

# NOTICE

U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
Air Traffic Organization Policy

N JO 7210.738

**Effective Date:**  
February 24, 2010

**Cancellation Date:**  
March 16, 2010

**SUBJ:** Air Traffic Safety Action Program (ATSAP)

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- 1. Purpose of This Notice.** This notice replaces N JO 7210.736 which added the new voluntary reporting program entitled Air Traffic Safety Action Program (ATSAP), to Federal Aviation Administration (FAA) Order JO 7210.56, Air Traffic Quality Assurance. FAA Order JO 7210.56 will be replaced by subsequent orders and will not be completed prior to the expiration of N JO 7210.736. This notice extends ATSAP guidance for incorporation into the new orders.
- 2. Audience.** This notice applies to all Air Traffic Organization (ATO) facilities that have received the required training and are authorized to execute the policy and procedure contained within the voluntary safety reporting program.
- 3. Where Can I Find This Notice?** The notice is available on the MYFAA employee Web site at [https://employees.faa.gov/tools\\_resources/orders\\_notices/](https://employees.faa.gov/tools_resources/orders_notices/) and on the air traffic publications Web site at [http://www.faa.gov/air\\_traffic/publications](http://www.faa.gov/air_traffic/publications).
- 4. Cancellation.** This notice cancels N JO 7210.736, Air Traffic Safety Action Program that was effective February 15, 2010.
- 5. Explanation of Changes.** This notice extends the program for 20 additional days.
- 6. Procedures.** Add a new Chapter 9, Air Traffic Safety Action Program, to FAA Order JO 7210.56, as follows:

## Chapter 9. Air Traffic Safety Action Program (ATSAP)

### 9-1-1. ELIGIBLE PARTICIPANTS

- a.** Employees engaged in and supporting air traffic services are eligible, as described below, to complete an ATSAP report for events that occur while acting in that capacity.
  - (1) All non-bargaining unit employees are eligible to participate.
  - (2) Bargaining unit employees are eligible to participate once an appropriate agreement has been negotiated. The ATSAP memorandum of understanding (MOU) for National Air Traffic Controllers Association (NATCA) bargaining unit members is contained in appendix A of this notice.
- b.** If an ATSAP report identifies another employee in an event and the original report otherwise qualifies for inclusion, the Event Review Committee (ERC) will determine on a case-by-case basis if the identified employee will be offered the opportunity to submit a report. If the ERC determines that the identified employee did not know or could not have known of the apparent noncompliance with applicable air traffic control directives, then the identified employee will be offered the opportunity to file a report.
- c.** Adjacent facilities (not yet able to file ATSAP reports) will be notified once ATSAP training begins at any facility. An eligible employee at an adjacent facility identified in an ATSAP report from a participating facility may be offered the opportunity to file a report under this consideration by the ERC.

### **9-1-2. REPORTABLE EVENTS**

- a.** In order to maintain an effective air traffic system, it is imperative that we identify all potential safety hazards within our system and take appropriate corrective actions necessary to fix any associated problems. Safety hazards need to be reported so those problems (either systemic or individual) can be corrected to enhance system integrity.
- b.** When an individual observes a safety problem or experiences a safety-related event, he or she should note the problem or event and describe it in enough detail so that it can be evaluated by someone not directly involved that understands air traffic risk. At an appropriate time during the duty day, the employee should complete the ATSAP Report Form for each safety problem or event.
- c.** The report must be submitted using the ATSAP Web site – <http://atsapsafety.com> within 24 hours of the end of the employee's duty day. If a nonreporting employee is identified in a report accepted into ATSAP, and the ERC determines that the employee did not know or could not have known about the apparent possible noncompliance with applicable air traffic control directives, the ERC will offer the nonreporting employee an opportunity to submit his/her own ATSAP report. Offers to accept reports from nonreporting employees by the ERC beyond the normal 24 hour time limit will be afforded the same consideration under ATSAP as that accorded the original report, provided all other ATSAP acceptance criteria are met.
- d.** Reports of events involving apparent noncompliance with applicable air traffic control directives that are not inadvertent or that involve gross negligence, substance abuse, controlled substances, alcohol, intentional falsification, or criminal activity are excluded from the program. Excluded reports involving apparent substance abuse, controlled substances, alcohol, intentional falsification, or criminal activity will be referred to an appropriate FAA office or law enforcement agency as appropriate.
- e.** Except as described below, the submission of an ATSAP report satisfies an employee's obligation to report any occurrence that may be an operational deviation; operational error, proximity event, or an air traffic incident if the reported issue is known only to the employee and occurs while the employee is directly providing air traffic services to aircraft or vehicles or first level watch supervision (acting as an FLM or CIC).
  - (1) If the occurrence is observed by an employee providing first level watch supervision and the occurrence is known only to that employee, the employee providing watch supervision must report the occurrence in accordance with this order, Paragraphs 4-1-3, Quality Assurance Review (QAR), 5-1-2, Suspected Events, and 5-1-3, Initial Investigations; or file an ATSAP report on the occurrence.
  - (2) If the occurrence is reported to an employee providing first level watch supervision, the employee providing watch supervision must report the occurrence in accordance with this order, Paragraphs 4-1-3, Quality Assurance Review (QAR), 5-1-2, Suspected Events, and 5-1-3, Initial Investigations; and may file an ATSAP report on the occurrence.
  - (3) In situations where an individual employee is responsible for operational and watch supervision positions combined and experiences an event that is known only to that employee. They may elect to report in accordance with this order, Paragraphs 4-1-3, Quality Assurance Review (QAR), 5-1-2, Suspected Events, and 5-1-3, Initial Investigations, or by filing an ATSAP report, or both.

