



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

ORDER
7200.22

Effective Date:
05/09/14

SUBJ: Designation of Information Received Through the Air Traffic Safety Action Program and the Technical Operations Safety Action Program as Protected From Public Disclosure Under 14 CFR Part 193

- 1. Purpose of this Order.** This order designates information received by the agency from the Air Traffic Safety Action Program (ATSAP) and the Technical Operations Safety Action Program (T-SAP) as protected from public disclosure in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 193.
- 2. Audience.** All Federal Aviation Administration (FAA) employees and support personnel.
- 3. Where Can I Find This Order?** This order is available on the FAA Directives website at https://employees.faa.gov/tools_resources/orders_notices/.
- 4. Distribution.** This order is distributed to the following Air Traffic Organization (ATO) service units: Air Traffic Services, Mission Support, and System Operations; ATO Safety and Technical Training; the Air Traffic Safety Oversight Service; the Mike Monroney Aeronautical Center; the National Air Traffic Controllers Association; the National Association of Government Employees; and the Professional Aviation System Specialists.
- 5. Background.** Under Title 49 of the United States Code (49 U.S.C.), section 40123, certain voluntarily provided safety and security information is protected from disclosure in order to encourage persons to provide the information to the FAA. The FAA must first issue an order that specifies why the agency finds that the information should be protected in accordance with 49 U.S.C. § 40123. The FAA's rules for implementing that section are in 14 CFR part 193. If the Administrator issues an order designating information as protected under 49 U.S.C. § 40123, that information will not be disclosed except as provided in 49 U.S.C. § 40123, 14 CFR part 193, and the order designating the information as protected. This order is issued under 14 CFR part 193, § 193.11, which sets out the notice procedure for designating information as protected.
- 6. Applicability.** This order is applicable to any FAA office that receives information covered under this designation from ATSAP and the T-SAP. The order is also applicable to any other government agency that receives such information from the FAA. In order for any other government agency to receive ATSAP or T-SAP information covered under this designation from the FAA, each such agency must first stipulate, in writing, that it will abide by the provisions of 14 CFR part 193 and this order.
- 7. Summary.**

a. Who may participate? Technical Operations employees who are covered under the collective bargaining agreement (CBA) between PASS and the FAA effective December 14, 2012, or its successor, and other employees identified in Notice JO 7210.807, which will be

incorporated in Order JO 7200.20, are eligible to complete a T-SAP report for events that occur while acting in that capacity. Air Traffic employees who are covered under the CBA between NATCA and the FAA effective October 1, 2009 or its successor, Staff Support Specialists covered under the CBA between NATCA and FAA effective August 1, 2010 or its successor, Flight Services personnel covered under the CBA between NATCA and the FAA effective June 5, 2011, or its successor, employees covered under the CBA between NAGE Local R3-10 and the FAA dated May 24, 2007 or its successor, and others identified in FAA Order JO 7200.20 are eligible to file an ATSAP report for events that occur while acting in that capacity.

b. What voluntarily provided information would be protected from disclosure under this proposed designation? Except for ATSAP and T-SAP reports that involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification, the following information is to be protected from disclosure when provided to the FAA:

- (1) The employee's ATSAP or T-SAP report and the content of that report.
- (2) The identity and/or name of the employee who submits an accepted ATSAP or T-SAP report.
- (3) Any evidence gathered by the Event Review Committee during its investigation of a safety- or security-related event reported under T-SAP or ATSAP, including the T-SAP or ATSAP investigative file.
- (4) Notwithstanding the foregoing, mandatory information about occurrences that are required to be reported under FAA Orders, Notices or guidance is not protected under this designation, unless the same information has also been submitted or reported under other procedures prescribed by the Agency. The exclusion is necessary to assure that the information protected under this designation has been voluntarily submitted. It also permits changes to FAA Orders, Notices and guidance without requiring a change to this designation.

c. How do you participate? Individuals who are qualified participants register for, and submit a report into, the electronic reporting system.

d. What is the duration of the program? These programs continue as long as they are covered by Order, Notice, policy or collective bargaining agreement.

8. Findings. The FAA designates information received from a T-SAP or ATSAP submission as protected under 49 U.S.C§ 40123 and 14 CFR part 193, § 193.7, based on the following findings:

a. Summary of why the FAA finds that the information will be provided voluntarily. The FAA finds that the information will be provided voluntarily. This finding is supported by the significant increase in reports of safety-related matters since the implementation of T-SAP and ATSAP. No covered individual is required to participate in the T-SAP, ATSAP, or other voluntary safety reporting program.

b. Description of the type of information that may be voluntarily provided under the program and a summary of why the FAA finds that the information is safety-related.

