

The Compliance Program

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**Federal Aviation
Administration**



Overview



Compliance Program Overview (1)

- Initially known as the Compliance Philosophy, this program:
 - Allows for the use of a less stringent means (*compliance actions*) to gain compliance when the person is willing and able to take corrective action
 - Identifies intentional or reckless behavior as the highest risk to safe operations and will require enforcement
 - Clearly distinguishes between compliance (the goal) and enforcement (one of many available tools)



Compliance Program Overview (2)

- Stresses the concept of “voluntary compliance” and the critical role of safety education and hazard identification
- Recognizes that the high level of safety in the NAS is largely based on, and dependent upon, voluntary compliance with regulatory standards
- It is about using the best techniques to identify problems, correct the underlying cause(s), and ensure they remain fixed



What the Compliance Program Means to You (1)

- Previous to the Compliance Program:
 - The FAA focused on enforcement and gathering items of proof
 - Enforcement was the primary means of ensuring regulatory compliance
 - Action taken was based largely on outcome or potential outcome



What the Compliance Program Means to You (2)

- Under the Compliance Program:
 - Compliance action will be taken unless a determination is made that a compliance action is not appropriate
 - Focus on corrective action that properly addresses risks
 - Emphasis on voluntary compliance, information exchange, and use of safety management principals
 - Action taken based on underlying behavior(s)



The Compliance Program is an FAA Priority (1)

“Compliance Philosophy is the latest step in the evolution of how we work with those we regulate. It focuses on the most fundamental goal: find problems in the National Airspace System before they result in an incident or accident, use the most appropriate tools to fix those problems, and monitor the situation to ensure that they stay fixed.”

– Michael Huerta Former FAA Administrator



The Compliance Program is an FAA Priority (2)

- The Compliance Program set in motion one of four FAA Strategic Initiatives – Risk Based Decision Making (RBDM)
 - [Link for FAA Strategic Initiatives](#)
- This approach more effectively addresses inadvertent deviations
- Conserves FAA enforcement resources for intentional, reckless, criminal, and uncooperative behavior

