NOTICE

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

N 8900.408

National Policy

Effective Date:
2/28/17

Cancellation Date:
2/28/18

SUBJ: Aviation Safety Action Program (ASAP), Voluntary Disclosure Reporting Program (VDRP), and 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, Volume 11, Chapter 1, Section 1, Voluntary Disclosure Reporting Program for Air Carriers and Regulated Entities; and Volume 11, Chapter 2, Section 1, Safety Assurance System: Aviation Safety Action Program. These changes primarily address the impact and application of the 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 of the Code of Federal Regulations (14 CFR) for operations under 14 CFR part 21, 39, 45, 119, 121, 125, 133, 135, 137, 141, 142, 145, or 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 website at https://employees.faa.gov/tools_resources/orders_notices. Inspectors can access this notice through the Flight Standards Information Management System (FSIMS) at http://fsims.avs.faa.gov. Operators can find this notice on the FAA's website at http://fsims.faa.gov. This notice is available to the public at http://www.faa.gov/regulations_policies/orders_notices.

4. Cancellation. This notice cancels Notice N 8900.352, Aviation Safety Action Program (ASAP), Voluntary Disclosure Reporting Program (VDRP) and the New Compliance Philosophy, dated March 9, 2016.

5. Revision. This notice constitutes a revision of N 8900.352 with the purpose of extending the applicability and relevance of the previous notice, which clarified the corrective actions taken within the ASAP and VDRP, as opposed to Compliance Actions taken under the auspices of

FAA Order 8000.373, Federal Aviation Administration Compliance Philosophy, and implemented within Orders 2150.3 and 8900.1.

6. 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 as well as Order 8900.1, Volume 14, Compliance and Enforcement, and reflected in Order 2150.3.

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. Recently, the FAA Office of Security and Hazardous Materials Safety (ASH) was added to this structure. 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 over 500 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.

7. 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 Protections. 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 Changes 9, 10, and 11 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 taken for accepted disclosures under ASAP.

d. New Procedure: VDRP. Due to the issuance of Changes 9, 10, and 11 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 utilizing either the Web-based VDRP system (for air carriers and certificated repair stations (CRS)), or utilizing the legacy EIS-based VDRP process. When utilizing the Web-based VDRP system, each record will continue to be issued a unique notification identity number in Stage 1 (Initial Notification). Neither EIR numbers, nor Administrative Action letters (e.g., Letters of Correction (LOC) or warning letters) will be issued to VDRP records processed within the Web-based VDRP. EIR numbers will no longer be generated by the Web-based VDRP system. The option will remain for the FAA to take Administrative Action by utilizing the legacy EIS-based system, regardless of the certificate type. Thus, air carriers and CRSs may be subject to Administrative Actions, but only if those disclosures are processed utilizing the legacy EIS-based system. When the legacy EIS-based system is utilized, the EIS-generated EIR number will be used.

8. Policy: Information Protection and Recordation.

a. Information Protection. All records and information submitted to the FAA related to an accepted ASAP Report and/or an accepted VDRP disclosure, whether processed utilizing the Web-based VDRP system or the legacy EIS-based system, are protected from release to the public in accordance with the provisions of Orders 8000.82 and 8000.89.

b. Program Tracking and Reporting Subsystem (PTRS) for VDRP. No Compliance Action PTRS records will be created for an accepted VDRP disclosure. VDRP corrective action documentation requirements are detailed in Order 8900.1, Volume 11, Chapter 1, Voluntary Disclosure Reporting Program. When entering a PTRS record for a voluntary disclosure accepted under the VDRP, the following codes are to be utilized:

- VDRP event closed with Administrative Action: x738 (e.g., 1738, 2738, or 3738).
- VDRP event closed with Corrective Action: x739 (e.g., 1739, 2739, or 3739).

Note: When completing a PTRS record for an accepted voluntary disclosure, no identifying information (e.g., operator ID, flight number, aircraft registration number, or personal information) is to be included in any portion of the PTRS record.

c. PTRS for ASAP. No Compliance Action PTRS records will be created for an accepted ASAP event. ASAP corrective action and PTRS documentation requirements are detailed in Order 8900.1, Volume 11, Chapter 2, Voluntary Safety Programs, and are specialty-specific (e.g., 1391, 3395, 5395).

> **Note:** An aggregate PTRS record may be submitted by an FAA event review committee (ERC) member to document overall work, but must meet the requirements for submission outlined in Order 8900.1, Volume 11, Chapter 2.

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

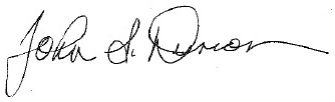
a. Accepted Events Prior to October 1, 2015. For accepted ASAP reports and/or VDRP disclosures currently open (i.e., corrective action and/or followup surveillance not completed), inspectors have the discretion to determine the most appropriate action, either Administrative Action or corrective action. It should be noted, however, that subsequent to planned software changes to the Web-based VDRP system, Administrative Action within that system will no longer be an option, and must be accomplished via an external process, such as described in subparagraph 7d above.

b. ASAP. ASAP reports accepted by the 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 was terminated. Disclosures will continue to be issued a unique notification identity number in Stage 1 (Initial Notification) and other functions of the VDRP system will continue to operate as currently deployed, with minor revisions to incorporate the changes set forth in this notice (e.g., removal of EIS numbers or discontinuance of LOC or warning letter generation and attachment). 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, as desired.

d. Legacy EIS-Based VDRP. The legacy EIS-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 EIS-based 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:FY16:001), to identify each VDRP file for tracking purposes.

10. Disposition. We will incorporate the information in this notice 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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