

this AD, before further flight: Repair in accordance with the Accomplishment Instructions of the service bulletin.

#### Exceptions

(i) Do all actions in accordance with the applicable service bulletin except as provided by paragraphs (i)(1), (i)(2), (i)(3), (i)(4), and (i)(5) of this AD.

(1) For the action in paragraph (f)(1) of this AD: Where Boeing Alert Service Bulletin 747–53A2409, dated September 26, 1996; and Boeing Alert Service Bulletin 747–53A2409, Revision 5, dated August 18, 2005; specify a compliance time after the issuance of any revision of the service bulletin, this paragraph requires compliance before the

specified compliance time after November 27, 1996, the effective date of AD 96–23–02.

(2) For the actions in paragraphs (g)(1) and (h)(1) of this AD: Where Boeing Alert Service Bulletin 747–53A2409, Revision 5, dated August 18, 2005, specifies a compliance time after the issuance or receipt of any revision of the service bulletin, this paragraph requires a compliance time after the effective date of this AD.

(3) For any repair or any inspection where Boeing Alert Service Bulletin 747–53A2409, Revision 5, dated August 18, 2005, specifies to contact the manufacturer for further instructions: Before further flight, repair or inspect using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(4) If corrosion is found during any inspection required by this AD, before further flight: Repair in accordance with an FAA-approved method.

(5) Where Boeing Alert Service Bulletin 747–53A2409, Revision 5, dated August 18, 2005, specifies that it is not necessary to count flight cycles at 2.0 psi or less cabin differential pressure, this AD does not allow for that adjustment factor.

#### Credit for Actions Accomplished Previously

(j) Actions done before the effective date of this AD in accordance with the service bulletins specified in Table 1 of this AD are acceptable for compliance with the corresponding requirements of paragraphs (f) and (g) of this AD.

TABLE 1.—CREDIT SERVICE BULLETINS

Service bulletin	Revision level	Date
Boeing Alert Service Bulletin 747–53A2409 .....	1	May 29, 1997.
Boeing Alert Service Bulletin 747–53A2409 .....	2	August 6, 1998.
Boeing Alert Service Bulletin 747–53A2409 .....	3	October 22, 1998.
Boeing Alert Service Bulletin 747–53A2409 .....	4	February 17, 2000.

#### Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(3) AMOCs approved previously in accordance with AD 96–23–02, amendment 39–9807, are approved as AMOCs for the corresponding provisions of paragraph (f) of this AD, except AMOCs for terminating action based upon inspection results using a sliding probe low frequency eddy current (LFEC), sliding probe high frequency eddy current (HFEC), or mid frequency surface eddy current (MFEC) inspection methods; and provided that any alternative method for future inspections did not incorporate a sliding probe LFEC, sliding probe HFEC, or MFEC inspection methods.

(4) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD.

Issued in Renton, Washington, on May 16, 2006.

**Kevin M. Mullin,**

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.  
[FR Doc. E6–8006 Filed 5–24–06; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 193

[Docket No. FAA–2006–24855]

#### Voluntary Disclosure Reporting Program

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Proposed Order Designating Information as Protected from Disclosure.

**SUMMARY:** The FAA is proposing that information provided to the agency from a Voluntary Disclosure Reporting Program (VDRP) be designated by an FAA order as protected from public disclosure in accordance with the provisions of 14 CFR part 193. Under 49 U.S.C. 40123, the FAA is required to protect the information from disclosure to the public, including disclosure under the Freedom of Information Act (5 U.S.C. 552) or other laws, following issuance of such order. The designation is intended to encourage participation in the VDRP.

**DATES:** Comments must be received on or before June 26, 2006.

**ADDRESSES:** You may send comments [identified by Docket Number [Insert docket number, for example, FAA–200X–24855]] using any of the following methods:

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.

- Fax: 1–202–493–2251.

- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**Privacy:** We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** To read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Dr. Thomas Longridge, Flight Standards Service, AFS–230, Federal Aviation Administration, 800 Independence Ave., SW., Washington DC 20591, telephone (703) 661–0275.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the Web address in the **ADDRESSES** section.