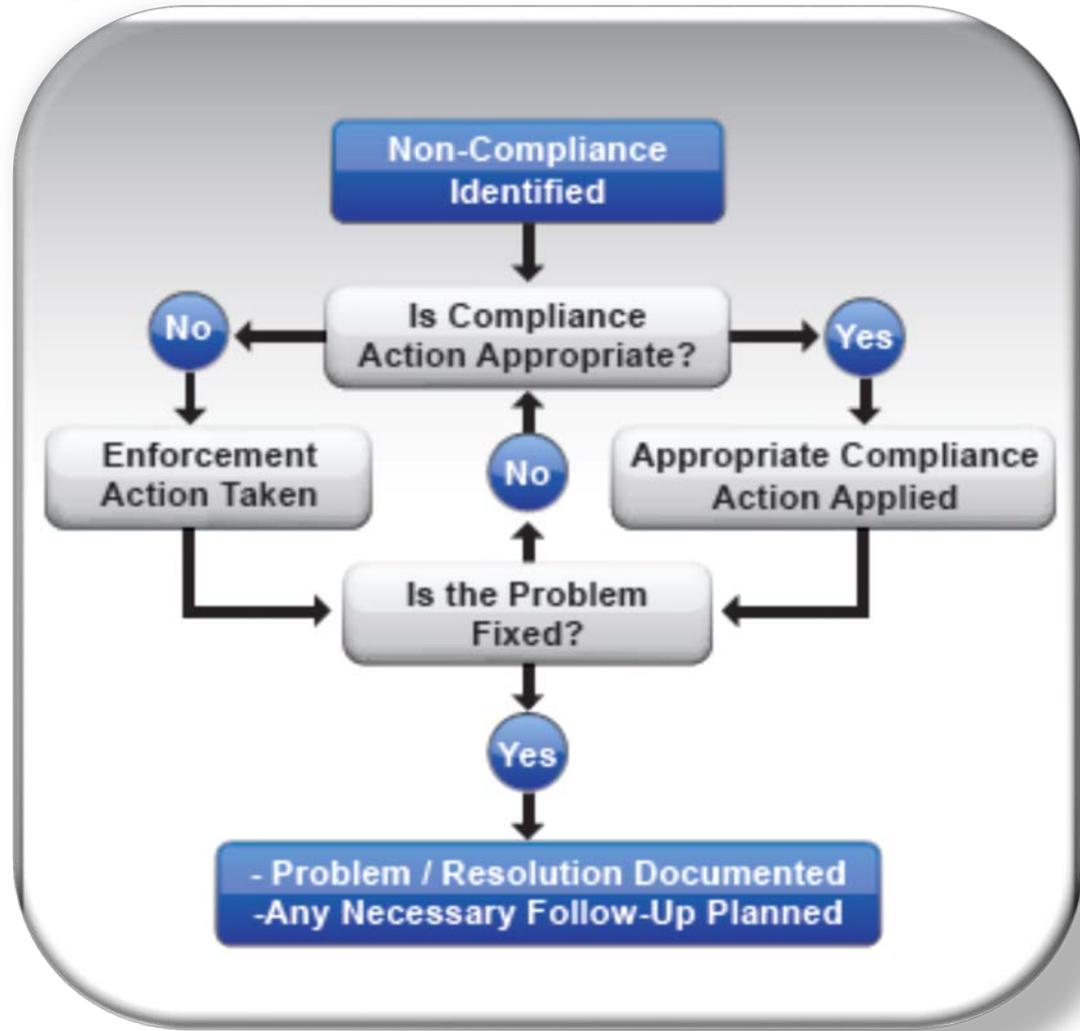


Flight Standards Investigation Process



Investigation/ Decision Process Overview

- See Link to [FAA Order 8900.1, Volume 14, Chapter 1, Section 2](#) for additional information



Expectations of FAA Flight Standards Personnel

- Appropriately address every apparent or alleged deviation from statutory or regulatory standards
- Evaluate the discrete facts of a particular situation
- Choose the best tool to fix the problem
- Ensure the outcome is consistent with regulations, policies, and the specific circumstances



FAA Contact with Airman (1)

- Communication from the FAA will be tailored to the event and the person involved
 - Immediate communication provided to address significant safety hazards and ongoing risks
- Communication from the FAA concerning a compliance action should contain:
 - A statement that the event appears eligible for a compliance action
 - A statement that enforcement is not being pursued based on known information



FAA Contact with Airman (2)

- FAA inspectors will remain engaged with the person(s) responsible to conduct a thorough and unbiased investigation
- FAA personnel will gather facts, ask questions, and analyze event to determine if there is compliance
 - This is where the information from the person(s) involved is valuable and will be used in the determination of the necessary corrective action.



FAA Contact with Airman (3)

- For compliance actions, the FAA will provide a brochure that explains the Compliance Program and the Pilot's Bill of Rights. The brochure:
 - Will be provided during initial contacts with an airman involved in a potential deviation
 - Provides an overview of the Compliance Program
 - Explains your rights to obtain legal counsel and to request air traffic data
- [Link to Brochure](#)



Airmen Rights (1)

- Refusal to speak with FAA personnel immediately after an event, or obtaining legal counsel, does not rule out Compliance Action
 - Airmen and organizations are free to exercise their rights without repercussions
 - An entity that complies with FAA requirements to regain and maintain compliance is considered cooperative



Airmen Rights (2)

- However, if FAA personnel cannot adequately determine the facts of the case, cannot identify appropriate remediation(s), or cannot obtain agreement on corrective actions from the responsible person(s), FAA personnel must still use due diligence for public's safety interest
- Such due diligence may include reexamination or suspension pending compliance to determine that the certificated entity is qualified, competent, and proficient



Investigation, Analysis, and Assessment of Problem (1)

- The purpose of the investigation is to determine compliance and any necessary actions
- For regulatory issues:
 - FAA will take either a compliance action or enforcement action
 - FAA will also contemplate any necessary follow-up action to ensure that the safety problem has been resolved
- For non-regulatory issues:
 - FAA personnel may suggest improvements



Investigation, Analysis, and Assessment of Problem (2)

- Matters involving qualification or competence involving diminished knowledge or skills
 - May be addressed with a compliance action, such as Remedial Training or counseling
- Some instances of a lack of qualification or competence may *not* be eligible for compliance action:
 - Reexamination (for questions of competency)
 - Enforcement (for lack of care, judgment, or responsibility)



