



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
National Policy

ORDER
8000.82A

Effective Date:
7/6/23

SUBJ: Amended Designation of Aviation Safety Action Program (ASAP) Information
As Protected From Public Disclosure Under 14 CFR Part 193

1. Purpose of This Order. This order amends and expands the prior designation of information received by the Federal Aviation Administration (FAA) from an Aviation Safety Action Program (ASAP) 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. This order applies to all FAA employees who receive or review information from an ASAP.

3. Where You Can Find This Order. You can find this order on the MyFAA employee website at https://employees.faa.gov/tools_resources/orders_notices and the Dynamic Regulatory System (DRS) at <https://drs.faa.gov>. Operators and the public can find this order on the FAA's website at https://www.faa.gov/regulations_policies/orders_notices and DRS.

4. What This Order Cancels. FAA Order 8000.82, Designation of Aviation Safety Action Program (ASAP) Information As Protected From Public Disclosure Under 14 CFR Part 193, dated September 3, 2003, is canceled.

5. Background. Under Title 49 of the United States Code (49 U.S.C.) § 40123, certain voluntarily provided safety and security information is protected from disclosure to encourage persons to provide the information to the FAA. The FAA must first issue an order making certain findings before the information is protected from disclosure. Part 193 describes the notice procedure for the FAA to designate information as protected. If the Administrator issues an order designating information as protected under 49 U.S.C. § 40123, that information will be exempt from public disclosure under the Freedom of Information Act (FOIA) Exemption 3. Such information will not be disclosed under FOIA, or other laws except as provided in 49 U.S.C. § 40123, part 193, and the order designating the information as protected.

6. Applicability. This order is applicable to any FAA office that receives information covered under this designation from an ASAP program. The order also is applicable to any other government agency with safety and security responsibilities that receives such information from the FAA. In order for any other government agency to receive information submitted in an ASAP report (i.e., ASAP information) covered under this amended designation from the FAA, each such agency must first stipulate, in writing, that it will abide by the provisions of part 193 and this order. Such information will not be disclosed under FOIA, or other laws except as provided in 49 U.S.C. § 40123, part 193, and the order designating the information as protected.

7. Summary of the ASAP Voluntary Information Sharing Program.

a. Who May Participate? Under Advisory Circular (AC) 120-66C, Aviation Safety Action Program, air carriers, repair stations, and other entities (collectively referred to as “eligible entities”) who have an FAA-approved ASAP, and their covered employees, may participate in ASAP. The amended designation (i.e., Order 8000.82A) covers the expansion of ASAP to such eligible entities. In contrast, the prior AC 120-66B and the original designation (i.e., Order 8000.82) were only intended to apply to air carriers that operated under 14 CFR part 121 and for domestic repair stations certificated under 14 CFR part 145 that have an FAA-accepted ASAP, and their covered employees.

b. What Voluntarily Provided Information Will Be Protected From Disclosure Under This Amended Designation? The type of information to be protected in Order 8000.82A (as amended) remains the same as in Order 8000.82. The following information will be protected from disclosure when provided in a report to the FAA that meets the acceptance criteria under the ASAP program:

- (1) The employee’s ASAP report, and the content of that report.
- (2) The identity of the eligible entity associated with an accepted ASAP report.
- (3) The name of the employee who submits an accepted ASAP report(s).
- (4) The information from sources other than the FAA of an Event Review Committee (ERC) investigation concerning an accepted ASAP report.
- (5) Evidence and other information gathered during an ERC investigation by persons other than the FAA.
- (6) Statistical analysis and trend information provided by the eligible entity that is based on events reported under a particular eligible entity’s ASAP.
- (7) An eligible entity’s database of reports and events collected over time from that eligible entity’s ASAP.
- (8) Corrective action on sole-source reports when such corrective action is successfully completed.

