

NOTICE

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

N 8900.331

National Policy

Effective Date:
10/13/15

Cancellation Date:
10/13/16

SUBJ: Aviation Safety Action Program (ASAP), Voluntary Disclosure Reporting Program (VDRP) and the New Compliance Philosophy

1. Purpose of This Notice. This notice supplements current policy relating to the Aviation Safety Action Program (ASAP) and the Voluntary Disclosure Reporting Program (VDRP). The changes are to policy contained within Federal Aviation Administration (FAA) Order 8900.1, Flight Standards Information Management System (FSIMS), Volume 11, Chapter 1, Section 1, Voluntary Disclosure Reporting Program for Air Carriers and Regulated Entities; and Volume 11, Chapter 2, Section 1, Aviation Safety Action Program. These changes primarily address the change in Compliance Philosophy calling for the removal of Administrative Action as a required outcome for accepted voluntary disclosures under the VDRP, and eliminate Administrative Action and the Enforcement Decision Process (EDP) tool from application to accepted reports within ASAP, and from the current edition of FAA Order 2150.3, FAA Compliance and Enforcement Program.

2. Audience. The primary audience for this notice includes regional Flight Standards division (RFSD) managers, Office Managers (OM), and principal inspectors (PI) who have oversight responsibility for operators certificated under Title 14 Code of Federal Regulations (14 CFR) for operations under 14 CFR parts 21, 39, 45, 119, 121, 125, 133, 135, 137, 141, 142, 145, 147, or a fractional ownership program as defined in 14 CFR part 91 subpart K (part 91K). The secondary audience includes all other Flight Standards (AFS) personnel with ASAP and VDRP responsibilities.

3. Where You Can Find This Notice. You can find this notice on the MyFAA employee Web site at https://employees.faa.gov/tools_resources/orders_notices. Inspectors can access this notice through the FSIMS at <http://fsims.avs.faa.gov>. Operators can find this notice on the FAA's Web site at <http://fsims.faa.gov>. This notice is available to the public at http://www.faa.gov/regulations_policies/orders_notices.

4. Background. The primary purpose of voluntary safety programs is to identify and correct issues of noncompliance and/or safety. Aviation safety is well served by incentives which encourage certificate holders and fractional ownership programs to identify and correct their own instances of noncompliance, while investing in the prevention of recurrences. The FAA's policy of forgoing civil penalty 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 of effective Internal Evaluation Programs (IEP).

a. Implementation of Compliance Philosophy. FAA policy is being enhanced through the implementation of the new Compliance Philosophy, published within FAA Order 8000.373, Federal Aviation Administration Compliance Philosophy; Notice 8900.323, Flight Standards Service Compliance Philosophy; and Order 8900.1, Volume 14, and reflected in Order 2150.3B.

b. Web-Based VDRP. The Web-based VDRP has enabled a national database of voluntary disclosures and their associated corrective actions. Since December 2006, all voluntary disclosures submitted by air carriers (parts 121 and 135) and repair stations (part 145) have been processed utilizing the Web-based system, which has provided a much more structured and quality-controlled environment for both industry and FAA users. The Web-based system for air carrier and repair station disclosures has proven to be a positive advancement for the FAA and industry. All other covered entities utilize the legacy paper-based system.

c. ASAP Participation. ASAP, as of this writing, has more than 383 active Memorandums of Understanding (MOU) across the nation, with activity and participation increasing almost daily. With almost 100,000 reports annually, it is a tremendous source of safety information and data. Participation is expanding across the entire spectrum of the National Airspace System (NAS), with even small operators able to participate through the use of the services of third-party facilitators such as the Air Charter Safety Foundation (ACSF) and the Medallion Foundation.

5. Discussion. While it is FAA policy that open sharing of apparent violations or other safety concerns and observations, as well as a cooperative approach to solving problems will enhance and promote aviation safety, regulated entities are understandably reluctant to report information which might result in the FAA undertaking legal enforcement action against them, or having such information released for media distribution. As a result, important data that might help to correct safety-related deficiencies may go unreported.

a. The ASAP and VDRP Processes. The ASAP and VDRP processes address this issue by providing an FAA enforcement incentive, as well as protection from public release of qualifying disclosures and associated corrective actions, through the exemptions from the Freedom of Information Act (FOIA) provided by the current editions of FAA Order 8000.82, Designation of Aviation Safety Action Program (ASAP) Information as Protected from Public Disclosure under 14 CFR Part 193; and FAA Order 8000.89, Designation of Voluntary Disclosure Reporting Program (VDRP) Information as Protected from Public Disclosure under 14 CFR Part 193.

