

VOLUME 11 FLIGHT STANDARDS PROGRAMS

CHAPTER 2 VOLUNTARY SAFETY PROGRAMS

Section 1 Safety Assurance System: Aviation Safety Action Program

11-25 PURPOSE. The purpose of this section is to provide guidance for establishing and operating an effective Aviation Safety Action Program (ASAP). The objective of an ASAP is to encourage employees of air carriers, repair stations, or other entities (collectively referred to as “eligible entities”) to voluntarily report safety information that may be critical to identifying potential precursors to accidents. The Federal Aviation Administration (FAA) has determined that identifying these precursors is essential to further reducing the already low accident rate. The establishment of an ASAP is available to any eligible entity that has the resources and ability to effectively implement and operate an ASAP and is contingent upon the FAA’s capacity to effectively manage such an entity’s program. Under an ASAP, safety issues are resolved through corrective action rather than through punishment or discipline. The ASAP provides for the collection, analysis, and retention of the safety data obtained through the reporting process. ASAP participants use ASAP safety data, much of which would otherwise be unobtainable, to develop corrective actions for identified safety concerns, and to educate the appropriate parties to prevent a recurrence of the same type of safety event.

11-26 BACKGROUND. The primary objective of voluntary safety programs is to identify hazards and unsafe conditions in the National Airspace System (NAS) so that corrective action can be taken to eliminate or reduce the hazard or unsafe condition. Aviation safety is well served by incentives that encourage entities to establish programs to identify and correct their own instances of noncompliance while investing in the prevention of recurrences. The FAA’s policy of forgoing enforcement actions when one of these entities detects violations, discloses the violations to the FAA, and takes prompt corrective action to ensure that the same or similar violations do not recur is designed to encourage compliance with FAA regulations, foster safe operating practices, and promote the development and maturation of effective Internal Evaluation Programs (IEP) and Safety Management Systems (SMS).

11-27 KEY TERMS. The following key terms and phrases are defined for the purposes of an ASAP to ensure a standard interpretation of the guidance.

A. Acceptance. The terms “accept(s),” “accepted,” and “acceptance,” and references to ASAP reports that meet “acceptance criteria,” refer to such reports that are accepted as valid reports under the presumption in the FAA Reauthorization Act of 2018 and that the event review committee (ERC), after review, determined should not be excluded.

B. ASAP Facilitator. A third party who provides personnel, expertise, and/or time in order to design, implement, manage, or maintain an eligible entity’s ASAP.

C. ASAP Manager. The person serving as the focal point for program administration, including, but not limited to: recording and acknowledging receipt of reports; maintaining the ASAP database; providing information about, and responding to, inquiries concerning the status of ASAP reports; and coordinating and tracking ERC corrective action recommendations. The

ASAP manager may or may not be the voting representative from company management on the ERC.

D. “Big Five.” Reports associated with criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.

E. Certificate Holder. Refers to a person who is authorized to operate under Title 14 of the Code of Federal Regulations (14 CFR) part 121 or 135 or who holds a certificate issued under 14 CFR part 145.

F. Consensus of the Event Review Committee (ERC). Under an ASAP, consensus of the ERC means the voluntary agreement of all voting representatives of the ERC to each decision required by the Memorandum of Understanding (MOU).

G. Corrective Action. For the purposes of an ASAP, corrective action refers to any safety-related action determined necessary by the ERC based upon a review, investigation, and analysis of the reports submitted under an ASAP. Corrective action can be recommended by the ERC for any safety issue identified in an accepted ASAP report, regardless of whether or not it involves an individual’s qualification issue. Corrective action may involve joint or individual action by the parties to the MOU.

H. Covered Under the Program/Qualified for Inclusion/Included in ASAP. For the purposes of an ASAP, these terms all have the same meaning. They mean that the enforcement-related incentives and other provisions of the ASAP apply to the employee who submitted the report.

I. Enforcement-Related Incentive. The assurance that no enforcement action will be used to address certain apparent violations of the regulations.

J. Event Review Committee (ERC). A group comprised of a representative from each party to an ASAP MOU. The group reviews and analyzes reports submitted under an ASAP. The ERC may share and exchange information and identify actual or potential safety problems from the information contained in the reports. The ERC is usually comprised of a management representative from the eligible entity, a representative from the employee labor group or association (if applicable), and a specifically qualified FAA inspector from the responsible Flight Standards office. Where an employee group is not represented by a labor association, the ERC may include a voting representative chosen from the employee group, even though in that case the labor group is not a signatory to the ASAP MOU.

K. Intentional Conduct. An act (or failure to act) while knowing that such conduct is contrary to a statutory or regulatory requirement.

L. Intentional Falsification. For the purposes of an ASAP, intentional falsification means a false statement in reference to a material fact made with knowledge of its falsity. It does not include mistakes, inadvertent omissions, or errors.

M. Major Domestic Repair Station. This refers to a part 145 certificated repair station that is certificated to perform airframe and/or engine maintenance for certificate holders.

N. Memorandum of Understanding (MOU). This refers to the written agreement between two or more parties setting forth the purposes for, and terms of, an ASAP.

O. Non-Sole-Source Report. The ERC considers a report to be non-sole-source when evidence of the event is not discovered by, or otherwise predicated upon, the ASAP report.

P. Party/Parties. This refers to the eligible entity, the FAA, and any other person or entity (e.g., labor union or other industry or government entity) that is a signatory to the MOU.

Q. Person. A person refers to an individual, firm, partnership, corporation, company, association, joint stock association, or government entity. It includes a trustee, receiver, assignee, or similar representative of any of the preceding entities.

R. Policy and Procedures Manual. A manual that outlines the operating procedures of the ERC as well as its duties and responsibilities.

S. Reckless Conduct. An act (or failure to act) demonstrating a gross disregard for, or deliberate indifference to, safety or a safety standard.

T. Responsible Flight Standards Office. The Flight Standards District Office (FSDO) or certificate management office (CMO) having overall responsibility for all FAA reporting requirements, technical administration requirements, and regulatory oversight of a certificate holder.

U. Risk Controls. Steps taken to eliminate hazards or to mitigate their effects by reducing the severity and/or likelihood of risk associated with those hazards (e.g., regulations, standards, and policies).

V. Safety Management System (SMS). The formal, top-down business approach to managing safety risk, which includes a systemic approach to managing safety, including the necessary organizational structures, accountabilities, policies, and procedures. (Refer to the FAA SMS web page at <https://www.faa.gov/about/initiatives/sms/>.)

W. Safety-Related Report. This refers to a written account of an event that involves an operational or maintenance issue related to aviation safety reported through an ASAP. The reporting venue is specified in the ASAP MOU.

X. Sole-Source Report. For the purposes of FAA action under an ASAP, the ERC shall consider a report to be sole-source when all evidence of the event available to the FAA outside of an ASAP is discovered by, or otherwise predicated upon, the ASAP report. It is possible to have more than one sole-source report for the same event.

Y. Voluntary Disclosure Reporting Program (VDRP). A policy under which regulated entities may voluntarily report apparent violations of the regulations and develop corrective action satisfactory to the FAA to preclude their recurrence. Voluntary disclosure reporting procedures are outlined in the current edition of Advisory Circular (AC) 00-58, Voluntary Disclosure Reporting Program, as well as Volume 11, Chapter 1, Section 1.

11-28 PROGRAM ENHANCEMENTS. This section incorporates the following enhancements.

A. Timeliness of Reporting. The ERC has discretion in considering the timeliness of reporting as a criterion of deciding whether to accept a report, allowing the ERC to make that decision based on what the ERC finds is in the best interest of safety.

B. ERC Policy and Procedures Manuals. The ERC has discretion to create its own policy and procedures manuals. ERCs are encouraged to develop policies and procedures that are realistic for their operational environments.

C. Alignment With SMS. The ASAP is designed to allow more flexibility to align with SMS. This section includes new guidance and a reference to a process flow for the ASAP and SMS interface (see paragraph 11-52).

D. Continuing Programs. All programs enter as continuing programs, and reviews are accomplished by program participants every 2 years. In addition, the Flight Standards Service (FS) conducts random sampling.

E. Third-Party Facilitators. Guidance is introduced for eligible entities who initiate ASAPs with third-party facilitators.

F. ERC Meeting Attendance. FAA attendance at an ERC meeting is optional, depending on what types of reports are being considered by the ERC in the meeting. The decision whether to attend is at the sole discretion of the FAA signatory.

