

**FAA AIR TRAFFIC ORGANIZATION (ATO)
AIR TRAFFIC SAFETY ACTION PROGRAM (ATSAP)
for AIR TRAFFIC PERSONNEL
MEMORANDUM OF UNDERSTANDING**

1. PURPOSE. The FAA and NATCA are committed to improving air traffic control (ATC) system safety. Each party has determined that safety would be enhanced if there were a systematic approach for all ATC personnel to promptly identify and correct potential safety hazards. The primary purpose of the ATO Air Traffic Safety Action Program (ATSAP) is to identify safety events and implement skill enhancement and system corrective action to reduce the opportunity for safety to be compromised. In order to facilitate safety analysis and system corrective action, all ATC stakeholders join the FAA in voluntarily implementing this ATSAP for all ATC personnel, which is intended to improve flight safety through self-reporting, cooperative follow-up, and appropriate skill enhancement or system corrective action. This Memorandum of Understanding (MOU) describes the provisions of the program.

2. 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 skill enhancement or system corrective action to help solve safety issues and possibly eliminate deviations from and deficiencies in applicable air traffic control directives. For a report accepted under this ATSAP MOU, the Air Traffic Safety Oversight Service (AOV) will use lesser action or no action, depending on whether it is a sole-source report, to address an event involving possible noncompliance with applicable air traffic control directives.

3. APPLICABILITY. The FAA ATO ATSAP applies to all FAA recognized credentialed personnel engaged in, and supporting air traffic services and only to events that occur while acting in that capacity. Reports of events involving apparent noncompliance with applicable air traffic control directives that are not inadvertent or that involve gross negligence, criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification are excluded from the program.

4. 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 ATSAP may be terminated at any time for any reason by NATCA, the FAA, or any other party to the MOU. 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.

5. REPORTING PROCEDURES. When a credentialed individual 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.

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5a. ATSAP Report Form. At an appropriate time during the duty day, the employee should complete FAA ATO ATSAP Form for each safety problem or event. The report must be submitted within 24 hours of the employee's duty day end time, (e.g. after the workday has ended) and submit it to (<https://atsapsafety.com>).

5b. Time Limit. Reports that the ERC determines to be sole-source will be accepted under the ATSAP; 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 Event Review Committee (ERC) determine to be non sole-source must meet the same acceptance criteria, and must also be filed within one of the following two possible timeframes:

5b(1). Within 24 hours after the end of the duty day for the day of occurrence, absent extraordinary circumstances. For example, if the event occurred at 1400 hours on Monday and a credentialed individual's shift for that day ends at 1900 hours, the report should be filed no later than 1900 hours on the following day (Tuesday). In order for all credentialed personnel to be covered under the ATSAP for any apparent noncompliance with air traffic control directives resulting from an event, they must all sign the same report or submit separate signed reports for the same event. If the ATSAP system is not available to the credentialed individual at the time he or she needs to file a report, the employee may contact the ATSAP manager's office and file a report via fax or telephone within 24 hours after the end of the controller's shift for the day of occurrence, absent extraordinary circumstances. Reports filed telephonically within the prescribed time limit must be followed by a formal report submission within three calendar days.

5b(2). Within 24 hours of having become aware of possible noncompliance with air traffic control directives 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 5b(1) above, the ERC will review all available information to determine whether the credentialed individual knew or should have known about the possible noncompliance with air traffic control directives within that time period. If the ERC determines that the credentialed individual did not know or could not have known about the possible noncompliance with air traffic control directives until informed of it, then the report would be included in ATSAP, provided the report is submitted within 24 hours of having become aware of possible noncompliance with air traffic control directives, 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 with air traffic control directives, then the report will not be included in ATSAP.

5c. Non-reporting employees covered under this ATSAP MOU. If an ATSAP report identifies another covered employee in an event involving possible noncompliance with applicable air traffic control directives and that employee has neither signed that report nor 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 with applicable air traffic control directives. If the ERC determines that the employee did not know or could not have known about the apparent possible noncompliance with applicable air traffic control directives, and the original report otherwise qualifies for inclusion under ATSAP, the ERC will offer the non-reporting employee the opportunity

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to submit his/her own ATSAP 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 as that accorded the report from the original reporting employee, provided all other ATSAP acceptance criteria are met. However, if the non-reporting employee fails to submit his/her own report within 24 hours of notifications from the ERC, the possible noncompliance with applicable air traffic control directives by that employee will be referred to an appropriate office within the FAA for additional investigation and reexamination.

