TRANSPORTATION RESEARCH BOARD

Plan for Disaster: Is Your Airport Prepared For An Airfield Accident?

Thursday, August 8, 2019 2:00-3:30 PM ET

Purpose

To discuss ACRP <u>Web-Only Document 31</u> and <u>Legal Research</u> Digest 33.

Learning Objectives

At the end of this webinar, you will be able to:

- Describe the capabilities of the Aircraft Accident
 Management and Guidance Tool and how to access it
- Discuss the emergency management capabilities of some of the key airport stakeholders that reside outside of the airport boundaries
- Identify what the duties and standards of care are for airfield accident cases
- Identify the typical elements of negligence action cases and what preemption is and how courts apply it

ACRP Web-Only Document 31

Improving Stakeholder Engagement in Aircraft Accident Planning and the Aircraft Accident Management and Guidance (AAMG) Tool

Kenneth P. Neubauer Futron Aviation Corporation





Kenneth P. Neubauer Principal Investigator

- Technical Director Aerospace Safety
 - Airport SMS Development
 - Airport Research
- Former US Navy Fighter Pilot
- Past Director Naval School of Aviation Safety
- Past Director Aviation Safety Programs, Naval Safety Center
- Principal Investigator
 - ACRP Project 11-02/Task 36
 - ACRP Project 06-08





ACRP Web-Only Document 31 Oversight Panel

Gary Mascaro – Scottsdale Airport, City of Scottsdale, AZ

<u>Heidi Benaman – Faith Group</u>

Scott Kimerer – Chief of Police City of Burien, WA (retired)

<u>Carlos Lopez – Skywest Airlines</u>

<u>Geoff Nielsen – City of Phoenix (AZ) Fire Department</u>

<u>Dan Sprinkle – Denver International Airport</u>

Marc Tonnacliff – FAA





ACRP Web-Only Document 31: Improving Stakeholder Engagement in Aircraft Accident Planning

Key Project Objectives and Products

- → Research and create guidance for airports in identifying and engaging aircraft accident response stakeholders
- Develop educational and guidance materials airports can use
- → Developed the Aircraft Accident Management and Guidance (AAMG) Tool
 - Downloadable from the TRB Website
 - Customizable by the airport or stakeholder user
- Researched where aircraft accidents occur in relation to airports
- → Made available in January 2017





ACRP Web-Only Document 31 Research Team

- → Ken Neubauer Futron Aviation
 - Principal Investigator
- Dave Fleet Faith Group (Futron Aviation)
 - Airport Safety SME
- Shawn Scharf Futron Aviation
 - Emergency Response SME
- Jeff Spenser LCE
 - Education and Training Development SME





ACRP Web-Only Document 31 Process for AAMG Tool Development

Phased Project Approach

- → Phase 1 White Paper Development
 - Where do aircraft accidents occur?
 - Who are the stakeholders in response planning?
- → Phase 2 Follow-On Research and Guidance Tool Development
- → Phase 3 Pilot Studies and Final Deliverables





ACRP Web-Only Document 31 Process for AAMG Tool Development

Workshops for Research and Tool Testing

- Phase 1 Workshops Stakeholder Research
 - Dallas Fort Worth International Airport (DFW)
 - Norfolk International Airport (ORF)
 - Buffalo Niagara International Airport (BUF)
- Phase 2 Workshops Follow-On Research and Validation
 - Pittsburgh International Airport (PIT)
 - Boston Logan International Airport (BOS)
- Phase 3 Workshops AAMG Tool Testing
 - Chennault International Airport (CWF)
 - LaCrosse Regional Airport (LSE)
 - Richmond Executive Airport (FCI)





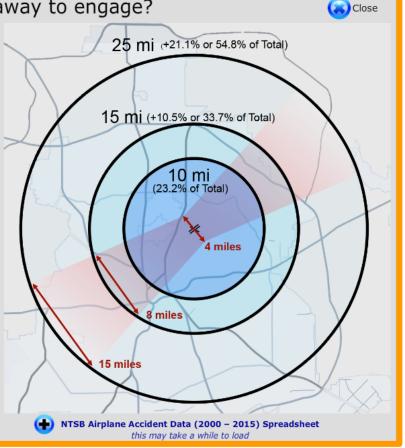
ACRP Web-Only Document 31 Where Aircraft Accidents Occur

How far away to engage?

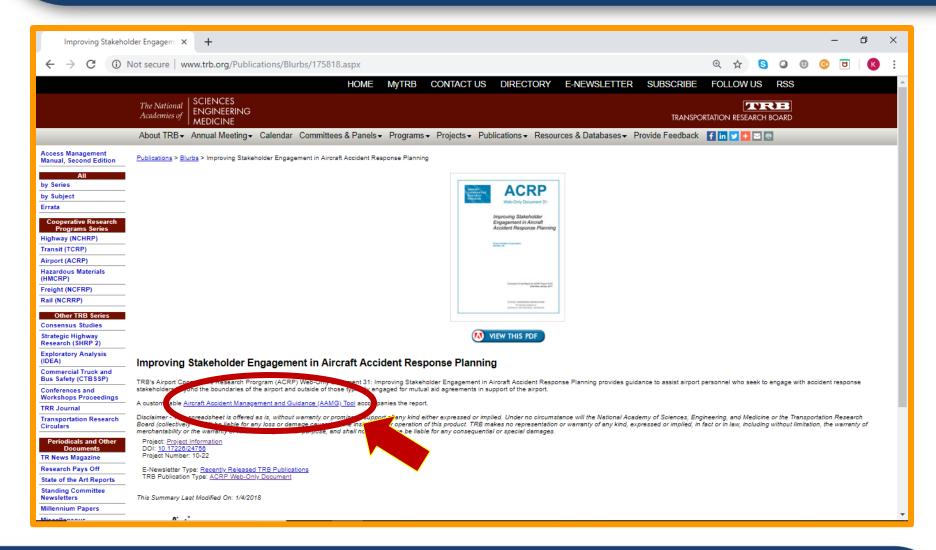
Airplane Accidents Occurring at Distances from Part 139 Certificated Airports (2005 - 2014)

Miles from Airport Center	Number of accidents	Percent of accidents
<= 10	2,970	23.2%
<= 15	4,308	33.7%
<= 25	7,004	54.8%
> 25	5,782	45.2%

- The statistics are based upon analysis of NTSB data from 2005 to 2014.
- · Distances are from the center of the airport (FAA data) and the recorded location of the accident (NTSB data).
- The data set was limited to flights operating under CFR Parts 91, 121, & 135.
- Recommendation: Airports should use 25 miles from the airport along the extended centerlines of the primary runways as the starting point for stakeholder engagement.

