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AC 00-58

OF 5/4/98

Advisory Circular



U.S. Department
of Transportation
Federal Aviation
Administration

**Subject: AIR CARRIER VOLUNTARY
DISCLOSURE REPORTING
PROCEDURES**

**Date: 1/23/92
Initiated by: AFS-200**

**AC No: 120-56
Change:**

1. PURPOSE.

a. This advisory circular (AC) provides information and guidance material that may be used by air carrier certificate holders operating under Federal Aviation Regulations (FAR) Parts 121 and 135 when electing to voluntarily disclose apparent violations to the Federal Aviation Administration (FAA). The procedures and practices outlined in this AC can be applied to maintenance, flight operations, and security aspects of an air carrier's organization. Voluntary disclosure procedures for certificate holders other than those operating under FAR Parts 121 and 135 may be issued separately in the future.

b. Air carriers are encouraged, but not required, to develop Internal Evaluation Programs that continually monitor company policies and procedures and ensure that the highest level of safety compliance is maintained. However, operators may voluntarily disclose apparent violations in accordance with the procedures set forth in this AC even if an Internal Evaluation Program has not been established. Certificate holders seeking guidance on Internal Evaluation Programs should refer to advisory materials on the subject for further information.

2. BACKGROUND. The FAA's enforcement program has always been considered a means, not an end, to achieving compliance with the FAR through remedial and punitive measures. However, the negative incentive of deterrence, as served by civil penalties, is not always effective. The public interest is served also by positive incentives to promote and achieve compliance. Indeed, the FAA believes that aviation safety is well served by incentives to certificate holders to identify and correct their own instances of noncompliance by investing more resources in efforts to preclude their recurrence. The FAA's newly adopted policy of foregoing civil penalty actions when a certificate holder detects violations, promptly discloses violations to the FAA, and takes prompt corrective action to ensure that the same or similar violations do not recur, is designed to encourage

compliance with the FAR, foster safe operating practices, and promote the development of Internal Evaluation Programs.

3. KEY TERMS. The following key terms and phrases are defined to ensure a standard interpretation and understanding of the FAA's voluntary disclosure policy.

a. Evidence. For the purpose of voluntary disclosure, evidence generally should be in the form of written documentation or reports that support an air carrier's analysis of the disclosed apparent violation and the resulting elements of the proposed comprehensive fix. Evidence generally comes from the following four elements:

- (1) Documents or manuals reviewed.
- (2) Equipment examined.
- (3) Activities observed.
- (4) Interview data.

b. Comprehensive Fix.

(1) A comprehensive fix is an action, or actions, proposed by the certificate holder, acceptable to the principal inspector, to preclude recurrence of the apparent violation that has been voluntarily disclosed under this program.

(2) A schedule of the dates and events encompassed by the comprehensive fix must be established and included in the letter of correction.

c. Satisfactory Fix. A satisfactory fix is a comprehensive fix in which all corrective measures recommended by the certificate holder have been completed in a predetermined period of time and to the satisfaction of the FAA.

4. VOLUNTARY DISCLOSURE POLICY. The FAA believes that the open sharing of apparent violations and a cooperative as well as an advisory approach to solving problems will enhance and promote aviation safety. Certificate holders will receive a letter of correction in lieu of civil penalty action for instances of noncompliance that are voluntarily disclosed to the FAA in accordance with the procedures set forth in this AC. Once the letter of correction is issued, the case will be

considered closed unless the agreed upon comprehensive fix is not satisfactorily completed by the certificate holder.

a. In evaluating enforcement action for a certificate holder's actual or apparent failure to comply with FAA regulations, the FAA will ensure that the following five conditions are met:

(1) The certificate holder immediately notified the FAA of the apparent violation after detecting it and before the agency learned of it.

(2) The apparent violation must have been inadvertent.

(3) The apparent violation does not indicate a lack, or reasonable question, of basic qualification of the certificate holder.

(4) Immediate action must have been taken, or begun to have been taken, upon discovery to terminate the conduct that resulted in the apparent violation.

(5) The certificate holder must develop and implement a comprehensive fix satisfactory to the FAA.

b. Ordinarily, the FAA will not forego legal enforcement action if the certificate holder informs the FAA of the apparent violation during routine FAA investigations/inspections, or in association with accidents and incidents.

c. The procedures to be followed when applying the voluntary disclosure policy are further described in the following paragraphs.

5. NOTIFICATION BY THE CERTIFICATE HOLDER. When a certificate holder notifies the FAA of an apparent violation, contact shall be made with, or directed to, the appropriate principal inspector. This contact must be made immediately after the apparent violation was discovered. The form of notification may be verbal, written hard copy, or written electronic copy. The FAA believes that it is more important for the initial notification to be immediate than for all the information to be complete. Therefore, the certificate holder should not delay

notification and should cover, only to the extent possible, the following items with the principal inspector:

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 that no additional violations occurred after the initial one was identified.

c. 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 and a description of the corrective steps necessary to prevent the apparent violation from recurring.

e. Identification of the person responsible for preparing the comprehensive fix.

f. Acknowledgment that a detailed written report will be provided to the principal inspector within 10 calendar days.

