

SOUTHWEST AIRLINES MAINTENANCE & ENGINEERING

AVIATION SAFETY ACTION PROGRAM

MEMORANDUM OF UNDERSTANDING

**Between
Federal Aviation Administration
International Brotherhood of Teamsters
Aircraft Mechanics Fraternal Association
And
Southwest Airlines Maintenance & Engineering Department**

September 4, 2001

MEMORANDUM OF UNDERSTANDING

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Section 2 PREAMBLE

2.1 General

Southwest Airlines (SWA) is a Title 14 of the Code of Federal Regulations (14 CFR) part 121 air carrier engaged in passenger operations within the United States. Southwest Airlines operates over 355 Boeing 737 aircraft with over 1,000,000 flights annually and with 466,500 maintenance operations annually. Southwest Airlines has approximately 32,400 employees, including 2,202 employees in-groups for whom the ASAP is being created. The mechanics, stock clerks and appearance technicians are represented by the International Brotherhood of Teamsters/Aircraft Mechanics Fraternal Association (IBT/AMFA).

2.2 Objective

The objective of the Southwest Airlines Maintenance and Engineering (SWAME) Aviation Safety Action Program is to enhance aviation safety by preventing accidents and incidents using AC 120-66A for guidance in establishing this program. ASAP will be a long-term commitment that depends on the integrity of all members of the safety partnership. The program goal is to encourage voluntary reporting of potential airworthiness issues by maintenance and engineering employees, even if they may be in violation of Title 14 of the Code of Federal Regulations (14 CFR). To encourage voluntary self-disclosure of safety concerns, SWAME, the IBT/AMFA, and the FAA have agreed together to establish an initial 18-month demonstration ASAP. The ASAP will foster a voluntary, cooperative, nonpunitive environment for the open reporting of safety of flight concerns. The safety information collected in ASAP will be used to analyze risks, increase education and awareness levels, validate program effectiveness, and ensure accountability. As a result, increased compliance with the FAR's is hopefully achieved. The actions taken in this program reflect the desire of all parties to voluntarily solve problems together rather than to take punitive legal enforcement action or Company disciplinary action against an employee.

2.3 Benefits

ASAP is intended to generate safety information that otherwise would not be obtainable. The program promotes voluntary cooperation between Southwest Airlines and the Federal Aviation Administration. It encourages Southwest Airlines to identify and correct its own safety problems. In order to gain the greatest possible benefits from the ASAP, the information received will be collected, analyzed, and used to validate the effectiveness of the safety program on the airworthiness of Southwest Airlines' 737 fleet. In addition, this data collection and dissemination of information will benefit the entire aviation industry, and enhance air carrier safety.

2.4 Background

In recent years, SWA, the FAA, and the air transportation industry have sought alternative means for addressing safety problems and identifying potential safety hazards. To this end, the FAA, in cooperation with industry, established several demonstration ASAP's in an effort to increase the flow of safety information to both the air carrier and the FAA. Among these programs were USAir Altitude Awareness Program, the American Airlines Safety Action Program, and the Alaska Airlines Altitude Awareness Program. These programs included incentives to encourage employees of air carriers participating in the programs to disclose information, which may include possible violations of the Federal Aviation Regulations without fear of punitive enforcement sanctions. Events reported under a program that involved an apparent violation by the air carrier of the regulations were handled under the Voluntary Disclosure Policy, provided that the elements of the policy were satisfied. The success of these programs prompted the FAA to expand the use of partnership programs. The ASAP includes incentives that encourage participating employees to disclose safety information, which may include possible violations of the Federal Aviation Regulations without fear of punitive legal enforcement sanctions.

2.5 Key Terms

The following key terms and phrases are defined to ensure a standard interpretation of the MOU:

- a. **Administrative Action.** Under paragraph 205 of FAA Order 2150.3A, Compliance and Enforcement Program, administrative action is a means for disposing of violations or alleged violations that do not warrant the use of enforcement sanctions. The two types of administrative action are a warning notice and a letter of correction.
- b. **A.C.** FAA Advisory Circular
- c. **Air Carrier.** A person who undertakes directly by lease, or other arrangement, to engage in air transportation.
- d. **ASAP.** Aviation Safety Action Program
- e. **Certificate Holder.** Refers to a person authorized to operate under 14 CFR part 121, or who holds a certificate issued under 14 CFR part 145.
- f. **Certificate Holding District Office (CHDO).** The Flight Standards District Office (FSDO) having overall responsibility for all FAA reporting requirements, technical administration requirements, and regulatory oversight of a certificate holder.

- g. **Company.** Southwest Airlines
- h. **Consensus of the Event Review Committee (ERC).** Under ASAP, consensus of the ERC means the voluntary agreement of all representatives of the ERC to each decision required by the MOU.
- i. **Corrective Action.** For the purposes of an ASAP, corrective action refers to any safety-related action determined necessary by the ERC based upon a review and analysis of the reports submitted under an ASAP. Corrective action may involve joint or individual action by the parties to the ASAP MOU.
- j. **Cover Under the Program/Qualified for Inclusion/or Included in the ASAP.** For the purposes of an ASAP, these terms all have the same meaning. They mean that the enforcement-related incentives and other provisions of the ASAP apply to the employee who submitted the report.
- k. **Enforcement-Related Incentive.** Refers to an assurance that lesser enforcement action will be used to address certain alleged violations of the regulations to encourage participation by certificate holder employees.
- l. **Event Review Committee (ERC).** A group comprised of a representative from each party to an ASAP. The group reviews and analyzes reports submitted under an ASAP. The ERC may share and exchange information and identify actual or potential safety problems from the information contained in the reports. The ERC is usually comprised of a management representative from the certificate holder, a representative from the employee group, and a specially qualified FAA inspector from the CHDO. Previous demonstration ASAP's used the ERC concept. However, the parties may agree to use an alternative process.
- m. **ERC Reply.** ERC reply to an ASAP reporter.
- n. **FAA.** Federal Aviation Administration
- o. **FAR.** Federal Aviation Regulations, refers to all Subchapters and Parts within Title 14 – Code of Federal Regulations, Aeronautics and Space, Chapter 1, Federal Aviation Administration, Department of Transportation.
- p. **FSDO.** Flight Standards District Office.
- q. **Intentional Falsification.** For the purposes of an ASAP, intentional falsification means a false statement in reference to a material fact made with knowledge of its falsity. It does not include mistakes, inadvertent omissions, or errors.