Note: In accordance with Section 320 of the FAA Reauthorization Act of 2018, Public Law 115-254, ASAP reports that are excluded do not receive protection under 49 U.S.C. § 40123.

c. How Does One Participate? Eligible entities, as described in this amendment, participate by executing an ASAP Memorandum of Understanding (MOU) with the FAA and by voluntarily sharing information from the ASAP with the FAA.

d. What Is the Duration of This Information-Sharing Program? This information-sharing program continues for a given eligible entity until the associated ASAP MOU is terminated by any of the parties to the MOU.

8. Findings. The FAA designates information in an accepted ASAP report received from an eligible entity under its FAA-approved ASAP program in accordance with this amendment, as protected under 49 U.S.C. § 40123 and part 193, § 193.7. The FAA makes this designation based on the following findings made under § 193.11(c).

a. Summary of Why the FAA Finds That the Information Will Be Provided Voluntarily. The protection that resulted from Order 8000.82 alleviated concerns of ASAP-holding entities that disclosure of voluntarily submitted information could result in its use for other than the safety enhancement purposes for which the ASAP was created. Further, under ASAP, the FAA takes no action against an individual who submits a report that is accepted (and not subsequently excluded). The history of protection under ASAP and the enforcement-related incentive encourage voluntary submission of the information. Therefore, the FAA finds that eligible entities will voluntarily provide ASAP information to the FAA. Additionally, since the implementation of the original part 193 ASAP program, the FAA has seen an increase in the sharing of ASAP information with the FAA beyond the FAA ERC representative by those originally covered under the program, and expects a similar increase as the program is expanded to other entities.

b. Description of the Type of Information That May Be Voluntarily Provided Under the Amended Program and a Summary of Why the FAA Finds That the Information is Safety- or Security-Related.

(1) The FAA expects the eligible entities covered under the designation will share the same type of information as entities covered under Order 8000.82. An ASAP is created specifically to provide a means for employees to report safety-related events. All individual ASAP reports are clearly labeled as such and must be signed by each employee seeking the enforcement incentives available under an ASAP. Two types of reports are ordinarily submitted under the ASAP:

- Safety-related reports that appear to involve one or more violations of the regulations (e.g., deviating from an Air Traffic Control (ATC)-assigned altitude); and
- Reports that identify a general safety concern, but do not appear to involve a violation of the regulations (e.g., flight crewmember concerns that the design of a flight checklist could lead to an error).

(2) Each ASAP report must contain sufficiently detailed information about a safety event so that it can be evaluated by a third party. If the report is submitted by a flight crewmember, and the safety event involves a deviation from an ATC clearance, the ASAP report would include the date, time, place, altitude, flight number, and ATC frequency, along with a description of the safety-related event. The only types of reports that are expected to be submitted under an ASAP are those that are safety- or security-related.

c. Summary of Why the FAA Finds That the Disclosure of the Information Would Inhibit Persons From Voluntarily Providing That Type of Information. Eligible entities and their employees are reluctant to share sensitive safety information with the FAA, including employee self-reports of alleged violations, if such submissions might be subject to public disclosure. Among other reasons, entities are concerned that public disclosure of voluntarily provided information to the public could be incomplete, unreliable, and sensitive. As a result, entities are concerned that disclosure of such information could unduly and adversely affect competitive advantage and public perception, and would be used for other than the safety enhancement purposes for which the ASAP was created. Individuals are concerned that disclosure of their reports would adversely affect their privacy interests.

d. Summary of Why the Receipt of That Type of Information Aids in Fulfilling the FAA's Safety and Security Responsibilities. The FAA finds that receipt of ASAP information aids in fulfilling the FAA's safety and security responsibilities because of its capacity to provide early identification of needed safety improvements. An ASAP offers significant potential for incident and accident avoidance. FAA experience has clearly established that an ASAP can produce safety-related data that is not available from any other source. For example, ASAP reports concerning altitude deviations have identified common causal factors that produce such incidents. Receipt of this previously unavailable information has provided the FAA with an improved basis for modifying procedures, policies, and regulations in order to improve safety and efficiency.

e. Summary of Why Withholding Such Information From Disclosure Would Be Consistent With the FAA's Safety and Security Responsibilities, Including a Statement as to the Circumstances Under Which, and a Summary of Why, Withholding Such Information From Disclosure Would Not Be Consistent With the FAA's Safety and Security Responsibilities, as Described in § 193.9.