G. Quarterly Reporting. Quarterly reporting has been revised.

H. Regulations.

1) The FAA Reauthorization Act of 2018 (Public Law (PL) 115-254, section 320, dated October 5, 2018) establishes a presumption that an individual's voluntary report of an operational or maintenance issue related to aviation safety under an ASAP meets the criteria for acceptance as a valid report under such programs (see Figure 11-15, Acceptance of Voluntarily Provided Safety Information—FAA Reauthorization Act of 2018, Section 320). Upon review, the ERC may determine that such a report is ineligible for acceptance into the ASAP.

2) This guidance is consistent with Executive Order (E.O.) 13892 of October 9, 2019, Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication (84 FR 55239, dated October 15, 2019). Under section 9 of the E.O., the FAA is required, to the extent practicable and permitted by law, to "(i) encourage voluntary self-reporting of regulatory violations by regulated parties in exchange for reductions or waivers of civil penalties; (ii) to encourage voluntary information sharing by regulated parties; and (iii) to provide pre-enforcement rulings to regulated parties." The Department of Transportation (DOT) has adopted implementing regulations related to the E.O. in Title 49 of the Code of Federal Regulations (49 CFR) part 5, § 5.105, Cooperative Information Sharing.

11-29 APPLICABILITY. ASAPs are designed for eligible entities. The FAA approves each program on a case-by-case basis with respect to resources and program requirements. The eligible entity's ASAP may cover employees of a contractor only if contractual arrangements between the parties specifically provide that the contractor and its employees abide by the terms of the applicable ASAP MOU and the decisions of the eligible entity's ERC. In order for the program to cover contract employees, the applicable ASAP MOU must stipulate that such contractual arrangements are in place.

11-30 PROGRAM DEVELOPMENT. Eligible entities may develop programs and submit them to the FAA for review and acceptance in accordance with the guidance provided.

A. General. Ordinarily, programs are developed for specific employee groups, such as flightcrew members, flight attendants (F/A), mechanics, ramp workers, and dispatchers. The FAA will determine whether a program is accepted.

B. Development and Implementation of an ASAP. The FAA recommends the following in connection with the development and implementation of an ASAP:

1) The eligible entity, employee group, and the FAA develop a relationship that will promote the ASAP concept. The reluctance of one or more parties to commit to the program is detrimental to the process.

2) The parties outline in detail the process for report review.

3) Development of agreed-upon safety data collection, analysis, and retention processes.

4) The FAA assigns event investigation tasks.

5) All parties should undertake a comprehensive company employee and management education program before implementing the ASAP.

6) The parties implement cultural change, as the ASAP process may require.

7) The parties maintain continuity of ERC representation personnel, particularly during the early stages of program implementation, to promote the desired partnership relationship between program members.

11-31 RESOURCES. An ASAP can result in a significant commitment of both human and fiscal resources by the parties to the program. During the development of a program, it is important that each party is willing to commit the necessary personnel, time, and monetary resources to support the program. Prior to accepting a program, all parties should meet and discuss program requirements and determine whether they have the appropriate safety culture that will promote the program's effectiveness. Programs for which adequate resources from all parties are not available, including the FAA in particular, should not be recommended by the responsible Flight Standards office for acceptance. If resources are limited, consider the following options.

A. Resources Unavailable. If the Flight Standards office manager determines that FAA resources to effectively manage an ASAP are not available, the office manager should elevate the issue to the division manager for consideration of alternative means to staff the new program, including having a remote qualified and appropriately trained inspector serve as the FAA's representative.

B. Unable to Accommodate Request to Start ASAP. If the FAA office cannot accommodate the request to start an ASAP, the office manager should provide the eligible entity with an explanation of why the program is not recommended for acceptance and provide a copy to the division manager.

11-32 ENFORCEMENT-RELATED INCENTIVE. In order to encourage participation in the ASAP, the FAA assures that no action will be used to address apparent violations of the regulations, unless specifically excluded under the current edition of AC 120-66, Aviation Safety Action Program. This incentive only applies to ERC-accepted reports.

11-33 COMPLIANCE PROGRAM. In order to promote the highest level of safety and compliance with regulatory standards, the FAA is implementing SMS constructs based on comprehensive safety data sharing between the FAA and the aviation community. To foster this open and transparent exchange of data, the FAA believes that the current edition of FAA Order 8000.373, Federal Aviation Administration Compliance Program, supported by an established safety culture, is instrumental in ensuring both compliance with regulations and the identification of hazards and management of risk. When deviations from regulatory standards do occur, the FAA's goal is to use the most effective means to return an individual or entity that holds an FAA certificate, approval, authorization, permit, or license to full compliance and to prevent recurrence. Effective October 1, 2015, administrative actions are not processed for accepted ASAP reports and are no longer required for VDRP disclosures.

11-34 INFORMATION SUBMISSION. An ASAP report provides a vehicle whereby employees of participating companies with an established ASAP MOU can identify and report safety issues to management and to the FAA for resolution. The ASAP is designed to encourage participation from various employee groups (e.g., pilots, mechanics, F/As, dispatchers, and ramp workers).

11-35 CONTINUING PROGRAMS. The FAA now categorizes all ASAPs as continuing programs. These programs are subject to a review by the signatories to the MOU every 2 years to ensure appropriate objectives are met. In addition, FS conducts random reviews to collect information, data, and feedback from participants that validate whether objectives of the program are being achieved and properly documented.

NOTE: All current programs are required to transition to the new MOU template within 90 calendar-days of the effective date of AC 120-66C, Aviation Safety Action Program.

11-36 ATTENDANCE VS. PARTICIPATION. FAA participation in ERCs is essential. The FAA ERC representative should be diligent with respect to his or her participation and promotion of the program. Reports associated with criminal activity, substance abuse, controlled

substances, alcohol, or intentional falsification (“the Big Five”), regulatory noncompliance, intentional or reckless conduct, or a medical certification or qualification issue require FAA attendance with the ERC. However, for reports that are not associated with such conduct, FAA attendance at certain ERC meetings may not be necessary at the discretion of the FAA ERC member. Prior to the ERC meeting, the ASAP manager provides the ASAP reports that the ERC will review at that meeting so that the FAA ERC member can determine whether his or her attendance at the meeting is necessary (see subparagraph 11-36A below). Additionally, for ERC meetings not attended by the FAA ERC member, the ASAP manager provides the FAA ERC member with the minutes from such meetings so that he or she can ensure appropriate safety-based responses.

A. Level of FAA Attendance at ASAP ERC Meetings. The level of FAA attendance at ASAP ERC meetings will be decided by the appropriate FAA manager to the MOU. Please note the distinction between participation and attendance. The FAA will continue to participate in an ASAP. The FAA ERC member will continue to review all reports prior to an ERC meeting and, if necessary, attend ERC meetings. The FAA ERC member will continue to review the outcomes of the ERC meetings. However, this guidance permits, under controlled and known circumstances, optional FAA attendance at an ERC meeting.

B. Mandatory FAA Attendance at ERC Meetings. Reports associated with regulatory noncompliance, reckless conduct, intentional conduct, the Big Five (i.e., criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification), medical certification or qualification issues, non-consensus, or violations identified during ERC meetings require FAA attendance at the ERC.

1) The FAA ERC representative should be able to determine whether his or her participation at the ERC meeting is required from reviewing the report in advance of the meeting.

2) ASAP strengths and weaknesses are unique to each program, so several factors should be considered when designing the particulars of FAA ERC attendance when such attendance otherwise is not mandatory. Some of those factors include office resources, level of ERC participant training and experience, maturity of the program, quality of the operator’s SMS (if applicable), history of the operator’s posture regarding regulatory compliance, and open sharing of data. Furthermore, since an ASAP serves as a conduit to obtain safety-related data that would otherwise be unobtainable, the specific interests and methods for data sharing should be addressed.

11-37 EVENT REVIEW COMMITTEE (ERC). An ERC is a group comprised of a representative (and alternate, if possible) from each party to an ASAP. The ERC is comprised of a management representative from the eligible entity, a representative from the employee group or employee labor association (if applicable), and a specifically qualified FAA inspector from the responsible Flight Standards office.

A. ERC Responsibilities:

1) Review and analyze safety reports submitted under the ASAP.

- 2) Determine whether such reports meet any criteria for exclusion.
- 3) Identify actual or potential safety issues from the information contained in the reports.
- 4) Investigate reported events. The ERC may conduct interviews, when appropriate.
- 5) Propose solutions for safety issues identified in reports.
- 6) Identify and communicate effective corrective actions and recommendations.
- 7) Conduct an annual review of the ASAP database to determine whether corrective actions have been effective in preventing or reducing the recurrence of safety-related events. Additionally, the review should ensure that corrective actions have not been subsequently negated through implementation of other company actions (e.g., manual revisions, checklist modifications, training, etc.).