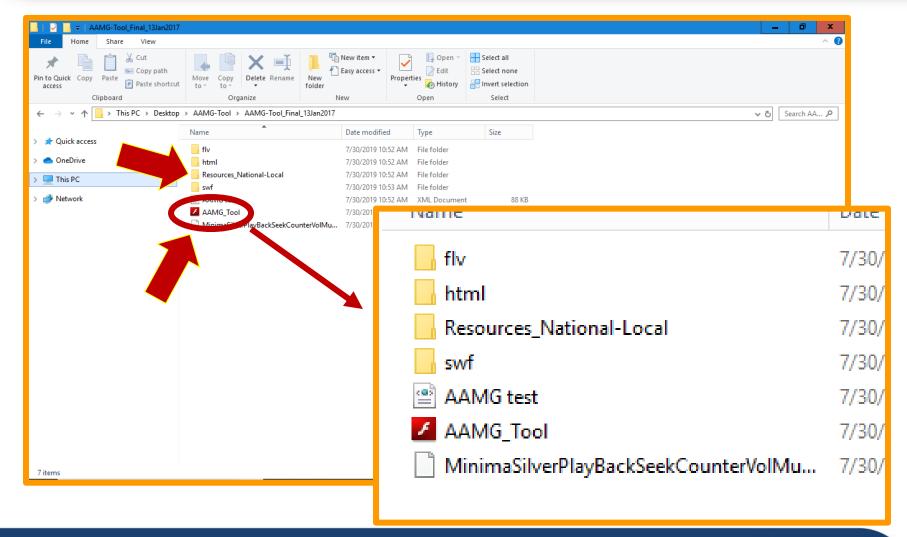








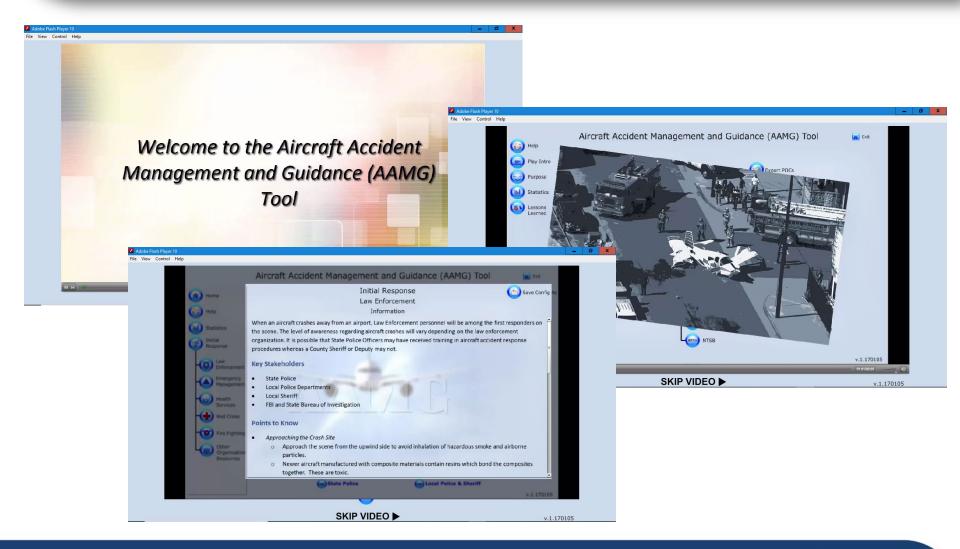






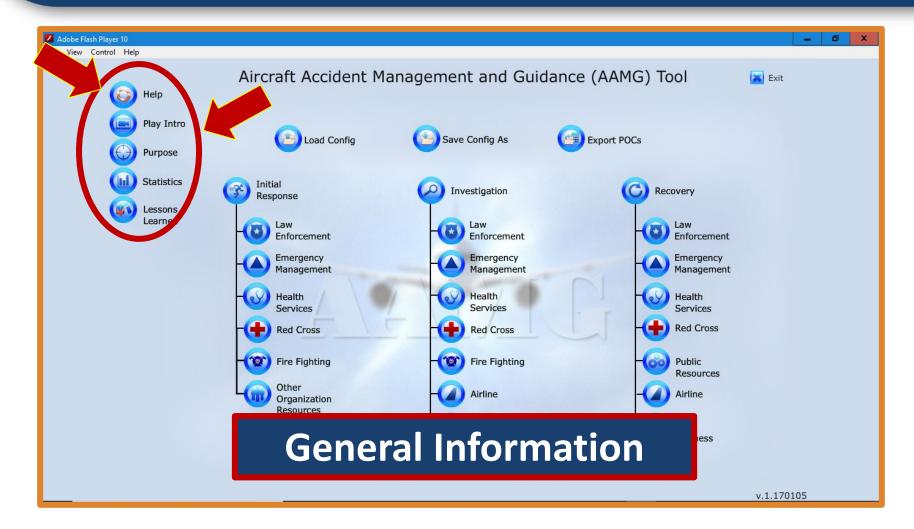


ACRP Web-Only Document 31 AAMG Tool – Introductory Video



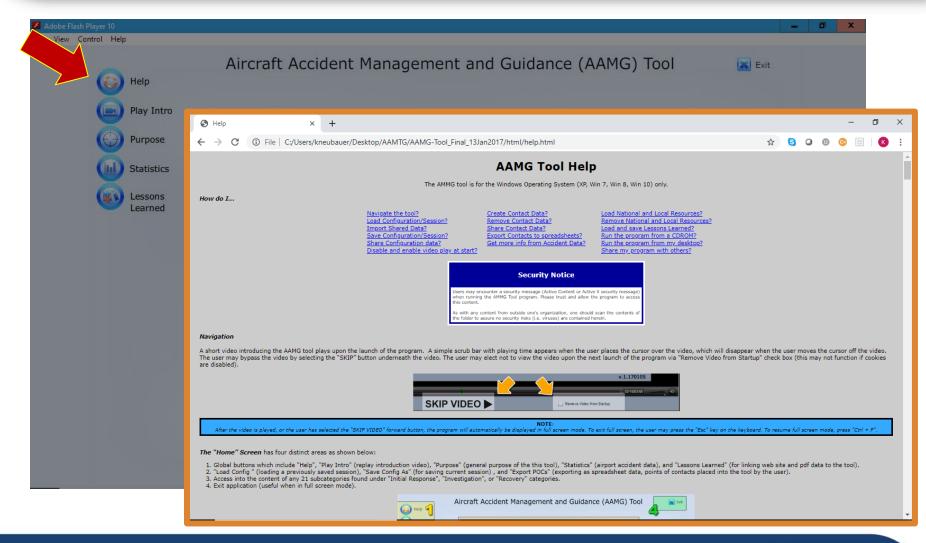