### **9-1-3. FACILITY MANAGER RESPONSIBILITIES.**

- a.** The ATM must:
  - (1) Supply all information requested by the ATSAP manager/analysts and accomplish all skill enhancement/system corrective actions as recommended by the ERC.
  - (2) If applicable, forward proposed skill enhancement training recommendations to the appropriate ATSAP Manager and/or ERC Chairperson within 3 administrative days of the event for consideration by the ERC. Supporting information should accompany any recommended corrective action.
  - (3) Keep confidential, to the extent feasible, information requested by, and all skill enhancement training recommended by the ATSAP Manager/ERC.

(4) Take no decertification or disciplinary action for events covered by an accepted ATSAP report.

b. ATSAP process flow-charts showing activity responsibilities are contained in appendix B of this notice.

#### **9-1-4. EVENT REVIEW COMMITTEE (ERC)**

a. The ERC is a group comprised of a representative from each party to a safety action program which reviews and analyzes submitted reports. The ATSAP ERC is comprised of a representative designated by the union, a representative from the ATO, and a representative from the FAA's regulator for the ATO—AOV. The ERC may share and exchange information, and may identify actual or potential safety problems from the information contained in the reports. Fact-finding research is authorized by the ERC and requested by the ATSAP Manager to fulfill the ERC requirement for factual information to support timely ERC decisions. Under ATSAP, consensus of the ERC means the voluntary agreement of all representatives of the ERC to each decision required by the process. 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 ERC member's range of acceptable solutions for that event in the best interest of safety. The ERC will strive to reach a consensus on how an event should be addressed and the recommended skill enhancement and system corrective action taken as a result of an ATSAP report to address a safety issue.

b. If the ERC fails to reach consensus on acceptance of a report, that report will be deleted from the ATSAP database without further action unless the report meets the exclusionary criteria in section 10a(3) of the ATSAP MOU. In the event the ERC fails to reach consensus in the appropriate handling of a report which meets this criteria, the Air Traffic Safety Oversight Service (AOV) member will refer the report to an appropriate office within the FAA for an additional investigation and re-examination and/or enforcement action, if appropriate.

#### **9-1-5. ACTIONS WHEN REPORTED EVENT IS ALSO REPORTED IN ACCORDANCE WITH THIS ORDER, CHAPTERS 1-8**

a. During the preliminary investigation process managers must remind those being investigated about ATSAP. (The union is entitled to be present during interviews.)

b. For events with an accepted ATSAP report:

(1) No disciplinary action may be taken.

(2) The employee must not be decertified.

(3) Performance skills checks shall not be conducted while awaiting the ERC decision concerning the employee's ATSAP report.

(4) At the discretion of the ATM, the employee may be allowed to return to operational duty on some or all of their operational positions while awaiting the ERC decision concerning the employee's ATSAP report.

(5) Under ATSAP and the principles of a just culture, situations in which an employee is unable to perform operational duties on at least some of their certified positions while awaiting the decision of the ERC should be rare. Considering this, employees must not have their work schedule changed or be forced into a leave or nonpay status while awaiting the ERC decision without the concurrence of the employee.

(6) For any accepted ATSAP report, accomplish skill enhancement training as recommended by ERC. The objective is to train to proficiency. Provide feedback to the ERC on training completion and/or proficiency issues.

(7) No RTD skill checks or follow-up skill checks related to the event will be accomplished, unless recommended by the ERC, since any proficiency issue has been resolved.

(8) A RTD “safety check” may be accomplished at the discretion of the facility manager for the most serious safety events, or anytime at the request of the employee. Safety checks are to be accomplished by a management representative. A safety check is not a skills check and no documentation will be produced. Any issues which arise during a safety check that would preclude the employee from resuming normal duties must be coordinated with the ATSAP ERC.

c. ATSAP reports offer any submitter an opportunity to completely explain any reported event, and the ERC will seek to understand the causal factors of any report based on all available information. Post-event activities should be largely focused on corrective actions taken, identify primary and contributing factors, and development of corrective action plans to reduce the probability of reoccurrence.

#### **9-1-6. ATSAP SKILL ENHANCEMENT TRAINING**

a. ATSAP Skill Enhancement Training is recommended by the ATSAP ERC to be conducted by the facility resulting from an event associated with an ATSAP report. The event and reason for the training must remain confidential. Because nearly all skill enhancement training will be conducted at the employee’s primary work facility, training assigned by the ERC should be scheduled and completed in a manner consistent with the confidential nature of the report and the training. Facilities maintain minimum training records associated with the assigned skill enhancement training, and the ERC will maintain training details such as completion success, effectiveness, and other data necessary to support future decision-making.

(1) The purpose of ATSAP skill enhancement training is to increase the proficiency of the employee. Any skill enhancement recommended by the ERC for an accepted ATSAP report must be completed to the satisfaction of all members of the ERC, or the ATSAP report will be excluded from the program.