B. ASAP Manager Responsibilities. The eligible entity should select an ASAP manager to serve as the program administrator. When third-party facilitators are involved, they too may fill this role. In some cases (while not ideal), the ASAP manager is also the company management representative to the ERC and may perform both functions. The ASAP manager is responsible for the following:

- 1) Receiving, recording, tracking, analyzing, and responding to ASAP reports.
- 2) Maintaining the electronic ASAP database and facilitating ERC member access.
- 3) Preparing the ERC meeting agenda.
- 4) Distributing complete (with an option for name-redacted-only) reports to ERC members for review prior to the meeting.

NOTE: The redaction option does not apply to actual ERC meetings.

- 5) Coordinating and tracking ERC recommendations.
- 6) Tracking accomplishment of corrective action(s).
- 7) Annotating when reports are closed without an FAA ERC member in attendance.
- 8) Recording repeated instances of noncompliance with 14 CFR and informing ERC members if the same individual is involved in multiple violations.
- 9) Providing employee feedback. Any employee who submitted a report may contact the ASAP manager to inquire about the status of his or her report.
- 10) Keeping all documents and records regarding this program and making them available to the parties to the MOU at their request.

11) Keeping company upper management informed regarding program results.

12) As a recommended best practice, coordinating with the ERC to develop a manual of processes and procedures for reviewing and analyzing reports. The ASAP manager and the ERC develop such a manual at their discretion.

13) In coordination with the ERC, publishing pertinent event recaps, data, and trend information derived from filed and processed reports, and ASAP analyses in accordance with the eligible entity's defined procedures.

C. Report De-Identification. An ASAP provides for the confidentiality of reporter identity outside of the ERC, but not reporter anonymity within the ERC itself. The ASAP manager may elect to remove the employee's name (but should not remove any other information, such as date of the event, tail number, etc.) for initial ERC report review. The purpose of removing the reporter's name is simply to reduce the likelihood that personal knowledge of the individual may bias the initial evaluation of the event. FAA ERC members need the specifics (other than employee identity) concerning the event (e.g., date, flight number, location, etc.) in order to efficiently accomplish their responsibility to determine whether the FAA has received independent information concerning the event (e.g., information such as a preliminary pilot deviation (PD) report, outside of the ASAP).

D. ERC Meeting Quorum. For official meeting purposes, a quorum exists when all designated ERC representatives or their alternates are present (either in person or in remotely situated communications). See the NOTE under subparagraph E6) below.

E. FAA ERC Member Responsibilities:

1) Determining if the FAA has received independent evidence on a reported event (e.g., preliminary PD report, Administrator's Daily Alert Bulletin, etc.).

2) Assisting in determination of a possible 14 CFR regulatory violation.

3) Ensuring the ERC investigation ascertains all pertinent facts and circumstances prior to acceptance/exclusion, including, where appropriate, ERC interviews of the employee(s) if needed to validate eligibility of the report.

4) Assisting in determining event resolution in the best interest of safety.

5) Recommending corrective action whenever it is appropriate.

6) Following through on corrective action to ascertain satisfactory completion.

NOTE: Some reported events may involve matters that are complex or sensitive, or that require the expertise of other FAA personnel or employees from the eligible entity. FAA ERC representatives are encouraged to consult with such persons as may be needed during the ASAP process to better understand the nature of an event and its appropriate disposition. FAA management should be advised when potentially controversial events have been submitted for

consideration under an ASAP. Providing briefings and information to other FAA personnel in the same office concerning the nature of the safety event and associated results of ERC/FAA investigation is appropriate, provided that the identity of the reporting employee is not disclosed outside of the ERC. It is appropriate for the FAA member of an ASAP ERC to share de-identified information on safety issues identified through ASAP with other FAA personnel.

11-38 PROCESSING REPORTS.

A. Consensus of the ERC. The success of an ASAP is built on the ability of the ERC to achieve consensus on each event that is reported. “Consensus of the ERC” means the voluntary agreement of all voting representatives on the ERC.

1) Reaching a Consensus. The ERC reaches a consensus when deciding whether to accept a report into the program and when deciding on corrective action recommendations arising from the event. It does not require that all members believe that a particular decision or recommendation is the most desirable solution, but that the result falls within each member’s range of acceptable solutions for that event in the best interest of safety. In order for this concept to work effectively, the ERC representative is empowered to make decisions within the context of the ERC discussions on a given report. Management for the parties to an ASAP MOU should not preempt their respective ERC representative’s decision-making discretion for an event reported under the ASAP. If the parties to an ASAP MOU do not permit their respective ERC representative to exercise this discretion, the capacity of the ERC to achieve consensus will be undermined and the program will ultimately fail.

2) Consensus Cannot Be Achieved. The FAA retains all its legal authority and responsibilities contained in Title 49 of the United States Code (49 U.S.C.) and referenced in the current edition of FAA Order 2150.3, FAA Compliance and Enforcement Program. In the event there is not a consensus of the ERC on decisions concerning a report involving an apparent violation(s), or a medical certification or qualification issue, the FAA ERC representative decides whether to accept or reject the report.

B. Reports Involving High-Profile Events. ERC members should communicate in a timely manner with management for the parties to an ASAP MOU (i.e., the FAA, eligible entity, and labor group, if applicable) when an ASAP report involves potentially controversial issues and high-profile safety-related events. The ERC should brief management on the nature of such issues and events, the associated results of the ERC investigation, and the disposition of the report. The ERC and management protect confidential details of the report during such communications.

C. Use of Obtained Information. Information obtained from the ASAP permits participants to identify actual or potential risks throughout their operations. Once identified, the parties to an ASAP can implement corrective actions in order to reduce the potential for accidents, incidents, and other safety-related events. The parties should use de-identified information for mission-pertinent purposes, such as developing internal evaluation strategies, risk mitigation plans, and policy development. In order to gain the greatest possible benefit from the ASAP, it may be necessary for eligible entities to develop programs with compatible data

collection, analysis, storage, and retrieval systems. ASAP participants can use the information and data that has been collected and analyzed as a measure of a safety culture.

11-39 ASAP CONCEPTS. The specific provisions of an ASAP are described by an MOU. A sample MOU is provided in AC 120-66. An automated MOU template is also available through the FAA ASAP web page at <https://www.faa.gov/about/initiatives/asap/>. The material contained in this section and within AC 120-66 provides structure and guidance to aid in the preparation of a program acceptable for FAA participation.

11-40 USE OF ASAP REPORTS. No portion of the written ASAP report, including an ERC investigation or interview(s) concerning a reported event, is used to initiate or support company disciplines or FAA enforcement action. This policy applies regardless of whether the ERC accepts or excludes the report. The company retains its authority to take disciplinary action based on information of an event independently obtained by the company (i.e., information not based or otherwise predicated upon the content of an employee's ASAP report).

NOTE: The FAA may use knowledge of an event, independent of an ASAP report, to conduct an investigation of an apparent violation(s) as the FAA deems appropriate (see Volume 14, Chapter 3, Section 12). However, for an accepted ASAP report, no FAA action will be taken against the employee.

A. Reports Involving Medical Certification or Medical Qualification Issues. If the ERC becomes aware of an issue involving the medical qualification or medical certification of an airman, the ERC immediately advises the appropriate Regional Flight Surgeon (RFS) about the issue. The ERC works with the RFS and the eligible entity's medical department or medical consultants to resolve any issues or concerns revealed in an ASAP report or through the processing of that report. The FAA ERC member follows the direction(s) of the RFS with respect to any medical certification or qualification issue(s) revealed in an ASAP report.

B. Violations of Eligible Entities. If appropriate, the FAA may handle, under the VDRP, apparent violations by eligible entities disclosed through a safety-related ASAP report (refer to AC 00-58, Order 2150.3, and Order 8900.1). A voluntary disclosure can still be accepted by the FAA, even though the FAA has already learned of the violation from the ASAP.

C. Corrective Actions Utilized Within the VDRP. The FAA may, at its sole discretion, accept the corrective action recommended by an ASAP ERC for an accepted ASAP report (even when an apparent employee qualification or competency issue is involved) as all or part of the comprehensive fix for the voluntary disclosure under the following conditions:

- 1) The FAA determines that the violation is due entirely to the actions of the employee(s) and not to a systemic or procedural deficiency of the company; and
- 2) Employees involved in events covered under this program complete the corrective action in a manner satisfactory to all members of the ERC. If corrective action is not completed, the employee's report is excluded from the ASAP. In these cases, information about the ASAP event is referred to an appropriate office within the FAA for any additional investigation and FAA action, as appropriate.