Enforcement Action (1)

- Enforcement Action is required for the following:
 - Intentional or reckless deviations
 - Unwillingness or inability to comply
 - Certain matters involving lack of qualification (Such as lack of care, judgement, or responsibility)
 - Enforcement required by regulation or law
 - Failure to complete corrective action
- Enforcement Action may be the result for repeated noncompliance
 - FAA personnel have discretion based on the specific facts associated with the events



Enforcement Action (2)

- Intentional Acts
 - An act (or failure to act) while knowing that such conduct is contrary to a statutory or regulatory requirement
- Reckless Conduct
 - An act (or failure to act) evidencing a deliberate indifference to or a conscious disregard of: (i) a safety standard embodied in an applicable statute or regulation or (ii) the reasonably foreseeable consequences of the act (or failure to act)



Compliance Action (1)

- For deviations resulting from flawed procedures, simple mistakes, lack of understanding, or diminished skills:
 - On-the-spot correction
 - Additional Training (including Remedial Training)
 - Counseling
 - Improvements to systems, procedures, and training programs
 - Other actions to correct the deviation and prevent recurrence



Compliance Action (2)

- The individual must be “willing”
 - Acknowledges responsibility
 - Shares information to help determine cause
 - Promptly implements corrective action
- The individual must be “able”
 - Possess time and resources to correct the deviation
 - Has the ability to meet standards after taking corrective action
- *A Compliance Action does not constitute a finding of violation*



Types of Compliance Actions (1)

- On-the-Spot Correction
 - A quick fix of a simple mistake or other apparent deviation, which does not require additional follow-up
- Counseling
 - Oral or written counseling for a safety concern or a deviation from statutory or regulatory standards. May be used at any appropriate time to clarify understanding and convey regulatory information, best practices, or safety concerns/issues



Types of Compliance Actions (2)

- Additional Training
 - Includes Remedial Training
 - Additional Training can include an organizational approved training program
 - Other required training programs for an individual's job function or work environment (such as carrier employees receiving SIDA or ramp driver training from the airport)



Types of Compliance Actions (3)

- FAA personnel can use other means necessary to address the underlying cause of a deviation
- The FAA may also consider corrective actions already taken by the airman when determining the appropriate response to the problem
 - Airman are encouraged to take proactive steps to identify and address known safety issues



Remedial Training (1)

- Uses education to allow airmen who have committed an inadvertent deviation to enhance their knowledge and skills
- Designed to return an individual that holds an FAA certificate, approval, authorization, or license to full compliance
- Remedial Training curriculum developed by the FAASTeam through discussion with the airman involved
- May involve online courses, classroom training, flight instruction, etc.



Remedial Training (2)

- Remedial Training General Process (with successful outcome):
 - Aviation Safety Inspector (ASI) recommends Remedial Training
 - FAASTeam is contacted to develop a training syllabus from the ASI's recommendations.
 - Training agreement and training syllabus are reviewed with airman and signed.
 - Airman successfully completes training given by the approved provider.
 - FAA personnel document the program completion



Safety Management



Safety Definition

- The International Civil Aviation Organization (ICAO) defines, “safety,” as:
 - *The state in which risks associated to, or in direct support of the operation of aircraft are reduced to and controlled to an acceptable level*
- Effective Compliance = Actions taken to control risk



Safety Responsibility (1)

- The responsibility for aviation safety does not rest solely with the FAA
- All airmen, air carriers, aircraft owners and operators, air agencies, and others have statutory or regulatory safety duties
 - This includes a responsibility to develop and use processes and procedures that will prevent deviations from regulatory standards.