(2) The employee that has been assigned ATSAP skill enhancement training and the associated facility manager shall be notified via the ERC or ATSAP office that training has been assigned. Only the employee will receive the objectives of the training.

(3) An ATSAP skill enhancement training record must not be used to document performance deficiencies in any manner.

(4) All ATSAP skill enhancement training must be recorded on 3120-1, under Major Subject Areas. The form must simply state “ATSAP” and is coded as Type 4.

b. The ERC will conduct periodic reviews of skill enhancement training assignments, skill enhancement success, and may at any time seek to improve the quality and quantity of training opportunities they deem critical to improving safety.

#### **9-1-7. ATSAP SYSTEM CORRECTIVE ACTION**

ATSAP system corrective action is any safety-related action determined appropriate for the organization by the ERC, based upon review and analysis of the report(s) submitted under ATSAP. Any system corrective action recommended by the ERC for an accepted ATSAP report must be completed to the satisfaction of all members of the ERC, or the ATSAP report will be excluded from the program.

#### **9-1-8. Definitions**

a. **ATSAP Report** - A confidential written account of an event that involves an operational issue or event related to aviation safety and reported through the ATO Safety Action Program.

b. **Covered Under the Program/included in ATSAP** - Means that the report qualifies for acceptance into ATSAP.

c. **Credential Action** - Any action, including amendment and removal, taken by AOV toward an employees’ AOV Credential (FAA Form 8060-66) as described in FAA Order 8000.90 and associated union negotiated agreements.

**d. Fact-Finding** - Research that is authorized by the ERC and requested by the ATSAP Manager to fulfill the ERC requirement for factual information to support timely ERC decisions.

**e. Feedback** - Communications to those filing ATSAP reports; following the receipt of any ATSAP report, once the ERC has reached a skill enhancement or system corrective action decision, and again once the ATSAP report is closed.

**f. Intentional Falsification** - For the purposes of ATSAP, intentional falsification means a false statement in reference to a material fact made with prior knowledge. It does not include mistakes or inadvertent omissions or errors.

**g. Memorandum of Understanding (MOU)** - The written agreement between the FAA's ATO, Air Traffic Safety Oversight Service (AOV), and a union setting forth the purposes for, and terms of, an ATSAP.

**h. Skill Enhancement** - Personally focused education and training designed to increase the proficiency of an employee in a skill or task. Failure of an employee to complete the ERC recommended skill enhancement in a manner satisfactory to all members of the ERC may result in the reopening of the case and referral of the matter for appropriate action.

**i. Safety-check** - An undocumented observation period requested by an employee, or required by an employee's manager. The objective of the observation is to confirm the employee's individual self-confidence in their ability to provide air traffic services after a serious safety event.

**j. Sole-Source Report** - All evidence of an event is discovered by, or otherwise predicated on, the ATSAP report, or when a credentialed individual that has had an operational error or deviation files an ATSAP report. It is possible to have more than one sole-source report for the same event.

**k. System Corrective Action** - Any safety-related action determined appropriate for the organization by the ERC, based upon review and analysis of the report(s) submitted under ATSAP. The system corrective action process would include working the safety issue(s) with the appropriate facility, service area and/or the ATO personnel that have the expertise and responsibility for the safety area of concern.

**l. System Corrective Action Request** - An ERC document provided when a problem is discovered that requires a change to air traffic procedures/systems/directives.

**7. Distribution.** This notice is distributed for action to all air traffic facilities that have been trained on ATSAP, and the following Air Traffic Organization service units: En Route and Oceanic, Terminal, and System Operations Services; service center offices; Air Traffic Safety Oversight Service; the William J. Hughes Technical Center; and the Mike Monroney Aeronautical Center.

## **8. Background.**

**a.** The FAA Air Traffic Organization Air Traffic Safety Action Program, ATSAP, is genetically linked to the very successful NASA Aviation Safety Reporting System (ASRS). ASRS confidential reports identify deficiencies/discrepancies in the National Airspace System (NAS) and provide information to improve safety and reduce accidents.

**b.** Historically, aviation safety used a forensic approach by conducting post-accident or incident investigations to determine causal factors. Only then could action be taken to mitigate the identified hazards.

**c.** Today there are fewer accidents; therefore, there have been fewer instances for gathering safety information. Although this is good news, it leaves little forensic data to study. Now, a more predictive approach has to be taken in order to continue improving aviation safety. The aviation industry has made significant progress in improving safety in aviation operations. Investigations reveal that a safety incident or accident is usually preceded by a chain of events. If a single event or link in the chain were altered, the incident/accident may not happen. In many cases, the employees and managers at the point of service delivery are aware of potential hazards and may have information that can prevent incidents

and accidents. The identification of all safety events without fear of reprisal is an absolute requirement and is the responsibility of all of us who work within our system.

d. The new approach utilizes voluntary reporting by frontline employees and managers to identify hazards that may be lurking within the aviation system. By “mining” data relayed via Aviation Safety Action Programs (ASAP), all stakeholders in the worldwide aviation industry are able to identify and mitigate dangerous trends, emerging threats, and potential precursors; in other words, break the links in the accident chain.

e. The air traffic employee and manager who provide the critical services minute-by-minute will be able to help identify trends, threats, and precursors that will contribute significantly to improved safety in the NAS.