(1) Withholding ASAP information from disclosure is consistent with the FAA's safety and security responsibilities because, unless the FAA can provide assurance that it will not be disclosed, the FAA will likely not receive the information. If the FAA does not receive the information, the FAA will be hampered in efforts to understand safety-related issues within an eligible entity's operational environment and ensure safety improvements that receipt of the information otherwise enables.

(2) The FAA may disclose information submitted to the agency that is designated as protected under part 193 when withholding it would not be consistent with the FAA's safety and security responsibilities under the circumstances described in § 193.9(a)(1)–(4). For example, to explain the need for changes in FAA policies, procedures, and regulations, the FAA may disclose de-identified (i.e., no eligible entity or employee identity), summarized information that has been derived from ASAP information or extracted from reports under ASAP. The FAA may disclose de-identified, summarized ASAP information that identifies a systemic problem in the aviation system when other people need to be advised of the problem in order to take corrective action.

f. Summary of How the FAA Will Distinguish Information Protected Under Part 193 From Information the FAA Receives From Other Sources.

(1) The process for distinguishing information from the eligible entities as protected will remain unchanged. All employee ASAP reports are clearly labeled as such. A single report must be signed by all employees seeking the enforcement incentives available under an ASAP for the event. Any such employee must submit a separate signed report.

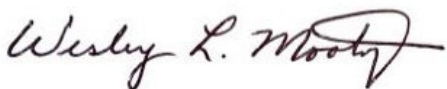
(2) Any other information received by the FAA from the eligible entity concerning the content of ASAP reports (such as statistical analyses, program review reports, and trend information) must be clearly labeled as follows in order to be protected under this designation:

WARNING: The information in this document may be protected from disclosure under 49 U.S.C. § 40123 and part 193.

g. Summary of the Significant Comments Received and the FAA's Responses. On September 3, 2003, the FAA issued an order designating information protected. On February 11, 2022, the FAA issued a Federal Register Notice announcing the FAA intended to amend the order. The FAA did not receive any comments in response to that Federal Register Notice. The FAA is now issuing this final order amending the September 3, 2003 order to expand the prior designation as set forth in the February 11, 2022 Federal Register Notice.

9. Designation. Accordingly, the FAA hereby designates the previously described information to be protected from disclosure in accordance with 49 U.S.C. § 40123 and part 193, when submitted pursuant to an approved ASAP program.

10. Directive Feedback Information. Direct questions or comments to the Air Transportation Division (AFS-200) at 202-267-8166. For your convenience, FAA Form 1320-19, Directive Feedback Information, is the last page of this order. Note any deficiencies found, clarifications needed, or suggested improvements regarding the contents of this order on FAA Form 1320-19.



Wesley L. Mooty
Acting Deputy Executive Director, Flight Standards Service

Directive Feedback Information

Please submit any written comments or recommendation for improving this directive, or suggest new items or subjects to be added to it. Also, if you find an error, please tell us about it.

Subject: FAA Order 8000.82A, Amended Designation of Aviation Safety Action Program (ASAP) Information As Protected From Public Disclosure Under 14 CFR Part 193

To: Flight Standards Directive Management Officer, AFB-120 Directives Mailbox
(9-AWA-AFB-120-Directives@faa.gov)

(Please check all appropriate line items)

An error (procedural or typographical) has been noted in paragraph _____ on page _____ .

Recommend paragraph _____ on page _____ be changed as follows: *(attach separate sheet if necessary)*

In a future change to this order, please cover the following subject:
(briefly describe what you want added)

Other comments:

I would like to discuss the above. Please contact me.

Submitted by: _____ Date: _____

Telephone Number: _____ Routing Symbol: _____