

AIR TRAFFIC SAFETY ACTION PROGRAM (ATSAP-X)
MEMORANDUM OF UNDERSTANDING
BETWEEN THE
NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION
AND THE
FEDERAL AVIATION ADMINISTRATION

1. **GENERAL.** This agreement is between the Federal Aviation Administration (FAA) and FAA employees represented by the National Air Traffic Controllers Association (NATCA). Specifically those bargaining units covered by the Consolidated Collective Bargaining Agreement (Engineers & Architects, Staff Support Specialists, Aviation Technical System Specialists (Series 2186), and Flight Procedures Team (FPT). This agreement does not cover facility Staff Support Specialists. Facility Staff Support Specialists are covered by the ATSAP MOU dated 3/27/2008 and JO 7200.20.
2. **PURPOSE.** The FAA and NATCA are committed to improving aviation system safety. Each party has determined that safety would be enhanced if there were a systematic approach for FAA employees represented by NATCA to promptly identify and correct potential safety hazards. The primary purpose of the Air Traffic Safety Action Program for the applicable bargaining units is for ATSAP-X to identify safety problems and events, and to implement corrective measures that reduce the opportunity for safety to be compromised. In order to facilitate safety analysis and corrective action, all stakeholders join together in implementing this Voluntary Safety Reporting Program (VSRP) for employees represented by NATCA to improve flight safety through self-reporting, cooperative follow-up, appropriate skill enhancement, or system corrective action. This Memorandum of Understanding (MOU) describes the provisions of the program.
3. **BENEFITS.** The program will foster a voluntary, cooperative, non-punitive environment for the open reporting of safety of flight concerns. Through such reporting, all parties will have access to valuable safety information that may not otherwise be obtainable. This information will be analyzed in order to develop corrective actions to help solve safety issues and possibly eliminate deviations from, and deficiencies in, applicable FAA Orders, National Airspace System (NAS) Modernization Documentation, flight procedures, and/or other engineering and flight activities in support of aviation safety. For a report accepted under this MOU, the FAA will take lesser action or no action against the submitter, depending on whether it is a sole-source report, to address an event involving possible noncompliance with applicable FAA Orders and/or NAS Modernization Documentation, and/or other engineering and flight activities in support of aviation safety.
4. **APPLICABILITY.** This VSRP applies to employees of the FAA represented by NATCA, and only to safety events and problems that occur while acting in that capacity. Reports involving apparent noncompliance with FAA Orders and/or NAS Modernization Documentation, and/or other engineering and flight activities in support of aviation safety that are not inadvertent

or that appears to involve an intentional disregard for safety, criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification are excluded from the program.

5. PROGRAM DURATION. This is a Demonstration Program. The duration of which shall be 18-months from the date this MOU is signed. If the program is determined to be successful after a comprehensive review and evaluation, the parties intend for it to be a Continuing Program. This VSRP may be terminated at any time for any reason by the FAA or NATCA. The termination or modification of a program will not adversely affect anyone who acted in reliance on the terms of a program in effect at the time of that action (i.e., when a program is terminated), all reports and investigations that were in progress will be handled under the provisions of the program until they are completed. Failure of any party to follow the terms of the program ordinarily will result in termination of the program.

6. REPORTING PROCEDURES. When a covered employee observes a safety problem or experiences a safety-related event, he or she should note the problem or event and describe it in enough detail so that it can be evaluated by a third party.

a. ATSAP-X Report Form. At an appropriate time during the duty day, the employee should complete the ATSAP-X Form online at _____ for each safety problem or event and submit it electronically. Reports should be filed within 24-hours after the end of the duty shift; absent extraordinary circumstances. If the electronic system is not available at the time he or she needs to file a report, the employee may contact the ATSAP-X hotline and leave a message concerning their intention to file a report. Notice given telephonically regarding an intent to file within the prescribed time limit must be followed by a formal report submission within 72-hours thereafter.

b. Time Limit. Reports that the Event Review Committee (ERC) determines to be "sole-source," will be accepted under this VSRP, regardless of the timeframe within which they are submitted, provided they otherwise meet the acceptance criteria of paragraphs 10a(2) and (3) of this MOU. Reports which the ERC determines to be "non-sole-source" must meet the same acceptance criteria, and must be filed within one of these two possible timeframes:

(1) Within 24-hours after the end of the duty day, absent extraordinary circumstances. For example, if the event occurred at 1400 hours on Monday and an employee completes the duty shift for that day at 1900 hours, the report should be filed no later than 1900 hours Tuesday. In order for all employees to be covered under the VSRP for any apparent noncompliance with applicable FAA Orders and/or NAS Modernization Documentation, while performing engineering and implementation and/or flight activities in support of aviation safety and the NAS, they must all submit separate reports for the same event.