A handwritten signature in black ink, appearing to read "Bob Tarter", with a stylized flourish at the end.

Bob Tarter  
Vice President, Office of Safety  
Air Traffic Organization

**FAA AIR TRAFFIC ORGANIZATION (ATO)  
AIR TRAFFIC SAFETY ACTION PROGRAM (ATSAP)  
for AIR TRAFFIC PERSONNEL  
MEMORANDUM OF UNDERSTANDING**

- 1. PURPOSE.** The FAA and NATCA are committed to improving air traffic control (ATC) system safety. Each party has determined that safety would be enhanced if there were a systematic approach for all ATC personnel to promptly identify and correct potential safety hazards. The primary purpose of the ATO Air Traffic Safety Action Program (ATSAP) is to identify safety events and implement skill enhancement and system corrective action to reduce the opportunity for safety to be compromised. In order to facilitate safety analysis and system corrective action, all ATC stakeholders join the FAA in voluntarily implementing this ATSAP for all ATC personnel, which is intended to improve flight safety through self-reporting, cooperative follow-up, and appropriate skill enhancement or system corrective action. This Memorandum of Understanding (MOU) describes the provisions of the program.
- 2. BENEFITS.** The program will foster a voluntary, cooperative, non-punitive environment for the open reporting of safety of flight concerns. Through such reporting all parties will have access to valuable safety information that may not otherwise be obtainable. This information will be analyzed in order to develop skill enhancement or system corrective action to help solve safety issues and possibly eliminate deviations from and deficiencies in applicable air traffic control directives. For a report accepted under this ATSAP MOU, the Air Traffic Safety Oversight Service (AOV) will use lesser action or no action, depending on whether it is a sole-source report, to address an event involving possible noncompliance with applicable air traffic control directives.
- 3. APPLICABILITY.** The FAA ATO ATSAP applies to all FAA recognized credentialed personnel engaged in, and supporting air traffic services and only to events that occur while acting in that capacity. Reports of events involving apparent noncompliance with applicable air traffic control directives that are not inadvertent or that involve gross negligence, criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification are excluded from the program.
- 4. PROGRAM DURATION.** This is a Demonstration Program the duration of which must be 18 months from the date this MOU is signed. If the program is determined to be successful after a comprehensive review and evaluation, the parties intend for it to be a Continuing Program. This ATSAP may be terminated at any time for any reason by NATCA, the FAA, or any other party to the MOU. The termination or modification of a program will not adversely affect anyone who acted in reliance on the terms of a program in effect at the time of that action; i.e., when a program is terminated, all reports and investigations that were in progress will be handled under the provisions of the program until they are completed.
- 5. REPORTING PROCEDURES.** When a credentialed individual observes a safety problem or experiences a safety-related event, he or she should note the problem or event and describe it in enough detail so that it can be evaluated by a third party.

**5a. ATSAP Report Form.** At an appropriate time during the duty day, the employee should complete FAA ATO ATSAP Form for each safety problem or event. The report must be submitted within 24 hours of the employee's duty day end time, (e.g. after the workday has ended) and submit it to (<https://atsapsafety.com>).

**5b. Time Limit.** Reports that the ERC determines to be sole-source will be accepted under the ATSAP; regardless of the timeframe within which they are submitted, provided they otherwise meet the acceptance criteria of paragraphs 10a(2) and (3) of this MOU. Reports which the Event Review Committee (ERC) determine to be non sole-source must meet the same acceptance criteria, and must also be filed within one of the following two possible timeframes:

**5b(1).** Within 24 hours after the end of the duty day for the day of occurrence, absent extraordinary circumstances. For example, if the event occurred at 1400 hours on Monday and a credentialed individual's shift for that day ends at 1900 hours, the report should be filed no later than 1900 hours on the following day (Tuesday). In order for all credentialed personnel to be covered under the ATSAP for any apparent noncompliance with air traffic control directives resulting from an event, they must all sign the same report or submit separate signed reports for the same event. If the ATSAP system is not available to the credentialed individual at the time he or she needs to file a report, the employee may contact the ATSAP manager's office and file a report via fax or telephone within 24 hours after the end of the controller's shift for the day of occurrence, absent extraordinary circumstances. Reports filed telephonically within the prescribed time limit must be followed by a formal report submission within three calendar days.

**5b(2).** Within 24 hours of having become aware of possible noncompliance with air traffic control directives provided the following criteria are met: If a report is submitted later than the time period after the occurrence of an event stated in paragraph 5b(1) above, the ERC will review all available information to determine whether the credentialed individual knew or should have known about the possible noncompliance with air traffic control directives within that time period. If the ERC determines that the credentialed individual did not know or could not have known about the possible noncompliance with air traffic control directives until informed of it, then the report would be included in ATSAP, provided the report is submitted within 24 hours of having become aware of possible noncompliance with air traffic control directives, and provided that the report otherwise meets the acceptance criteria of this MOU. If the employee knew or should have known about the possible noncompliance with air traffic control directives, then the report will not be included in ATSAP.