Safety Responsibility (2)

- Individuals usually lack the structured processes of safety or quality management systems, however they still bear the responsibility for monitoring their activities and operations to assure effective actions to control risk, including compliance
- This includes analysis of activities, operations, systems, and environments, identification of hazards, and determination of actions needed to control them



Safety Responsibility (3)

- FAA expects that certificate holders will *voluntarily comply* with the regulations and manage their risk
- Examples of proactive risk management:
 - Using a checklist
 - Developing personal habits
 - Consulting a Flight Risk Analysis Tool
 - [Link to sample Flight Risk Analysis Tool](#)
 - Using and adhering to personal minimums



Safety Responsibility (4)

- When a deviation occurs, engage in an open and transparent exchange of information
- Don't hide the mistake for fear of punishment
- Identify the problem
- Learn from the mistake
- Implement fixes that prevent a reoccurrence
- Follow up to validate the fix was effective



Safety Management (1)

- Safety and safety performance are best defined in terms of how well we control risk
- Risks are based on hazards, conditions that exist in the activities, operations, systems, and the environments in which we operate

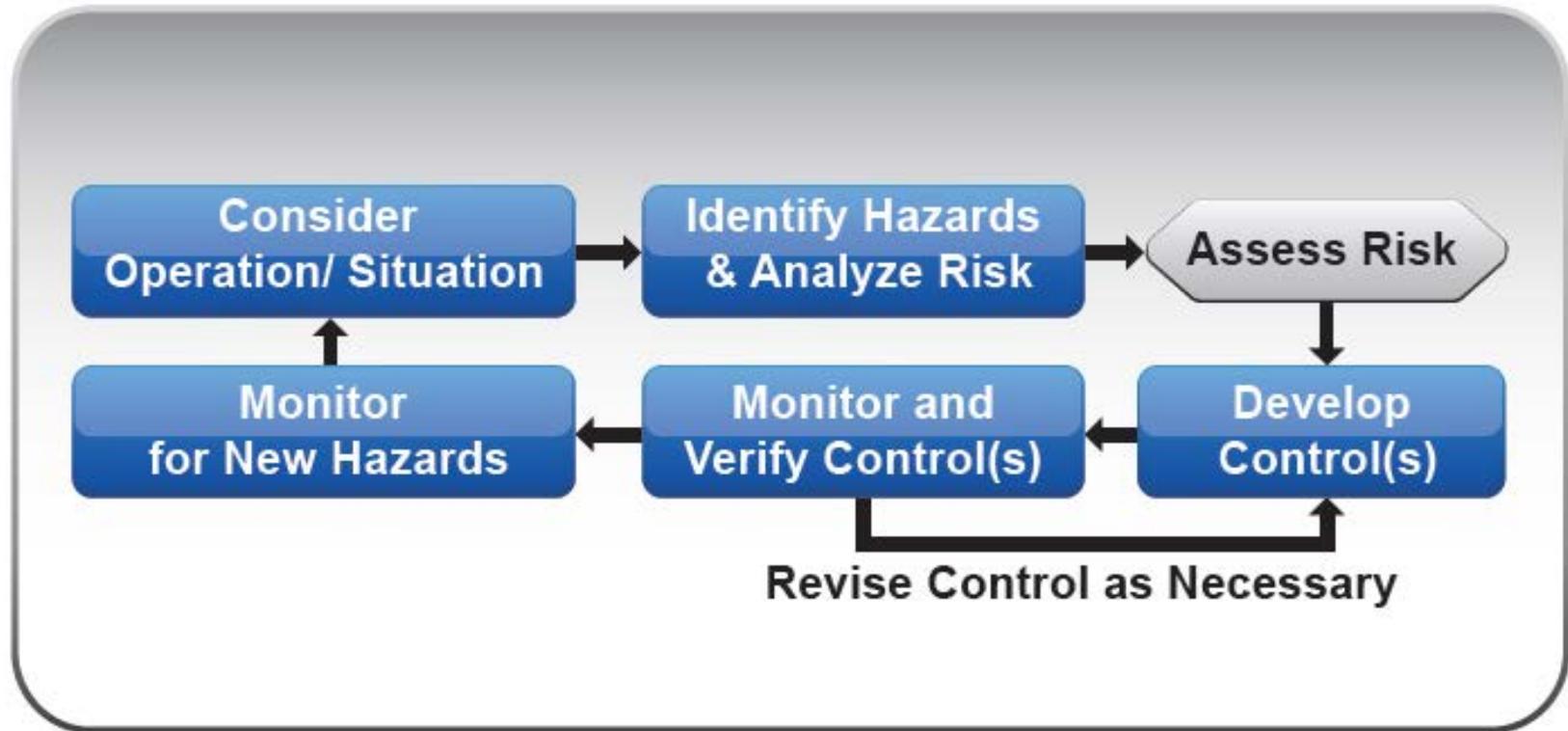


Safety Management (2)