11-41 CORRECTIVE ACTION. Corrective actions are developed by the ERC in order to address deficiencies discovered during an ERC investigation. They may consist of training, mentoring, counseling, or other options that the ERC may determine are the best course of action to undertake to resolve the issue. The ERC develops corrective actions and works with the eligible entity to implement those corrective actions in order to counter adverse risks and trends. The ERC excludes ASAP reports if the employee fails to complete corrective action for an apparent violation, or a medical certification or qualification issue, in a manner acceptable to the ERC. The FAA ERC member then refers the event to an FAA office for additional investigation and/or FAA action. The ERC may recommend corrective action for any safety issue identified within an accepted report. Official training records and personnel files should not reflect corrective actions associated with an ASAP (refer to the Pilot Records Improvement Act of 1996 (PRIA) and the current edition of AC 120-68, Pilot Records Improvement Act of 1996). All corrective actions should be documented and retained in the ASAP database.

A. Corrective Action for Qualification Issues. The ERC addresses accepted reports involving competence or qualification of certificate, license, or permit holders with appropriate corrective action, which may include retraining or reexamination. Reluctance or failure to adopt methods to remediate noncompliance or instances of repeated noncompliance are handled by the FAA in accordance with Order 2150.3.

B. Corrective Action for Systemic Issues. For corrective action regarding systemic issues by eligible entities:

- 1) The ASAP manager should provide such ERC recommendations to the appropriate company department head for consideration.
- 2) The eligible entities may implement, modify, or decline to implement the ERC's recommendations.
- 3) The ASAP manager must record, track, and follow up on the company's response and action.
- 4) The ASAP manager should record all recommended actions in the ASAP database.

NOTE: Any recommended corrective action that is not implemented will be recorded in the ASAP database along with the reason why it was not implemented.

- 5) The ASAP manager should bring systemic issues to the attention of company and FAA management.
- 6) The FAA ERC representative:
 - a) Should recommend corrective action whenever it is appropriate given the nature of the event, regardless of whether it is sole-source or non-sole-source.

b) Is responsible for tracking and follow-up for ERC-recommended corrective action to ensure that it has been accomplished to the satisfaction of the FAA; and

c) May elect to observe the completion of the corrective action to determine whether or not it meets the requirements of the ERC.

11-42 INVESTIGATIONS AND USE OF REPORTS. Under the FAA’s governing statute, regulations, and agency policy, the FAA investigates statutory and regulatory noncompliance and takes appropriate action in response to noncompliance.

A. Accepted Reports. The FAA takes no action against an employee who submits a report that is accepted (and not subsequently excluded). No FAA correspondence outside the ERC is necessary. Such reports are closed with an ERC response to the submitter after the FAA determines to its satisfaction that the submitter has properly completed the corrective action (if any).

B. Reports Excluded Based on the Big Five. The FAA ERC representative refers events that are excluded based on the Big Five to the appropriate FAA office for investigation. The FAA may use the entire content of such a report, including the content of the ERC investigation and/or interviews concerning the reported event, as evidence in any FAA investigation and FAA action. The FAA may refer reports of the Big Five to law enforcement agencies if appropriate. The company, too, may use reports excluded based on the Big Five to initiate or support company discipline. Upon completion of a subsequent investigation, if the FAA determines that the event did not involve the Big Five, then it refers the report back to the ERC for a determination of acceptability under the ASAP. The ERC accepts such reports under the ASAP provided they otherwise meet the acceptance criteria.

C. Reports Excluded for Reasons Other Than the Big Five. If the ERC excludes a report for reasons other than those related to the Big Five (e.g., reckless conduct or intentional violation not involving the Big Five, violations outside the scope of employment, repeated noncompliance), the FAA ERC representative communicates his or her knowledge of the event to the appropriate FAA office for possible investigation. The FAA may use its knowledge of the event referred by the FAA ERC member to prompt an independent investigation of the apparent violation(s) and to initiate an FAA action against the employee.

1) The “knowledge of the event” under this subparagraph includes the date, time, location, flight number, aircraft tail number, and related information, as well as the apparent noncompliance disclosed in the ASAP report (see Volume 14, Chapter 3, Section 12).

2) An “independent investigation” under this subparagraph is one in which the FAA uses the knowledge of the event to conduct the investigation but does not obtain other information concerning the apparent violation(s) from the ERC or from the ASAP report (except that the FAA may obtain information regarding corrective action on a non-sole-source report). The FAA determines the appropriate action by following the Compliance Action Decision Process (CADP) (see Volume 14, Chapter 1, Section 2).

D. Reports That are Non-Sole-Source. The FAA considers an ASAP report to be non-sole-source when the FAA has evidence of an apparent violation that is not discovered

pursuant to or otherwise predicated upon an ASAP report (e.g., whistleblower/hotline complaints, reports from ATC involving airspace deviations, incident reports, accident reports). The FAA investigates apparent violation(s) based on evidence independent of an ASAP report regardless of whether the associated non-sole-source report was accepted or excluded. The FAA may use the reports as specified in subparagraph 11-42B and knowledge of the event as specified in subparagraph 11-42C to conduct the investigation. Any action the FAA takes is in accordance with subparagraphs 11-42A through D.

NOTE: No portion of the written ASAP report, including an ERC investigation or interview(s) concerning a reported event, is used to initiate or support company discipline or FAA enforcement action. This policy applies regardless of whether the ERC accepts or excludes the report. The company retains its authority to take disciplinary action based on information of an event independently obtained by the company (i.e., information not based or otherwise predicated upon the content of an employee's ASAP report).

11-43 CONDUCTING AN INDEPENDENT INVESTIGATION.

A. General. Certain situations (e.g., whistleblower/hotline complaints, airspace deviations, incidents, accidents, etc.) require the responsible Flight Standards office to use the knowledge of the event, independent of an ASAP report, to conduct an investigation of an apparent violation(s). However, for an accepted ASAP report, the FAA takes no action against the reporting employee. Additionally, although discouraged, the company retains its authority to take disciplinary action based on information of an event independently obtained by the company (i.e., information not based, or otherwise predicated upon, the content of an employee's ASAP report). These investigations have the potential to discourage robust employee reporting and ultimately may damage the safety culture relationship.

B. Compliance Action Decision Making. Reports accepted into the ASAP will continue to be processed in accordance with this order. For reports that are excluded from the ASAP, the CADP should be considered the primary means of addressing all alleged, suspected, or identified instances of noncompliance. This includes apparent violation of regulations and/or statutes, as well as deviations from other established standards or procedures (see Volume 14, Chapter 1, Section 2).

11-44 FLIGHT STANDARDS OFFICE ERC REPRESENTATIVE.

A. Responsibilities. The Flight Standards office ERC representative is empowered to complete ASAP investigations and is responsible for coordinating all corrective actions in accordance with the current editions of the following FAA orders effective at the time of the event, as applicable:

- FAA Order 8020.11, Aircraft Accident and Incident Notification, Investigation, and Reporting.
- FAA Order 8900.1.

B. Investigation Process. The ERC determines whether or not a reported event meets the criteria for acceptance into an ASAP in accordance with the applicable orders and through the ERC process. If an event meets the criteria and is accepted into the ASAP by the ERC, the FAA transfers all jurisdiction and responsibility for the completion of compliance and enforcement investigations related to the event to the appropriate FS ERC representative (even if an enforcement investigation has been previously opened outside of the ASAP). The responsible Flight Standards office completes preliminary incident or PD reports in accordance with current FAA guidance materials regarding such reports regardless of whether the employee submitted an ASAP report related to the event. The FAA office having jurisdiction over the eligible entity completes preliminary incident or PD reports involving the eligible entity's employees.

NOTE: The responsible Flight Standards office must complete incident or preliminary PD reports in accordance with current FAA guidance materials regarding such reports, regardless of whether the employee submitted an ASAP report that reported the event. Incident reports or preliminary PD reports involving the entity's employees will be completed by the FAA office having jurisdiction over the eligible entity (i.e., the responsible Flight Standards office). However, the responsible Flight Standards office may request the transfer of an incident report, preliminary PD report, or other report associated with an event reported under an ASAP. If the responsible Flight Standards office requests transfer of a report, the office must ensure that FS responsibilities with respect to that report are completed in a timely manner.

11-45 FAA INVESTIGATION OF NON-SOLE-SOURCE REPORTS OF PILOT DEVIATIONS (PD).

