

THE “BRASHER” CALL

The FAA’s standards for reporting unsafe air traffic occurrences have changed, potentially for the worse. It could affect your operations, here’s why.

by Fred Simonds

Without a ripple, FAA Order JO 7210.632 took effect on January 30, 2012. Benignly titled *Air Traffic Organization Occurrence Reporting*, it claims to look at aviation safety from a more strategic, systemic viewpoint with the objective of “discovering why adverse safety events happen and identifying risks,” rather than determining who was at fault.”

It mandates all Air Traffic Organization employees (essentially controllers) to report all suspected unsafe air traffic occurrences in an effort to “more

effectively and safely manage operations within the National Airspace System.”

The order seeks to “modify reporting requirements to emphasize the collection of safety data as opposed to ascribing responsibility”. While this seems genuine, the FAA has, in my opinion, in recent years undermined the trust pilots once placed in it through arbitrary and brutal enforcement as opposed to the more effective “regulation by education” attitude of years past. Read on and decide for yourself.

EORs and MORs

The order is aimed at air traffic services, namely ATC. Formally titled *Air Traffic Incidents*, they include near-midair collisions; pilot, vehicle or pedestrian deviations; TCAS Resolution Advisories and the like.

An Air Traffic Incident is detected via a person or by computer automation. For example, a near-midair collision (defined as a recorded proximity of less than 500 feet vertically and 0.5 nm laterally to another aircraft) reported by an involved flight crew member results in a Mandatory Occurrence Report (MOR) being filed.

Had it been detected by TCAS with a Resolution Advisory, an Electronic Occurrence Report (EOR) would have resulted. If it were detected by an automated FAA system such as the Traffic Analysis and Review Program or by the much-vilified “snitch patch”, formally known as the Operational Error Detection Patch, which automatically logs operational errors such as loss of separation by controllers, an EOR would also result.

However, *if the FAA employee decides that pilot actions affected operational safety*, then a Mandatory Occurrence Report meeting the criteria listed below is also required.

In cases where radar separation is lost, a Measure of Compliance is calculated as the greatest percentage of remaining lateral or vertical separation at the lowest point of separation conformance. If the MOC shows that less than 66% required separation was maintained, then the case is classified as a fairly serious Risk Analysis Event.

MOR Criteria

Airborne Loss of Separation: Any suspected loss of IFR radar separation other than as a result of “compression” on final approach. “Compression” is not a controller’s get-out-of-jail free card. The order says that “Loss of separation on final approach will be closely monitored using electronic loss of separation detection, assessed for risk and corrective action identified.”

This category also includes suspected loss of separation involving VFR aircraft in Class B, C and TRSA airspace, during practice VFR approaches, formation flights or involving non-radar standards.

Surface Loss of Separation: Alerts from airport ground surveillance systems such as Airport Surface Detection Equipment or an Airport Movement Area Safety System between two aircraft or an aircraft and a vehicle trigger an MOR. This category includes suspected loss of runway or airport surface separation between two aircraft,

SECTION A COMPLETE FOR ALL MORs	1. Reporting FAC ID	2. Date UTC (dd/mm/yyyy)	3. Time UTC	4. Significant Occurrence? <input type="checkbox"/> Yes <input type="checkbox"/> No
	5. MOR reported by (select one): <input type="checkbox"/> Controller providing services <input type="checkbox"/> FLM <input type="checkbox"/> Internal Facility Review <input type="checkbox"/> OC <input type="checkbox"/> Aircraft Owner/Operator <input type="checkbox"/> Electronically Detected <input type="checkbox"/> External Facility Referral <input type="checkbox"/> Hotline (Describe in summary) <input type="checkbox"/> Other (Describe in summary)			
SECTION B - AIRBORNE SEPARATION ONLY COMPLETE FOR AIRBORNE SEPARATION MORs	AIRBORNE SEPARATION MORs			
	B1. MOR type - suspected airborne loss involving (select one): <input type="checkbox"/> IFR aircraft <input type="checkbox"/> VFR aircraft (in Class B or practice VFR approach) <input type="checkbox"/> Other suspected loss (describe in summary) <input type="checkbox"/> Formation flights <input type="checkbox"/> Non-radar			
	B2. Aircraft #1 Information: Aircraft ID: _____ Aircraft Type/Suffix: _____ IFR/VFR: <input type="checkbox"/> IFR <input type="checkbox"/> VFR Formation Flight: <input type="checkbox"/> No <input type="checkbox"/> Nonstandard <input type="checkbox"/> Trailing AC/beam <input type="checkbox"/> Facility communicating with AC <input type="checkbox"/> Position communicating with AC Frequency: _____ TCAS RA: <input type="checkbox"/> Yes <input type="checkbox"/> No			
	B2. Aircraft #2 Information: Aircraft ID: _____ Aircraft Type/Suffix: _____ IFR/VFR: <input type="checkbox"/> IFR <input type="checkbox"/> VFR Formation Flight: <input type="checkbox"/> No <input type="checkbox"/> Nonstandard <input type="checkbox"/> Trailing AC/beam <input type="checkbox"/> Facility communicating with AC <input type="checkbox"/> Position communicating with AC Frequency: _____ TCAS RA: <input type="checkbox"/> Yes <input type="checkbox"/> No			
	B3. Required separation: Vertical _____ ft/lateral _____ nm		B4. Observed separation: Vertical _____ ft/lateral _____ nm	
TERRAIN/OBSTRUCTION MORs				
SECTION C - TERRAIN/OBSTRUCTION ONLY COMPLETE FOR TERRAIN/OBSTRUCTION MORs	C1. MOR type - improper/unexpected operation of aircraft near terrain/obstruction involving (select one): <input type="checkbox"/> MVA <input type="checkbox"/> MIA <input type="checkbox"/> MEA <input type="checkbox"/> MOCA <input type="checkbox"/> MCA <input type="checkbox"/> Other (describe in summary)			
	C2. Aircraft information: Aircraft ID: _____ Aircraft Type/Suffix: _____ IFR/VFR: <input type="checkbox"/> IFR <input type="checkbox"/> VFR Facility communicating with AC: _____ Position communicating with AC: _____ Frequency: _____			
	C3. Occurrence location: Describe where the occurrence occurred in relation to the terrain/obstacle or the MOR, Resolution, location, etc.		C4. Required altitude:	