- r. **Memorandum of Understanding (MOU).** Refers to the written agreement between two or more parties setting forth the purposes for, and terms of, an ASAP.
- s. **LNA.** FAA letter of no action.
- t. **NTSB.** National Transportation Safety Board.
- u. **Party/Parties.** Refers to the certificate holder, the FAA, and any other person or entity (e.g. labor union) that is a signatory to the MOU.
- v. **Safety-Related Report.** Refers to a written account of an event that involves an operational or maintenance issue related to aviation safety reported through an ASAP.
- w. **Sole-Source Report.** For the purpose of an ASAP, the FAA considers a report to be sole-source when all evidence of the event is discovered by or otherwise predicated on the report. It is possible to have more than one sole-source report for the same event.
- x. **Sufficient Evidence.** Sufficient evidence means evidence gathered by an investigation not caused by, or otherwise predicated on, the individual's safety-related report. For apparent violations covered under an ASAP, no more than administrative action will be taken against an individual for an apparent violation reported under the program. There must be sufficient evidence to prove the violation, other than the individual's safety-related report.
- y. **Voluntary Disclosure Policy.** A policy under which regulated entities may voluntarily report apparent violations of the regulations and develop corrective action satisfactory to the FAA to preclude their recurrence. Certificate holders that satisfy the elements of the Voluntary Disclosure Policy receive a letter of correction in lieu of civil penalty action.

2.6 Development of the ASAP Program

a. ASAP is entered into voluntarily by the FAA, SWA, and the IBT/AMFA. This program is designed for the Maintenance and Engineering department of SWA. The FAA will determine whether the program is accepted.

b. Demonstration Program. SWA will initially develop a demonstration program to measure its effectiveness and ensure that the safety objectives of the program are met. The initial demonstration program will be submitted to the FAA for review and acceptance. The initial demonstration program shall have a duration of 18 months at which time all parties will review the program. If any party to the MOU identifies deficiencies in the demonstration program, the program may be modified to address these deficiencies. The program may be renewed for up to 12 months to measure the effects of the modifications. All parties prior to implementation must accept these modifications.

2.7 Continuing Program Duration

After the demonstration program is reviewed and determined to be successful by all parties to the agreement, it may continue in effect, subject to review and renewal every two years by the CHDO.

2.8 Withdrawal from the Program

Regardless of the duration of the program, any party to the ASAP MOU may withdraw from the program at any time.

Section 3 ASAP DESCRIPTION

3.1 Program Oversight Responsibility

a. The oversight responsibility for the Maintenance and Engineering ASAP lies with the:

1. International Brotherhood of Teamsters/Aircraft Mechanics Fraternal Association, Director Airline Division
2. Southwest Airlines VP Maintenance & Engineering
3. FAA CHDO

3.2 Program ERC Members

a. International Brotherhood of Teamsters/Aircraft Mechanics Fraternal Association.

The International Brotherhood of Teamsters/Aircraft Mechanics Fraternal Association (IBT/AMFA) will have a designated business agent or union member (and alternate) who is responsible for representing the IBT/AMFA in the daily operation of the ASAP. **For Event Reports submitted by Employees represented by the IBT, the Union representative on the ERC will be from the IBT. For Event Reports submitted by Employees represented by AMFA, the Union representative on the ERC will be from AMFA.** The IBT/AMFA representative is empowered to complete union-specific aspects of any ASAP investigations. Responsibilities include that the IBT/AMFA representative works with the ERC to ensure union coordination for all investigations, resolving safety-related concerns and recommending corrective actions on behalf of the union. As a member of the ERC, the IBT/AMFA representative will work on behalf of the IBT/AMFA to ensure ERC compliance with the Memorandum of Understanding (MOU).

b. Southwest Airlines ASAP Manager

The Southwest Airlines Maintenance and Engineering Department will have a designated ASAP Program Manager who is responsible for the administration of the ASAP on behalf of SWA Management, and will ensure compliance with the MOU. Responsibilities include the timely dissemination of all reports to the Event Review Committee (ERC), resolving safety-related concerns identified by the ERC, and providing for the continuous tracking and analysis of all safety-related events. The ASAP Program Manager ensures the coordination with other SWA departments of all investigations and corrective actions on behalf of the ERC. The ASAP Program Manager designates the primary and alternate SWA representatives to the ERC. The ASAP Manager is also responsible for providing administrative and staff support. Program coordinators and staff personnel assist the ERC through administration of the ASAP.

1. This includes, but is not limited to:
 - (a). Facilitating meetings.
 - (b). Documenting recommendations.
 - (c). Coordinating data and information requests.

2. When the ASAP Manager receives a report, he or she will record the date and time of any incident described in the report and dates and times that the report was submitted on the ASAP Phone or Fax Hotline. The ASAP Manager will enter the report, along with all of the supporting data, on the agenda for the next ERC meeting.

3. The ASAP Program Manager will coordinate with the appropriate SWA Engineering and Maintenance department, immediate action to resolve any ASAP safety concern.

c. Federal Aviation Administration

The Federal Aviation Administration (FAA) will have a designated airworthiness inspector (and alternate) who is responsible for representing the FAA in the daily operation of the ASAP. The FAA ERC representative is empowered to complete ASAP investigations and is responsible for coordinating all corrective and administrative actions in accordance with FAA Order 2150.3A, 8020.11A, 8300.10 and 8400.10. As a member of the ERC, the FAA representative will work on behalf of the FAA to ensure ERC compliance with the Memorandum of Understanding (MOU).