6. FAA RESPONSE TO CERTIFICATE HOLDER NOTIFICATION. The principal inspector responds with a written acknowledgment of the certificate holder's initial notification. This acknowledgment includes the request for a written report and serves in lieu of a letter of investigation, provided the written report is completed in accordance with the voluntary disclosure reporting procedures set forth in this AC and appendix 1.

7. CERTIFICATE HOLDER'S WRITTEN REPORT. The written report should be provided to the principal inspector by the certificate holder within 10 calendar days after the initial notification was made. A sample format to be followed when completing this report is provided as appendix 1. In summary, the written report should include the following information:

a. A list of the specific FAR 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 certificate holder's analysis of that evidence.

f. A detailed description of the proposed comprehensive fix, outlining the planned corrective steps, the responsibilities for implementing those corrective steps, and a time schedule for completion of the fix.

g. Identification of the company official responsible for monitoring the implementation and completion of the comprehensive fix.

8. REVIEW BY THE FAA. The FAA works with the certificate holder in order to ensure that the certificate holder's fix is acceptable to the FAA.

a. If a proposed comprehensive fix is not fully developed within 10 calendar days, the certificate holder should provide at least an overview of its comprehensive fix plans. In any event, a detailed description of the comprehensive fix should be provided to the principal inspector within 30 calendar days after the certificate holder initially notified the principal inspector of the apparent violation.

b. If the principal inspector determines that the proposed fix is acceptable, he/she will prepare a letter of correction that includes the date at which the comprehensive fix will be implemented and completed.

c. Following issuance of the letter of correction, the case is closed but remains subject to reopening in the event that the agreed upon actions covered in the comprehensive fix are not completed to the satisfaction of the FAA.

d. The principal inspector has the authority to close the case. Consultation with regional specialists, the Assistant Chief Counsel for the region, or other inspectors may be accomplished when deemed appropriate by the principal inspector.

9. IMPLEMENTATION OF A COMPREHENSIVE FIX.

a. During the implementation period, the FAA and the certificate holder should continue to work together. The FAA has the latitude to advise and assist the certificate holder in correcting any identified systemic problems. Changes can be made to the corrective action plan outlined in the comprehensive fix when the need is identified and the FAA concurs with the change. When a change to a comprehensive fix has been agreed upon, the principal inspector, or the inspector assigned to the case at the direction of the principal inspector, will prepare an amended letter of correction that reflects this change.

b. The FAA monitors the implementation of the corrective steps. Throughout the implementation period, the FAA assesses the certificate holder's corrective efforts and top management's awareness of these efforts. If, during this period, the FAA determines that the actual corrective steps accomplished are contrary to those documented in the comprehensive fix, the letter of correction may be rescinded and the investigative report reopened and appropriate legal enforcement action initiated.

c. At the conclusion of the implementation period, the principal inspector makes a final assessment. If all elements of the comprehensive fix have been adequately accomplished, the principal inspector deems the fix satisfactory. A statement of follow-up investigation, confirming that the comprehensive fix was satisfactorily implemented and completed, shall be prepared to complete the FAA's investigative package.

d. If the same or similar violations are discovered subsequent to the FAA's completion of an investigative package, the FAA does not reopen the case unless it determines that the certificate holder failed to comply with all the elements of the comprehensive fix. Additionally, if a certificate holder decides to make further changes to programs or systems identified in a comprehensive fix once it becomes classified as satisfactory, these changes are not required to receive separate FAA approval under the terms of this disclosure policy.

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10. INFORMAL APPEALS PROCESS. When disagreements occur regarding the acceptance of a proposed comprehensive fix, or changes to a comprehensive fix prior to its classification as satisfactory, the principal inspector and certificate holder may request that the issue be resolved at the next level of management within the FAA. This procedure will provide for an independent assessment of the areas in disagreement.

11. SEPARATE ACTIONS AGAINST AIRMEN.

a. The voluntary disclosure policy applies to individual airmen or other agents of a carrier when the carrier makes a disclosure and is the focal point of a case, and the following conditions are met:

(1) The apparent violation occurred while the airman or agent was acting on behalf of a certificate holder involved in FAR Parts 121 or 135 operations.

(2) The airman immediately must make the first report of the apparent violation to the employing certificate holder.

(3) The FAA is notified immediately. The employing certificate holder must notify the FAA of the apparent violation immediately after the airman reports it to the carrier.

b. If all the above conditions are not met, the principal inspector will review all facts associated with the case and determine what action is appropriate for individual airmen or other agents of the carrier.

