

The Promise of Collaborative Voluntary Partnerships: Lessons from the Federal Aviation Administration

By Russell W. Mills

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Government managers in regulatory agencies seek to design regulatory programs that ensure industry compliance while fostering collaboration and trust between government and industry. Voluntary regulatory partnership programs (VRPPs) are one method used by government managers to ensure industry compliance while encouraging the flow of information between industry and government without fear of retribution. Much of the discussion over these partnership programs has focused on the traditional government role as regulator and whether that regulation should be solely a government function. Some argue that VRPPs represent industry’s capture of regulatory agencies, while others claim that these programs represent a third way of ensuring industry compliance with regulation.

While the promise of collaborative regulatory partnerships has made them popular in governments at all levels, little attention has been paid to the characteristics of successful collaborative VRPPs. What are effective management practices that lead to successful collaborative voluntary partnerships, and what are some of the limitations of these partnership programs?

Since 1975, the Federal Aviation Administration (FAA) has operated voluntary safety reporting programs (VSRPs) that offer a regulatory incentive for operators to report potential safety hazards and violations within their organizations.

- **The Aviation Safety Reporting System (ASRS, started in 1975)** is a confidential voluntary reporting system operated by the National Aeronautics and Space Administration (NASA) that receives, processes, and analyzes incident reports from users of the national airspace—pilots, air traffic controllers, dispatchers, flight attendants, maintenance technicians, and others—that describe unsafe occurrences and hazardous situations. In exchange for their submissions, airspace users who meet qualifying

criteria are ensured confidentiality in their reports and a waiver of penalty under Section 91.25 of the Federal Aviation Regulations (AC 00-46D).

- **The Voluntary Disclosure Reporting Program (VDRP, started in 1990)** is a program that offers air carriers reduced regulatory enforcement action if they voluntarily report systemic problems within their operation, and work collaboratively with their local FAA Certificate Holding District Office on designing a comprehensive fix to the problem.
- **The Aviation Safety Action Program (ASAP, started in 1997)** is a VSRP that allows employees of air carriers and other certificate-holding organizations to report safety-related events without the FAA or the carrier taking punitive action against the employee based on the information in the report. Unlike other voluntary programs, ASAP involves a partnership between three entities—the FAA, the air carrier, and the employee union—that is codified through a formal memorandum of understanding (MOU).





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In many regulatory agencies, VRPPs represent a paradigm shift from a culture of enforcement to one of partnership and collaboration. To assist government managers, this report outlines lessons learned from the FAA’s experience with three voluntary safety-reporting programs. The lessons are broken down into three categories: administrative, regulatory, and data analysis.

Administrative Lessons

- **Lesson One:** Regulatory agencies should have a dedicated organizational entity focused on voluntary programs. This entity should have sufficient autonomy to develop program policy guidance, to conduct routine audits and evaluations of voluntary programs that ensure consistency and standardization, and to conduct analysis of data captured from these programs.
- **Lesson Two:** Regulatory agencies must dedicate adequate personnel to the implementation of VRPPs at the local level.
- **Lesson Three:** Regulatory agencies and companies should use collaborative processes to develop and implement meaningful corrective actions that remedy safety hazards. This will both advance the agency’s safety mission and limit the perception that voluntary programs are “amnesty” or “get out of jail free” programs.
- **Lesson Four:** Regulatory agencies should use a variety of collaborative tools, such as third-party agreements, to foster trust and effectively implement voluntary regulatory partnership programs (VRPPs).

Regulatory Lessons

- **Lesson Five:** Voluntary programs should be truly voluntary and not forced upon companies and/or employee groups.
- **Lesson Six:** Voluntary programs should be nonpunitive, and provide reduced regulatory and company enforcement actions to all stakeholders who participate and share information with regulatory agencies.
- **Lesson Seven:** Confidentiality of voluntarily submitted data is critical to building an effective reporting culture

Evolution of VRPPs at a Glance

The Aviation Safety Reporting System (ASRS, started in 1975) is a voluntary incident-reporting program operated by NASA that accepts reports documenting potential safety hazards from all users of the national air space including pilots, maintenance personnel, dispatchers, and air traffic control in exchange for immunity and confidentiality.

The Voluntary Disclosure Reporting Program (VDRP, started in 1990) allows air carriers to voluntarily submit disclosures of safety violations within the company’s operation found through internal audit processes to the FAA in exchange for reduced enforcement action. The FAA and the carrier work collaboratively to develop a comprehensive solution to the safety hazards identified.