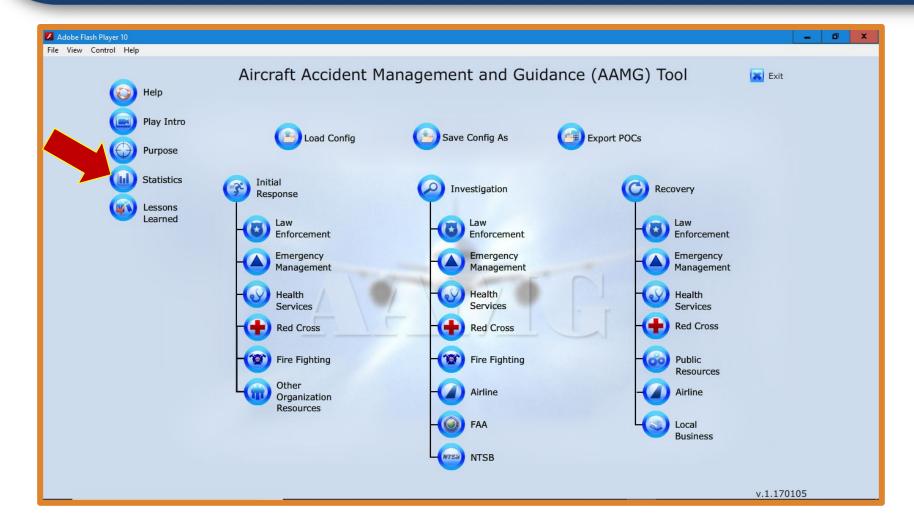






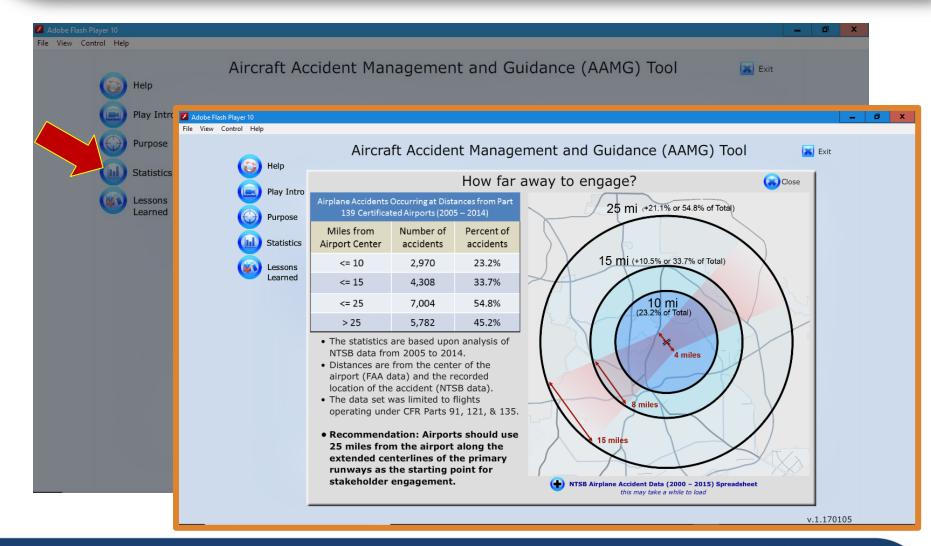






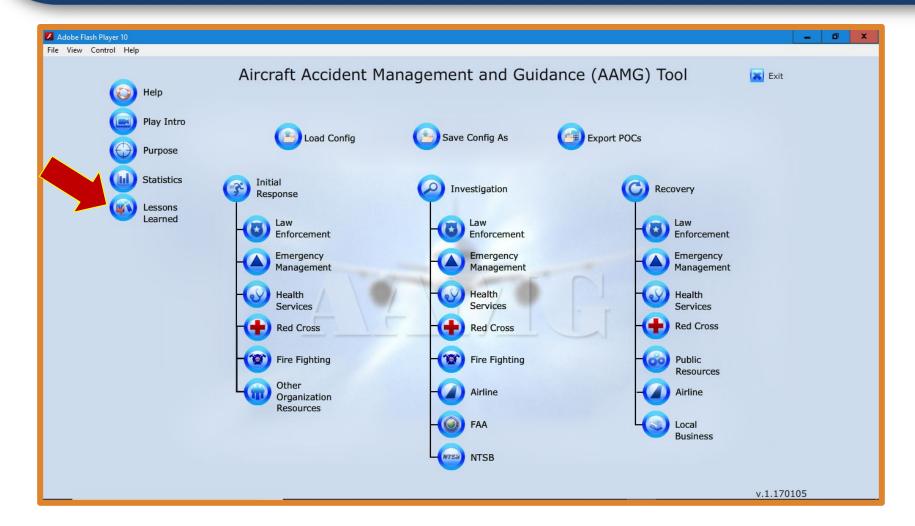






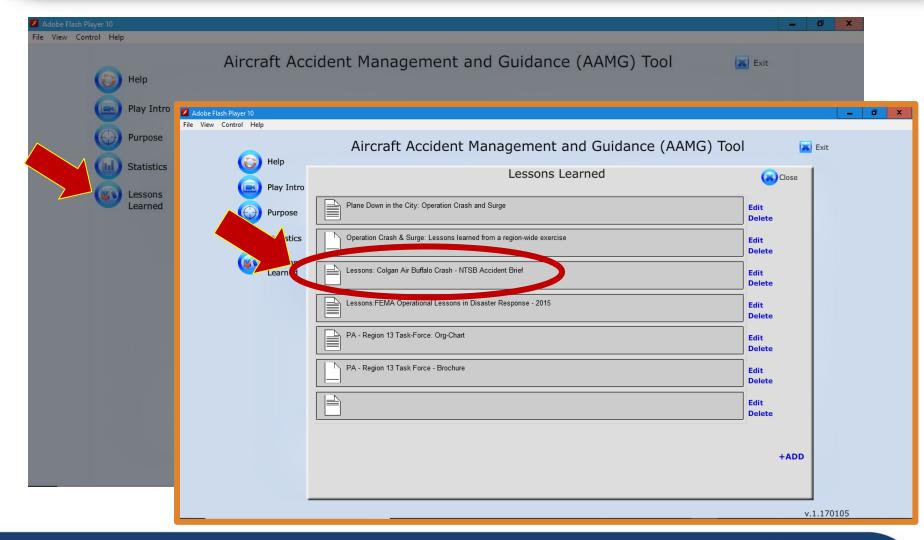