12. FREEDOM OF INFORMATION ACT (FOIA), 5 U.S.C. § 552.


a. Records submitted to the FAA for review pursuant to the voluntary disclosure policy are protected, to the extent allowed by law, under Exemption 4 of the FOIA. Exemption 4 protects commercial or financial information submitted to it in confidence, if disclosure would, in this case: (1) impair the Government's ability to collect similar information in the future, or (2) cause harm to an "identifiable" governmental interest (5 U.S.C. § 552(b)(4)).

b. The FAA has determined that both of the tests described in paragraph 12a apply to reports submitted to the FAA under the voluntary disclosure policy. The FAA is responsible for explaining to requesters why the records are exempted under FOIA. Guidelines for such responses can be found in Departmental Regulations, 49 CFR Part 7, Public Availability of

Information. If the FAA is sued for the records, claims of "competitive harm" can be raised at that time.

13. SUBSEQUENT VIOLATIONS. If a subsequent violation occurs even though a comprehensive fix was satisfactorily completed and followed, the procedures outlined in this AC will apply. If the certificate holder does not disclose the subsequent violation to the FAA and it then is discovered by the FAA, or if the FAA independently uncovers a subsequent violation during routine surveillance, legal enforcement action will be initiated.

14. CONCLUSION. Development of Internal Evaluation Programs should help to ensure that any apparent violations are promptly identified, corrected, and reported to the FAA. While not required, the FAA strongly encourages certificate holders to make Internal Evaluation Programs an integral part of their everyday management process so that the full benefits of voluntary disclosure can be realized. Aviation safety is best served by programs that allow certificate holders to identify and correct their own instances of noncompliance and invest more resources in efforts to preclude their recurrence, rather than pay civil penalties.



David R. Harrington
Acting Director, Flight Standards Service

**APPENDIX 1. SAMPLE FORMAT TO BE FOLLOWED BY CERTIFICATE HOLDERS
WHEN SUBMITTING THE WRITTEN REPORT**

The following sample is only a suggested format to be followed when preparing the written report that will be submitted to the FAA. While a certificate holder should include at least all the elements specified below, the structure of the written report can be modified by the certificate holder to fit the certificate holder's particular needs.

I. General

- A. Date
- B. Certificate type
- C. Certificate number
- D. Company name
- E. Company address
- F. Company official filing report
 - 1. Name
 - 2. Position
 - 3. Phone

II. Description of Apparent Violation

- A. Applicable FAR
- B. Date apparent violation was discovered
- C. Location of discovery
- D. Company official who discovered apparent violation
 - 1. Name
 - 2. Position
 - 3. Phone

APPENDIX 1. SAMPLE FORMAT TO BE FOLLOWED BY CERTIFICATE HOLDERS
WHEN SUBMITTING THE WRITTEN REPORT (Continued)

- E. Date and time of initial notification to FAA
- F. Name of FAA official notified (Principal Inspector)
- G. Company official making notification
 - 1. Name
 - 2. Position
 - 3. Phone
- H. Duration of time apparent violation remained undetected
 - 1. Hours
 - 2. Cycles
 - 3. Days
- I. Summary of apparent violation

(The summary should be a brief statement that describes the nature of the apparent violation and identifies the specific aircraft, engines, appliances, facilities, and/or individuals associated with the apparent violation.)

III. Immediate Action

- A. When immediate action was taken
- B. Description of immediate action

(This description should outline the immediate steps that were taken to cease the violative action.)

- C. Company official responsible for immediate action
 - 1. Name
 - 2. Position
 - 3. Phone

APPENDIX 1. SAMPLE FORMAT TO BE FOLLOWED BY CERTIFICATE HOLDERS
WHEN SUBMITTING THE WRITTEN REPORT (Continued)

IV. Analysis

A. Summary of evidence

(This summary should describe the scope of the apparent violation and explain how it was detected. In addition, conclusions reached regarding possible or probable systemic deficiencies should be described.)

B. Reasons why the apparent violation was inadvertent

C. Supporting documentation

(The evidence associated with the apparent violation should be attached. This evidence should include a statement regarding how it determined the extent of the apparent violation.)

V. Comprehensive Fix Proposal

The proposed long term corrective steps to be taken by the certificate holder to preclude recurrence of the apparent violation should be listed in this section. Each corrective step should identify the individual or department responsible for implementing and completing the corrective step as well as the time allotted for completion of each corrective step.

Examples of types of questions or issues that a comprehensive fix proposal should address are as follows:

- Whether the apparent violation includes equipment, facilities, or individuals beyond those addressed in the initial notification and immediate action taken.
- Whether procedural or organizational changes are necessary.
- How will it be determined whether any procedural or organizational changes are effective?
- What procedures will be developed to ensure that the affected area periodically is reviewed in the future so that concerns can be identified before a violation occurs?

APPENDIX 1. SAMPLE FORMAT TO BE FOLLOWED BY CERTIFICATE HOLDERS
WHEN SUBMITTING THE WRITTEN REPORT (Continued)

• Who will be responsible for performing periodic reviews?

• To whom in the certificate holder's organization will the results of these periodic reviews be reported, and how will they be documented?

VI. Responsibility for Monitoring the Implementation of the Comprehensive Fix

- A. Name
- B. Position
- C. Phone
- D. Signature

VII. FAA Acceptance (To be completed by the FAA)

- A. Name
- B. Position (Principal Inspector)
- C. Date
- D. Office
- E. Signature

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