A. Submission Into Air Traffic Quality Assurance (ATQA). If an occurrence/PD involves an event that has previously been accepted into the ASAP, that fact does not relieve the associated FAA office of the responsibility to complete all sections of FAA Form 8020-18, Investigation of Pilot Deviation Report, in accordance with Volume 7, Chapter 1, Section 2.

B. Critical Information to Complete FAA Form 8020-18. This information may be obtained from the original Air Traffic Organization (ATO) notification (e.g., Comprehensive Electronic Data Analysis and Reporting (CEDAR) PD Report) about the event. If not, the investigating aviation safety inspector (ASI) will obtain information from the company, but not from the ERC, which may include the pilot's name and details pertinent to the event. If the event is accepted into the ASAP, the corrective action, if any, as recommended by the ERC, may be used in block 18 of FAA Form 8020-18. The ASAP ERC formulates the corrective actions and how to implement those corrective actions. The FAA ERC member may communicate within the FAA the facts disclosed by the investigation and disposition of any event reported under ASAP, including follow-up for corrective actions. Corrective action taken under the ASAP to address a non-sole-source report for a PD is not protected from disclosure under the current edition of FAA Order 8000.82, Designation of Aviation Safety Action Program (ASAP) Information as Protected from Public Disclosure Under 14 CFR Part 193. All pertinent information, including the corrective action, should be included in FAA Form 8020-18. FS personnel do not need to annotate "ASAP" in block 18 of FAA Form 8020-18.

1) The Reason ASIs Do Not Annotate Block 18 With “ASAP.” FAA

Form 8020-18 is predicated upon information that the FAA obtained during an independent investigation after receiving a non-sole-source report, and not through an ASAP report. This information is not protected from disclosure. Since the information is not protected, there is no need for an “ASAP” flag on FAA Form 8020-18, which otherwise might be necessary if the form contained information that an ASI obtained from a protected source.

2) If the ASI Identifies the Individual Who Committed the Alleged Airspace Violation Through an FAA ERC Member. In such a scenario, the name of the pilot, as recorded on FAA Form 8020-18, would be protected from disclosure under Order 8000.82 because the ASI would have learned the employee’s name through the ASAP rather than through independent, non-sole-source means. Therefore, it would be improper for an ASI to identify the airman through such means. The investigation ceases to be independent if an ASI acquires the pilot’s name from the ERC.

3) The ASI Must Not Identify the Individual Who Committed the Alleged Airspace Violation or Obtain Other Information Through an FAA ERC Member Unless the ERC Rejected the ASAP Report Based on the Big Five. When the ASI conducts an independent investigation of a matter not involving the Big Five, the ASI must not obtain information regarding the reported event from the ERC.

a) Doing so would be contrary to FAA policy on the use of ASAP reports in investigations. As explained in subparagraph 11-42B, when an ASAP report is excluded based on the Big Five, the FAA may use the entire content of an ASAP report, including the content of the ERC investigation and/or interviews concerning the reported event. However, in a matter not involving the Big Five, the FAA does not obtain information concerning the apparent noncompliance from the ERC or from the ASAP report (except that the FAA may obtain information regarding corrective action on a non-sole-source report). This is true whether the ASAP report was accepted or rejected.

b) Doing so might result in the improper disclosure of information that is protected under part 193. Accepted ASAP reports are protected from disclosure under part 193 in accordance with Order 8000.82. For an accepted ASAP report, obtaining information from the ERC or the report itself and using that information to complete FAA Form 8020-18 likely would result in the disclosure of protected information if the FAA Form 8020-18 were released pursuant to a Freedom of Information Act (FOIA) request.

NOTE: When information of the event available to the FAA outside of the ASAP is not discovered by, or otherwise predicated upon, the ASAP report, the information is not protected from disclosure. Evidence and other information gathered from FAA sources of an investigation concerning an accepted ASAP report are also not protected from disclosure.

4) Close Out PD Report Form.

a) The investigating responsible Flight Standards office should close out FAA Form 8020-18 and record the action(s) taken by the FAA in block 18 (see Volume 7, Chapter 1, Section 2).

b) Inspectors are required to complete all relevant blocks of FAA Form 8020-18 and place special emphasis on providing comments and recommendations. For example, block 18 should include the following information:

- Description of the deviation;
- Causal and/or contributing factors;
- If the ASI determines that air traffic control (ATC) actions or processes were contributory to the event, the ASI will include “ATC” and rationale in block 18 (this information is reviewed by the ATC Quality Assurance Group (QAG));
- Recommendations for systemic corrective action to reduce risk of future occurrence;
- Action(s) taken to correct the problem and prevent recurrence;
- Activity record associated with the event; and
- Comments, to capture information not already included in the form.

11-46 GUIDELINES FOR PARTICIPATION UNDER AN ASAP. Participation in the ASAP is limited to employees of eligible entities and to events occurring while acting in that capacity. Each employee participating in the ASAP must individually submit a report in order to receive the enforcement-related incentives and benefits of the ASAP policy. However, in cases where an event may be reported by more than one person, each individual who seeks coverage under the ASAP must either sign the same report or submit separate signed reports. The ERC should not complete its deliberations on acceptance/exclusion of a report, classification as sole-source/non-sole-source, etc., until the FAA member informs the ERC that he or she has completed their investigation of the event.

A. Criteria for Acceptance. Safety concerns observed or experienced can be reported—without fear of punitive action being taken by the company or the FAA—based on information obtained from, or predicated upon, the ASAP report.

B. Acceptance of Voluntarily Provided Safety Information—FAA Reauthorization Act of 2018, Section 320. There shall be a presumption that an individual’s voluntary report of an operational or maintenance issue related to aviation safety under an ASAP meets the criteria for acceptance as a valid report under such program (see Figure 11-15).

C. Reports That are Sole-Source. The ERC will consider a report to be sole-source when all evidence of the event available is directly from, or predicated upon, the ASAP report. The determination of sole-source and non-sole-source does not factor into acceptance of a report. The intent of the ASAP is to correct safety concerns that are identified by the program. Safety risks/threats identified in sole-source reports are addressed by the ASAP ERC. Corrective action for the individual and/or the eligible entity should be recommended, if appropriate.

1) The ERC will close the sole-source report and provide feedback to the reporting employee in a form and manner acceptable to the ERC. It is possible to have more than one sole-source report for the same event.

2) After the investigation is complete and the only evidence of the individual reporter's involvement in the event available to the FAA is obtained from the reporting individual, or is caused by or predicated upon that individual's accepted sole-source report, no additional FAA action or correspondence outside of the ERC is required. Such reports are closed with an ERC response to the submitter and corrective action under the ASAP, if the ERC determines that such corrective action is appropriate.

D. Non-Sole-Source Information. Non-sole-source information is when information of the event available to the FAA outside of an ASAP is not discovered by or otherwise predicated upon the ASAP report. When the FAA has independent knowledge of an event or possible regulatory violation (e.g., PD) is used to generate an independent investigation, in that regard, the information is not protected from disclosure. Evidence and other information gathered from FAA sources of an investigation concerning an accepted ASAP report are also not protected from disclosure.

E. Nonreporting Employees Covered Under an ASAP MOU. If an ASAP report identifies another covered employee of the eligible entity in a possible violation, and that employee has neither signed that report nor submitted a separate report, the ERC determines on a case-by-case basis whether to offer the nonreporting employee the opportunity to submit an ASAP report. If the nonreporting employee submits a report within the acceptable timeframe established by the ERC, that report is afforded the same consideration under the ASAP as that afforded the report from the original reporting employee, provided the report meets all other ASAP acceptance criteria. However, if the nonreporting employee fails to submit a report within the timeframe allotted after notification, the possible violation by that employee is referred to the appropriate office within the FAA for additional investigation and action (as appropriate) and for referral to law enforcement authorities, if warranted.

F. Nonreporting Employees Not Covered Under the MOU. If an ASAP report identifies another employee of the eligible entity who is not covered under the eligible entity's MOU, and the report indicates that employee may have been involved in a possible violation, the ERC determines on a case-by-case basis whether it would be appropriate to offer that employee the opportunity to submit an ASAP report. If the ERC determines that it is appropriate, the ERC provides that employee with information about the ASAP and invites the employee to submit an ASAP report. If the employee submits an ASAP report within a timeframe acceptable to the ERC, that report is accepted under the ASAP, provided it meets all other ASAP acceptance criteria. If the employee fails to submit a report within an acceptable timeframe established by the ERC, the FAA ERC member refers the possible violation by that employee to the appropriate office within the FAA for additional investigation and action (as appropriate) and for referral to law enforcement agencies, if warranted.

