



ALERTS

Federal Aviation Administration Order 2150.3C – Does The C Stand For Compliance?

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Aircraft owners and operators who are notified by the Federal Aviation Administration (FAA) of an alleged violation of the Federal Aviation Regulations may just be finding out that there are new rules for violations occurring after Sept. 18, 2018. [Order 2150.3C](#) – which replaces prior Order 2150.3B – revised the investigation and enforcement procedures with the express goal of further implementing the FAA Compliance Program.

The FAA Compliance Program, initiated in 2015 and formerly known as the FAA Compliance Philosophy, sought to establish a more cooperative relationship between the FAA and the people it regulates. In practice, the concept of constructively engaging the aviation community, rather than seeking to police and punish, has not been uniformly implemented. Uneven treatment of investigation and enforcement efforts resulted in more of a patchwork approach than a comprehensive national policy. These challenges were addressed in March 2018 comments by the Deputy Associate Administrator for Aviation Safety, John Duncan:

“I expect [flight standards] will be working in partnership with you to get to the goal you’re headed for as long as you can meet the appropriate standards. I expect them to recognize that there are multiple ways to comply with regulations and I expect them to be in conversation looking for solutions. If you find yourself in a situation where that is not happening, or where you have a disagreement, I would ask you to bring someone else into the conversation to help. We have the capability to do that. Working together we can get this done in a much more efficient and

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practical way. That's our job. To fix the problem, not to punish."

One of the main changes in Order 2150.3C is that the FAA Compliance Program is incorporated into the sanction guidance. Until this change, the formal sanction guidance was occasionally at odds with the Compliance Program's stated objectives. Incorporation of the Compliance Program into the template for determining the severity of the sanctions includes consideration of the alleged violator's cooperation in the process, which can result in a penalty reduction. When the Compliance Program is followed, consideration of the party's cooperation is a welcome development for any well-intentioned operators finding themselves on the wrong end of an FAA investigation.

The revisions of Order 2150.3C also include some enhancements to certain penalties. These changes reflect the FAA's increased emphasis on hazardous materials and drone violations, and the changes also address relatively recent issues involving flight interference from lasers.

Because the revisions in Order 2150.3C are only effective with respect to alleged violations occurring on or after its Sept. 18, 2018, adoption date, the effects of these changes are largely unknown. As these issues work through the system, we will keep an eye on the results and their possible impacts.

To obtain more information regarding this alert, please contact the Barnes & Thornburg attorney with whom you work, or Tim Maher at 574-237-1232 or tim.maher@btlaw.com.

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