Page one of the FAA Mandatory Occurrence Report.

an aircraft and a vehicle or between an aircraft and a pedestrian.

Terrain and Obstructions: Any suspected loss of separation between an IFR aircraft and terrain or obstacles including operations below minimum vectoring altitude.

Airborne ATC Anomalies: These apply to airspace, altitude, route or speed not involving loss of separation. Anomalies include instances where an aircraft enters airspace on other than the expected or intended altitude, routing or airspeed or without a handoff. These anomalies usually result in ATC issuing a safety alert or control instruction.

If the controller decides that safety of flight has been compromised, that triggers an MOR. This category includes TCAS Resolution Advisories and “spill-outs” not resulting in a loss of separation. A *spillout* is when, say a military aircraft, spills out of an MOA in which it was supposed to remain.

Pilots who enter Special Use Airspace such as a Restricted Area or a TFR without permission will also be looking at an MOR.

In the Airport Environment an MOR will be triggered: By an aircraft, vehicle or pedestrian on any movement area or runway safety area not expected or intended by ATC.

If an aircraft unexpectedly lands or attempts to land or depart a runway or surface.

Any instance where an aircraft lands or departs on or flies an unrestricted low approach to a closed runway or a portion of it.

A go-around initiated by a flight crew or ATC involving turbojet aircraft with 0.5 nm of the arrival threshold and not involving practice approaches.

A case where any part of the aircraft crosses the runway hold short bars and the controller cancels the takeoff or the flight crew aborts the

takeoff. Any instance where an aircraft unintentionally maneuvers off a runway or taxiway.

Any improper or unexpected presence of a vehicle or aircraft inside an ILS protected area.

Communication: Where aircraft communication was not established or maintained as expected or intended resulting in alternative control actions or additional notifications by ATC or a flight crew, or in landing without clearance.

Emergency or In-Flight Hazards [see table below]: These may be declared by ATC, flight crews or non-flight crew members – including Grandma!

Flight Crew Notification of Suspected Pilot Deviations: If a controller decides that pilot actions affected the safety of operations, the controller must not only report it as an MOR, but must inform the flight crew using the following phraseology:

“N230GW, POSSIBLE PILOT DEVIATION, ADVISE YOU CONTACT [facility] AT [telephone number].”

The controller must notify management of the circumstances so they may be communicated to the pilot upon contacting the facility.

Quoting the Order: *“This notification, known as the ‘Brasher Notification,’ is intended to provide the involved flight crew with an opportunity to make note of the occurrence and collect their thoughts for future coordination with Flight Standards regarding enforcement actions or operator training.”*

The Brasher Call

If you receive a Brasher call from ATC, there are some things to know. There is no need to make the telephone call immediately. Take time to think.

Some aviation attorneys advise you not to make it and let Flight Standards make the first move if there will be one, although other attorneys disagree, as circumstances may differ. Call an aviation attorney before you make the phone call to ATC.

Your call will almost certainly be recorded. The AIM specifies that such calls are recorded and legally that is sufficient notice. There is no tone or announcement. You may ask if the call is being recorded and to speak on an unrecorded line instead. The request may or may not be honored.

Anything you say can be used as an admission in court against you. Be polite, but not prolific when speaking.

In my non-lawyer opinion, say that you are returning the call as a courtesy and that your attorney will be in touch. This way you avoid admissions. It’s discourteous not to return a call, but nothing says you have to spill your guts.

In the past, many pilot deviations were left to the discretion of the controller as to how to handle them. This order removes most of that discretion. The kinder, gentler FAA has become a memory.

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Emergency or In-Flight Hazards Reportable via MOR

These are examples, and not all-inclusive.

Emergency or in-flight hazards may be declared by ATC, flight crews, or other than flight crew members.

Medical Emergency
Inflight Equipment Malfunction requiring special handling
Bird strike
Fuel Quantity Emergency
Pilot disorientation
VFR Pilot in or trapped on top of clouds
Laser light illumination
Hijacking
Bomb Threat