5d. Non-reporting employees not covered under this ATSAP MOU. If an ATSAP report identifies another employee who is not covered under this MOU, and the report indicates that employee may have been involved in possible noncompliance with applicable air traffic control directives, 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 report. If the ERC determines that it is appropriate, the ERC will provide that employee with information about ATSAP and invite the employee to submit an ATSAP report. If the employee submits an ATSAP report within 24 hours of notification from the ERC, that report will be covered under ATSAP, provided all other ATSAP acceptance criteria are met. If the employee fails to submit an ATSAP report within 24 hours of notification from the ERC, the possible noncompliance with applicable air traffic control directives by that employee will be referred to an appropriate office within the FAA for additional investigation and reexamination.

6. POINTS OF CONTACT. The ERC will be comprised of one representative from, or approved by ATO Safety Services, one representative from NATCA, and one AOV Air Traffic Safety Inspector (ATSI) assigned as the ATSAP representative or designated alternates in their absence. In addition, the ATO Safety Service will designate one person who will serve as the ATSAP manager. The ATSAP manager will be responsible for program administration and will not serve as a voting member of the ERC.

7. ATSAP MANAGER. When the ATSAP manager receives the report, he or she will record the date and time of any event described in the report and the date and time the report was submitted through the ATSAP system. The ATSAP manager will maintain a database that continually tracks each event and the analysis of those events. The ATSAP manager will enter the report, along with all supporting data, on the agenda for the next 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 ATSAP manager will send a written receipt to each employee who submits a report. The receipt will confirm whether or not the report was determined to be timely. The ATSAP manager will serve as the focal point for information about, and inquiries concerning the status of ATSAP reports, and for the coordination and tracking of ERC recommendations. The ATSAP manager will report on progress of the recommended system corrective action implementation as part of the regular ERC meetings. The ATSAP manager will publish a monthly synopsis of the reports received from credentialed personnel, with sufficient information so that the credentialed personnel can identify their reports. The outcome of each report will be published, however employee names will not be included in the synopsis. The ATSAP

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manager will provide any employee who submitted an ATSAP report with the status of his/her report.

8. EVENT REVIEW COMMITTEE (ERC). The ERC will review and analyze reports submitted by the credentialed personnel under the program, identify actual or potential safety problems from the information contained in the reports, and propose solutions for those problems. The ERC will provide feedback to the individual who submitted the report.

8a. The ATSAP manager will maintain a database that continually tracks each event and the analysis of those events. The ERC will conduct a 12-month review of the ATSAP database with emphasis on determining whether system corrective action has been effective in preventing or reducing the recurrence of safety-related events of a similar nature. That review will include recommendations for system corrective action for recurring events indicative of adverse safety trends.

8b. This ERC review is in addition to any other reviews conducted by the FAA. The ERC 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. ERC PROCESS. The ERC will meet as necessary to review and analyze reports that will be listed on an agenda submitted by the ATSAP manager. The ERC will determine the time and place of the meeting. The ERC will meet at least twice a month, and the frequency of meetings will be determined by the number of reports that have accumulated or the need to acquire time-critical information.

9a. The ERC will make its decisions involving ATSAP issues based on consensus. Under the ATO ATSAP, consensus of the ERC means the voluntary agreement of all representatives of 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 consensus on whether a reported event is covered under the program, how that event should be addressed, and the skill enhancement or system corrective action that should be taken as a result of the report. For example, the ERC should strive to reach a consensus on the recommended skill enhancement or system corrective action to address a safety problem such as an operating deficiency or noncompliance with an air traffic control directive reported under ATSAP. The system corrective action process would include working the safety issue(s) with the appropriate facility or service area and the ATO that have the expertise and responsibility for the safety area of concern. AOV will not use the content of an ATSAP report in any subsequent credential action except as described in paragraph 10 of this document. However, recognizing that AOV holds regulatory authority to enforce the necessary air traffic control directives, it is understood that AOV retains all legal rights and responsibilities contained in FAA Order 1100.161, FAA Order 8000.90, and FAA Order

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8000.86 in the event there is not a consensus of the ERC on decisions concerning a report involving an apparent noncompliance(s), or qualification issue. ATO will not use the content of the ATSAP report in any subsequent disciplinary action, except as described in paragraph 10a(3) of this MOU.

9b. The parties to this agreement anticipate various types of reports will be submitted to the ERC. Reports may include: safety-related reports that appear to involve a possible noncompliance with applicable air traffic control directives, reports that are of a general safety concern, but do not appear to involve possible noncompliance with applicable air traffic control directives, all operational errors, and any other reports. All safety-related reports shall be fully evaluated and, to the extent appropriate, investigated.