(2) Within 24-hours of becoming aware of a possible non-compliance with applicable FAA Orders and/or NAS Modernization Documentation, while performing engineering and implementation and/or flight activities in support of aviation safety and the NAS provided the following criteria are met: If a report is submitted later than the time period after the occurrence of an event stated in paragraph 6b(1) above, the ERC will review all available

information to determine whether the employee knew or should have known about the possible noncompliance within that time period. If the ERC determines that the employee did not know or could not have known about the possible noncompliance until informed of it, then the report would be included, provided the report is submitted within 24-hours of having become aware of a possible noncompliance, and provided that the report otherwise meets the acceptance criteria of this MOU. If the employee knew or should have known about the possible noncompliance, then the report will not be included in VSRP.

c. Non-reporting employees covered under this ATSAP-X MOU. If an ATSAP-X report identifies another covered employee in an event involving possible noncompliance with FAA Orders, NAS Modernization Documentation, while performing engineering and implementation and/or flight activities in support of aviation safety and the NAS and that employee has not submitted a separate report, the ERC will determine on a case-by-case basis whether that employee knew or reasonably should have known about the possible noncompliance. If the ERC determines that the employee did not know or could not have known about the apparent possible noncompliance, and the original report otherwise qualifies for inclusion under ATSAP-X, the ERC will offer the non-reporting employee the opportunity to submit his/her own ATSAP-X report. If the non-reporting employee submits his/her own report within 24-hours of notification from the ERC, that report will be afforded the same consideration under ATSAP-X as that accorded the report from the original reporting employee, provided all other ATSAP-X acceptance criteria are met.

d. Non-reporting employees not covered under this MOU. If an ATSAP-X report identifies another FAA employee who is not covered under this MOU, and the report indicates that an employee may have been involved in possible noncompliance with FAA Orders and/or NAS Modernization Documentation, or other safety-related activity while performing engineering and implementation and/or flight activities in support of aviation safety and the NAS, the ERC will determine on a case-by-case basis whether it would be appropriate to offer that employee the opportunity to submit an ATSAP-X report. If the ERC determines that it is appropriate, the ERC will provide that employee with information about this VSRP and invite the employee to submit an ATSAP-X report. If the employee submits a report within 24-hours of notification from the ERC, that report will be covered under this MOU; provided all other ATSAP-X acceptance criteria are met.

7. POINTS OF CONTACT. The ERC will be comprised of one representative from FAA management, one representative from ATO Safety, and one representative from NATCA assigned as the ATSAP-X representative, or designated alternatives in their absence. The ATO Safety Representative's primary function is to provide a neutral perspective and to ensure Agency compliance with VSRP processes and policies. In addition, FAA will designate one person who will serve as the ATSAP-X manager. The ATSAP-X manager will be responsible for program administration, and will not serve as a member of the ERC.

8. VSRP OFFICE AND ELECTRONIC REPORTING SYSTEM. When the ATSAP-X reporting system receives a report, the date and time of any event described in the report and the date and time the report was submitted will be recorded. The report will be placed, along with

all supporting data, on the agenda for the next ERC meeting. Reports should be provided to all ERC members prior to the scheduled ERC meeting. The ERC will determine whether a report is submitted in a timely manner or whether extraordinary circumstances precluded timely submission. To confirm that a report has been received, the system will send an electronic receipt to each employee who submits a report. The VSRP office will serve as the focal point for information about and inquiries concerning the status of ATSAP-X reports and for the coordination and tracking of ERC recommendations. The VSRP office will work collaboratively with NATCA.

The VSRP office will maintain a database that continually tracks each event and the analysis of those events. The ATSAP-X manager will conduct a 12-month review of the ATSAP-X database with emphasis on determining whether corrective actions have been effective in preventing or reducing the recurrence of safety-related events of a similar nature. This review will include recommendations for corrective action for recurring events indicative of adverse safety trends. This review is in addition to any other reviews conducted by the FAA.

The VSRP office will also be responsible for preparing a final report on the demonstration program at its conclusion. If an application for a continuing program is anticipated, the ERC will prepare and submit a report 60-days in advance of the termination date of the demonstration program.