**5c. Non-reporting employees covered under this ATSAP MOU.** If an ATSAP report identifies another covered employee in an event involving possible noncompliance with applicable air traffic control directives and that employee has neither signed that report nor submitted a separate report, the ERC will determine on a case-by-case basis whether that employee knew or reasonably should have known about the possible noncompliance with applicable air traffic control directives. If the ERC determines that the employee did not know or could not have known about the apparent possible noncompliance with applicable air traffic control directives, and the original report otherwise qualifies for inclusion under ATSAP, the ERC will offer the non-reporting employee the opportunity to submit his/her own ATSAP report. If the non-reporting employee submits his/her own

report within 24 hours of notification from the ERC, that report will be afforded the same consideration under ATSAP as that accorded the report from the original reporting employee, provided all other ATSAP acceptance criteria are met. However, if the non-reporting employee fails to submit his/her own report within 24 hours of notifications from the ERC, the possible noncompliance with applicable air traffic control directives by that employee will be referred to an appropriate office within the FAA for additional investigation and reexamination.

**5d. Non-reporting employees not covered under this ATSAP MOU.** If an ATSAP report identifies another employee who is not covered under this MOU, and the report indicates that employee may have been involved in possible noncompliance with applicable air traffic control directives, the ERC will determine on a case-by-case basis whether it would be appropriate to offer that employee the opportunity to submit an ATSAP report. If the ERC determines that it is appropriate, the ERC will provide that employee with information about ATSAP and invite the employee to submit an ATSAP report. If the employee submits an ATSAP report within 24 hours of notification from the ERC, that report will be covered under ATSAP, provided all other ATSAP acceptance criteria are met. If the employee fails to submit an ATSAP report within 24 hours of notification from the ERC, the possible noncompliance with applicable air traffic control directives by that employee will be referred to an appropriate office within the FAA for additional investigation and reexamination.

**6. POINTS OF CONTACT.** The ERC will be comprised of one representative from, or approved by ATO Safety Services, one representative from NATCA, and one AOV Air Traffic Safety Inspector (ATSI) assigned as the ATSAP representative or designated alternates in their absence. In addition, the ATO Safety Service will designate one person who will serve as the ATSAP manager. The ATSAP manager will be responsible for program administration and will not serve as a voting member of the ERC.

**7. ATSAP MANAGER.** When the ATSAP manager receives the report, he or she will record the date and time of any event described in the report and the date and time the report was submitted through the ATSAP system. The ATSAP manager will maintain a database that continually tracks each event and the analysis of those events. The ATSAP manager will enter the report, along with all supporting data, on the agenda for the next ERC meeting. The ERC will determine whether a report is submitted in a timely manner or whether extraordinary circumstances precluded timely submission. To confirm that a report has been received, the ATSAP manager will send a written receipt to each employee who submits a report. The receipt will confirm whether or not the report was determined to be timely. The ATSAP manager will serve as the focal point for information about, and inquiries concerning the status of ATSAP reports, and for the coordination and tracking of ERC recommendations. The ATSAP manager will report on progress of the recommended system corrective action implementation as part of the regular ERC meetings. The ATSAP manager will publish a monthly synopsis of the reports received from credentialed personnel, with sufficient information so that the credentialed personnel can identify their reports. The outcome of each report will be published, however employee names will not be included in the synopsis. The ATSAP manager will provide any employee who submitted an ATSAP report with the status of his/her report.

**8. EVENT REVIEW COMMITTEE (ERC).** The ERC will review and analyze reports submitted by the credentialed personnel under the program, identify actual or potential safety problems from the information contained in the reports, and propose solutions for those problems. The ERC will provide feedback to the individual who submitted the report.

**8a.** The ATSAP manager will maintain a database that continually tracks each event and the analysis of those events. The ERC will conduct a 12-month review of the ATSAP database with emphasis on determining whether system corrective action has been effective in preventing or reducing the recurrence of safety-related events of a similar nature. That review will include recommendations for system corrective action for recurring events indicative of adverse safety trends.

**8b.** This ERC review is in addition to any other reviews conducted by the FAA. The ERC will also be responsible for preparing a final report on the demonstration program at its conclusion. If an application for a continuing program is anticipated, the ERC will prepare and submit a report 60 days in advance of the termination date of the demonstration program.

**9. ERC PROCESS.** The ERC will meet as necessary to review and analyze reports that will be listed on an agenda submitted by the ATSAP manager. The ERC will determine the time and place of the meeting. The ERC will meet at least twice a month, and the frequency of meetings will be determined by the number of reports that have accumulated or the need to acquire time-critical information.

**9a.** The ERC will make its decisions involving ATSAP issues based on consensus. Under the ATO ATSAP, consensus of the ERC means the voluntary agreement of all representatives of the ERC. 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, each ERC representative must be empowered to make decisions within the context of the ERC discussions on a given report. The ERC representatives will strive to reach consensus on whether a reported event is covered under the program, how that event should be addressed, and the skill enhancement or system corrective action that should be taken as a result of the report. For example, the ERC should strive to reach a consensus on the recommended skill enhancement or system corrective action to address a safety problem such as an operating deficiency or noncompliance with an air traffic control directive reported under ATSAP. The system corrective action process would include working the safety issue(s) with the appropriate facility or service area and the ATO that have the expertise and responsibility for the safety area of concern. AOV will not use the content of an ATSAP report in any subsequent credential action except as described in paragraph 10 of this document. However, recognizing that AOV holds regulatory authority to enforce the necessary air traffic control directives, it is understood that AOV retains all legal rights and responsibilities contained in FAA Order 1100.161, FAA Order 8000.90, and FAA Order 8000.86 in the event there is not a consensus of the ERC on decisions concerning a report involving an apparent noncompliance(s), or qualification issue. ATO will not use the content of the ATSAP report in any subsequent disciplinary action, except as described in paragraph 10a(3) of this MOU.