The Aviation Safety Action Program (ASAP, started in 1997) is a partnership between the FAA, an individual air carrier, and an employee union that focuses on reviewing voluntarily submitted incident reports by employees to identify safety hazards within an operation and to develop corrective actions to prevent similar incidents.

among employees and companies, and it must be clearly defined in program guidance.

- **Lesson Eight:** Regulatory agencies should use voluntary regulatory partnership programs (VRPPs) to complement, not replace, traditional enforcement tools.

Data Analysis/Information Technology Lessons

- **Lesson Nine:** To identify trends in safety hazards, regulatory agencies and companies need effective and robust data analysis capabilities at both the local and national levels.

Table 1: The Regulatory Dilemma

Government Enforcement Style	Firm Response to Enforcement Style	
	Evade	Self-Police
<p>Deterrence (Command-and-Control Tools: Strict standards, inspections, penalties for noncompliance)</p>	<p>Highest level of conflict Highest level of cost In the face of a command-and-control regulatory environment, firms attempt to hide information and violations from regulators.</p>	<p>Mid-level of conflict High level of cost Regulators worry that over reliance on self-policing may lead to perception of capture. Agencies increase traditional oversight activities while also participating in voluntary programs.</p>
<p>Collaboration (Less stringent adherence to standards, focus on building trust between regulator and regulated, incentives for regulatory compliance and self-reporting of violations)</p>	<p>Mid-level of conflict Low level of cost While regulators are willing to act collaboratively, firms report less severe violations in hopes that government will not find severe, more extensive violations. Firms worry that self-reported violations can be used to take punitive action.</p>	<p>Lowest level of conflict Lowest level of cost In exchange for reduced regulatory penalties firms agree to take proactive approach to safety by self-reporting violations, which lowers regulators cost of enforcement.</p>

Source: Adapted from Scholz 1991; Potoski and Prakash 2004

- **Lesson Ten:** Regulatory agencies should use a uniform reporting platform for all VRPPs to maximize the efficiency and timeliness of analysis and outputs.
- **Lesson Eleven:** Regulatory agencies should develop a national-level database that is used to perform analyses of voluntarily submitted data. This analysis should produce alert materials that inform system users of potential systemic safety hazards.

Recommendations for Implementing Voluntary Programs in Government Organizations

Recommendation One: In order to successfully implement voluntary regulatory partnership programs (VRPPs), agencies must work to transform their enforcement culture to view voluntary and collaboration programs as complementary to its regulatory mission.

A key component of implementing voluntary programs within an agency is to understand that to err is human—and that most errors within an organization are the result of a system, and not the people, committing the error. Traditional regulatory regimes view human error as a violation that needs to be punitively addressed in order to prevent that violation

from occurring again. However, if one attempts to correct the individual making the mistake without addressing the potential larger systemic issues behind the error, violations will continue to occur and potentially lead to a larger-scale incident. In voluntary programs, the goal of regulators is to establish an environment in which firms and employees who realize that they have made an error will have an incentive to report it to the regulator instead of attempting to hide the violation.

This is a major departure from the traditional “enforcement” regulatory culture that focuses on changing behavior through punitive means. Even after more than 30 years of operating voluntary programs, the FAA still struggles with convincing its inspector workforce of the usefulness and importance of voluntary programs. Some steps managers can take to change from an enforcement culture to a partnership culture are:

- Develop a central voluntary programs office comprised of personnel with different backgrounds from those of the rest of the agency’s workforce (e.g., organizational psychology, human factors, etc.).
- Publicize any and all safety enhancements resulting from voluntary disclosures to illustrate progress.
- Involve as many of the agency’s inspectors as possible in the implementation of VRPPs through rotational assignments.