9c. The ERC will forward non-safety reports to the appropriate ATO department head for his/her information and, if possible, internal resolution. For reports related to flight safety, including reports involving possible noncompliance with applicable air traffic control directives, the ERC will analyze the report, conduct interviews of reporting credentialed personnel, and gather additional information concerning the matter described in the report, as necessary.

9d. The ERC should also make recommendations for changes to systemic issues. For example, changes to the training curriculum for credentialed personnel. Any recommended changes will be forwarded through the ATSAP manager to the appropriate ATO department head for consideration and comment, and, if appropriate, implementation. The FAA will work with NATCA to develop appropriate changes for systemic issues. The ATSAP manager will track the implementation of the recommended skill enhancement or system corrective action and report on associated progress as part of the regular ERC meetings. Any recommended skill enhancement or system corrective action that is not implemented should be recorded along with the reason it was not implemented.

9e. ERC Recommendations. Any skill enhancement or system corrective action recommended by the ERC for a report accepted under ATSAP must be completed to the satisfaction of all members of the ERC, or the ATSAP report will be excluded from the program.

9f. Use of the ATO ATSAP Report: Neither the written report nor the content of the written ATSAP report will be used to initiate or support any ATO disciplinary action, or as evidence for any purpose in an AOV credential action, except as provided in paragraph 10a(3) of this MOU. The ATO or AOV may conduct an independent investigation of an event disclosed in a report.

10. ENFORCEMENT.

10a. Criteria for Acceptance. The following criteria must be met in order for a report to be covered under ATSAP:

10a(1). The employee must submit the report in accordance with the time limits specified under paragraph 5 of this MOU;

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10a(2) Any possible noncompliance with applicable air traffic control directives disclosed in the report must be inadvertent and must not involve gross negligence; and,

10a(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 ATSAP. Back reports involving the aforementioned activities will be accepted under ATSAP provided they otherwise meet the acceptance criteria contained herein.

10b. Sole-Source Reports. The ERC shall consider a report to be sole-source when all evidence of the event available to the ATO outside of the ATSAP is discovered by or otherwise predicated on the ATSAP report, or when a credentialed individual that has had an operational error or deviation files an ATSAP report. It is possible to have more than one sole-source report for the same event.

10c. Reports Involving Qualification Issues. ATO ATSAP reports covered under the program that demonstrate a lack, or raise a question of a lack, of qualification of a credentialed individual will be addressed with skill enhancement, if such action is appropriate and recommended by the ERC.

10d. Excluded from ATSAP. Reported events involving possible noncompliance with applicable air traffic control directives that are excluded from ATSAP will be referred by the AOV ERC member to an appropriate office within the FAA for any additional investigation and re-examination and/or enforcement action, as appropriate.

10e. Skill Enhancement. Employees initially covered under an ATSAP will be excluded from the program and not entitled to the enforcement-related incentive if they fail to complete the recommended skill enhancement in a manner satisfactory to all members of the ERC. Failure of an employee to complete the ERC recommended skill enhancement 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.

10f. System Corrective Action. Failure of the ATO organization to complete the ERC recommended system 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.

10g. Repeated Instances of Noncompliance. The ERC will consider on a case-by-case basis the skill enhancement or system corrective action that is appropriate for such reports.

10h. Closed Cases. A closed ATSAP 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 and appropriate credential action taken if evidence later is discovered that establishes that the noncompliance should have been excluded from the program.

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11. EMPLOYEE FEEDBACK. The ATSAP manager will publish a synopsis of the reports received from credentialed personnel. It is intended that through this agreement ATSAP synopsis reports may be included in NATCA's Air Traffic Controller publication monthly. The synopsis will include enough information so that credentialed personnel can identify their reports. Employee names, however, will not be included in the synopsis. The outcome of each report will be published. Any employee who submitted a report may also contact the ATSAP manager to inquire about the status of his/her report. In addition, each employee who submits a report accepted under ATSAP will receive individual feedback on the final disposition of the report.

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

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

14. RECORD KEEPING. All documents and records regarding this program will be kept by the ATO-S ATSAP manager and 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 air traffic ATSAP MOU directives and all applicable law. NATCA and FAA will maintain whatever records they, deem necessary to meet their needs.

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

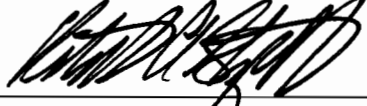
For NATCA:



Patrick Forrey, President
National Air Traffic Controllers Association (NATCA)


3-27-08
Date

For the FAA:



Robert A. Sturgell
Acting Administrator, Federal Aviation Administration

3-27-08
Date



Anthony S. Ferrante
Director of Air Traffic Safety Oversight Service

3-27-08
Date