3.3 Event Review Committee (ERC)

- a. The heart of the ERC is the three-member committee. The ERC consists of one designated representative (and alternate) each from the FAA, SWA, and the IBT/AMFA.
- b. Confidential ASAP event reports are sent each business day in a secured manner to each of the 3 ERC members. The ERC will meet every two weeks or as necessary to review and investigate event reports. The ERC will recommend procedural, policy, training, or other corrective actions.
- c. The ERC may find it necessary to contact an individual employee for further information. The employee's union or company representative member of the ERC will normally make the initial contact with the reporting employee. If it is necessary to interview the reporting employee, additional representation may be obtained at the employee's request.
- d. For official meeting purposes, a quorum exists when all designated ERC representatives, or their alternates are present.
- e. The ERC will make its decisions involving ASAP issues based on consensus. Under the Southwest Airlines ASAP, consensus of the ERC means the voluntary agreement of all representatives of the ERC. 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 corrective action or any enforcement action that should be taken as a result of the report. Recognizing that the FAA holds statutory authority to enforce the necessary rules and regulations, it is understood that the FAA retains all legal rights and responsibilities contained in Title 49, United States Code, and FAA Order 2150.3A. In the event there is not a consensus of the ERC on decisions concerning a report involving an apparent violation(s), a qualification issue, or a medical certification or medical qualification issue, the FAA ERC representative will decide how the report should be handled. The FAA will not use the content of the ASAP report in any subsequent enforcement action, except as described in paragraphs 3.8c, 3.10a(2) and 3.11c2.

- f. The ERC will strive to reach consensus on:
 - 1. Whether a reported event is covered under the program.
 - 2. How the event should be addressed.
 - 3. Corrective action.
 - 4. Repeated instances.
- g. If a consensus is not reached by the ERC, and any party takes independent action, then that action could be grounds for any party to withdraw from the program. Any party may terminate the program at any time.
- h. The ERC can designate individuals to be responsible for coordinating any ASAP investigations and corrective actions involving any outside organizations as appropriate. These outside organizations may include, but are not limited to, aircraft manufacturers, repair stations, and the NTSB.

3.4 Event Reports

- a. The ASAP program is available to any Southwest Airlines employee who is a member of the Maintenance and Engineering Department. It applies to both certificated and uncertificated employees, who perform, approve, or support maintenance on FAA certificated aircraft or components.
- b. All Southwest Airlines Maintenance and Engineering employees are encouraged to report any event or observation they feel is a potential safety hazard or FAR violation. For reports submitted in accordance with this MOU, no Southwest Airlines disciplinary action or FAA legal enforcement action will be taken against any individual unless the report is excluded under section 3.10 of this MOU.
- c. Non-Reporting employees covered under the MOU. If an ASAP report identifies another covered employee of the certificate holder in a possible violation, 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 violation. If the ERC determines that the employee did not know or could not have known about the apparent violation(s), and the original report otherwise qualifies for inclusion under ASAP, the ERC will offer the non-reporting employee the opportunity to submit his or her own ASAP report. If the non-reporting employee submits his or her report within 24 hours of notification from the ERC, or as described in the MOU, that report will be afforded the same consideration under ASAP as that accorded the report from the original reporting employee, provided all other ASAP acceptance criteria are met. However, if the non-reporting employee fails to submit his or her own report within 24 hours of notification, or as described in the MOU, the possible violation by that employee will be referred to an appropriate office within the FAA for additional investigation and

reexamination and/or enforcement action, as appropriate, and for referral to law enforcement authorities, if warranted.

d. Non-reporting employees not covered under the ASAP MOU. If an ASAP report identifies another employee of Southwest Airlines who is not covered under an ASAP MOU, and the report indicates that employee may have been involved in a possible violation, the ERC will determine on a case-by-case basis whether it would be appropriate to offer that employee the opportunity to submit an ASAP report. If the ERC determines that it is appropriate, the ERC will provide that employee with information about ASAP and invite the employee to submit an ASAP report. If the employee submits an ASAP report within 24 hours of notification, that report will be covered under ASAP, provided all other ASAP acceptance criteria are met. If the employee fails to submit an ASAP report within 24 hours of notification, the possible violation by that employee will be referred to an appropriate office within the FAA for additional investigation and reexamination and/or enforcement action, as appropriate, and for referral to law enforcement authorities, if warranted.

e. Event Reports that involve a safety concern will be forwarded to the appropriate department for evaluation and corrective action.

f. Event Reports should be submitted in accordance with Section 3.17.

g. The ASAP Event Report form has 4 sections:

1. Personal Information
2. Event Error
3. Event Consequence
4. Contributing Factors

h. Event Reports that are **accepted** into the program will receive a minimum of two separate written responses from the ERC:

1. Acknowledgment of Event Report receipt
2. Corrective action and resulting administrative closure

i. Event Reports **not accepted** into the program will receive a minimum of two separate written responses from the ERC:

