

CHANGE

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

ORDER 2150.3B CHG 12

National Policy

Effective Date:
02/02/17

SUBJ: Changes to FAA Order 2150.3B

- 1. Purpose.** This change to FAA Order 2150.3B amends chapters 2 and 5 to identify the voluntary disclosure program that the FAA Aircraft Certification Service (“AIR”) is implementing under Advisory Circular 00-68. This change also amends Compliance and Enforcement Bulletin 2016-1, *Sanctions for persons who aim a laser beam at an aircraft operating in the air or on the ground in violation of 14 C.F.R. §§ 91.11, 121.580, 125.328, and 135.120*, to comply with section 2104(b) of The FAA Extension, Safety, and Security Act of 2016, and to align with the FAA Compliance Philosophy.
- 2. Who this change affects.** The change affects AIR personnel, and all agency personnel who investigate, report, or process enforcement actions involving laser-related interference with crewmember violations of the Federal Aviation Regulations.
- 3. Explanation of Policy Change.** This change amends chapters 2 and 5 to identify the voluntary disclosure program that AIR is implementing. In addition, this change amends C&E Bulletin 2016-1 to implement section 2104(b) of The FAA Extension, Safety, and Security Act of 2016, which increased the maximum civil penalty that may be imposed on an individual who aims the laser beam of a laser pointer at “an aircraft in the airspace jurisdiction of the United States,” or at the flight path of such an aircraft, to \$25,000. The amendment to C&E Bulletin 2016-1 allows for compliance or administrative action in the exceedingly rare circumstance of a first-time, single, inadvertent violation covered under C&E Bulletin 2016-1.
- 4. Disposition of Transmittal Paragraph.** Retain this transmittal sheet until the directive is cancelled by a new directive.
- 5. Administrative Information.** This Order change is distributed to divisions and branches in Washington headquarters, regions, and centers and to all field offices and facilities.

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Michael P. Huerta
Administrator

safety action program, the flight operational quality assurance programs, and the aviation safety reporting program.

b. Voluntary Disclosure Reporting Programs.

(1) General. The voluntary disclosure reporting program is intended to improve safety compliance by forgoing a civil penalty when a regulated entity has promptly disclosed to the FAA an apparent violation and has taken prompt action satisfactory to the FAA to correct the violation and preclude its recurrence. The FAA regulates entities' performance through setting regulatory standards, issuing guidance, and monitoring compliance through periodic inspections. Regulated entities, which have the ultimate responsibility for compliance, have a superior vantage point for monitoring their own performance. Therefore, voluntary disclosure reporting programs can serve an important role in achieving compliance and improving aviation safety.

(2) Information about the programs. Further information about the programs is in chapter 5. Advisory Circulars 00-58, as amended, and 00-68 provide guidance for disclosing certain violations of the Federal Aviation Regulations. (Both ACs may be found online at <http://rgl.faa.gov>). Advisory Circular 121-37 provides guidance for disclosing certain violations of the hazardous material regulations found in 49 C.F.R. part 175.

c. Flight Operational Quality Assurance (FOQA) Programs.

(1) General. FOQA is a voluntary safety program for the routine collection and analysis of digital flight data generated during normal line operations. FOQA programs provide information about, and insight into, the total flight operations environment. FOQA data can provide objective information that is not available through other methods. FOQA's primary purpose is to identify adverse safety trends, and to proactively initiate corrective action before such trends can lead to accidents. Its purpose is also to enhance safety by improving training effectiveness, operational procedures, maintenance and engineering procedures, and air traffic control procedures.

(2) Applicability. FOQA programs mostly are developed by air carriers that operate under 14 C.F.R. parts 121 or 135, but operators under other parts of the regulations may also develop FOQA programs.

(3) Development of a FOQA program. The development of a FOQA program occurs in stages. During the planning stage, the policy and direction for the FOQA effort are developed and necessary resources are committed to implement the program. The policies, procedures, resources, and operational processes for collecting, managing and using FOQA data are laid out in the implementation and operations (I&O) plan as the program blueprint, which an air carrier submits to the FAA for approval. Once the FAA has approved the FOQA I&O plan, the air carrier implements the program for analyzing, validating, and taking corrective actions based on FOQA data. It is the responsibility of the air carrier to set up procedures for identifying operational deficiencies and taking corrective action.

(4) Limitation on use of FOQA data. Under 14 C.F.R. § 13.401(e), except for criminal and deliberate acts, the FAA may not use an operator's FOQA data in an enforcement action

c. Applicability of Voluntary Disclosure Reporting Program. The voluntary disclosure reporting program applies to certificate-holding entities and other entities subject to regulation under 14 C.F.R. parts 21, 119, 121, 125, 129, 133, 135, 137, 141, 142, 145, and 147 and, for qualified fractional ownership programs operating under part 91, subpart K, those portions of part 91 pertaining directly to the duties and responsibilities of the program manager, as defined in part 91, subpart K or management specifications (MSpecs).

d. Guidance for Program Participation. Guidance about the voluntary disclosure reporting program is contained in Advisory Circular AC 00-58, as amended. Guidance about the voluntary disclosure reporting program applicable to the FAA Aircraft Certification Service is contained in Advisory Circular 00-68. (Both AC 00-58, as amended, and AC 00-68 may be found online at <http://rgl.faa.gov>).

e. Criteria for Acceptance of Voluntary Disclosure. The FAA may accept a voluntary disclosure of an apparent violation under the voluntary disclosure reporting program only if the criteria in chapter 5, subparagraphs 12.e. (1)-(6) are met.