- In order to manage risk we have to:
 - Consider the operation
 - Recognize the hazards involved in the activity
 - Assess the corresponding degree of risk
 - Develop controls (actions) to address the risk
 - Monitor the controls to ensure they are having the intended effect
 - If necessary, modify the controls
 - Continue to be alert for new hazards

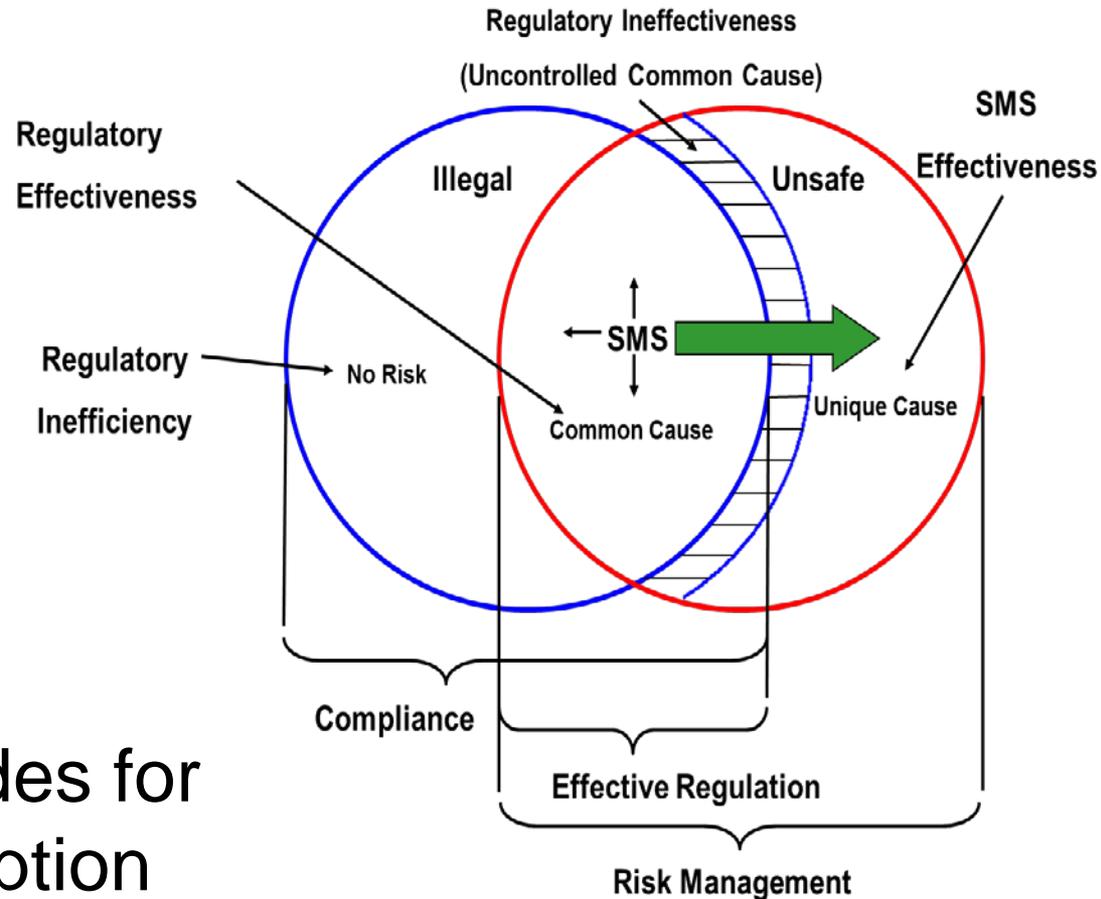


Safety Management (3)



Illegal and Unsafe (1)

- Dr. Malcom Sparrow, of Harvard University, uses a chart to show the relationship between illegal and unsafe acts
- See next two slides for additional description



Illegal and Unsafe (2)

- The FAA identifies hazards that affect the entire populations, such as all pilot schools or all mechanics, as “common cause” hazards.
 - These become targets for rulemaking.
 - These hazards are made “illegal” by requiring something or prohibiting it
- There are also hazards that are unique to an organization or an airman’s specific systems and environment.
 - We won’t usually make rules for these situations but they still must be controlled.