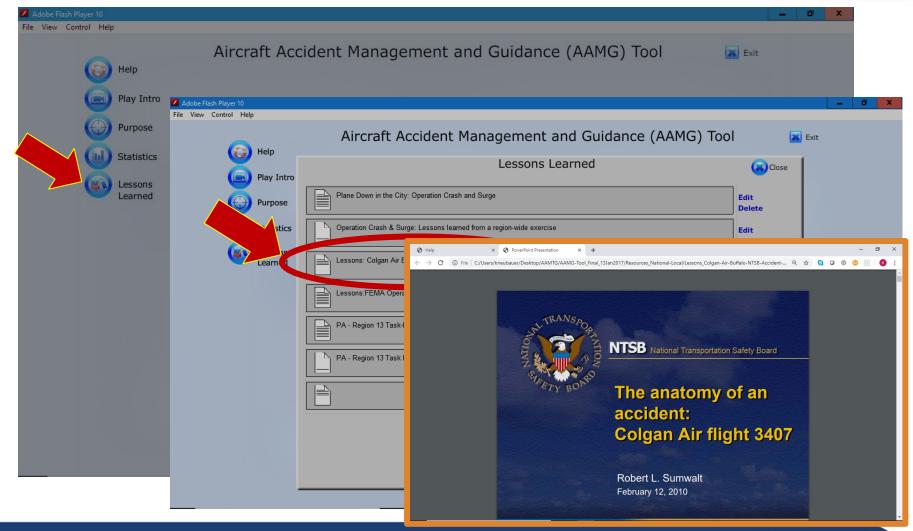












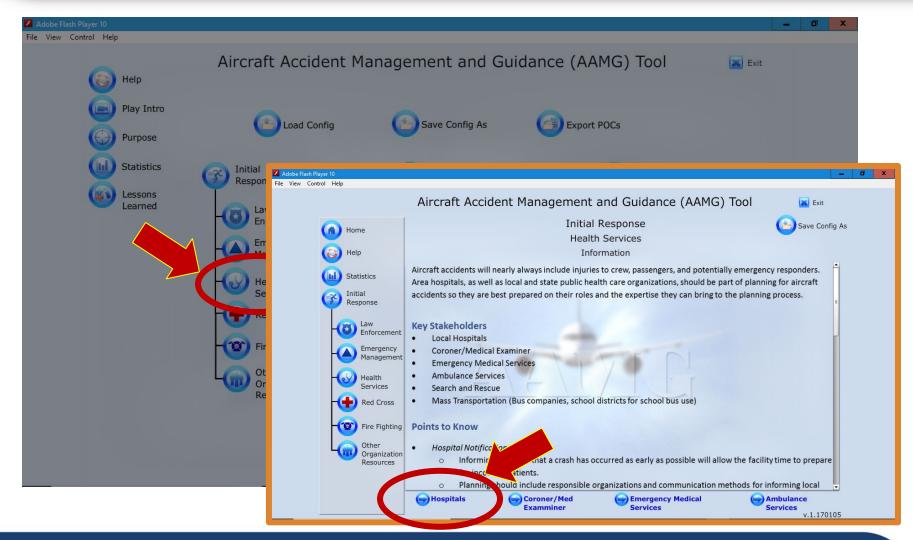






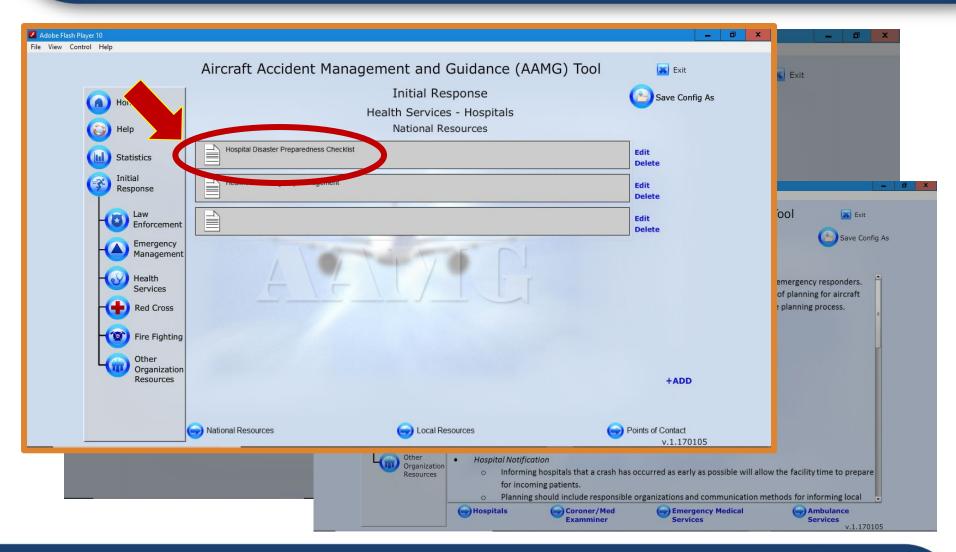






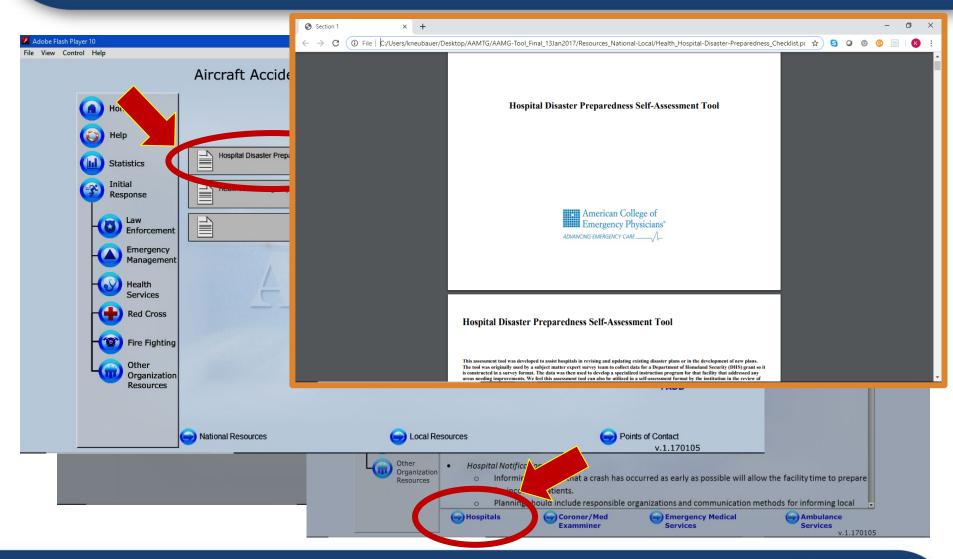












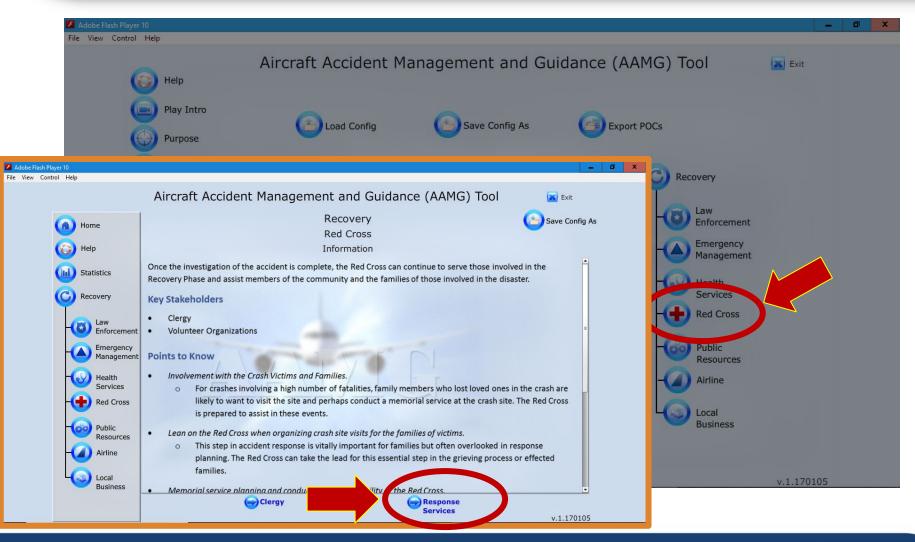






