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2022 Aviation Private Roundtable

Voluntary Disclosures and the FAA: Who, What, When, Where, How and Why

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What is the Voluntary Disclosure Reporting Program (VDRP)?

The Federal Aviation Administration's (FAA) Voluntary Disclosure Reporting Program (VDRP) provides air carriers and other regulated entities with an opportunity to report and correct areas of non-compliance without civil penalty.

Eligible Non-Compliance Events

- Violations of 14 CFR parts 21, 39, 119, 121, 125, 133, 137, 141, 142, 145, 179 and subpart K of part 91
- Violations of Title 49 CFR part 175: HAZMAT; Also includes violations of Title 49 CFR parts 171, 172, and 173 as for improperly offering company material (i.e., COMAT), for transportation on behalf of the operator
- Violations of Anti-Drug and Alcohol Misuse Prevention Program Regulations

What Entities Can Participate?

- The program applies to any U.S. air carrier certificated under 14 C.F.R. Parts 119, 121, 125 and 135
- Foreign air carriers operating in the U.S. with operations specifications issued under 14 C.F.R. Part 129 are also eligible to participate in the program
- Other regulated entities including fractional ownership programs, Production Approval Holders
- Individual airmen are NOT eligible

Purpose of VDRP is to Promote Safety

Positive incentive to promote and achieve compliance with FAA regulations.

“The FAA believes that aviation safety is well served by incentives for certificate holders, fractional ownership programs, and PAHs to identify and correct their own instances of noncompliance and to invest more resources in efforts to preclude their recurrence. The FAA’s policy of forgoing civil penalty actions when one of these entities detects violations, promptly discloses the 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 FAA regulations, foster safe operating practices, and promote the development of” Internal Evaluation Programs (“IEPs”). FAA Order 8900.1 CHG 740, Vol. 11, Ch. 2, Sec. 11-3.

What Information to Include in a Voluntary Disclosure

- Brief description of the apparent violation, how long it lasted and how it was discovered
- Verification that noncompliance has ceased
- Brief description of the immediate corrective action taken
- Verification that an appropriate evaluation is underway
- Identity of individual responsible for preparing comprehensive fix
- Confirmation that a detailed written report will be provided in 10 business days
 - Exception: for Hazmat a written report must be submitted within 30 days of the date of original notification

Are All Voluntary Disclosures Automatically Covered by the VDRP?

NO!!!

The FAA makes a determination whether to accept or reject the voluntary disclosure based on the information provided as well as *any other information known to the FAA at that time.*

When Will A Disclosure Be Covered by the VDRP?

- The disclosure must meet five (5) conditions
 - 1) **Timing is Key!** The regulated entity has notified the FAA of the apparent violation immediately upon after detecting it and before the agency has learned of it by other means.
 - 2) The apparent violation was inadvertent, i.e., not the result of purposeful choice.
 - 3) The apparent violation does not indicate a lack, or reasonable question of qualification of the regulated entity.
 - 4) Immediate action, satisfactory to the FAA, was taken upon discovery to terminate the conduct that resulted in the apparent violation; and
 - 5) The regulated entity has developed or is developing a comprehensive fix and schedule of implementation satisfactory to the FAA. This must include a self-audit to ensure correction of the noncompliance.

Benefits of Participation

- If the FAA **accepts** the disclosure, the regulated entity will receive a Letter of Correction in lieu of a civil penalty action
- Prior violations of the same or similar nature will not be investigated unless the regulated entity failed to comply with all of the elements of a comprehensive fix agreed upon by the FAA and the entity
- Any downside to reporting?
 - No guarantees the disclosure will be accepted
 - Inconsistent application by different FAA offices
 - FAA will not forego a legal enforcement action if the disclosure was made during, or anticipation of, an FAA investigation/inspection or in association with an accident or incident

What Does the FAA Do With the Disclosed Information? Is there any oversight to ensure the FAA does not misuse the reported information?

- FAA analyzes the data to identify safety risks and industry trends
- Oversight over VDRP provided by the U.S. Department of Transportation Office of Inspector General (US DOT OIG)
- US DOT OIG regularly audits the VDRP program and prepares reports with recommendations to improve the program; The FAA has an opportunity to provide a written response to each recommendation

VDRP Information Is Protected from Disclosure by Title 49 CFR Part 193

- FAA has designating information provided by regulated entities under the VDRP as protected under 14 C.F.R. part 193
- This includes regulated entities as provided in: AC 120-117, Aerospace Medicine's Drug Abatement Division; 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
- 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
- VDRP reports that are not accepted are not protected from disclosure

Categories of Common Voluntary Disclosures

- Maintenance documentation
- Inspection overfly
- Maintenance errors
- Crew training and qualifications
- Operations errors and documentation
- Crew duty time
- Accepting, loading, unloading, handling, and stowage of hazardous materials
- Training requirements for employees who handle hazardous materials

Thank You

If you have any questions, please contact:



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