- (1) The regulated entity has notified the FAA of the apparent violation immediately after detecting it and before the agency has learned of it by other means;
- (2) The regulated entity does not disclose the apparent violation to the FAA during, or in anticipation of, an FAA investigation or inspection or in association with an accident or incident;
- (3) The apparent violation was inadvertent;
- (4) The apparent violation does not indicate a lack, or reasonable question of a lack, of qualification of the regulated entity;
- (5) Immediate action, satisfactory to the FAA, was taken upon discovery to terminate the conduct that resulted in the apparent violation; and
- (6) The regulated entity has developed or is developing a comprehensive fix and schedule of implementation satisfactory to the FAA. The comprehensive fix includes a follow-up self-audit to ensure the action taken corrects the noncompliance.

f. Investigation of Voluntary Disclosure. FAA investigative personnel thoroughly investigate, analyze, review, and report the facts and circumstances surrounding all self-disclosed apparent violations. They determine whether the apparent violation disclosed meets the criteria in chapter 5, subparagraphs 12.e.(1)-(6) for acceptance under the program. FAA investigative personnel contact the CHDO, MIDO, or other oversight office, as appropriate, to determine, and gather written information that indicates if and when the regulated entity disclosed the apparent violation and when it became known to the regulated entity. In addition, FAA investigative personnel consult with the CHDO, MIDO, or other oversight office as appropriate about the effectiveness of the regulated entity's proposed action to preclude recurrence of the apparent violation.

g. EIR for a Voluntary Disclosure. The EIR for a voluntary disclosure includes any

COMPLIANCE/ENFORCEMENT BULLETIN NO. 2016-1

SUBJECT: Sanctions for persons who aim a laser beam at an aircraft operating in the air or on the ground in violation of 14 C.F.R. §§ 91.11, 121.580, 125.328, and 135.120.

DISCUSSION: A laser aimed at an aircraft can seriously impair a pilot's vision and interfere with the flight crew's ability to safely handle its responsibilities. Flight crewmembers exposed to laser light, while operating an aircraft at night, have experienced glare (a temporary disruption in vision caused by the presence of a bright light within an individual's field of vision), flashblindness (the inability to see, caused by bright light entering the eye that persists after the illumination has ceased), and afterimage (an image that remains in the visual field after an exposure to bright light). A sufficiently powerful laser could cause permanent ocular damage, blinding crewmembers during aircraft operations and, among other safety consequences, making a successful landing virtually impossible.

In 2011, the FAA's Assistant Chief Counsel for Regulations interpreted 14 C.F.R. §§ 91.11, 121.580, 125.328, and 135.120 as applicable to any person (including minors), whether or not on board an aircraft, who aims a laser beam at an aircraft. This interpretation was published in the Federal Register to increase public awareness of this applicability and of the civil penalties that could result from violation of these regulations. *See* 76 Fed. Reg. 236, 76611-76612 (Dec. 8, 2011). Because of the high number of laser-related flight crewmember interference occurrences and the high risk to safety they presented, the Administrator, on May 1, 2012, put in place a special emphasis enforcement program for violations of 14 C.F.R. §§ 91.11, 121.580, 125.328, and 135.120 resulting from such occurrences. Consistent with statutory limits in place at the time, the penalties under this special emphasis enforcement program were limited to no more than \$11,000 per violation.

The FAA Extension, Safety, and Security Act of 2016, section 2104(b) (effective July 14, 2016), increases to \$25,000 the maximum statutory civil penalty for individuals who aim a laser at an aircraft or in the flight path of an aircraft. The Administrator has determined that the special emphasis enforcement program for laser-related violations of 14 C.F.R. §§ 91.11, 121.580, 125.328, and 135.120 must be updated to reflect this directive. In addition, the Administrator has determined that compliance action or administrative action may be appropriate for single, first-time, inadvertent violations as set forth below.

ACTION: Until further notice, the following special emphasis enforcement program is in effect for violations of 14 C.F.R. §§ 91.11, 121.580, 125.328, and 135.120 committed by an individual when he or she aims a laser beam at an aircraft.

1. Where a non-airman's conduct meets one or more of the legal enforcement action criteria in FAA Order 2150.3B, Chapter 5, the FAA generally seeks a civil penalty from \$10,000 up to the statutory maximum of \$25,000 per violation under the FAA Extension, Safety, and Security Act of 2016, § 2104(b).
2. Where an airman's conduct meets one or more of the legal enforcement action criteria in FAA Order 2150.3B, Chapter 5, regardless of whether the airman was exercising the privileges of his or her certificate at the time of the incident, the appropriate sanction is

generally revocation of the airman's certificate. A civil penalty in the \$10,000-\$25,000 range may be appropriate in addition to certificate revocation.

3. Under FAA Order 2150.3B, Chapter 7, paragraph 4.j., the FAA considers ability to pay a civil penalty and the effect a civil penalty will have on that individual's financial condition in determining the amount of penalty to impose.
4. The FAA Enforcement Teams will coordinate with the Assistant Chief Counsel for Enforcement in initiating and processing these legal enforcement actions.
5. SINGLE, FIRST-TIME, INADVERTENT VIOLATION. An inadvertent laser strike violation would likely arise in only rare circumstances. In such a circumstance, either compliance action or administrative action (warning notices or letters of correction) may be appropriate. A violator's statement alone that a single, first-time violation was inadvertent, in most cases, would be insufficient to justify taking a compliance action or an administrative action.