1. Acknowledge of Event Report receipt
2. Reason the Event Report was excluded from the program

3.5 ERC Review and Corrective Action Recommendation

- a. The ERC will meet as necessary to review and analyze all safety-related reports that will be listed on an agenda submitted by the ASAP manager. The ERC will determine the time and place of the meetings. The ERC will meet at least twice a month or as necessary. In some instances, telephone conferences may substitute for meetings if all ERC members are in agreement. Confidential ASAP event reports are sent each business day or as necessary in a secured manner to each representative of the ERC. These reports will be listed on an agenda submitted by the ASAP Manager to the ERC. The ERC will fully evaluate and investigate ASAP reports and recommend procedural, policy, training, or other corrective actions. The ERC will also provide feedback to the individual who submitted the report.
- b. The ERC will determine whether a report is submitted in a timely manner and whether extraordinary circumstances precluded timely submission. To confirm that a report has been received, the ASAP Manager will send a written receipt via the U.S. Postal Service to the home of the member of the Maintenance and Engineering Department who submitted the report. The receipt will confirm whether or not the report was determined to be timely. The ASAP Manager will serve as the focal point for information and inquiries concerning the status of ASAP reports, and for the coordination and tracking of recommendations.
- c. The ASAP covers two types of event reports.
 1. Self-disclosure of a possible violation of a FAR.
 2. Any specific or general safety concern.
- d. The employee must submit a report in a timely manner, usually within 24 hours after the occurrence of the event. If submitted within 24 hours after the occurrence of the event, a report will be included under the ASAP if the ERC reaches consensus that all ASAP acceptance criteria have been met, even if the FAA is already aware of the possible violation and may have brought it to the attention of the employee.
- e. An ASAP event report that does not involve a serious safety concern or a possible FAR violation that could be more appropriately handled by an employee's supervisor or other Company official may be returned to the individual without entering it into the ASAP. However, this action requires the unanimous consensus of the ERC. If subsequent investigation reveals evidence of a possible FAR violation and the ASAP acceptance criteria are met, then the ASAP event report will be accepted under the ASAP. Regardless, Southwest Airlines guarantees the submission of a NASA ASRS report on all ASAP Event Reports.
- f. The ERC may contact an individual employee for further information on an

event report. Normally, the employee's union or company representative member of the ERC makes the initial contact with the reporting employee.

g. Corrective action recommendations may include:

1. Counseling
2. Training, additional training
3. Procedural Changes/Improvements to maintenance policies
4. Equipment modifications

Each ERC member is responsible for reporting back to the ERC the corrective actions made by the party he or she represents.

h. The ERC will maintain a database that continually tracks each event and the analysis of those events. De-identified reports may be released by the ERC to facilitate corrective action and to increase employee safety awareness. The ERC will conduct a 12-month review of the ASAP with emphasis on determining whether corrective actions have been effective in preventing or reducing the recurrence of safety-related events of a similar nature. That review will include recommendations for corrective action for recurring events.

i. This review is in addition to any other conducted by the FAA. The ERC will also be responsible for preparing a final report on the program at its conclusion. If an application for a continuing program is anticipated, the ERC will prepare and submit a report with the certificate holder's application to the FAA 60 days in advance of the termination date of the Demonstration Program.

j. The failure of any party to follow the terms of the ASAP MOU ordinarily will result in the termination of the program.

k. In the event that there is a modification to the program or termination of the program, it will not adversely affect anyone who acted in reliance on the terms of a program in effect at the time of that action. When the program is modified or terminated, all reports and investigations that were in progress will be handled under the provisions of the program in effect at the time of that action until they are completed.

3.6 Sole Source Reporting

a. Voluntary Disclosure. All parties to this agreement believe that the voluntary reporting of potential airworthiness issues will enhance and promote aviation safety.

b. Sole-Source Reports. A report is considered a sole-source report when all evidence of the event is discovered by or otherwise predicated on the report. Apparent violations disclosed in ASAP reports that are covered under the

program and are sole-source reports will ordinarily be addressed with an ERC response (no FAA action). It is possible to have more than one sole-source report for the same event.

3.7 Sufficient Evidence

Sufficient evidence means evidence gathered by an investigation not caused by, or otherwise predicated on, the individual's safety-related report. For apparent violations covered under an ASAP, no more than administrative action will be taken against an individual for an apparent violation reported under the program. There must be sufficient evidence to prove the violation, other than the individual's safety-related report.

3.8 Enforcement-Related Incentive

Under ASAP, the maximum enforcement-related incentive for a violation of a FAR covered by the program is Administrative Action. Any administrative action by the FAA is contingent upon the employee's successful completion of corrective action that is acceptable to the ERC.

- a. Apparent violations of the regulations by Southwest Airlines employees disclosed through safety-related reports will be addressed with administrative action if:
 1. Sufficient evidence exists.
 2. The apparent violation(s) is inadvertent and does not involve an intentional disregard for safety.
 3. The report does not appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.
- b. Violations that are not inadvertent or that involve an intentional disregard for safety are excluded from the program and any enforcement-related incentive will not apply to these violations.
- c. Reports that appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification are excluded from the program. Such reports will be referred to an appropriate FAA office for further handling. The FAA may use such reports for any enforcement purposes and will refer such reports to law enforcement agencies, as appropriate.
- d. Conduct that raises a question of a lack of airman qualification, may be addressed by ASAP, however, the employee must successfully complete all of the recommendations made by the ERC to be covered by the program.

e. Reports initially accepted under the ASAP will be excluded from the program if the employee fails to complete the recommended corrective action in a manner satisfactory to all members of the ERC. Failure of Southwest Airlines to follow through with corrective action acceptable to the FAA to resolve any safety deficiencies will ordinarily result in the termination of the program. In addition, failure of any individual to complete corrective action for an apparent violation, or a qualification issue, in a manner acceptable to all members of the ERC, may result in the reopening of the case and referral of the matter for appropriate action.

3.9 Guidelines for Acceptance of Reports under the ASAP

Participation in the ASAP is limited to SWA employees and to events occurring while acting in that capacity. Each employee participating in the ASAP must individually submit a report in order to receive the enforcement-related incentives and benefits of the ASAP policy. However, in cases where an event may be reported by more than one person, each individual who seeks coverage under the ASAP may sign the same report.