Illegal and Unsafe (3)

- Measuring safety performance at the level of the organization and airman cannot be achieved solely using absolute levels of safety, or by compliance with regulations alone, which do not consider these specific, unique threats.
- Safety management seeks to identify and address the unique hazards/risks that exist in each system or environment
- Airman and organizations must resolve conditions that are unsafe but not “illegal” from the standpoint of the prescriptive rules.



Excerpt from Mr. Don Norman

“People make errors, which lead to accidents. Accidents lead to deaths. The standard solution is to blame the people involved. If we find out who made the errors and punish them, we solve the problem, right? Wrong. The problem is seldom the fault of an individual; it is the fault of the system. Change the people without changing the system and the problems will continue.”

- Don Norman, Author, The Design of Everyday Things



Safety Reporting and Just Culture



Safety Reporting & Just Culture (1)

- The complexity of today's aerospace system means that even inadvertent and unintentional errors (honest mistakes) can have a serious adverse impact on safety
- Persons must address the inevitability of human error through:
 - Prevention
 - Detection
 - Mitigation



Safety Reporting & Just Culture (2)

- Deviations must be identified and resolved by airmen/organizations, collaborative/voluntary programs, or by FAA personnel surveillance and follow-up
- There must be an expectation of, and appreciation for, self-disclosure of errors
- Error and incident reporting are essential elements to assess aviation system safety and to correct deficiencies when warranted



Excerpt from Dr. James Reason (1)

“In my view, a safety culture depends critically upon first negotiating where the line should be drawn between unacceptable behavior and blameless unsafe acts. There will always be a grey area between these two extremes where the issue has to be decided on a case by case basis...”



Excerpt from Dr. James Reason (2)

...A number of aviation organizations have embarked upon this process, and the general indications are that only around 10 percent of actions ... are judged as culpable. In principle, at least, this means that the large majority of unsafe acts can be reported without fear of sanction...



Excerpt from Dr. James Reason (3)

A “no-blame” culture is neither feasible nor desirable. A small proportion of unsafe acts are deliberately done (e.g. criminal activity, substance abuse, controlled substances, reckless non-compliance, sabotage, etc.) and they require sanctions of appropriate severity. A blanket amnesty on all unsafe acts would lack credibility in the eyes of employees and could be seen to oppose natural justice....



Excerpt from Dr. James Reason (4)

What is needed is an atmosphere of trust in which people are encouraged to provide essential safety-related information, and in which they are also clear about where the line must be drawn between acceptable and unacceptable behavior. The Just Culture operates by design to encourage compliance with the appropriate regulations and procedures, foster safe operating practices, and promote the development of internal evaluation program.”

– Dr. James Reason



Behavioral Considerations (1)

- The outcome of an event is not what determines whether or not the behavior is acceptable or unacceptable
- It is necessary to:
 - Discard “Severity Bias” (i.e., the concept of “No harm, No foul”)
 - Assess the quality of the choices made
 - Address the behavioral choices made regardless of the outcome (good or bad)
 - Not punish a person based solely on the outcome



Behavioral Considerations (2)

- It is the quality of the choices and behavior that drive the corrective actions, not the severity of the event outcome.
 - A person that refuses to take the necessary actions to regain compliance with the regulations and other safety standards is the greatest risk to the system.
 - Such persons will continue to operate until a negative outcome eventually occurs, such as an accident.
 - Corrective action cannot be delayed until after the adverse outcome occurs.