Table 3: Differences Between the FAA's Voluntary Safety Reporting Programs

	Aviation Safety Reporting System (ASRS)	Voluntary Disclosure Reporting Program (VDRP)	Aviation Safety Action Program (ASAP)
Year Created	1975	1990	1997
Impetus for Creation	Developed in response to NTSB investigation into crash of TWA Flight 514 on December 1, 1974	Response to pressure from air carriers over excessive fines	Developed by air carriers, adopted by FAA as result of recommendations from White House Commission on Aviation Safety following crash of ValuJet Flight 592.
Program Guidance	Advisory Circular 00-46D Federal Aviation Regulation 91.25	Advisory Circular 00-58B FAA Order 8900, Vol. 11, Ch. 1	Advisory Circular 120-66B FAA Order 8900, Vol. 11, Ch. 2 MOU
Key Actors	Any actor within the national airspace system	Air carrier and local CHDO principal inspectors	Air carrier, FAA CHDO representative, employee union representative
External FAA Partners	NASA, Booz Allen Hamilton	L3 Communications	MITRE (ASIAS Analysis of ASAP data), Universal Technical Resources Services (Web-Based Application Tool Development)
Regulatory Incentive	Full protection from certificate action by FAA	Reduced regulatory penalty from enforcement action to administrative action	Sole-source: Full protection from discipline from FAA and air carrier Non-sole-source: Protection from FAA, depending on MOU; limited protection from carrier discipline
Level of Disclosure	Individual	Company	Individual
Confidential Reports (Part 193 of Freedom of Information Act)	No	Yes	Yes
FAA Access to Reports	Unlimited through ASRS database	Online VDRP system, internal FAA database	Access is great at local CHDO level, restricted at FAA HQ level (moderated by ASIAS, MITRE and air carrier)
Included in the Aviation Safety Information Analysis and Sharing Program (ASIAS)	Yes	No	Only if carrier has agreement with MITRE and ASIAS
Holder of Discretion for Accepting Reports	ASRS Staff	CHDO PMIs and POIs	Event Review Committee
Number of Reports 2009	48,000	1,200	45,000
Program Outputs Generated	<i>CALLBACK</i> monthly publication, <i>Alert Bulletins</i> , queries to ASRS Database	Collaborative corrective fixes developed by CHDO and carrier.	Quarterly safety enhancement reports to FAA, queried reports from ASIAS, biannual INFOSHARE meetings, internal carrier publications

- Make program guidance as clear as possible to avoid confusion over the purpose of VRPPs.

Recommendation Two: Agencies should use a portfolio of voluntary programs coordinated by a dedicated organizational entity focused on the agency's collaborative voluntary partnership activities.

Many critics of voluntary regulatory partnership programs (VRPPs) have cited the recent failures of the Minerals Management Service (MMS) and the Securities and Exchange Commission (SEC) as reasons to abandon these programs and shift resources to enforcement activities. However, a look inside these agencies reveals that neither had a dedicated organizational entity with staff whose task was to develop and coordinate voluntary programs. These agencies were reliant upon one type of VRPP to provide them with information on the activities of the industries they were regulating.

One of the benefits of having a central voluntary organizational entity within an agency is that it can develop and coordinate several programs that address a variety of functions of an industry. The FAA Flight Standards Office (AFS-230) uses a portfolio of voluntary safety reporting programs (VSRPs) to give both employees and firms the opportunity to self-disclose violations.

While there are some areas of overlap between programs, AFS-230 uses each program in a specific way to give the FAA access to more safety data. The ASRS, also used by the general aviation community, gives the FAA access to data from that subgroup. The ASAP is used to gather safety reports from a variety of employee groups such as pilots, dispatchers, air traffic controllers, and maintenance and ramp operators. The VDRP is used to allow companies to self-disclose safety issues they have proactively identified in their operations. Each of these programs is coordinated through AFS-230, which helps both the FAA and industry understand how these programs complement one another.

Conclusion

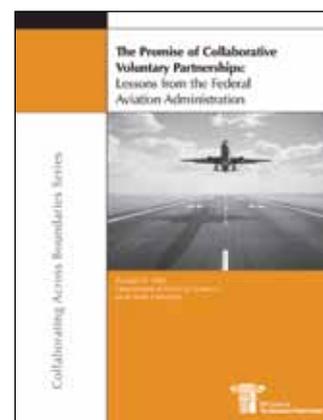
This report has examined the FAA's voluntary safety reporting programs (VSRPs) and the public management lessons learned from the implementation of voluntary regulatory partnership programs (VRPPs). As industry practices become increasingly complex and government resources for oversight become more constrained, the challenge before public managers is not how to provide more command-and-control oversight, but rather how to effectively design collaborative voluntary programs with industry to ensure a shared responsibility for compliance.



The lessons, presented in this report from the FAA's 30-plus years of experience in operating VRPPs with air carriers, offer public managers a series of effective management techniques to overcome the high-profile failures of VRPPs in both the SEC and MMS. They also offer insight on how to structure incentives and programs that foster a shared responsibility for oversight. ■

TO LEARN MORE

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The report can be obtained:

- In .pdf (Acrobat) format at the Center website, www.businessofgovernment.org
- By e-mailing the Center at businessofgovernment@us.ibm.com
- By calling the Center at (202) 551-9342