text.  
on page Click here to enter text.

☐ Recommend paragraph Click here to enter text. on page Click here to enter text. be changed  
as follows:  
*(Attach separate sheet if necessary.)*

Click here to enter text.

☐ In a future change to this Order, please cover the following subject:  
*(Briefly describe what you want added.)*

Click here to enter text.

☐ Other comments:

Click here to enter text.

☐ I would like to discuss the above. Please contact me.

Submitted by: \_\_\_\_\_

Date: \_\_\_\_\_