(1) ATSAP and T-SAP are created specifically to provide a means for employees to report safety related events.

(2) All individual T-SAP and ATSAP reports are clearly labeled as such and must be submitted only by the employee seeking the incentives available under T-SAP and ATSAP.

c. The two types of reports that are ordinarily submitted under T-SAP and ATSAP.

(1) Noncompliance reports. These reports identify specific instances of a failure to follow FAA directives.

(2) Aviation safety concern reports. These do not involve specific noncompliance with FAA directives are also reportable via T-SAP or ATSAP. These may include, but are not limited to, potential safety events or perceived problems with policies, procedures, equipment.

d. Summary of why the FAA finds that the disclosure of the information would inhibit persons from voluntarily providing that type of information. The FAA finds that disclosure of the information would inhibit the voluntary provision of that type of information. Individuals are unwilling to voluntarily provide detailed information about safety events and concerns, including those that might involve their own failures to follow Agency directives and policies, if such information could be released publicly. If information is publicly disclosed, there is a strong likelihood that the information could be misused for purposes other than to address and resolve the reported safety concern. Unless the FAA can provide assurance that safety-related reports will be withheld from public disclosure, personnel will not participate in the programs.

e. Summary of why the receipt of that type of information aids in fulfilling the FAA's safety responsibilities. The FAA finds that receipt of information in T-SAP or ATSAP reports aids in fulfilling the FAA's safety responsibilities. Because of its capacity to provide early identification of needed safety improvements, this information offers significant potential for addressing hazards that could lead to incidents or accidents. In particular, one of the benefits of T-SAP and ATSAP is that they encourage the submission of narrative descriptions of occurrences that provide more detailed information than is otherwise available. The T-SAP and ATSAP produce safety-related data that is not available from any other source. Receipt of this previously unavailable information has provided the FAA with an improved basis for modifying procedures, policies, and regulations to improve safety and efficiency.

f. Consistencies and inconsistencies with FAA safety responsibilities. The FAA finds that withholding T-SAP and ATSAP information from public release is consistent with the FAA's safety responsibilities, because it encourages individuals to provide important safety information that it otherwise might not receive.

(1) Withholding T-SAP and ATSAP information from disclosure, as described in this designation, is consistent with the FAA's safety responsibilities. Without the Agency's ability to assure that the detailed information reported under these programs, which often explains why the event occurred or describes underlying problems, will not be disclosed, the information will not be provided to the FAA. Individuals are concerned that public release of the information could result in potential misuses of the information that could affect them negatively. If the FAA does not receive the information, the FAA and the public will be deprived of the opportunity to make the safety improvements that receipt of the information otherwise enables. Corrective action

under T-SAP and ATSAP can be accomplished without disclosure of protected information. For example, for acceptance under each program, the reporting individual must comply with ERC recommendations for corrective action, such as additional training. If the individual fails to complete corrective action in a manner satisfactory to all members of the ERC, the event may be referred to an appropriate office within the FAA for any additional investigation, reexamination, and/or action, as appropriate.

(2) The FAA may release T-SAP and ATSAP information submitted to the agency, as specified in part 193 and this order. For example, to explain the need for changes in FAA policies, procedures, and regulations, the FAA may disclose de-identified, summarized information that has been derived from T-SAP and ATSAP reports or extracted from the protected information listed under paragraph 4b. The FAA may disclose de-identified, summarized T-SAP and ATSAP information that identifies a systemic problem in the National Airspace System, when a party needs to be advised of the problem in order to take corrective action. Under the current version of FAA Order JO 7200.20, reported events and possible violations may be subject to investigation, reexamination, and/or action. Although the report itself and the content of the report are not used as evidence, the FAA may use the knowledge of the event or possible violation to generate an investigation, and, in that regard, the information is not protected from disclosure. To withhold information from such limited release would be inconsistent with the FAA's safety responsibilities. In addition, reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification will be referred to an appropriate FAA office for further handling. The FAA may use such reports for enforcement purposes, and will refer such reports to law enforcement agencies, if appropriate. To withhold information in these circumstances would be inconsistent with the agency's safety responsibilities because it could prevent, or at least diminish, the FAA's ability to effectively address egregious misconduct.

g. Summary of how the FAA will distinguish information protected under part 193 from information the FAA receives from other sources. All employee T-SAP and ATSAP reports are clearly labeled as such. Each employee must submit their own report.

8. Designation. The FAA designates the information described in paragraph 5 to be protected from disclosure in accordance with 49 U.S.C§ 40123 and 14 CFR part 193.



Michael P. Huerta
Administrator