- a. Voluntary Disclosure of a FAR violation by SWAME employees of SWA. All parties to this agreement believe that the voluntary sharing of data and information disclosing possible violations combined with a cooperative, non-punitive approach to solving problems enhances and promotes aviation safety. Resolution of reported events reflects emphasis on correction of the safety concerns rather than punitive action.
- b. Criteria for Acceptance. The following criteria must be met in order for a report involving a possible violation to be covered under the ASAP.
 1. The employee must submit a report in a timely manner, within 24 hours after the occurrence of the event, on the ASAP PHONE HOTLINE (866-394-7205). Faxing a copy of the Event Report to the ASAP FAX HOTLINE (866-394-7206) within 5 days of the occurrence must follow this. If submitted within this time of the event, the report will be included if the ERC reaches consensus that all the ASAP acceptance criteria have been met, even if the FAA was already aware of the possible violation and may have brought it to the attention of the employee.
 2. The alleged regulatory violation must be inadvertent, and must not appear to involve an intentional disregard for safety.
 3. The reported event must not appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.
- c. Conditional Acceptance. If a report is submitted by an employee covered under the MOU later than 24 hours after the occurrence of an event, the ERC will

review all available information to determine whether the employee knew or reasonably should have known about the possible violation within 24 hours of its occurrence. If the employee did not know or could not have known about the apparent violation(s) within 24 hours of its occurrence, then the report will be included in the ASAP, provided all other ASAP acceptance criteria have been met. If the employee knew or should have known about the apparent violation(s) within 24 of its occurrence, then the report will not be included in ASAP except as follows: For sole-source reports that are solicited by the ERC because an event raises significant safety issues and it is essential to obtain this additional information to gain an understanding of the event, the ERC may waive the conditional acceptance criteria of this paragraph. Sole-source reports obtained on this basis will be accepted under ASAP, provided that all other ASAP acceptance criteria are met.

d. Repeated Violations. Reports involving the same or similar alleged violations previously covered under the ASAP that satisfy the acceptance criteria in paragraph 3.9 may also be covered under the ASAP. The ERC will determine on a case-by-case basis whether such a report will be covered under the ASAP, based upon the facts and circumstances surrounding the alleged violation. The Southwest Airlines ASAP Manager will be responsible for notifying the ERC when a report involves a repeat of the same or a similar alleged violation by the same employee previously covered under the ASAP.

e. Administrative Action. Notwithstanding the criteria in paragraph 205 of FAA Order 2150.3A, apparent violation(s) disclosed in SWAME ASAP reports that are covered under the program and supported by sufficient evidence will be addressed with administrative action. Sufficient evidence means evidence gathered by an investigation not caused by, or otherwise predicated on the individual's safety-related report.

f. Sole-Source Reports. A report is considered a sole-source report when all evidence of the event is discovered by or otherwise predicated on the report. Apparent violations disclosed in ASAP reports that are covered under the program and are sole-source reports will ordinarily be addressed with no action. It is possible to have more than one sole-source report for the same event.

g. Reports Involving Qualifications Issues. SWAME ASAP reports covered under the program that demonstrate a lack, or raise a question of a lack, of qualification of a SWAME employee will be addressed with corrective action, if such action is appropriate and recommended by the ERC. If an employee fails to complete the corrective action in a manner satisfactory to all members of the ERC, then his or her report will be excluded from ASAP. In these cases, the ASAP event will be referred to an appropriate office within the FAA for any additional investigation, reexamination, and or enforcement action as appropriate.

h. Corrective Action. Employees initially covered under ASAP will be excluded

from the program and not entitled to the enforcement-related incentive if they fail to complete the recommended corrective action in a manner satisfactory to all members of the ERC. These cases may be reopened the matter referred for appropriate action.

i. Closed Cases. A closed ASAP case including a related enforcement investigative report involving a violation addressed with the enforcement-related incentive, or for which no action has been taken, may be reopened and appropriate enforcement action taken if evidence later is discovered that establishes that the violation should have been excluded from the program under paragraph 3.10.

3.10 Guidelines for Excluding Reports from ASAP

Any safety-related ASAP event that contains an apparent violation(s) that is excluded from the ASAP will be referred by the FAA ERC member to an appropriate office within the FAA for any additional investigation and reexamination and or enforcement action, as appropriate.

a. Exclusion. The following types of reports are excluded under the ASAP:

1. Reports involving an apparent violation that is not inadvertent or that appears to involve an intentional disregard for safety.
2. Reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.
3. Untimely reports excluded under paragraph 3.9c, or reports of repeated violations excluded under paragraph 3.9d, or reports where consensus is not reached by the ERC under paragraph 3.9.
4. Reports of events that occurred when the employee was not acting as an employee of the certificate holder.

b. Non-Qualifying Event Reports. A non-qualifying event report is a report that does not meet the ASAP acceptance criteria or is excluded from the ASAP by the ERC because the individual withdraws from ASAP or is unable to successfully comply with the ERC recommendations. Reports initially included in the ASAP will be excluded from the program if the employee fails to complete the recommended corrective action in a manner satisfactory to all members of the ERC. In those cases, failure of any individual to complete corrective action for an apparent violation or a qualification issue, in a manner acceptable to all members of the ERC, may result in the reopening of the case and referral of the matter for appropriate action.

3.11 Enforcement Policy

a. Use of ASAP Report. The content of the ASAP report will not be used to initiate or support any company disciplinary action. It will also not be used as evidence for any purpose in a FAA enforcement action, except as provided in paragraph 3.11c2. The FAA may conduct an independent investigation of an event disclosed in a report. Any safety-related event that concerns an apparent violation(s) that is excluded from ASAP will be referred to an appropriate office within the FAA for any additional investigation and reexamination and/or enforcement action, as appropriate.

b. Enforcement-Related Incentive for Reports covered under the ASAP.

Neither administrative action nor punitive legal action will be taken against an individual for a violation covered under the program, unless there is sufficient evidence of the violation other than the individual's safety-related report.

1. The ASAP may include an enforcement-related incentive(s) to encourage participation by SWAME employees. Any enforcement-related incentive will be limited to what is needed to achieve the desired goal and results of the program.