*Privacy Act:* Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit <http://dms.dot.gov>.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

## Availability of This Proposed Designation

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>);

(2) Visiting the FAA's Regulations and Policies Web page at [http://www.faa.gov/regulations\\_policies/](http://www.faa.gov/regulations_policies/); or

(3) Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

## Background

Under 49 U.S.C. 40123, certain voluntarily provided safety and security information is protected from disclosure to encourage persons to provide the information to the FAA. The FAA must issue an order making certain findings before the information is protected from disclosure. The FAA's rules implementing that section are in 14 CFR part 193. If the Administrator issues an order designating information as protected under 49 U.S.C. 40123, that information will not be disclosed under the Freedom of Information Act (5 U.S.C. 552) or other laws except as provided in 49 U.S.C. 40123, 14 CFR part 193, and the order designating the information as protected. This proposed order is issued under 14 CFR 193.11, which sets out the notice procedure for designating information as protected.

## Description of the Proposed Information Sharing Program.

Civil penalties under the FAA's enforcement program have always been considered a means to promote compliance with the FAA's regulations, not an end in themselves. In addition to the deterrence achieved by the appropriate use of civil penalties, the public interest is also served by positive incentives to promote and achieve compliance. The FAA believes that aviation safety is well served by incentives for regulated entities to identify and correct their own instances of noncompliance and to invest more resources in efforts to preclude their recurrence. Under the VDRP, it is FAA policy generally to forgo civil penalty action when an entity 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. The VDRP is designed to develop long-term comprehensive fixes and encourage compliance with the FAA's regulations, foster safe operating practices, and promote the development of internal evaluation programs.

A disclosure under the VDRP is accomplished by initial notification of an apparent violation to the FAA by a certificate holder, indirect air carrier, design approval holder, production approval holder, or other regulated entity immediately after an apparent violation has been discovered by that regulated entity, and before the FAA learns of the apparent violation by some other means, unless otherwise permitted by written FAA policy for a related

voluntary program. For example, under the Aviation Safety Action Program (ASAP) as described in AC 120–66, as amended, a voluntary disclosure may be accepted even if the FAA has already learned of an apparent violation from an employee submitted ASAP report. In any case, the initial notification to the FAA must comply with Advisory Circular 00–58, as amended. The form of initial notification may be oral, a written hard copy, or a written electronic copy. The VDRP disclosure and follow-on corrective action must be accomplished in accordance with the criteria and procedures specified in Advisory Circular (AC) 00–58, as amended.

The FAA responds by opening an enforcement investigative report (EIR) and sending a written acknowledgement of the regulated entity's initial VDRP notification. This acknowledgement includes a request for a written report, and is sent in place of a letter of investigation (LOI), provided the written report is completed in accordance with the procedures set forth in AC 00–58, as amended. The report must include a detailed description of the proposed comprehensive fix, outlining the planned corrective steps, the responsibilities for implementing those corrective steps, and the planned dates for both initial implementation and completion of the fix. The FAA advises the regulated entity by written acknowledgement when it determines that the report is or is not acceptable. Following initial implementation of the comprehensive fix, verification of it by the FAA, and an initial assessment by the FAA of the apparent effectiveness of the comprehensive fix, the EIR is closed by issuing a letter of correction (LOC) to the regulated entity that includes the date on which the comprehensive fix was initially implemented, and the expected date for final completion. Following issuance of the LOC, the case is closed, but remains subject to reopening if the agreed-upon corrective actions are not completed to the satisfaction of the FAA. The LOC remains on file at the FAA for a period of two years. [Comment: Administrative actions are expunged after two years only for individuals.] If the FAA determines that the corrective action taken is not satisfactorily completed, the LOC may be rescinded, the EIR reopened, and appropriate legal enforcement action may be initiated.

## Summary of the VDRP Voluntary Information Sharing Program

A. *Who may participate:* Regulated entities as provided in Advisory

Circular 00–58, as amended and Advisory Circular 121–37.

*B. What voluntarily provided information would be protected from disclosure under this proposed designation:* The content of all submissions by a regulated entity that are accepted under the VDRP, including, but not limited to, all of the items listed under Proposed Findings, Paragraph (2) below.

*C. How persons would participate:* Regulated entities participate by notification of an apparent violation to the FAA by the regulated entity in accordance with the VDRP reporting procedures, and completion of corrective actions in accordance with AC 00–58, as amended.

*D. Duration of this information sharing program:* This information sharing program would continue in effect indefinitely, unless the FAA terminates the VDRP, or until the order of designation under 14 CFR part 193 for the VDRP is withdrawn by the FAA.

### Proposed Findings

The FAA proposes to designate information received under the VDRP as protected under 49 U.S.C. 40123 and 14 CFR 193.7 based on the following findings:

(1) *Summary of why the FAA finds that the information will be provided voluntarily.*

The FAA finds that the information will be provided voluntarily. No certificate holder is required to participate in the VDRP. Initiation of submissions under the VDRP are indicative of the willingness of regulated entities to identify and correct their own instances of regulatory noncompliance, develop long term comprehensive fixes, and foster safe operating practices.