9. EVENT REVIEW COMMITTEE. The ERC will review and analyze reports submitted by the employees under the program, identify actual or potential safety problems from the information contained in the reports, and may propose solutions for those problems. The ERC will provide feedback to the individual who submitted the report in a timely manner.

a. The ERC will meet as necessary to review and analyze reports that will be listed on an agenda submitted by the ATSAP-X manager. The ERC will determine the time and place of the meeting. The ERC will meet at least once-a-month or as determined by the ERC members, while taking into consideration the number of reports that have accumulated or the need to acquire time-critical information.

b. The ERC will make its decisions involving reported issues based on consensus. Under this VSRP, consensus of the ERC means the voluntary agreement of all the representatives in the ERC. It does not require that all members believe that a particular decision or recommendation is the most desirable solution, but that the result falls within each member's range of acceptable solutions for that event in the best interest of safety. In order for this concept to work effectively, each ERC representative shall be empowered to make decisions within the context of the ERC discussions on a given report. The ERC representatives will strive to reach a consensus on whether a reported event is covered under the program, how that event should be addressed, and the corrective action or any enforcement action that should be taken as a result of the report. For example, the ERC should strive to reach a consensus on the recommended corrective action to address a safety problem such as an operating deficiency or noncompliance with FAA Orders and/or NAS Modernization Documentation, while performing engineering and implementation and/or flight activities in support of aviation safety and the NAS, reported under

ATSAP-X. In collaboration with NATCA, the corrective action process will include working the safety issue(s) with the appropriate departments at the FAA that have the expertise and responsibility for the safety area of concern. The FAA will not use the content of the ATSAP-X report in any subsequent disciplinary action, except as described in paragraph 10a(3) of this MOU.

e. It is anticipated that various types of reports will be submitted to the ERC: safety-related reports that appear to involve a possible noncompliance with FAA Orders and/or NAS Modernization Documentation, while performing engineering and implementation and/or flight activities in support of air traffic control and the NAS; as well as reports that are of a general safety concern, but do not appear to involve possible noncompliance with FAA Orders and/or NAS Modernization Documentation, while performing engineering and implementation and/or flight activities in support of air traffic control and the NAS; and other types of safety-related reports. All safety-related reports shall be fully evaluated and, to the extent appropriate, investigated.

d. The ERC will forward non-safety related reports to the appropriate FAA department head for his/her information and, if possible, internal (FAA) resolution. For reports related to air traffic safety, including reports involving possible noncompliance with FAA Orders and/or NAS Modernization Documentation, while performing engineering and implementation activities and/or flight activities in support of aviation safety and the NAS, the ERC will analyze the report, conduct interviews of reporting employees if necessary, and gather additional information concerning the matter described in the report.

e. The ERC should also make recommendations to the FAA for corrective action of systemic issues. For example, such corrective action might include changes to procedures or the training curriculum for Engineers and Architects. Any recommended changes will be forwarded through the VSRP office to the appropriate FAA department head for consideration and comment, and, if appropriate, implementation. The FAA will work with NATCA to develop appropriate corrective action for systemic issues. The VSRP office will track the implementation of the recommended corrective action and report on associated progress as part of the regular ERC meetings. Any recommended corrective action that is not implemented, should be recorded and monitored along with the reason it was not implemented.

f. Any individual corrective action recommended by the ERC for a report accepted under this MOU must be completed to the satisfaction of all members of the ERC, or the ATSAP-X report will be excluded from the program.

g. Use of the FAA ATSAP-X Report: Neither the written ATSAP-X report nor the content of the written ATSAP-X report will be used to initiate, support, or as evidence for any disciplinary action. The ATO may conduct an independent investigation of an event disclosed in a report as long as it is known through other means.

10. FAA ENFORCEMENT.

a. **Criteria for Acceptance.** The following criteria must be met in order for a report to be covered under this VSRP:

(1) The employee must submit the report in accordance with the time limits specified under paragraph six of this MOU;

(2) Any possible noncompliance with applicable FAA Orders and/or NAS Modernization Documentation, while performing engineering and implementation and/or flight activities in support of aviation safety and the NAS disclosed in the report must not appear to involve an individual knowingly introducing a substantial and unjustifiable level of risk or intentional disregard for safety; and,

(3) The reported event must not appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification. Reports involving those events will be referred to an appropriate FAA office for further handling. The FAA may use the content of such reports for any enforcement purposes and will refer such reports to law enforcement agencies, if appropriate. If upon completion of subsequent investigation it is determined that the event did not involve any of the aforementioned activities, then the report will be referred back to the ERC for a determination of acceptability under this MOU. Such referred, back reports will be accepted under this VSRP provided they otherwise meet the acceptance criteria contained herein.