**9b.** The parties to this agreement anticipate various types of reports will be submitted to the ERC. Reports may include: safety-related reports that appear to involve a possible noncompliance with applicable air traffic control directives, reports that are of a general safety concern, but do not appear to involve possible noncompliance with applicable air traffic control directives, all operational errors, and any other reports. All safety-related reports must be fully evaluated and, to the extent appropriate, investigated.

**9c.** The ERC will forward non-safety reports to the appropriate ATO department head for his/her information and, if possible, internal resolution. For reports related to flight safety, including reports involving possible noncompliance with applicable air traffic control directives, the ERC will analyze the report, conduct interviews of reporting credentialed personnel, and gather additional information concerning the matter described in the report, as necessary.

**9d.** The ERC should also make recommendations for changes to systemic issues. For example, changes to the training curriculum for credentialed personnel. Any recommended changes will be forwarded through the ATSAP manager to the appropriate ATO department head for consideration and comment, and, if appropriate, implementation. The FAA will work with NATCA to develop appropriate changes for systemic issues. The ATSAP manager will track the implementation of the recommended skill enhancement or system corrective action and report on associated progress as part of the regular ERC meetings. Any recommended skill enhancement or system corrective action that is not implemented should be recorded along with the reason it was not implemented.

**9e.** ERC Recommendations. Any skill enhancement or system corrective action recommended by the ERC for a report accepted under ATSAP must be completed to the satisfaction of all members of the ERC, or the ATSAP report will be excluded from the program.

**9f.** Use of the ATO ATSAP Report: Neither the written report nor the content of the written ATSAP report will be used to initiate or support any ATO disciplinary action, or as evidence for any purpose in an AOV credential action, except as provided in paragraph 10a(3) of this MOU. The ATO or AOV may conduct an independent investigation of an event disclosed in a report.

## **10. ENFORCEMENT.**

**10a.** Criteria for Acceptance. The following criteria must be met in order for a report to be covered under ATSAP:

**10a(1).** The employee must submit the report in accordance with the time limits specified under paragraph 5 of this MOU;

**10a(2).** Any possible noncompliance with applicable air traffic control directives disclosed in the report must be inadvertent and must not involve gross negligence; and,

**10a(3).** The reported event must not appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification. Reports involving those events will be referred to an appropriate FAA office for further handling. The FAA may use the content of such reports for any enforcement purposes and will refer such reports

to law enforcement agencies, if appropriate. If upon completion of subsequent investigation it is determined that the event did not involve any of the aforementioned activities, then the report will be referred back to the ERC for a determination of acceptability under ATSAP. Back reports involving the aforementioned activities will be accepted under ATSAP provided they otherwise meet the acceptance criteria contained herein.

**10b. Sole-Source Reports.** The ERC must consider a report to be sole-source when all evidence of the event available to the ATO outside of the ATSAP is discovered by or otherwise predicated on the ATSAP report, or when a credentialed individual that has had an operational error or deviation files an ATSAP report. It is possible to have more than one sole-source report for the same event.

**10c. Reports Involving Qualification Issues.** ATO ATSAP reports covered under the program that demonstrate a lack, or raise a question of a lack, of qualification of a credentialed individual will be addressed with skill enhancement, if such action is appropriate and recommended by the ERC.

**10d. Excluded from ATSAP.** Reported events involving possible noncompliance with applicable air traffic control directives that are excluded from ATSAP will be referred by the AOV ERC member to an appropriate office within the FAA for any additional investigation and re-examination and/or enforcement action, as appropriate.

**10e. Skill Enhancement.** Employees initially covered under an ATSAP will be excluded from the program and not entitled to the enforcement-related incentive if they fail to complete the recommended skill enhancement in a manner satisfactory to all members of the ERC. Failure of an employee to complete the ERC recommended skill enhancement in a manner satisfactory to all members of the ERC may result in the reopening of the case and referral of the matter for appropriate action.

**10f. System Corrective Action.** Failure of the ATO organization to complete the ERC recommended system corrective action in a manner satisfactory to all members of the ERC may result in the reopening of the case and referral of the matter for appropriate action.

**10g. Repeated Instances of Noncompliance.** The ERC will consider on a case-by-case basis the skill enhancement or system corrective action that is appropriate for such reports.

**10h. Closed Cases.** A closed ATSAP case including a related enforcement investigative report involving a noncompliance addressed with the enforcement-related incentive, or for which no action has been taken, may be reopened and appropriate credential action taken if evidence later is discovered that establishes that the noncompliance should have been excluded from the program.