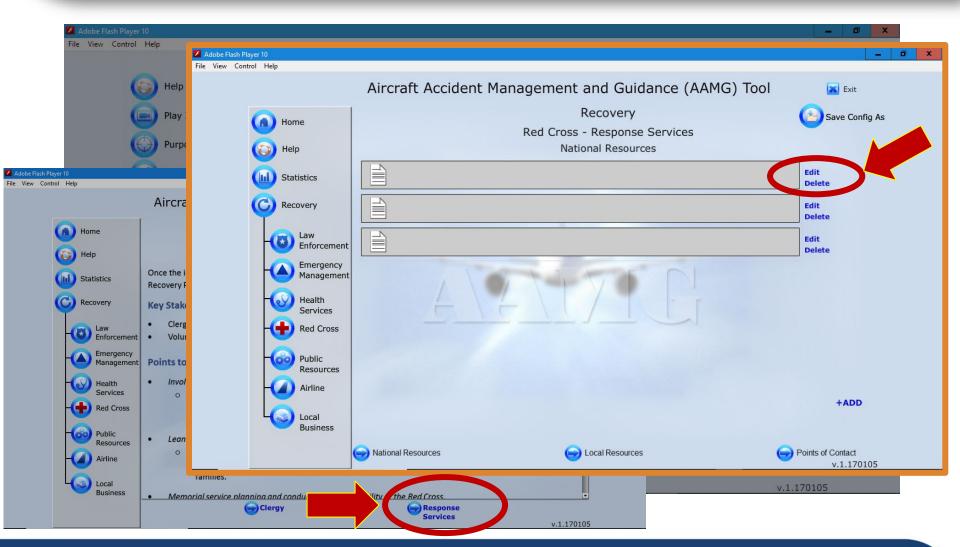






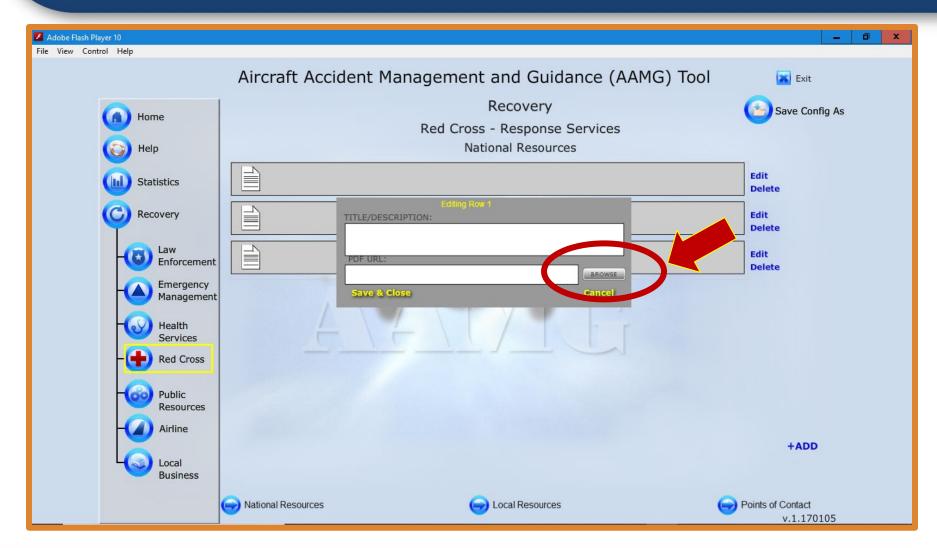






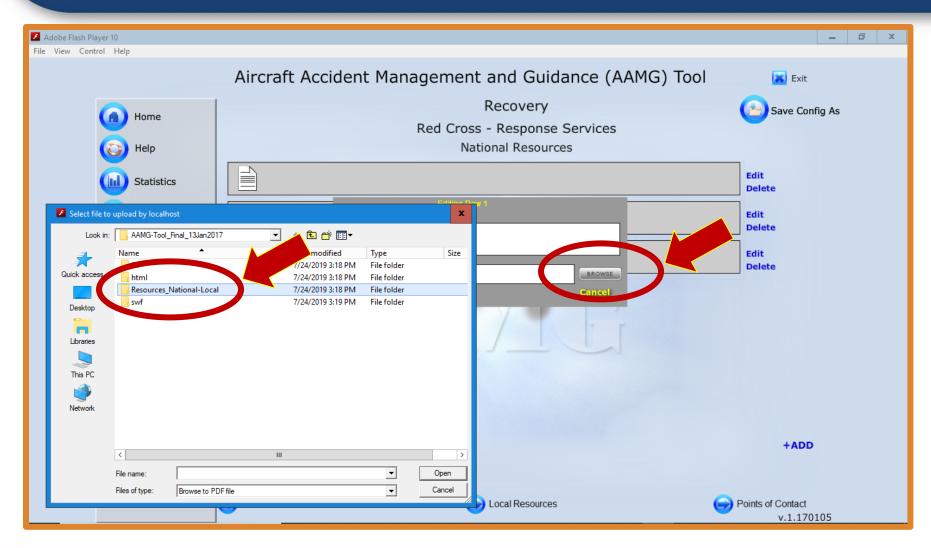






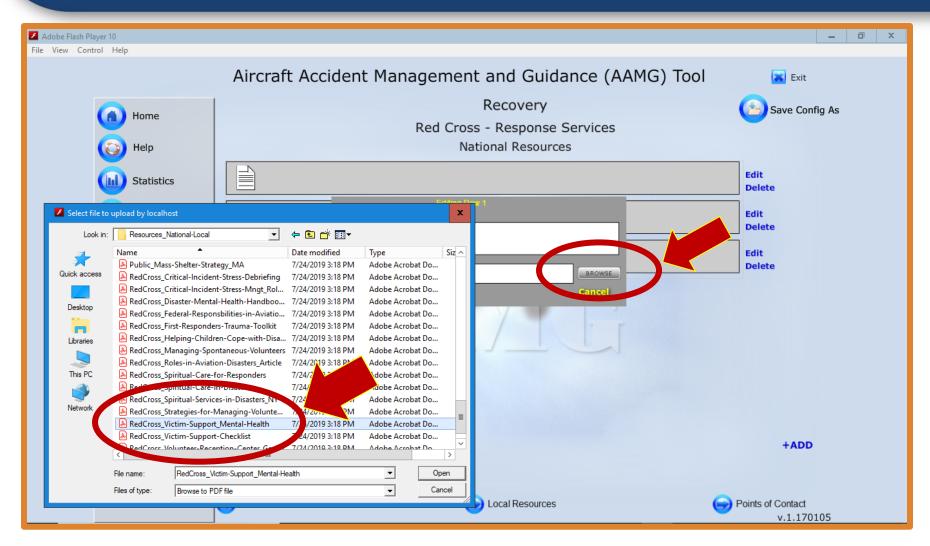






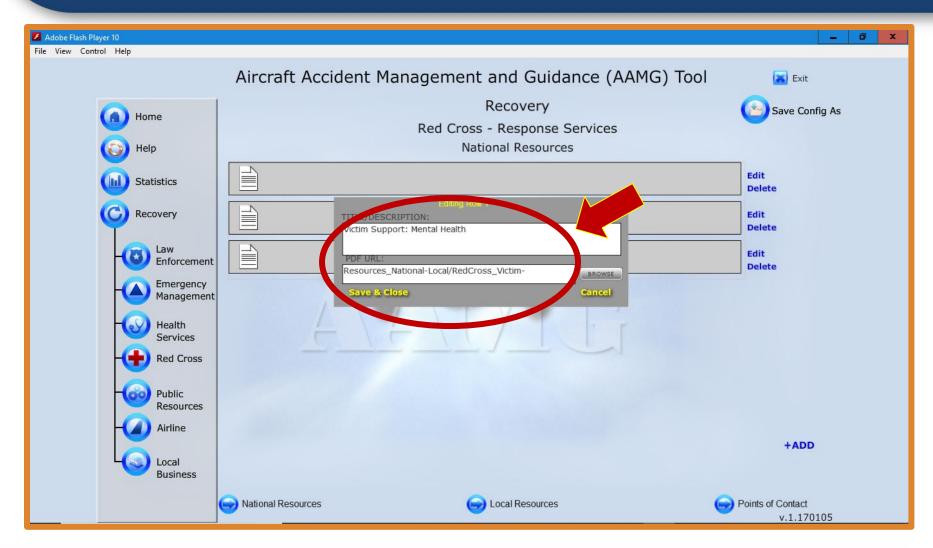