2. Included Reports. For reports covered under the ASAP, the following enforcement-related incentives are applicable:

(a) Alleged violations by SWAME employees disclosed through safety-related reports that are not sole-source reports, and where sufficient evidence exists, will be addressed with administrative action, notwithstanding the criteria in paragraph 205 of FAA Order 2150.3A.

(b) Alleged violations by SWAME employees disclosed through safety-related reports that are sole-source reports will ordinarily be addressed with no action.

(c) Reports involving qualification issues. Reports that demonstrate a lack, or raise a question of a lack, of qualification of a SWAME employee will be addressed with corrective action, if appropriate, and recommended by the ERC. If an employee fails to complete the corrective action in a manner satisfactory to all members of the ERC, then his or her report will be excluded from ASAP. In these cases, the ASAP event will be referred to an appropriate office within the FAA for any additional investigation, reexamination, and or enforcement action, as appropriate.

c. Enforcement Policy for Reports Excluded under the ASAP.

1. Reports involving an apparent intentional disregard for safety. The following policies apply to alleged violations involving an apparent intentional disregard for safety that are disclosed in ASAP reports:

(a) Alleged violations involving an apparent intentional disregard for safety that do not demonstrate a lack, or raise a question of a lack, of qualification will be addressed with no more than administrative action, provided the ASAP reports are sole-source reports and provided the employee completes corrective action considered appropriate by the FAA. If the employee fails to complete this corrective action, then the report will be referred to an appropriate office within the FAA for any additional investigation and/or enforcement action, as appropriate.

(b) Alleged violations involving an apparent intentional disregard for safety that also demonstrate a lack, or raise a question of a lack, of qualification will be referred to an appropriate office within the FAA for any additional investigation and reexamination and/or enforcement action, as appropriate.

2. Criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification. Reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification will be referred to an appropriate FAA office for further handling. The FAA may use such reports for any enforcement purposes, and will refer such reports to law enforcement agencies, if appropriate.

3. Failure to complete corrective action. Reports initially covered under the ASAP will be excluded from the program if the employee fails to complete the recommended corrective action in a manner satisfactory to all members of the ERC. In those cases, failure of any individual to complete corrective action for an apparent violation, or a qualification issue, in a manner acceptable to all members of the ERC, may result in the reopening of the case and referral of the matter for appropriate action.

4. Untimely Reports. The following policies apply to reports that are excluded only because they are untimely reported:

(a) Reports that are excluded only because they are untimely that do not demonstrate a lack, or raise a question of a lack, of qualification, will be addressed with no more than administrative action, provided the ASAP reports are sole-source and provided the employee completes corrective action considered appropriate by the FAA. If the employee fails to complete this corrective action, then the report will be referred to an

appropriate office within the FAA for any additional investigation and/or enforcement action, as appropriate.

(b) Reports that are excluded only because they are untimely that also demonstrate a lack, or raise a question of a lack, of qualification, will be referred to an appropriate office within the FAA for any additional investigation and reexamination and/or enforcement action, as appropriate.

5. Other excluded events. Any safety-related event that concerns an apparent violation(s) that is excluded from ASAP will be referred to an appropriate office within the FAA for any additional investigation and reexamination and or enforcement action, as appropriate. The FAA may pursue an investigation of a non-qualifying event independently of ASAP. However, except for the provisions of Section 3.11c2, the content of an ASAP report shall not be used in any subsequent FAA enforcement action against an employee.

3.12 Reopening Reports Based on New Evidence

a. A closed ASAP case, including any related enforcement investigative report (EIR), involving a violation addressed with administrative action or for which no action has been taken, may be reopened and appropriate enforcement action taken if evidence later is discovered that establishes that the violation should have been excluded from the program.

3.13 Event Report Examples

The following are examples of events that might be reported under an ASAP and the probable action that would be taken by the FAA for an apparent violation disclosed by the safety-related report:

a. Administrative Action

1. A mechanic reports that he or she was assigned to accomplish a required inspection item (RII), however he or she inadvertently neglected to sign the checksheet that the inspection was completed. Evidence of the apparent violation, other than the technician's safety-related report, reveals that the inspection was accomplished and the checksheet was not signed. This evidence was gathered by an investigation not caused by, or otherwise predicated on, the filing of the safety-related report. The apparent violation does not involve conduct that is excluded from the ASAP. The apparent violation therefore would be addressed by administrative action.

b. Excluded Events

1. Sufficient Evidence Maintenance. A technician submits a report that he or she used a lubricant other than what was stated in the maintenance manual for an engine valve installation. No authorized substitute lubricants were available. The investigation revealed that the technician intentionally used a substitute lubricant. These actions were not in accordance with the maintenance manual or company procedures. The FAA investigates and discovers that the local Flight Standards District Office (FSDO) has opened an investigation concerning this alleged violation based on a recent inspection. Because there is sufficient evidence of the apparent violation and the ASAP report is not a sole-source report, enforcement action would be taken against the technician.

2. Sole-Source Report Maintenance Technician. A technician submits a report stating that he or she used a lubricant other than what was stated in the maintenance manual for an engine valve installation. No authorized substitute lubricants were available. The investigation revealed that the technician intentionally used a substitute nonapproved lubricant. These actions were not in accordance with the maintenance manual or company procedures. Based on the knowledge gained from the report, the FAA further investigates and is able to obtain additional evidence to substantiate the event. Because the report is a sole-source report, administrative action will be taken against the technician. FAA ASAP policy requires that a maintenance technician whose sole-source report is excluded because he or she commits an intentional violation must also complete to the satisfaction of the FAA, any corrective action considered appropriate by the FAA to receive administrative action.

c. Report Accepted under an ASAP.