11-47 GUIDELINES FOR EXCLUSION OF REPORTS UNDER AN ASAP. This paragraph discusses exclusion criteria for ASAP reports.

A. Reports Excluded. If a report is excluded and appears to constitute a violation of 14 CFR, the FAA ERC representative will refer the event to the responsible FAA office for possible subsequent investigation. For reports that are excluded from the ASAP, the CADP should be considered the primary means of addressing all alleged, suspected, or identified instances of noncompliance. This includes apparent violation of regulations and/or statutes, as well as deviations from other established standards or procedures. See Volume 14, Chapter 3, Section 12.

NOTE: Event information such as aircraft tail number, date, location, flight number, and regulatory citation will be included in that referral. Except for Big Five violations, the FAA cannot use content from an ASAP report (including the content of the ERC investigation and/or interviews concerning the reported event) as evidence in an enforcement action, even if the report was excluded from the ASAP.

B. Timeliness. Past iterations of ASAP policy emphasized strict time period requirements as a condition for acceptance of reports. While timeliness considerations are generally still a relevant factor in whether the ERC accepts a report, the responsibility of the ERC now is to review all information available and determine whether acceptance of the report is in the best interest of safety. However, timeliness considerations do not apply to sole-source reports.

C. Reckless Conduct. Reports of an apparent violation involving reckless conduct are excluded. Reckless conduct is an act (or failure to act) demonstrating a gross disregard for or deliberate indifference to safety or a safety standard.

D. Intentional Conduct. Reports involving intentional conduct are excluded. Intentional conduct is an act (or failure to act) while knowing that such conduct is contrary to a regulation or statute, or is otherwise prohibited.

NOTE: There is a narrow circumstance under which the ERC considers acceptance of a report despite the intentionality of a violation. Under 14 CFR part 91, § 91.3(b), in an in-flight emergency requiring immediate action, the pilot in command (PIC) may deviate from any rule in part 91 to the extent required to meet that emergency. In considering accepting the report, the ERC should evaluate whether such action may have been the safest course given the circumstances at the time of the incident. If the deviation was the result of an event outside the control of the pilot or not otherwise evidencing a lack of due diligence (e.g., to address a flight threatening mechanical malfunction), the ERC may determine that acceptance of the report is appropriate.

E. The Big Five. Reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification are excluded. Upon completion of a subsequent investigation, if it is determined that the event did not involve any of the aforementioned activities, then the FAA office refers the report back to the ERC for a determination of acceptability under the ASAP. Such reports are accepted under the ASAP, provided they otherwise meet the acceptance criteria.

F. Events Occurring Outside the Scope of Employment. Reports of events that directly involve an employee but that occurred while he or she was acting outside the scope of his or her employment for the eligible entity are excluded.

G. Repeated Noncompliance. The ERC may determine through consensus to exclude a report that reflects an instance of a repeated act of the same or similar noncompliance by the same individual due to a common root cause that the ERC previously accepted and addressed with corrective action under the ASAP.

11-48 REOPENING REPORTS BASED ON NEW EVIDENCE. The ERC may reopen a closed ASAP report and take appropriate action if the ERC (or the FAA) later discovers evidence that establishes that the violation should have been excluded from the program.

A. Closing a Report. The ERC should not close a report until all member investigations concerning the event are completed.

B. Best Practices. The ERC may make additional safety recommendations based on the new information, if appropriate. For more information, refer to “Best Practices for ASAP ERCs” at <https://www.faa.gov/about/initiatives/asap/policy/>.

11-49 EMPLOYEE FEEDBACK. The full value of an ASAP can only be known and understood if management for the parties to an ASAP MOU provides open and meaningful feedback to employees regarding the operation and results of the program, including corrective action taken in response to a report. Such feedback should be shared openly and honestly with all stakeholders (e.g., the submitter, other safety-sensitive employees), while maintaining the protection of confidentiality. Making the impact of the ASAP on safety visible and sustaining this visibility over time is important for building and maintaining trust in and buy-in to the program.

11-50 RECORDKEEPING. The parties should maintain those records necessary for an ASAP’s administration and evaluation and as required by law. Records submitted to the FAA for review relating to an ASAP are protected to the extent allowed by law.

A. Database. Upon initiation of an ASAP, eligible entities should implement a comprehensive electronic database system for report submission, data acquisition, comprehensive event categorization, risk analysis, and data trending. The eligible entity is free to develop or acquire whichever system best meets its needs for program management.

B. Safety Data Collection, Analysis, and Retention Processes. Each ASAP maintains a comprehensive database for the electronic collection and aggregation of ASAP data. Through the use of de-identified information from that database, the parties to the MOU review data, identify and analyze trends, and target resources in an effort to mitigate risks. The eligible entity should retain safety-related information for a sufficient period of time for the ERC to determine whether its recommended corrective actions have been effective, but not less than 2 years.

C. Quarterly Reports on Safety Enhancements. The fundamental purpose of an ASAP is to enhance safety. This can be accomplished with a review of safety enhancement reports at the responsible Flight Standards office level. It is important to maintain an audit trail of the

extent to which the program is achieving that objective. FAA office managers or designees prepare a summary report of ASAP quarterly statistics for each eligible entity's ASAP(s) for which they have oversight responsibility. Quarterly reports are sent by email to the responsible Flight Standards office using the report format and process provided in this section (see Figure 11-12, How to Submit ASAP Quarterly Report Statistics). The Flight Standards Program Office of the Air Carrier Training Systems and Voluntary Safety Programs Branch receives quarterly reports electronically. Aggregate information is available on an FAA internal Tableau website (ASAP VUE), access to which is available to any FS inspector upon request to the Flight Standards Program Office. The information is protected from public release under Order 8000.82 and part 193.

D. Annual Review. The ERC conducts an annual review of the ASAP database with emphasis on determining whether corrective actions have been effective in preventing or reducing the recurrence of safety-related events.

11-51 MOU ACCEPTANCE.

A. Review. The eligible entity should initially develop and present the program to the responsible Safety Standards office for review. The FAA does not accept MOUs that deviate from the provisions in AC 120-66 (refer to the MOU template in AC 120-66, Appendix C, FAA ASAP Memorandum of Understanding Template).

B. Procedures. All ASAPs, whether new or previously established, will enter as continuing programs. Each eligible entity should access the ASAP web page (<https://www.faa.gov/about/initiatives/asap/>) and complete the MOU template, then download a copy for signature. A copy of the signed MOU is retained by the appropriate Safety Standards office. The office manager notifies the Flight Standards Program Office through email once the MOU is signed by all parties. The FAA will review the continuing program every 2 years to ensure its objectives are met. The review is accomplished by all signatories.

C. MOU Revisions. If the operator's MOU has changes that do not entail MOU template-specific language (e.g., a change in the applicable labor association), the MOU language is required to be updated accordingly and re-signed by the appropriate Safety Standards office manager and the other parties to the MOU.

D. Withdrawal. Regardless of the duration of a program, any party to an MOU may withdraw from the program at any time and for any reason.

11-52 ASAP INTERFACE WITH THE ELIGIBLE ENTITY'S SMS. According to the current edition of AC 120-92, Safety Management Systems for Aviation Service Providers, and 14 CFR part 5, § 5.71, the FAA's SMS framework specifies that the aviation service provider provides a means for employees to communicate safety information to management without fear of reprisal. The ASAP is a viable option to utilize to meet this SMS requirement. If an operator elects this option, they should work collaboratively with the ERC to establish the specifics for program administration. For an example of the SMS process flow, refer to "ASAP Interface with SMS Examples" at <https://www.faa.gov/about/initiatives/asap/policy/>.

11-53 PROGRAMS REPRESENTED BY A THIRD-PARTY FACILITATOR. The eligible entities should initiate the application process by contacting the responsible Flight Standards office and submitting a request to start an ASAP. All parties, including the FAA, eligible entity, employee labor group, and the third-party facilitator should work together to develop processes and procedures to implement the program.

A. Determination of Acceptance. The third-party facilitator provides a briefing to the FAA office, the eligible entity's management, and ERC representatives on program requirements. They should not initiate an ASAP until all parties commit to the provisions of the program. The FAA determines whether a program is accepted.

B. Coordination. The MOU will be signed by the office manager and coordinated through the responsible Flight Standards office for administrative purposes. Third-party facilitators are required to attach a cover sheet to distinguish the parameters for their respective programs.