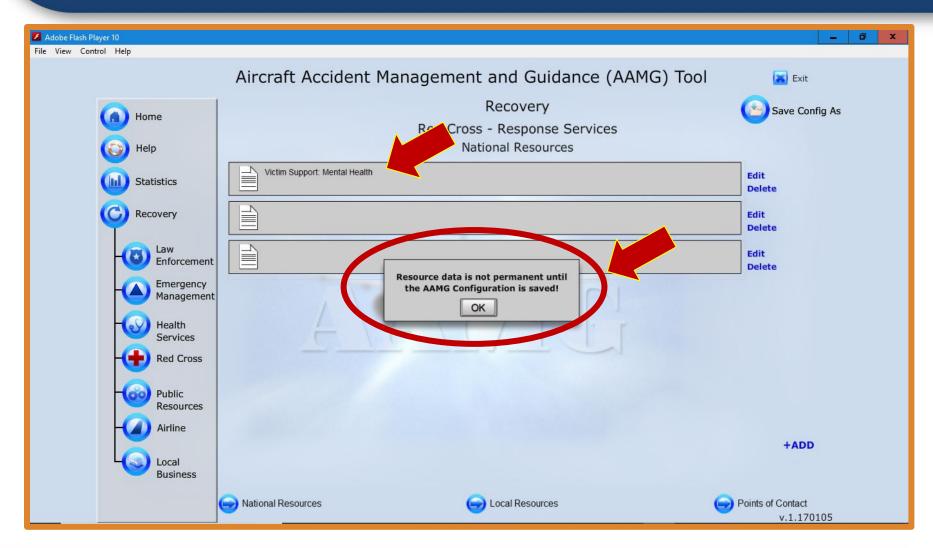






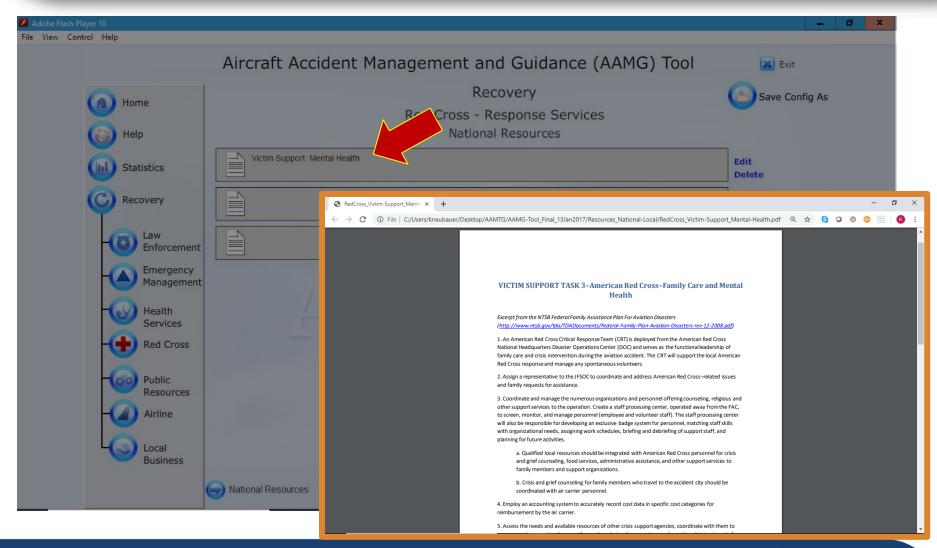
















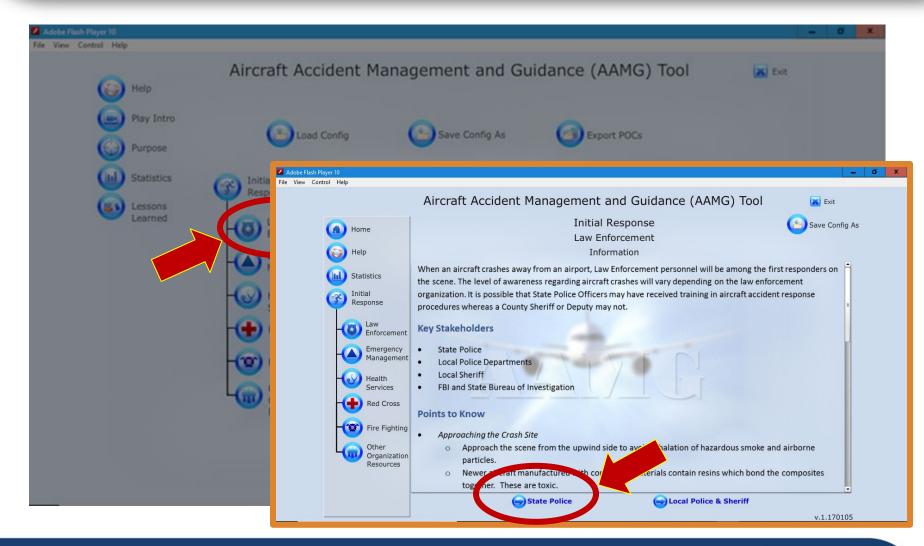
ACRP Web-Only Document 31 Process for AAMG Tool Development