The following is an example of an event where no action would be taken for an alleged violation disclosed through a safety-related report that is considered sole-source:

A technician reports that during a preflight inspection, he or she did not replace a brake pad that was worn past allowable wear limits. The report indicated at the time of the inspection, the technician unknowingly used the wrong gauge for that aircraft model to measure brake pad wear for that aircraft. The aircraft departed and later returned to the station where the brake pad was replaced. The investigation of this event reveals that the apparent violation is covered under the program. However, the only evidence of the aircraft operating with an out-of-limit brake pad was the technician's safety-related report filed under the ASAP. Since the technician's safety-related report will not be used as evidence to support taking administrative action against the technician, there would not be sufficient evidence to support a violation of the regulations. The case would be closed with an ERC Event Report Response after the

maintenance technician completes any recommended corrective action to the satisfaction of all members of the ERC.

3.14 Corrective Action and Administrative Closure

- a. The ERC will work with SWA to develop acceptable corrective action that should be taken based on information obtained under ASAP. The corrective action is completed in a manner satisfactory to all members of the ERC.
- b. The failure of Southwest Airlines to follow through with corrective action acceptable to all members of the ERC to resolve any safety deficiencies will ordinarily result in the termination of the program. In addition, failure of any individual to complete corrective action for an apparent violation, or a qualification issue in a manner acceptable to all members of the ERC, may result in the reopening of the case and referral of the matter for appropriate action.
- c. The ASAP Manager is responsible for documenting the corrective actions achieved through ASAP and maintaining those records necessary for program administration. One or more of the following corrective actions might be taken for an event report included in the ASAP program:
 1. Training to Proficiency
 2. Procedural changes
 3. Equipment improvements
- d. Administrative Closure.

In addition to any ERC corrective action response, one of the following administrative closures will occur for an event report accepted into the ASAP:

1. FAA Administrative Action
2. FAA Letter of No Action (LNA)
3. ERC Event Report response

3.15 FAA Investigative Jurisdiction and Responsibility

By public law and FAA order, the FAA is responsible for the proper investigation and disposition of all suspected cases of noncompliance with the Federal Aviation Regulations (FARs). The FAA establishes investigative and enforcement jurisdiction and responsibility regarding events reported to the ASAP ERC. The FAA ERC representative is empowered to complete ASAP investigations and is responsible for coordinating all corrective and administrative actions in accordance with HBAAT 00-08, Advisory Circular 120-66A, FAA Orders 2150.3A, 8020.11A, 8300.10 and 8400.10, as amended. Through the ERC process, the Event Review Committee (ERC) will determine

whether or not a reported event meets the criteria for inclusion into the ASAP. Once an event meets the criteria for participation and is accepted into the ASAP by the ERC, the FAA shall transfer all jurisdiction and responsibility for compliance and enforcement investigations related to the event to the CHDO.

The FAA's ability to investigate suspected instances of noncompliance with FARs is enhanced through an ASAP. An ASAP offers the FAA the opportunity to learn about events that would have gone unrecognized otherwise. Additionally, the ASAP review process includes the ability to interview reporting employees and other employees and to utilize all the resources available to the airline and the participating employee's representative organization. The FAA's overall effectiveness in promoting compliance is improved by combining the information gathered by geographic inspectors and CHDO inspectors with the data and information available through the ASAP process. The CHDO and the FAA ERC representative are better able to ensure corrective action as a result of the investigation after all the available data and information has been gathered and coordinated with the FSDO.

3.16 ASAP Training Policy

- a. All Southwest Airlines ASAP-related training, resulting from an ASAP recommendation will be conducted only on the skills related to the event reported. In many instances, training sessions with reporting employees are used to validate or examine airline procedures, equipment and training techniques.
- b. Participating employees must successfully complete the corrective actions recommended by the ERC in order to meet acceptance criteria. In the event that an employee fails to meet the acceptance criteria, then the employee is excluded from the ASAP in accordance with paragraph 3.11c3.
- c. The ERC will determine the level of training, i.e. classroom, computer-based training, on-the-job training (OJT), etc.
- d. ASAP training will be conducted to meet the needs of the employee as:
 1. New Hire Indoctrination
 2. Initial training
 3. Recurrent training
 4. Event-related training
- e. Completed training in ASAP will be recorded in the same manner as any other training conducted by Southwest Airlines or outside training sources.
- f. The ASAP Manager is responsible for ensuring those de-identified events, corrective actions, trends and analyses are made available for feedback into training.

3.17 Event Reporting System

a. Standard Event Reporting Procedures. The ERC will use the confidentially written ASAP report in accordance with this Memorandum of Understanding. An ASAP PHONE HOTLINE (866-394-7205) will be used to report events within the 24-hour reporting requirement and followed by an ASAP HOTLINE FAX in accordance with paragraph 3.9b1.

The ASAP Phone Hotline is answered but not manned 24 hours a day. During the hours when personnel are not available, the employee will be asked to respond to five questions presented by an automated system. Those five questions are:

1. Employees Name
2. Employee Number
3. Home Address
4. Date of Event
5. Brief Summary of Event

b. Emergency Event Reporting Procedures. In the case of an immediate airworthiness concern, the employee should immediately report that concern by contacting Maintenance Control in Dallas at 214-792-5929. Speak with the Maintenance Operations Team Leader. Notify the Team Leader that this is an ASAP Event Notification and that you request ASAP confidentiality. The Team Leader will maintain Confidentiality and will sign an ASAP confidentiality agreement.

Notification of emergency events must be completed before contacting the ASAP Phone Hotline. All emergency notifications must then be followed by notification to the ASAP Phone Hotline. And followed by an ASAP FAX Hotline in accordance with paragraph 3.9b1.