**11. EMPLOYEE FEEDBACK.** The ATSAP manager will publish a synopsis of the reports received from credentialed personnel. It is intended that through this agreement ATSAP synopsis reports may be included in NATCA's Air Traffic Controller publication monthly. The synopsis will include enough information so that credentialed personnel can identify their reports. Employee names, however, will not be included in the synopsis. The outcome of each report will be published. Any employee who submitted a

report may also contact the ATSAP manager to inquire about the status of his/her report. In addition, each employee who submits a report accepted under ATSAP will receive individual feedback on the final disposition of the report.

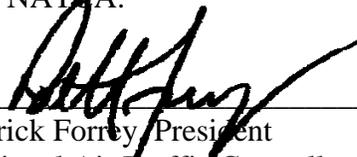
**12. INFORMATION AND TRAINING.** The details of the ATSAP will be made available to all credentialed personnel engaged in, and supporting the ATO in appropriate NATCA and FAA publications. All credentialed personnel will receive written guidance outlining the details of the program at least two weeks before the program begins. Credentialed personnel will also receive additional instruction concerning the program during the next regularly scheduled recurrent training session, and on a continuing basis in recurrent training thereafter. All new-hire credentialed personnel will receive training on the program during initial training.

**13. REVISION CONTROL.** Revisions to this MOU may be proposed by any party, will be conducted by the parties and require a voluntary agreement between the parties before change can be affected.

**14. RECORD KEEPING.** All documents and records regarding this program will be kept by the ATO-S ATSAP manager and made available to the other parties of this agreement at their request. All records and documents relating to this program will be appropriately kept in a manner that ensures compliance with all applicable air traffic ATSAP MOU directives and all applicable law. NATCA and FAA will maintain whatever records they, deem necessary to meet their needs.

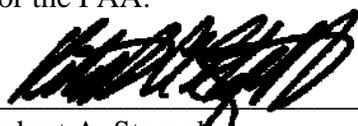
**15. SIGNATORIES.** All parties to this ATSAP are entering into this agreement voluntarily.

For NATCA:

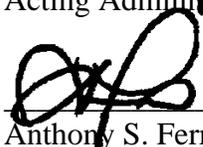
  
\_\_\_\_\_  
Patrick Forrey, President  
National Air Traffic Controllers Association (NATCA)

5-27-08  
Date

For the FAA:

  
\_\_\_\_\_  
Robert A. Sturgeon  
Acting Administrator, Federal Aviation Administration

3-27-08  
Date

  
\_\_\_\_\_  
Anthony S. Ferrante  
Director of Air Traffic Safety Oversight Service