C. Continuing Programs. New ASAPs initiated under the purview of a third-party facilitator (e.g., Air Charter Safety Foundation (ACSF), Web-Based Analytical Technology—Universal Technical Resource Services, Inc. (WBAT-UTRS), Baldwin Aviation, or others) will enter as continuing programs. The parties to the MOU review the ASAP every 2 years to ensure that it continues to meet its objectives.

D. Oversight. The Flight Standards Programs Office of the Air Carrier Training Systems and Voluntary Safety Programs Branch provides oversight of ASAPs administered under the purview of third-party facilitators, to include periodic audits to ensure quality and consistency of training as well as effective and timely implementation of ongoing programs.

E. Annual Reports and Reviews. All third-party facilitators should provide an annual report to the Flight Standards Program Office describing the overall safety climate for programs covered by their organization. The third-party facilitator conducts an annual review of the ASAP database with emphasis on determining whether corrective actions have been effective in preventing or reducing the recurrence of safety-related events of a similar nature. This review includes recommendations for corrective action for recurring events indicative of adverse safety trends, the most reported event categories, risk analysis, event categorization, the number of reports submitted by an operator and employee group, and recommended program improvements.

11-54 POLICY AND PROCEDURES MANUAL. The ERC is encouraged to develop and maintain a manual of policies and procedures that best represents their operational environment. This manual can be used as a resource for current and future ASAP managers, ERC members, and stakeholders by providing important ASAP information such as ERC processes. Listed below are a few suggested processes to incorporate.

- ASAP-specific documents and/or resources to facilitate the ERC's review process across meetings. These may include AC 120-66, Order 8900.1, Order 2150.3, the eligible entity's MOU, an ASAP Decision Flow Chart, event and causal contributor

taxonomies, a risk matrix, best practices, and lists of potential corrective actions and/or recommendations.

- ERC rules, such as how to handle difficult decisions, when to use certain corrective actions, and how to participate in meetings (i.e., rules of conduct). These may be formal rules established at the program's initiation or rules developed over time.

11-55 INFORMATION UPDATE/LESSONS LEARNED. As the FAA and industry gain experience with ASAPs, FAA ASAP policy will continue to evolve to reflect lessons learned. FS established the FAA ASAP web page at <https://www.faa.gov/about/initiatives/asap/> to serve as a reference source for the ERCs to develop their program operating procedures and provide the current information on FAA ASAP policy updates.

A. ASAP Information Sharing. The FAA has established a voluntary national information-sharing venue for ASAPs, known as the Aviation Safety Information Analysis and Sharing (ASIAS) system. Participation in ASIAS will enable a given participant to benchmark its individual program results with aggregated results at a national level. The ASIAS system also sponsors periodic information-sharing meetings for voluntarily sharing safety issues and solutions. Information concerning ASIAS is available at <https://www.asias.faa.gov>.

B. Air Traffic Safety Action Program (ATSAP). ATO has established a voluntary safety event reporting system modeled after the ASAP process for controllers and other ATO personnel. Information on the ATSAP can be found at <https://www.atsapsafety.com/atsap-home/>. An airline seeking to voluntarily share information between its ASAP for pilots and ATO may do so by establishing a separate MOU with ATO for that purpose.

NOTE: Aviation Safety (AVS), through FS and in collaboration with ATO, is demonstrating the benefit of conducting proactive safety assessments through the sharing and analysis of information collected through the ATSAP and the ASAP. This program is called the Confidential Information Sharing Program (CISP). The CISP is a reliable source of qualitative data that is used to identify risk and improve safety. The CISP supports the collection, assessment, and review of safety events from the perspective of air traffic controllers and pilots and subsequent sharing of information with all parties respective to the MOU. Merging perspectives is critical to understanding the causal factors of both known and previously unknown events; by providing a more complete representation of the NAS, the FAA and participating airlines (which may include any third party such as an employee labor organization) can more accurately identify potential hazards and develop more robust mitigation strategies. Sharing data has led to corrective actions, improved training and enhanced communication with controllers and pilots about lessons learned. Through collaborative investigations, the ATSAP and ASAP together are able to provide a big-picture view of safety. FS strongly encourages CMO/FSDO/International Field Office (IFO) managers to strictly adhere to the MOU template and to participate in the CISP through a Partnership Agreement (PA) in support of the AVS SMS and SAS, the key components of which include interdependency, critical thinking, and consistency.

C. Requesting Information From ATC. If the ERC is investigating a sole-source ASAP report and needs additional information from ATC, request the information regarding a sole-source event through the ATSAP CISP rather than ATO QA. ATO QA is required to open an internal query when they receive a request for information regarding controller actions. Consequently, the ERC inquiry may result in a PD (FAA Form 8020-17, Preliminary Pilot Deviation Report) for a sole-source event.

D. ASI Training. ASIs should be adequately prepared to perform ASAP-related duties as outlined below:

1) ASIs should review the ASAP MOU for recommended acceptance and complete the FAA ASAP ERC training course as prescribed by the Workforce Development Division.

2) ASIs who will serve as ERC representatives should meet the following minimum qualifications:

a) Have 3 years of FS experience (1825 series);

b) Have 1 year of part 121, 135, or 145 certificate management experience (as applicable); and

c) Be of an appropriate specialty for the ERC to which they are assigned (e.g., pilot, dispatch, F/As, maintenance, ramp workers, etc.).

NOTE: An ASI who does not meet all Order 8900.1 requirements may still serve as an ERC member, as long as the office manager agrees that they would be the best person in the office to fill the position.

E. ASAP Database. Individual program participants may develop data acquisition, event categorization, and risk analysis schemes that work best for them. However, FAA representatives should be cognizant of FAA-sponsored development and implementation of a voluntary national information-sharing venue for an ASAP, and should convey that information to their ERC counterparts, as well as to the ASAP manager. In order to enable voluntary sharing of ASAP information from multiple program participants, the FAA has created a common taxonomy (classification scheme) tailored to the type of events, and corrective actions appropriate for a particular employee group should be created. Although not required to do so, operators interested in participating in safety information sharing at a national level may want to consider adopting part or all of the endorsed national classification scheme for a given employee group in order to facilitate their participation in that initiative. In any case, regardless of a participant's internal classification scheme for ASAP events, participants who wish to participate in national information sharing will need to map their events to the agreed-upon national scheme for a given employee group in order to participate in that information-sharing effort. Information concerning the national information-sharing initiative for an ASAP is available from the manager of the Flight Standards Program Office.

11-56 REPORTING SYSTEM(S).

A. SAS. ASIs should use SAS automation Data Collection Tools (DCT) 1.1.2 (OP) Safety Program (Ground and Flight) and 1.1.6 (AW) Safety Program.

B. SAS Activity Recording (AR). For activity associated with participation in the ASAP ERC, Operations inspectors and cabin safety inspectors (CSI) should enter AR code 1391 for each set of such reports reviewed. Maintenance inspectors should use AR code 3395 and Avionics inspectors should use AR code 5395 for these reviews. Enter the designator code appropriate to the air carrier or major domestic repair station whose ASAP was associated with the reports. Use the numeric miscellaneous field to record the number of reports reviewed. For sole-source reports regarding actions of individual employees, the inspector should not enter the names of the employees.

1) If an investigation associated with an ASAP report is initiated, the inspector shall use the code to select “ASAP” from the “National Use” field of the AR record initiated in order to track aspects of the ASAP.

2) Make an entry in the AR record using the following standardized terminology: “ASAP report accepted” or “ASAP report excluded” (as the case may be). Doing so will facilitate a subsequent review by FAA FOIA analysts should the AR record become subject to a FOIA request.

NOTE: The language “ASAP report accepted” prompts the FOIA analyst to redact the ASAP information from the report.

NOTE: The language “ASAP report excluded” prompts the FOIA analyst to not redact the ASAP information, since excluded reports do not receive part 193 protection.

NOTE: The ASI should not include any additional statements in AR regarding the ASAP (e.g., statements regarding corrective action by the ASAP ERC).

a) This entry is in addition to the AR code appropriate for the specific activity (e.g., 1733/1735, 3731/3733, 5731/5733).

b) It is also important to complete the “Designator” block with the appropriate air carrier, major domestic repair station, or eligible entity’s designator code, even when completing an AR activity involving an employee of the participating entity.

3) If the FAA, while investigating a possible regulatory violation, discovers that the individual submitted an ASAP report that was accepted, the inspector should document his or her initial discovery in the underlying event that led to the discovery (i.e., AR activity or SAS DCT) and follow the steps in subparagraphs 1) and 2) above.

4) For sole-source reports regarding actions of individual employees, the inspector should not enter the names of the employees.

NOTE: No Compliance Action AR is initiated for an accepted ASAP or VDRP event. Excluded reports are handled in accordance with Volume 14.