Note: Submission of an emergency concern to Dallas maintenance Control does not constitute formal submission of an ASAP report. Credit for submission of an ASAP report can only be met when the ASAP report is submitted in accordance with the procedures contained in paragraph 3.9b1 of this MOU.

c. An **ASAP FAX HOTLINE (866-394-7206)** is available for faxing the ASAP Event Report to the ASAP Manager within 5 days

d. Under no circumstances will Event Reports be accepted by any other method than is agreed to in this MOU. In case of an emergency situation, (e.g. ASAP PHONE / FAX lines inoperative) the ERC will review each submission on a case-by-case basis to determine if a late disclosure will be accepted.

3.18 NASA Aviation Safety Reporting System

- a. Advisory Circular 00-46D describes the Federal Aviation Administration (FAA) Aviation Safety Reporting Program (ASRP) which utilizes the National Aeronautics and Space Administration (NASA) as a third party to receive Aviation Safety Reports. This cooperative safety-reporting program includes pilots, controllers, flight attendants, and maintenance personnel.
- b. When an ASAP Event Report is received at the ASAP office, the ASAP office will immediately forward a copy of the event report to the NASA Aviation Safety Reporting System (ASRS) for confidential participation in the ASRS. The ASAP Manager assumes the responsibility of fulfilling the ten-day ASRS reporting requirement on all reports that meet the ASAP 24-hour reporting deadline. The reporting employee will receive an acknowledgement directly from NASA ASRS.
- c. The primary purpose of ASAP's integration with NASA is to contribute to the worldwide aviation safety database at ASRS. Information and analyses derived from such data continues to enhance aviation safety and accident prevention.

3.19 ASAP Data Awareness

- a. The ASAP Manager is responsible for providing critical ASAP airworthiness and general safety information to the SWAME members. The primary goal is to achieve overall corrective action and accident prevention through increased awareness of ASAP events.
- b. A Maintenance Resource Management Analyst may be used to solicit human factor analyses of data and reports. Information derived from these findings is presented to the ASAP ERC upon request.
- c. Data and information will be made available to all Southwest Airlines SWAME employees about ASAP on a continuing basis through various mechanisms, including initial and recurrent training, bulletins and a SWAME newsletter.
- d. Summaries, trends and analyses are included in the ASAP newsletter, which will be published periodically and sent to all Maintenance and Engineering Locations. The ASAP newsletter will contain de-identified copies of selected ASAP reports and ERC responses.
- e. Event Reports will de-identified by removing names, aircraft number, location, and date/time that the event occurred. The ASAP Manager will do this before the Event Report leaves the ASAP Reporting Office. Also see section 3-20a, b, c, and d for additional information.

3.20 Record Keeping

- a. The Southwest Airlines ASAP Manager is responsible for the administration of all records, data and information generated by the ASAP.
- b. Shared custody of ASAP reports (and the data and information derived there from) between the participating parties during an ongoing investigation is required for program administration. In addition, the FAA, IBT/AMFA and SWAME may maintain a de-identified event log in a format agreed to by all participating parties. However, upon event administrative closure, all ASAP records and reports (other than the de-identified event logs) shall be returned to the Southwest Airlines ASAP Manager.
- c. All records and documents relating to this program, including, for example, ASAP reports, records of corrective actions, and training records, will be appropriately kept in a manner that ensures compliance with applicable law, including the Federal Aviation Regulations and the Pilot Records Improvement Act.
- d. Unless required by law, 14 CFR, the Pilot Records Improvement Act, or this MOU, records of an employee's ASAP participation are not kept in any Southwest Airlines personnel file or other Southwest Airlines employee record. However, any records that are required by law to be maintained will be appropriately kept in a manner that ensures compliance with applicable laws.

3.21 ASAP Program Reporting to the FAA

The ASAP Manager is responsible for measuring and reporting the ASAP results to the FAA annually in accordance with paragraph 3.5h of this MOU. Additional reports and reviews will be made available as necessary and upon the request of the FAA. The results contain information regarding the volume of reports submitted to the program as well as descriptions of corrective action recommendations and administrative closures.

3.22 Guest and Observer Participation

Any qualified observer or guest may participate in an ASAP meeting with the unanimous consent of the ERC. Any observer or guest who attends an ASAP meeting must sign an ASAP Observer Consent Form and abide by the applicable conditions of the ASAP Memorandum of Understanding including the terms of confidentiality.

Section 4 ASAP ACCEPTANCE AND RENEWAL PROCEDURES

4.1 Summary

The ASAP is a long-term commitment between Southwest Airlines, its employees, and the FAA. The success of this program depends on the integrity of all its members. This MOU provides the guidance for the voluntary self-disclosure of safety events. It does this by freeing the employee who meets the criteria of the MOU, from fear of SWA disciplinary action or FAA punitive legal enforcement action in exchange for the voluntary reporting of safety events. This will help Southwest Airlines to identify and correct its own problems while improving the airworthiness of its fleet.

4.2 Signatures

The undersigned parties voluntarily agree to establish the Southwest Airlines Maintenance and Engineering (SWAME) Department Aviation Safety Action Program (ASAP) as an 18-month demonstration program under the terms and conditions of this Memorandum of Understanding (MOU), until March 28, 2003 unless provisions are made to extend, amend, or terminate the program prior to this date.

SIGNATORIES

International Brotherhood of Teamsters
Director Airline Division

Date

Southwest Airlines Vice President
Maintenance and Engineering

Date

Federal Aviation Administration
Manager, SWA CHDO

Date

Aircraft Mechanics Fraternal Association
National Director

Date

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5.3 Revision Control

Southwest Airlines will be responsible for complying with standard revision control methodology with respect to the MOU. The original and subsequent revisions thereto shall include:

- a. For each revision to the original MOU, a change control page, identifying The revision number, a brief synopsis of each change to the original document, and specifying which pages are to be removed and replaced.
- b. A list of the effective pages.
- c. A table of contents.
- d. On each page of the MOU a calendar date for when that page was prepared or revised.
- e. For all revisions to the original MOU, a revision number on each page which is revised.
- f. Sequential page numbers on all pages of the MOU.