b. **Sole-Source Reports.** The ERC shall consider a report to be "sole-source" when all evidence of the event available to the FAA is discovered by or otherwise predicated on the report. Apparent violations disclosed in ATSAP-X reports that are covered under the program and are sole-source reports will be addressed with an ERC response. It is possible to have more than one "sole-source" report for the same event or safety problem.

c. **Reports Involving Qualification Issues.** ATSAP-X reports covered under the program that demonstrate a lack, or raise a question of a lack of qualification of an employee will be addressed through corrective action, if such action is appropriate and recommended by the ERC.

d. **Excluded from ATSAP-X.** Reported events involving possible noncompliance with FAA Orders and/or NAS Modernization Documentation, while performing engineering and implementation activities in support of aviation safety and the NAS that are excluded from ATSAP-X due to the reasons outlined in 10a (3) will be referred to an appropriate office within the FAA for any additional investigation and re-examination and/or enforcement action, as appropriate.

e. **Corrective Action.** Reports initially covered under this MOU will be excluded from the program and the submitter not entitled to the enforcement-related incentive if they fail to complete the recommended corrective action (for example, training or Professional Standards) in a manner satisfactory to all members of the ERC. Failure of an employee to complete the ERC

recommended corrective action in a manner satisfactory to all members of the ERC may result in the reopening of the case and referral of the matter for appropriate action.

f. Repeated Similar Instances of Noncompliance. Reports involving the same or similar possible noncompliance with the Regulations that were previously addressed with no action under ATSAP-X will be accepted into the program, provided they otherwise satisfy the acceptance criteria in paragraph six above. The ERC will consider on a case-by-case basis, the corrective action that is appropriate for such reports.

g. Closed Cases. A closed ATSAP-X case, including a related enforcement investigative report involving a noncompliance addressed with the enforcement-related incentive, or for which no action has been taken, may be reopened by consensus of the ERC and appropriate enforcement action taken if evidence later is discovered that establishes that the noncompliance should have been excluded from the program.

11. EMPLOYEE FEEDBACK. The VSRP office will provide regular feedback to the employees in a manner acceptable to the ERC. A monthly report will be published covering the number of reports received, the number of reports accepted and rejected, a list of the top issues raised, corrective action recommendations, and results. This report will be available on a designated page on the FAA employees website (<http://www.myfaa.gov>). Any employee who submitted a report may also contact the VSRP office to inquire about the status of his/her report. In addition, each employee who submits a report accepted under ATSAP-X will receive individual feedback on the final disposition of the report.


12. INFORMATION AND TRAINING. The details of the VSRP will be made available to all Engineers and Architects engaged in, and supporting aviation safety in appropriate NATCA and FAA publications. All personnel will receive written guidance outlining the details of the program at least two weeks before the program begins. Personnel will also receive additional instruction concerning the program during the next regularly scheduled training session, and on a continuing basis in training thereafter. All new-hire personnel will receive training on the program during initial training.

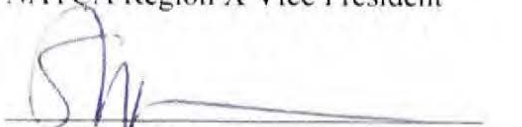
13. REVISION CONTROL. Revisions to this MOU may be proposed by any party, and will require agreement between the parties before change can be affected.

14. RECORDKEEPING. All documents and records regarding this program will be kept by the VSRP office and will be made available to the other parties of this agreement at their request. All records and documents relating to this program will be appropriately kept in a manner that ensures compliance with all applicable FAA Orders and/or NAS Modernization Documentation, while performing engineering and implementation and/or flight activities in support of aviation safety and the NAS. NATCA and FAA will maintain records they deem necessary to meet their needs.


15. SIGNATORIES. All parties to this ATSAP-X MOU are entering into this agreement voluntarily.

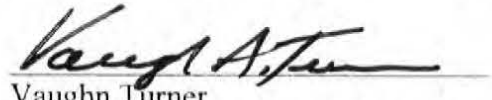
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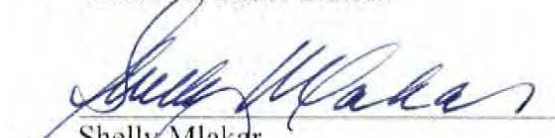
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