b. Previous Procedure. Previously, accepted disclosures made under these programs that may have entailed a violation were documented in the VDRP process and the Enforcement Information System (EIS) through the opening of an Enforcement Investigative Report (EIR).

c. New Procedure: ASAP. Due to the issuance of Change 9 to Order 2150.3B, as well as the complete removal of the EDP from Order 8900.1, Volume 14, and the implementation of Compliance Philosophy, accepted reports under ASAP will no longer be additionally

documented within the EIS. Moreover, Administrative Action will no longer be issued for accepted disclosures under ASAP.

d. New Procedure: VDRP. Due to the issuance of Change 9 to Order 2150.3B, as well as the complete removal of the EDP from Order 8900.1, Volume 14, and the implementation of Compliance Philosophy, accepted reports under VDRP will no longer be additionally and automatically documented within the EIS and will normally be handled under the Compliance Philosophy. Disclosures will continue to be issued a unique notification identity number in Stage 1 (Initial Notification), and an optional EIR number will be generated by the system. The option will remain for the FAA to take Administrative Action by utilizing the legacy EIS-based system. When the legacy EIS system is utilized, the office-generated EIR number will be used and the optional EIR number assigned within the Web-based VDRP system will be reflected as a “Related Record” to tie the VDRP record to the EIS record.

6. Policy. Order 8900.1, Volume 14, Chapter 1, Section 2, subparagraph 14-1-2-3E and paragraph 14-1-2-9 address Program Tracking and Reporting Subsystem (PTRS) records for tracking Compliance Actions. However, the PTRS recording requirements for Compliance Actions related to an accepted ASAP and/or VDRP disclosure are different because **information submitted voluntarily and accepted under an ASAP and/or VDRP is protected and must not be included within any record subject to public release, such as the PTRS.**

a. Information Protection. All records and information submitted to the FAA related to an accepted ASAP and/or the VDRP disclosure, including information predicated upon the ASAP report, or information submitted via the Web-based VDRP system or as part of a legacy paper-based voluntary disclosure, are protected from release to the public in accordance with the provisions of Order 8000.82 and Order 8000.89.

b. PTRS. PTRS records for compliance actions resulting from an ASAP report or VDRP disclosure must not include identifying data, such as the regulated entity’s name, designator, aircraft registration number, flight number, certificate number, or personnel names. Further, identifying data from an ASAP report or VDRP disclosure must not be entered into the Safety Assurance System (SAS) or Air Transportation Oversight System (ATOS), or other public forums at any time.

7. Action. Effective October 1, 2015, Administrative Actions must not be processed for accepted ASAP reports and are no longer required for VDRP disclosures.

a. Accepted Events Prior to October 1, 2015. For accepted ASAP reports and/or VDRP disclosures currently open (i.e., corrective action and/or followup surveillance not completed), inspectors have discretion to determine the most appropriate action, either Administrative Action or Compliance Action.

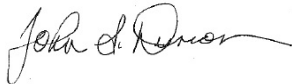
b. ASAP. ASAP reports accepted by the Event Review Committee (ERC) under a valid MOU will no longer require any FAA Administrative Action. Excluded reports will continue to be processed in accordance with existing policy.

c. Web-Based VDRP. As of October 1, 2015 VDRP automatic upload of disclosure data from the VDRP system to EIS has ceased. Disclosures will continue to be issued a unique

notification identity number in Stage 1 (Initial Notification) and the system will generate an EIR number for optional use. The notification identity number issued in Stage 1 will be retained for tracking purposes in PTRS. All other functions of the VDRP system will continue to operate as currently deployed. EIS files that were open in EIS on October 1, 2015 have been purged from the EIS system. However, the option will remain for the FAA to take Administrative Action by utilizing the legacy EIS-based system. When the legacy EIS system is utilized, the office-supplied EIR number will be used and the optional EIR number assigned within the VDRP system will be reflected as a “Related Record” to tie the VDRP record to the EIS record.

d. Legacy Paper-Based VDRP. The legacy paper-based VDRP system does not generate a unique identifier for each disclosure if an EIR number is not going to be utilized. Therefore, FAA offices with oversight responsibility of entities utilizing the legacy system for any voluntary disclosure must adopt a numbering system independent of the EIS. Offices should utilize a code comprised of the office identifier, followed by the fiscal year (FY), followed by a sequential number (e.g., NM-02:FY15:001), to identify each VDRP file for tracking purposes in the PTRS.

8. Disposition. The information in this notice will be incorporated into Order 8900.1 before this notice expires. Direct questions concerning the information in this notice to the Air Transportation Division (AFS-200) at 202-267-8166.



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