3-27-08  
Date

### Appendix B.

FIG B-1  
ATSAP Process – Sole Source & Known Events  
Manager's View

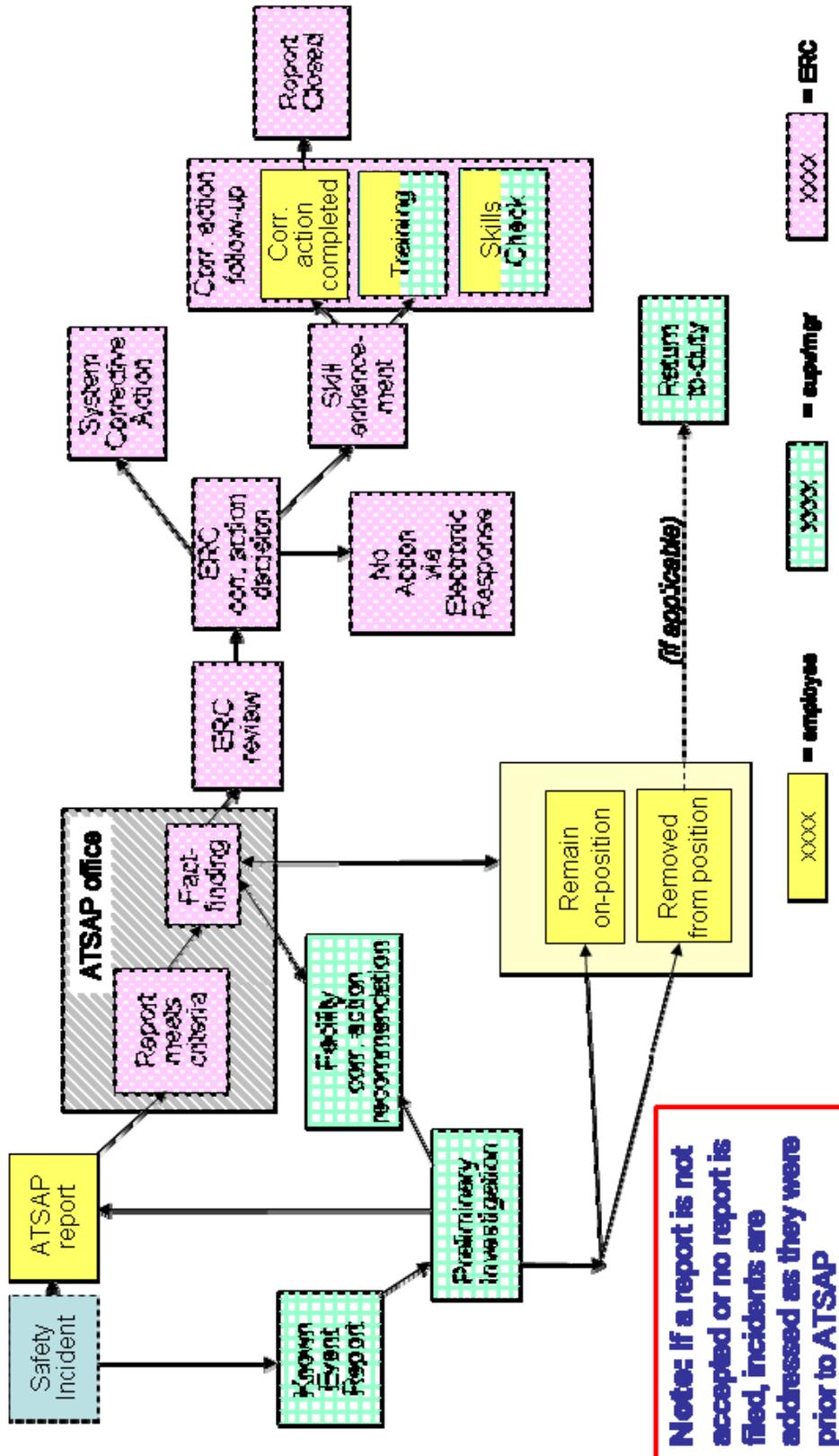


FIG B-2  
ATSAP & QA Processes  
ERC View

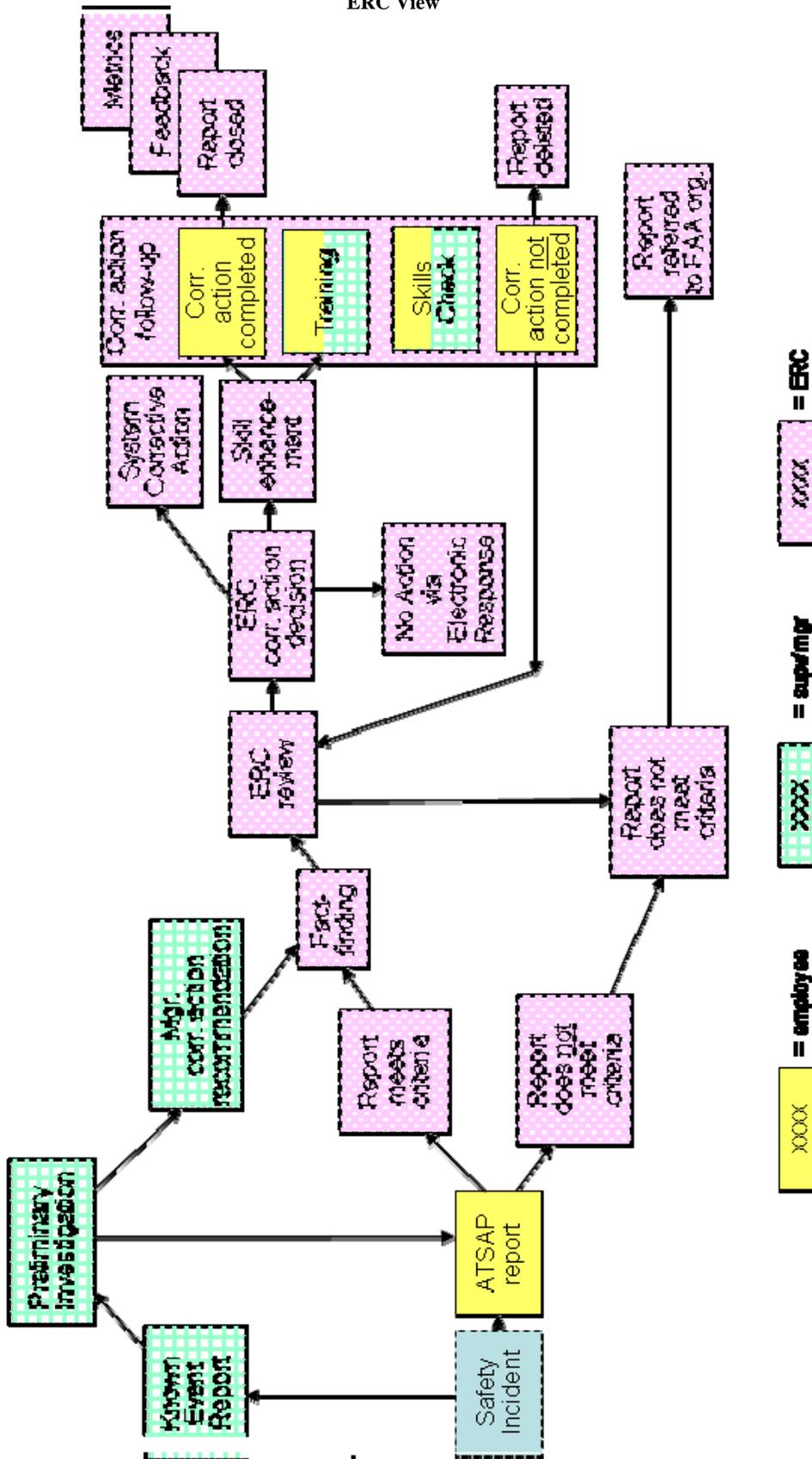


FIG B-3  
ATSAP Processes  
Sole-Source Report