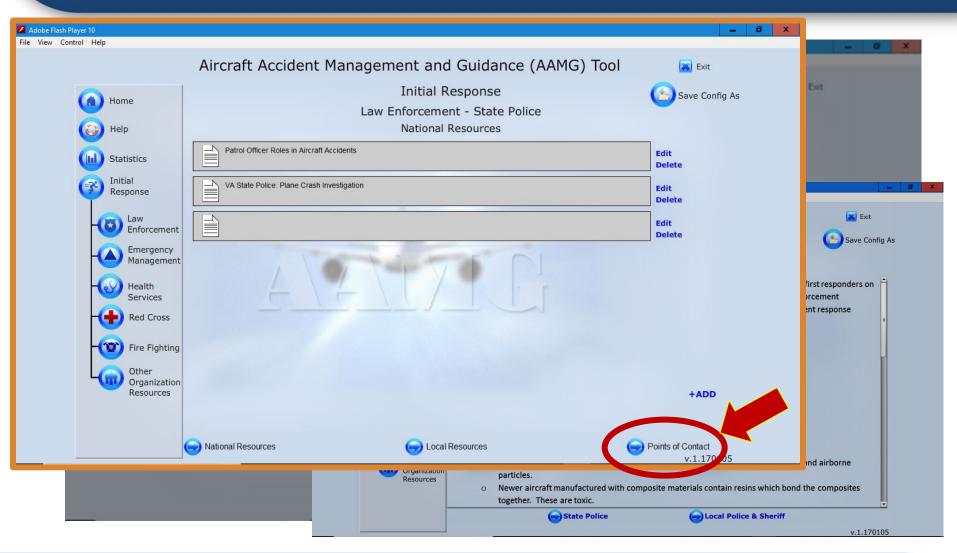
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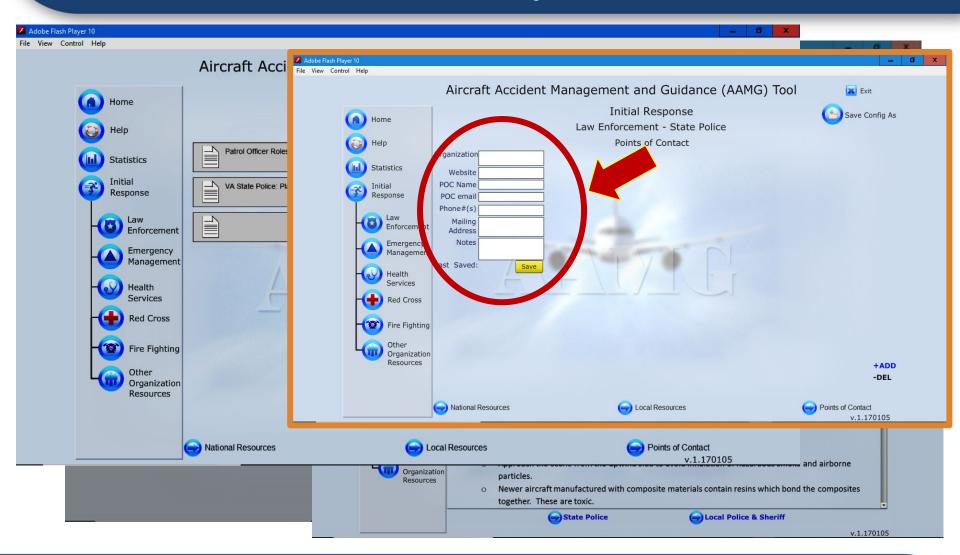
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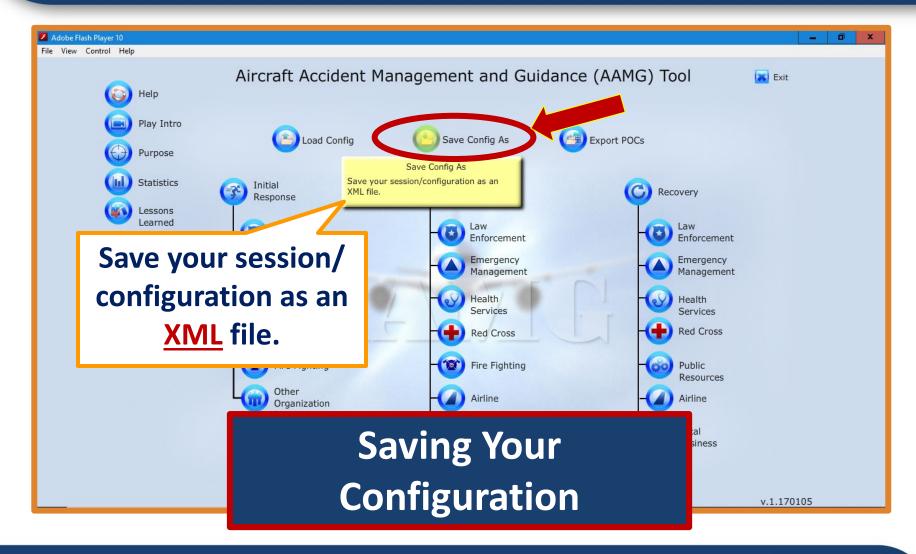
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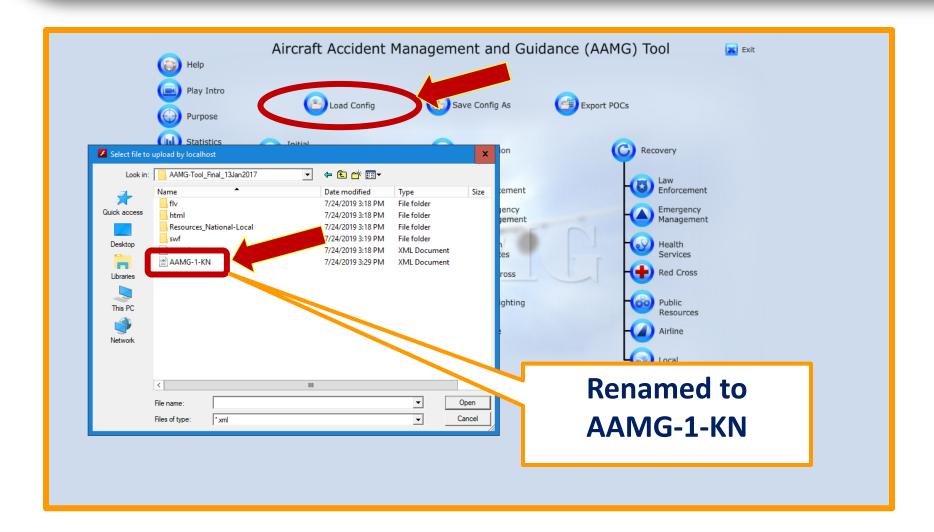
ACRP Web-Only Document 31 AAMG Tool – Using the Tool







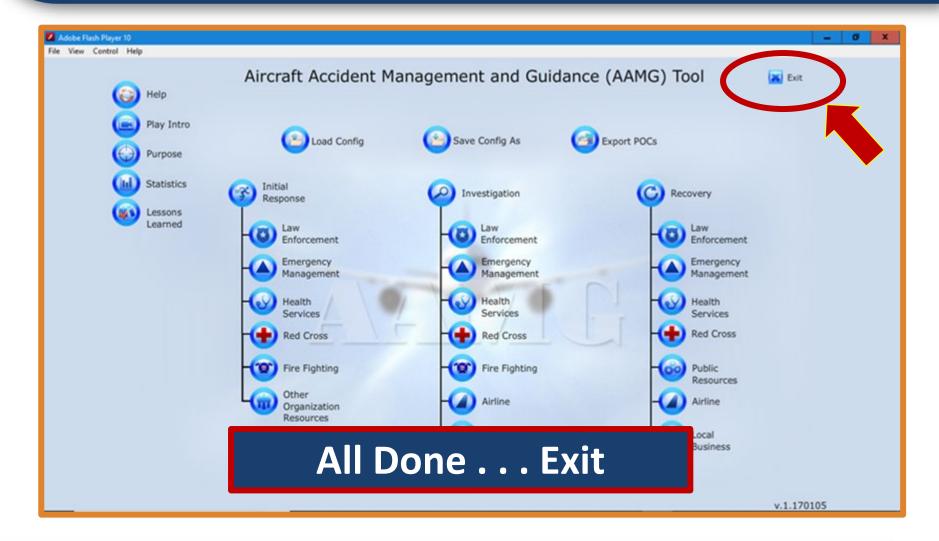
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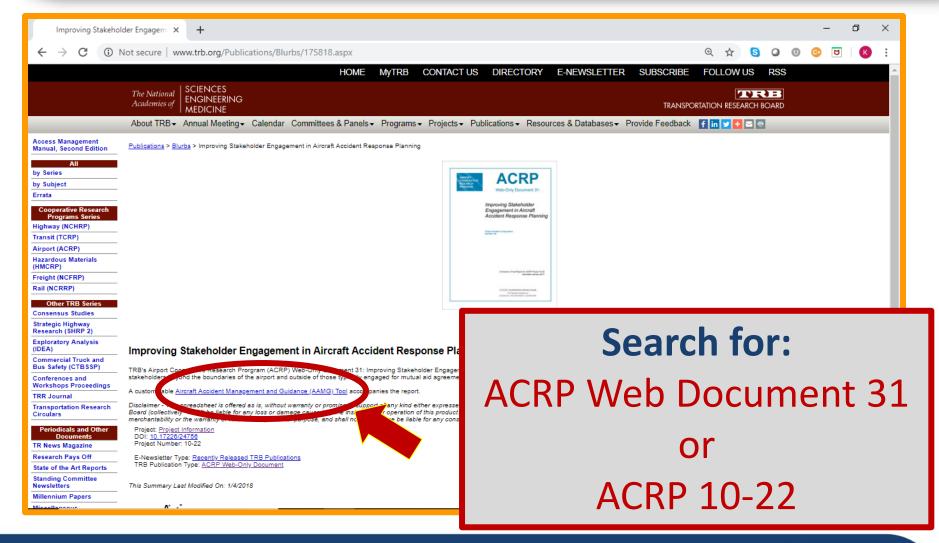
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ACRP Web-Only Document 31 AAMG Tool – Getting the Tool

