U.S. Department
of Transportation
Federal Aviation
Administration

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

MAR 2 3 2011

Douglas Lyons
Chief Pilot, Boston Air Charter
P.O. Box 829
Norwood, MA 02062

Dear Mr. Lyons:

This is in response to your letter dated November 29, 2010, requesting an interpretation regarding whether there are Federal compliance requirements that exist under 14 CFR part 91 for NOTAM(D) information.

NOTAM information is time-critical aeronautical information which is of either a temporary nature or not sufficiently known in advance to permit publication on aeronautical charts or in other operational publications. AIM, paragraph 5-1-3(a). This information is immediately disseminated via the National NOTAM System. There are four categories of NOTAMs: NOTAM(D)s or distant, Flight Data Center (FDC) NOTAMs, Pointer NOTAMs, and Military NOTAMs. Of these four categories, only FDC NOTAMs contain information that is regulatory in nature. AIM, paragraph 5-1-3 (2)(a).

NOTAM(D)s consist of information that is disseminated for all navigational facilities that are part of the National Airspace System, all public use airports, seaplane bases, and heliports listed in the Airport/Facility Directory. NOTAM(D) information includes such data as taxiway closures, personnel and equipment near or crossing runways, and airport lighting aids that do not affect instrument approach criteria, such as Visual Approach Slope Indicators.

In your letter, you present a scenario in which a NOTAM(D), issued by the local operating authority, states that a runway is closed for braking action determination as defined in a local snow removal plan or for runway flooding. You ask what would happen if a pilot in command, who is unable to communicate with the airport operating authority, determines that the NOTAMs do not reflect the actual runway conditions and conducts an uneventful takeoff operation.

NOTAM(D)s contain advisory information. They are issued to provide pilots with accurate and up-to-date information related to their flight paths. Before beginning a flight, pilots are required to become familiar with all available information concerning that flight. 14 CFR 91.103. This includes all NOTAMs referencing the pilot's flight path. These NOTAMs are in place for the safety of both the pilot and the general public.

If a pilot chooses to disregard information in a NOTAM(D) and takes off on a closed runway, absent an emergency, the FAA would investigate whether the pilot violated 14 CFR 91.13 and operated an aircraft "in a careless or reckless manner so as to endanger the life or property of another." Additionally, taking off on a closed runway at a controlled airport could constitute a violation of 14 CFR 91.123(a) or (b).

I hope this information has been helpful. This interpretation has been coordinated with Flight Standards Service, General Aviation and Commercial Division (AFS-800, AFS-820) and Aeronautical Information Management (AJV-2). If you have further questions concerning this interpretation, please contact Sabrina Jawed on my staff at 202-267-3073.

Sincerely,

Rebecca MacPherson
Assistant Chief Counsel for Regulations, AGC-200