



WAYNE FRY

# Ten Days

## How the FAA Handles LOIs

**T**his article's title starts with two words: ten days. Ten days is how long the FAA gives you to respond to a Letter of Investigation (LOI). An LOI is your notice that the agency is looking into some action you have taken or some work that you have done. Although not mandatory, most FAA Aviation Safety Inspectors (ASI) will send you an LOI if the evidence shows that a violation exists.

According to Order 2150.3B, FAA Compliance and Enforcement Program: *A letter of investigation (LOI) serves the dual purposes of notifying an apparent violator that he or she is under investigation for a possible violation and providing an opportunity for the apparent violator to tell his or her side of the story.*

The LOI is part of a process that you should know about. If it appears that a violation exists, FAA inspectors open an Enforcement Investigative Report (EIR). Relevant evidence and information—statements, records, photographs,

etc.—is gathered to prove or disprove the apparent violation that precipitated the investigation. That evidence and information, along with the regulations that allegedly were violated, are placed in the EIR. If the evidence is sufficient

to support a violation, the ASI recommends the appropriate action. If the ASI recommends legal enforcement action, the Order provides guidance to ASIs and other FAA employees on how to address regulatory violations.

### Mistakes Happen

Consider this scenario: You own a repair station that works on Thingamabobs. Your principal FAA inspector comes by for a visit and during a review of your work orders she notices you repaired a Widget 9000. Unfortunately, you are not rated to work on Widgets, only Thingamabobs. Your employees thought that the two devices were the same thing, so they brought in a Widget and repaired it.

After completing her inspection, the inspector makes a few copies of the work order and discusses the issue with you. You assure her this was a one-time mistake and that it will not be repeated. The inspector tells you that she is concerned that your procedures did not adequately prevent you from working on the wrong item and says that she intends to issue an LOI.

While you wait for the expected LOI, take steps to ensure that your repair station will not make the mistake again. Because your repair station is not rated to do the work, the best you can do is to send the Widget to a properly rated repair station.

Then, the LOI arrives. It comes in a white envelope with a green receipt tag and reads something like this:

*During planned surveillance of your repair station, it was noted that you maintained and approved for return to service a Widget 9000. Your repair station is not rated to maintain Widget 9000s. This is to inform you that the FAA is investigating this matter. We wish to offer you an opportunity to discuss the incident in person or submit a written statement within 10 days*

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**The example in the article uses a repair station. However, individual pilots and mechanics, flight schools and maintenance training centers, among others, can all be inspected and receive a Letter of Investigation.**

*following receipt of this letter. Your statement should contain all pertinent facts and any mitigating circumstances you believe may have a bearing on the incident. If we do not hear from you within the specified time, we will process this matter without the benefit of your statement.*

It does not sound good, but it offers you a chance to respond. And, you should respond. Let me repeat: You should respond. Note that the last sentence in the letter states that the FAA will proceed with or without your input.

### **Just the Facts, Ma'am**

There are several reasons you should respond. First, responding shows a cooperative attitude, something FAA inspectors like to see. Second, it is possible that your answer will persuade the FAA to stop its action. Third, even if the FAA does not drop the case, you could provide facts that mitigate or reduce the extent of the violation.

If you choose to respond, you may want to seek legal advice. You may also decide that you need more than 10 days to develop an appropriate response. You or your counsel should request an extension within the initial 10-day period from the ASI who initiated the LOI. Chances are good that she will grant a reasonable extension.

What should you say in your letter to the FAA? In my work as an inspector, I have seen a wide variety of responses. While many include an outright plea for sympathy, the best tactic is to explain the facts. Most violations are inadvertent and if that is true in your case, say so.

As an inspector, I would like to know why it was inadvertent and what you have done to ensure that it does not happen again. For example, if you used a tool that has not been checked for calibration, tell me about the program you are putting in place to check for tool calibration. Explain how you will train your employees on the system. Describe what you are going to do about the aircraft/engine/part

on which you used the tool. Furthermore, as the FAA and the aviation community move into safety management systems, it is helpful to outline the steps you are taking to look at your other processes, such as keeping your manuals current and your people properly trained.

Admittedly, this is a lot to do in 10 days. If you cannot accomplish it all, then include in your letter your plan for getting everything done. If the FAA continues to process the violation despite your best efforts, this information can be useful at an informal conference, but that is a topic for another article.

While this article is geared toward operations and maintenance violations, FAA guidance regarding the issuance of LOIs applies to all FAA programs that enforce regulations, such as those involving hazardous materials and drug and alcohol violations.

The moral of the story: It is in your best interest to be engaged in the process. Do not ignore the LOI. Help yourself by presenting the facts and, when appropriate, the fix. If your systems are not sufficient to prevent a repeat of the problem, change them. The bottom line is safety. That is the entire point of receiving an LOI as well as the role of FAA regulatory oversight. ✈️

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**Responding to an LOI shows a cooperative attitude and can provide the FAA with facts to possibly drop or reduce the extent of the violation.**

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### **For More Information**

#### **Order 2150.3B, FAA Compliance and Enforcement Program**

[www.faa.gov/regulations\\_policies/orders\\_notices/index.cfm/go/document.information/documentID/17213](http://www.faa.gov/regulations_policies/orders_notices/index.cfm/go/document.information/documentID/17213)