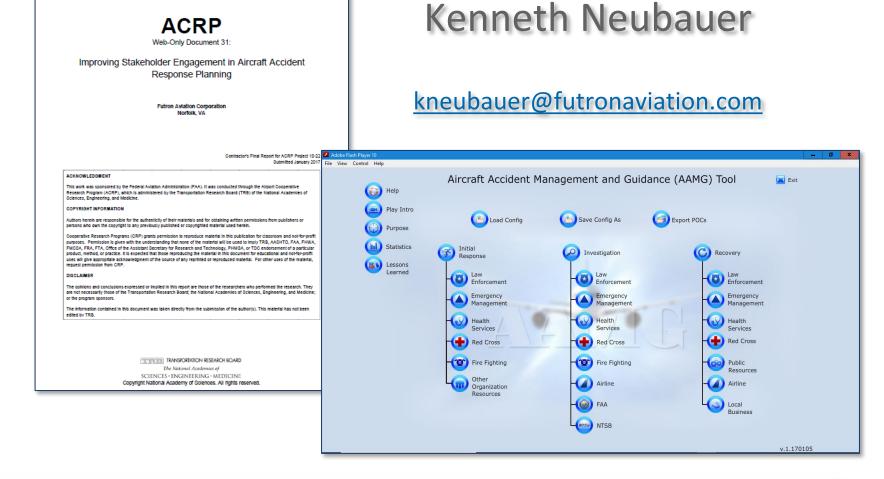






FOR ADDITIONAL INFORMATION

proving Stakeholder Engagement in Aircraft Accident Response Planning







ACRP LRD 33

Presenting information from:

LRD 33: Overview of Airport Duties and Standards of Care in Airfield Accident Cases

Jodi Howick, Howick Law, pllc jhowick@howicklawfirm.com





Jodi Howick Howick Law, pllc

- → Airport law practitioner serving large and small airports, and previous airport in-house counsel
- → Past Chair, ACI-NA Legal Committee, past Steering Committee member, and current member
- → Author of five ACRP legal digest publications
- → Long-time Adjunct Professor of Aviation Law
- → Past service in different roles on the ABA Air and Space Forum



Things to keep in mind

- Most past cases are informational.
- They may not predict future results: every case is different.
- They may help when planning for emergencies:
 - Raise awareness
 - Point out research needs
 - Identify areas for proactive legal work





Basics: What is negligence?

Duty ↓ Standard of Care	Under the circumstances, the law required acting with sufficient care to avoid a foreseeable harm.
Breach	Failing to act with that degree of care.
Cause	The breach leads to harm.
Harm	Harm occurs.



Two Key Questions

- Duty: Did a law impose responsibilities on the airport?
- Standard: What care was required under the circumstances?

Duties and Standards of Care

Premises Liability:

- Duty: Owner / possessor of land has legal responsibilities to care for people who are present.
- Duty: courts also consider:
 - Federal / local laws and standards
 - Applicable precedent
 - Other legal obligations
- Standards of Care: Methods to determine may differs.





Duties and Standards of Care

Examples:

- Ritchie, 356 P.3d 337 (premises liability duty to "maintain reasonably safe conditions for aircraft using the airport").
- Ins. Co. of N. America, 574 F. Supp. 373 (after a bird collision, considering testimony and NOTAM (notice) requirements to determine duties and standards).

Federal Mandates

If requirements have the "force and effect of law" they can preempt a court from considering conflicting duties and standards of care.

- Statutes and regulations may contain mandates.
- Some agency decisions are binding.
- Not: agency guidance materials.



Federal Mandates

Example:

 Bethman, 265 Cal. Rptr. 539, (courts will not impose duties on airports to establish additional standards for navigational aids).

Summing Up the Basics:

Sources of Duties (who is responsible)

Premises Liability / Federal or State
Obligations

Sources of Standards of Care (what the responsible party should do)

Reasonable care /
Consistent with
federal standards



Sample Airfield Cases General Principals*

*Future cases may differ





Can airports shift their duties to someone else?

Generally:

- Premises liability duties usually attach to the possessor of property.
- Duties assigned by law cannot be delegated.

Examples:

- Washburn, 720 F.3d 347 (airport lessees).
- Rogers, 602 P.2d 171 (airline agreement terms).



What about FAA approvals and inspections?

Generally:

- Inspections enforce and do not shift underlying duties.
- Actions that "increase the risk" may create duties.

Examples:

Lexington, 2008 WL 2397708 (FAA actions in the airfield).



Do airport plans create negligence duties?

Generally:

- Federal approval doesn't shift legal responsibilities.
- These may be evidence of a standard of care.

Examples:

Hartman, 923 F. Supp. 2d 1287 (wildlife plan).

What about injuries from criminal activity?

Generally:

- What did the circumstances make foreseeable?
- What are the limits of foreseeability?

Examples:

- Moncur, 137 Cal. Rptr. 239 (bomb in locker).
- Fuentes, 82 P.3d 1175 (carjacking).
- 9/11 cases.

Other issues to consider

- Contract obligations
- Insurance provisions
- Local defenses
- Local negligence action elements
- Airport policies generally
- Etc.





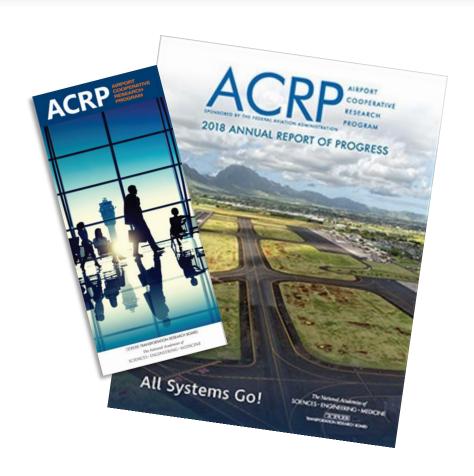
Final Thoughts . . .

- Potential liabilities pose a risk: time, money operations.
- Proactive legal work can reduce risks. Consider:
 - Planning activities
 - Contracts / Insurance
 - Impact of local laws, like immunity
 - Risk assessment



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Legal Research Digest 36: <u>Legal Issues Related to Implementation and Operation of</u>

SMS for Airports

Synthesis Report 45: *Model Mutual Aid Agreements for Airports*

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Today's Speakers

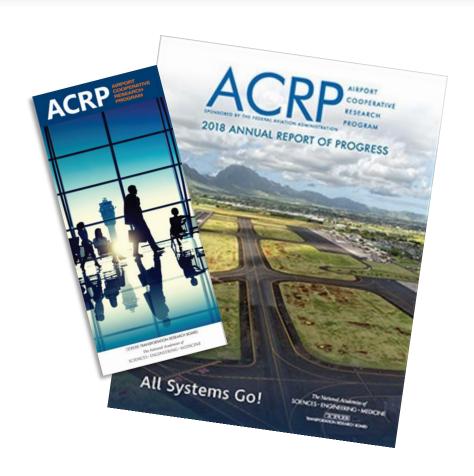
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