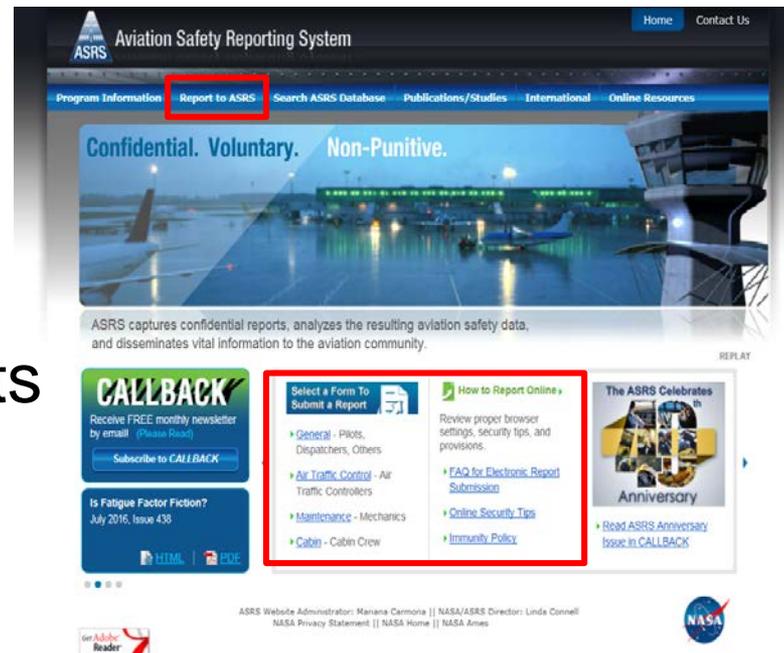
Aviation Safety Reporting System (ASRS) (1)

- The ASRS collects voluntarily submitted aviation safety incident or situation reports.
- ASRS can be used by anyone, to include:
 - Pilots
 - Mechanics
 - Flight Attendants
 - Dispatchers
 - Ground Support Personnel



Aviation Safety Reporting System (ASRS) (2)

- Forms can be submitted electronically or by mail
- [Link to ASRS: http://asrs.arc.nasa.gov](http://asrs.arc.nasa.gov)
- 14 CFR § 91.25 prohibits use of reports for enforcement purposes (with exceptions)
- [Link to Advisory Circular 00-46E: Aviation Safety Reporting Program](#)



Aviation Safety Reporting System (ASRS) (3)

- The ASRS acts on the information submitted through the reports.
- It identifies system deficiencies, and issues alerting messages to persons in a position to correct them.
- Strengthens the foundation of aviation human factors safety research.
 - This is particularly important since over two-thirds of all aviation accidents and incidents have their roots in human performance errors.



Aviation Safety Reporting System (ASRS) (4)

- The program educates through its newsletter *CALLBACK*, its journal *ASRS Directline*, and through its research studies.
- The ASRS database is a public repository which serves the FAA and NASA's needs and those of other organizations world-wide which are engaged in research and the promotion of safe flight.



Summary and References



Summary (1)

- Our common goal is a safe, efficient aviation system
- The FAA's Compliance Program is not about being "softer"
- Rather, it's about being "smarter" - focusing on correcting safety issues within the NAS and preventing reoccurrence
- In all cases, the goal of the FAA Compliance Program is to achieve rapid compliance, to mitigate the safety risk, and to ensure positive and permanent changes



Summary (2)

- To achieve the desired level of safety we need to move beyond the traditional government/industry model and its often adversarial nature
- We must all work together to fix the system/problem
 - Foster an environment of mutual trust and professional respect so as to promote open communication, collaboration, and cooperation
- Culture change is always challenging, but essential to achieving our safety mission
 - The results will more than justify the effort



Reference Material and Credits (1)

- Safety Management Systems
 - [Link to 14 CFR part 5](#)
 - [Link to ICAO Annex 19](#)
- [Link to Global Aviation Safety Plan](#)
- Just Culture (Reason, Marx, Dekker, GAIN)
- Dr. Malcom Sparrow's work



Reference Material and Credits (2)

- [Link to Voluntary Safety Programs](#) (Partnership, Information Exchange and Protection)
- [Link to Euro Control 10 Safety Principles](#)
- Internal approaches to safety in government (ATO Just Culture and EPA “Smart Enforcement Approach”)



Reference Material and Credits (3)

- FAA Webpage on the Compliance Program
 - Additional Program Description
 - FAA Guidance Documents
 - Links to articles
 - Links to videos and webinars
 - Compliance Program and Pilot's Bill of Rights Brochure
- [Link to Compliance Program Website: www.faa.gov/go/cp](http://www.faa.gov/go/cp)