(2) *Description of the type of information that may be voluntarily provided under the program and a summary of why the FAA finds that the information is safety or security related.*

The information that would be voluntarily submitted under a VDRP is described in AC 00–58, as amended. Because the Federal Aviation Regulations specify the minimum requirements for safety, and VDRP submissions entail violations of those regulations, the information is inherently safety related. It would include the following:

(a) Information contained in an initial notification to the FAA:

—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;

- Verification that noncompliance ceased after it was identified;
- A 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;
- Verification that an evaluation is underway to determine if there are any systemic problems;
- Identification of the person responsible for preparing the comprehensive fix; and
- Acknowledgment that a detailed written report will be provided to the designated FAA official within 10 working days.

(b) Information contained in a detailed written report:

- A list of the specific FAA regulations that may have been violated;
- A description of the apparent violation, including the duration of time it remained undetected, as well as how and when it was detected;
- 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;
- An explanation that shows the apparent violation was inadvertent;
- Evidence that demonstrates the seriousness of the apparent violation and the regulated entity's analysis of that evidence;
- 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; and
- Identification of the company official responsible for monitoring the implementation and completion of the comprehensive fix.

(3) *Summary of why the FAA finds that the disclosure of the information would inhibit persons from voluntarily providing that type of information.*

The FAA finds that disclosure of the information would inhibit the voluntary provision of that type of information. Regulated entities are reluctant to voluntarily disclose instances of regulatory noncompliance if such submissions might be subject to public disclosure. A significant impediment to participation in the VDRP is concern over public disclosure of the information, and, if disclosed, the potential for it to be used for other than the system safety enhancement purposes for which the VDRP was

created. Withholding such information from disclosure is consistent with the FAA's safety and security responsibilities because, unless the FAA can provide assurance that it will not be disclosed, regulated entities will be reluctant to participate in the program.

Although regulated entities have voluntarily disclosed information under the VDRP for several years, they did so after the FAA promised that such information would be deidentified in the Enforcement Information System (EIS), which is the FAA's central and national database of enforcement action information. The entities were reluctant to participate in the VDRP without this promise for fear that information they disclosed would be readily available to the public through a FOIA request for records in the EIS. So that entities continue to use the VDRP, the FAA has not kept the identity of persons reporting, or detailed information about disclosures, under that program in the EIS or any other central database.

Once information provided under the VDRP is designated as protected under 14 CFR part 193, more regulated entities may be willing to submit disclosures under the program that were previously reluctant to. In addition, FAA will be able to retain more information about the disclosures, including the identity of the reporters, in an FAA database, without chilling participation in the VDRP. Disclosures under the VDRP enable the FAA to become aware of many more instances of regulatory noncompliance than it otherwise would, and moreover, the VDRP permits the FAA to assure that appropriate corrective action is taken. If regulated entities do not participate, the FAA and the public will be deprived of the opportunity to make the system safety improvements that receipt of the information otherwise enables.

(4) *Summary of why the receipt of that type of information aids in fulfilling the FAA's safety and security responsibilities.*

The FAA finds that receipt of VDRP information aids in fulfilling the FAA's safety and security responsibilities. A primary purpose of FAA regulations is to assure public safety. Because the VDRP identifies and corrects instances of regulatory noncompliance of which the FAA may be otherwise unaware, the program offers significant potential for enhancement of public safety. Receipt of this otherwise unavailable information would also provide the FAA with an improved basis for modifying procedures, policies, and regulations to improve safety and efficiency.

(5) *Summary of why withholding such information from disclosure would be*

*consistent with the FAA's safety and security responsibilities, including a statement as to the circumstances under which, and a summary of why, withholding such information from disclosure would not be consistent with the FAA's safety and security responsibilities, as described in 14 CFR 193.9.*

The FAA finds that withholding VDRP information provided to the FAA is consistent with the FAA's safety responsibilities. The VDRP specifically provides that appropriate corrective action must be taken by the regulated entity for all instances of regulatory noncompliance accepted under the program. To be accepted by the FAA, apparent violations disclosed under the program must be inadvertent, and, where applicable, must not indicate a lack, or reasonable question of a lack, of qualification of the regulated entity. Corrective action under the VDRP can be accomplished by the regulated entity and verified by the FAA without disclosure of the protected information. If the FAA determines that the steps taken by the entity are not those documented in the written report, the submission may be excluded from the VDRP, and appropriate legal enforcement action may be initiated.