11-57 COMPLIANCE ACTION RECORDS OPENED IN ERROR. If an AR record is opened in error, terminate the Compliance Action. This may be done:

- When the identified noncompliance is later proven incorrect;
- When an ASAP or VDRP report has been accepted for the event/issue and those processes will address later corrective action(s);
- When a requirement to take enforcement action is later discovered; or
- For other reasons requiring the activity to be terminated (see Volume 14, Chapter 1, Section 2, Subparagraph 14-1-2-9K, Regulatory CA PTRS or SAS AR Records Opened in Error or Unable to be Completed).

11-58 ASAP DATA AND INFORMATION CONFIDENTIALITY AND NONDISCLOSURE CRITERIA. A significant impediment to the sharing of ASAP information with the FAA is the aviation industry's concern over public disclosure of the information, and, if disclosed, the potential for it to be used for other than the safety enhancement purposes for which the ASAP was created. Under 49 U.S.C. § 40123, certain voluntarily provided safety and security information is protected from disclosure in order to encourage persons to provide the information to the FAA.

A. Part 193. Part 193 carries out 49 U.S.C. § 40123. Part 193 prescribes when and how the FAA protects from disclosure safety and security information that is voluntarily submitted to the FAA. The FAA does not disclose information that is designated as protected under part 193 in response to a FOIA request. However, the FAA may disclose information that is designated as protected under part 193 when withholding it would not be consistent with the FAA's safety and security responsibilities (e.g., the FAA may disclose de-identified, summarized information submitted under part 193 to explain the need for changes in policies and regulations).

B. Order 8000.82. Order 8000.82 applies the protections of part 193 to the ASAP by designating particular information received by the agency from an ASAP as protected from public disclosure.

C. Title 49 U.S.C. § 44735. Title 49 U.S.C. § 44735 provides statutory protection apart from § 40123. Section 44735 protects from disclosure to certain reports, data, or other information developed under the ASAP that is submitted to the FAA voluntarily and that is not required to be submitted to the Administrator under any other provision of law. Additionally, § 44735 extends the limitation on disclosure to "[r]eports, data, or other information produced or collected for purposes of developing and implementing" an SMS acceptable to the Administrator.

11-59 FAA GUIDELINES ON USE OF INFORMATION FROM AN ASAP. ASAP data in connection with accepted ASAP reports is protected from public disclosure as described in paragraph 11-58 above. However, those protections do not restrict FAA internal use for safety improvement purposes. That is the main reason the FAA protects the information from public disclosure, so the FAA can obtain and use it to improve safety in the NAS. The information is

considered “For Official Use Only”—to be disclosed within the FAA on a need-to-know basis to be used for safety-related purposes only.

A. ASAP Reports. De-identified information on an event may be used within the FAA for mission-pertinent purposes, such as surveillance planning, policy development, or rulemaking.

B. ERC Deliberations. The FAA ERC member may communicate within the FAA the facts disclosed by the investigation and disposition of any event reported under an ASAP, including follow-up for corrective actions. However, it is not considered a best practice for office managers and supervisors to inquire as to specific content of discussion within the ERC.

11-60 ENFORCEMENT INVESTIGATION COORDINATION. The responsible Flight Standards office is the focal point of all enforcement-related investigations resulting from events reported through the ASAP.

A. Establishing Contact. If an event occurs within the jurisdiction of a FSDO other than the responsible Flight Standards office of the participating entity involved, the FSDO will contact the responsible Flight Standards office of the eligible entity to coordinate appropriate action. The FSDO should not open an investigation (e.g., Compliance Action or enforcement investigative report (EIR)) until establishing contact with the responsible Flight Standards office. The investigating ASI must determine whether the entity has an ASAP covering an involved employee group by accessing the “ASAP Participants” document on the FS ASAP web page at <https://www.faa.gov/about/initiatives/asap/policy/>.

B. Possible Violation. The responsible Flight Standards office, upon learning of an ASAP event that may involve a violation of 14 CFR, will contact the investigating FSDO responsible for the area where the event occurred. If the alleged violator has submitted an ASAP report that has been accepted into the participating entity’s ASAP, that FSDO will transfer the investigation, including any open Compliance Action or EIR, to the responsible Flight Standards office for further investigation and disposition. If the ASAP report was not accepted into the program, the investigation, Compliance Action, or EIR remain at the FSDO where the ASAP-reported event occurred unless the division agrees to transfer the case in accordance with Order 2150.3.

Figure 11-12. How to Submit ASAP Quarterly Report Statistics

Purpose: Details steps necessary for inspectors to submit ASAP data from ASAP to the Flight Standards Program Office of the Air Carrier Training Systems and Voluntary Safety Programs Branch.

Requirements: Access to the Flight Standards Program Office Knowledge Services Network (KSN) site for an ASAP.

1. Inspector has received ASAP quarterly report from operator.
2. Open the KSN link to “ASAP Quarterly Report Submission.”

ASAP Quarterly Report Submission			
Name	Sotenberg, Victor (FAA)		
Email	Victor.Sotenberg@faa.gov	Phone	+15162288029x240
Air Designator	YENA	Employee Group	Maintenance
Fiscal Year	2020	Fiscal Quarter	3
Number of ASAP reports submitted	7	Number of ASAP reports accepted	7
Number of accepted reports that were sole source to the FAA	7	Number of accepted reports (both sole source & non-sole source) closed with corrective action under ASAP for the employee	21
Number of reports which resulted in recommendations to the company for corrective action	3	Number of regulatory violations	
Fiscal Quarter selection for report dates Q1: Oct-Dec Q2: Jan-Mar Q3: Apr-Jun Q4: Jul-Sep			
Submit		Close	
Please send any questions/comments to 9-AFS-280-ASAP-FOQA@faa.gov			

3. Click “new item” to open submission form and begin entering ASAP quarterly report information.
4. User’s name, phone number, and email will appear. User shall select the appropriate air designator/employee group from the drop-down menus. All fields mark with * must have an entry. The Flight Standards Program Office is no longer accepting the safety enhancement reports.
5. Click “Submit” when completed.
6. An email will be generated confirming the submission.
7. If an update is needed, click on “edit this list.”
8. Then click on “stop editing this list” when finished.
9. User should see their air designator/employee groups available for entry. If a selection is not available, an email request should be sent to 9-AFS-280-ASAP-FOQA@faa.gov for addition.

NOTE: ASAP quarterly reports should not be emailed to the Flight Standards Program Office. They should be retained at the responsible Flight Standards office level.

Figure 11-15. Acceptance of Voluntarily Provided Safety Information—FAA Reauthorization Act of 2018, Section 320

“(a) IN GENERAL.—There shall be a presumption that an individual’s voluntary report of an operational or maintenance issue related to aviation safety under an aviation safety action program meets the criteria for acceptance as a valid report under such program.

(b) DISCLAIMER REQUIRED.—Any dissemination, within the participating organization, of a report that was submitted and accepted under an aviation safety action program pursuant to the presumption under subsection (a), but that has not undergone review by an event review committee, shall be accompanied by a disclaimer stating that the report—

- (1) has not been reviewed by an event review committee tasked with reviewing such reports; and
- (2) may subsequently be determined to be ineligible for inclusion in the aviation safety action program.

(c) REJECTION OF REPORT.—

(1) IN GENERAL.—A report described under subsection (a) shall be rejected from an aviation safety action program if, after a review of the report, an event review committee tasked with reviewing such report, or the Federal Aviation Administration member of the event review committee in the case that the review committee does not reach consensus, determines that the report fails to meet the criteria for acceptance under such program.

(2) PROTECTIONS.—In any case in which a report of an individual described under subsection (a) is rejected under paragraph (1)—

- (A) the enforcement-related incentive offered to the individual for making such a report shall not apply; and
- (B) the protection from disclosure of the report itself under section 40123 of title 49, United States Code, shall not apply.

(3) AVIATION SAFETY ACTION PROGRAM DEFINED.—In this section, the term “aviation safety action program” means a program established in accordance with Federal Aviation Administration Advisory Circular 120-66B, issued November 15, 2002 (including any similar successor advisory circular), to allow an individual to voluntarily disclose operational or maintenance issues related to aviation safety.”

* * *

NOTE: If the event review committee (ERC) subsequently determines that a disclosure meets exclusionary criteria, the provisions and protections of FAA Order 8000.82, Designation of Aviation Safety Action Program (ASAP) Information as Protected from Public Disclosure Under 14 CFR Part 193, do not apply.

RESERVED. Paragraphs 11-61 through 11-62.