The FAA will release information submitted under a VDRP as specified in part 193 and this proposed order. To explain the need for changes in FAA policies, procedures, and regulations, the FAA may disclose de-identified (*i.e.*, the identity of the source of the information and the names of the certificate holder, employees, and other persons, as well as any other information that could be used to ascertain the identity of the submitter, redacted) summary information that has been extracted from submissions accepted under the VDRP. The FAA may disclose de-identified, summarized VDRP information that identifies a systemic problem in the aviation system, when other persons need to be advised of the problem so that they can take corrective action. The FAA may disclose de-identified aggregate statistical information concerning VDRP submissions. The FAA may disclose independently obtained information relating to any event disclosed in a VDRP report. The FAA also may disclose any information about a disclosure initially submitted under the VDRP that is not accepted, or accepted, but later excluded because of the regulated entity's failure to comply with the criteria of the VDRP.

(6) *Summary of how the FAA will distinguish information protected under*

*part 193 from information the FAA receives from other sources.*

In accordance with AC 00-58, all VDRP submissions must be clearly identified as such by the regulated entity making the submission. Any other information received by the FAA from the regulated entity concerning the content of a VDRP submission must be clearly labeled as follows to be eligible for protection under this designation: "WARNING: The Information in this Document is Protected from Disclosure under 49 U.S.C. 40123 and 14 CFR part 193." If the information is submitted electronically, the warning notice must be appropriately embedded in the electronic submission in a fashion that assures the visibility of the warning to any viewer.

#### **Proposed Designation**

Accordingly, the Federal Aviation Administration proposes to designate the above-described information submitted under a VDRP to be protected under 49 U.S.C. 40123 and 14 CFR part 193.

Issued in Washington, DC, on May 17, 2006.

**John M. Allen,**

*Acting Director, Flight Standards Service.*

[FR Doc. E6-8078 Filed 5-24-06; 8:45 am]

**BILLING CODE 4910-13-P**

## **DEPARTMENT OF JUSTICE**

### **Drug Enforcement Administration**

#### **21 CFR Part 1300**

**[Docket No. DEA-260P]**

**RIN 1117-AA94**

#### **Definition of "Positional Isomer" as It Pertains to the Control of Schedule I Controlled Substances**

**AGENCY:** Drug Enforcement Administration (DEA), U.S. Department of Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Controlled Substances Act (CSA) and its implementing regulations specify which hallucinogenic substances are considered Schedule I controlled substances. The CSA states that all salts, isomers and salts of isomers of these substances are also Schedule I controlled substances. In non-technical terms, an isomer of a substance is a different compound, but a compound which has the same number and kind of atoms. The terms "optical isomer" and "geometric isomer" are specific scientific terms and it is easy to

determine whether one substance is an optical or geometric isomer of another. The term "positional isomer," however, is subject to scientific interpretation.

This Notice of Proposed Rulemaking proposes the addition of a specific definition for the term "positional isomer" to allow for the systematic determination of which isomers of Schedule I substances would be considered to be "positional" and, therefore subject to Schedule I control.

The addition of a definition for the term "positional isomer" will assist legitimate research and industry in determining the control status of materials that are "positional isomers" of Schedule I hallucinogens. While the DEA will remain the authority for ultimately determining the control status of a given material, providing a specific definition for "positional isomer" will ensure consistent criteria are utilized in making these determinations.

This rule is relevant only to specialized forensic or research chemists. Most of these individuals are existing DEA registrants who are authorized by the DEA to handle Schedule I hallucinogenic substances.

**DATES:** Written comments must be postmarked, and electronic comments must be sent, on or before July 24, 2006.

**ADDRESSES:** To ensure proper handling of comments, please reference "Docket No. DEA-260P" on all written and electronic correspondence. Written comments being sent via regular mail should be sent to the Deputy Administrator, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/ODL. Written comments sent via express mail should be sent to the DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, VA 22301. Comments may be directly sent to the DEA electronically by sending an electronic message to [dea.diversion.policy@usdoj.gov](mailto:dea.diversion.policy@usdoj.gov). An electronic copy of this document is also available at the <http://www.regulations.gov> Web site. The DEA will accept attachments to electronic comments in Microsoft Word, WordPerfect, Adobe PDF, or Excel file formats only. The DEA will not accept any file format other than those specifically listed here.

**FOR FURTHER INFORMATION CONTACT:** Christine A. Sannerud, Ph.D., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration,