

VOLUME 11 FLIGHT STANDARDS PROGRAMS**CHAPTER 2 VOLUNTARY SAFETY PROGRAMS****Section 1 Safety Assurance System: Aviation Safety Action Program**

11-35 PURPOSE. Aviation Safety Action Programs (ASAP) prevent accidents and incidents by encouraging employees of certificate holders to voluntarily report safety issues and events. ASAPs provide for education of appropriate parties and the analysis and correction of safety concerns that are identified in the program. ASAPs are intended to create a nonthreatening environment to encourage the employee to voluntarily report safety issues even though they may involve violation of Title 49 of the United States Code (49 U.S.C.), Subtitle VII, or violation of Title 14 of the Code of Federal Regulations (14 CFR). ASAP is based on a safety partnership between the Federal Aviation Administration (FAA) and the certificate holder and may include any third party such as an employee labor organization. These programs are intended to generate safety information that may not otherwise be obtainable.

A. Information obtained from these programs will permit ASAP participants to identify actual or potential risks throughout their operations. Once identified, the parties to an ASAP can implement corrective actions in order to reduce the potential for occurrence of accidents, incidents, and other safety-related events. In order to gain the greatest possible positive benefit from ASAP, it may be necessary for certificate holders to develop programs with compatible data collection, analysis, storage, and retrieval systems. The information and data, which are collected and analyzed, can be used as a measure of aviation system safety.

B. An ASAP provides a vehicle whereby employees of participating air carrier and domestic repair station certificate holders can identify and report safety issues to management and to the FAA for resolution, without fear that the FAA will use reports accepted under the program to take legal enforcement action against them, or that companies will use such information to take disciplinary action. These programs are designed to encourage participation from various employee groups, such as flightcrew members, mechanics, flight attendants (F/A), and dispatchers.

NOTE: The FAA may use ASAP reports for legal enforcement purposes where such reports disclose events that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.

C. The elements of ASAP are set forth in a Memorandum of Understanding (MOU) between the FAA, certificate holder management, and an appropriate third party, such as an employee labor organization or other employee representatives.

11-36 BACKGROUND. The FAA's safety mission requires it to take action to reduce or eliminate the possibility or recurrence of accidents in air transportation. The FAA and the air transportation industry have sought innovative means for addressing safety problems and identifying potential safety hazards. The FAA, in cooperation with industry, established several demonstration ASAPs in an effort to increase the flow of safety information to both the air

carrier and the FAA, and issued Advisory Circular (AC) 120-66, Aviation Safety Action Programs (ASAP), January 1997. Among these programs were the USAir Altitude Awareness Program, the American Airlines Safety Action Partnership, 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 14 CFR without fear of punitive enforcement sanctions or company disciplinary action. Events reported under a program that involved an apparent violation of the regulations by the air carriers were handled under the Voluntary Disclosure Reporting Program (VDRP), provided that the elements of the policy were satisfied. In view of the positive safety results from those programs, the FAA issued a revised AC 120-66 in March 2000 (AC 120-66A), which established industry-wide guidelines for participation. The FAA revised AC 120-66 again in November 2002 (AC 120-66B), incorporating the lessons learned from over two dozen programs that have been established. This chapter contains revised guidance to facilitate achievement of ASAP's safety goals, as well as to encourage wider participation in the program. ASAP includes incentives that encourage participating employees to disclose safety information, which may include possible violations of the 14 CFR.

11-37 KEY TERMS. The following key terms and phrases are defined for the purposes of ASAP to ensure a standard interpretation of the guidance.

A. Administrative Action. Under chapter 5, paragraph 3 of the current edition of FAA Order 2150.3, 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. Air Carrier. A person who undertakes directly by lease, or other arrangement, to engage in air transportation.

C. ASAP Manager. The person serving as the focal point for program administration, including but not limited to: recording and acknowledging receipt of reports; maintaining the ASAP database; providing information about, and responding to, inquiries concerning the status of ASAP reports; and for the coordination and tracking of event review committee (ERC) corrective action recommendations. The ASAP manager may or may not be the voting representative from company management on the ERC.

D. Certificate Holder. Refers to a person authorized to operate under 14 CFR part 121 or 135 or who holds a certificate issued under 14 CFR part 145.

E. Certificate-Holding District Office (CHDO). The Flight Standards District Office (FSDO) or certificate management office (CMO) having overall responsibility for all FAA reporting requirements, technical administration requirements, and regulatory oversight of a certificate holder.

F. Consensus of the Event Review Committee (ERC). Under ASAP, consensus of the ERC means the voluntary agreement of all voting representatives of the ERC to each decision required by the MOU.

G. Corrective Action. For the purposes of ASAP, corrective action refers to *any* safety-related action or recommendation 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.

H. Covered Under the Program/Qualified for Inclusion/Included in ASAP. For the purposes of 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.

I. Enforcement Decision Tool (EDT). The EDT is utilized to determine the safety risk posed by an event as a function of the type of conduct involved. The EDT process uses systems safety risk management (RM) principles. (Refer to the current edition of FAA Order 2150.3, appendix F.) For non-sole source reports accepted by the ASAP ERC and determined by the ERC to be supported with sufficient evidence of a violation, the ERC may use the EDT along with associated guidance to determine the type of corrective action to take under ASAP (administrative or informal action).

J. 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 the employees of a certificate holder.

K. ERC. A group comprised of a representative from each party to an ASAP MOU. 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 labor association (if applicable), and a specifically qualified FAA inspector from the CHDO. Where an employee group is not represented by a labor association, the ERC may include a voting representative chosen from the employee group, even though in that case the labor group is not a signatory to the ASAP MOU.

L. Informal Action. Oral or written counseling of individuals.

M. Intentional Falsification. For the purposes of ASAP, intentional falsification means a false statement in reference to a material fact made with knowledge of its falsity. It does not include mistakes or inadvertent omissions or errors.

N. Major Domestic Repair Station. Refers to a part 145 certificated repair station located in the United States that is certificated to perform airframe and/or engine maintenance for certificate holders.

O. Memorandum of Understanding (MOU). Refers to the written agreement between two or more parties setting forth the purposes for, and terms of, an ASAP.

P. Party/Parties. Refers to the certificate holder, the FAA, and any other person or entity (e.g., labor union or other industry or government entity) that is a signatory to the MOU.

Q. Person. A person refers to an individual, firm, partnership, corporation, company, association, joint stock association, or government entity. It includes a trustee, receiver, assignee, or similar representative of any of them.

R. Runway Incursion Information Evaluation Program (RIIEP). An FAA-sponsored initiative for gathering critical safety data not otherwise available concerning the root causes of runway incursions and surface incidents. The primary means of gathering the data is through in-depth interviews of pilots and maintenance technicians involved in these incidents, as well as completion of a RIIEP questionnaire. ASAP participants are encouraged to incorporate RIIEP as a voluntary part of their ASAP process by providing RIIEP awareness information to their pilot and maintenance technician groups. ERC members should provide the RIIEP questionnaire to a pilot or maintenance technician who submits an ASAP report involving a runway incursion or surface incident, and request voluntary completion of the questionnaire by that employee. In the case of a sole source report, the employee should be instructed not to enter the name identification information requested in section 1 of the RIIEP questionnaire.

S. 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. The reporting venue is specified in the ASAP MOU.

T. Streamlined No Action and Administrative Action Process (SNAAP). The SNAAP provides an automated means for issuance of a warning notice, letter of correction, or FAA letter of no action. The automated process does not replace the more formal process for administrative action described in Order 2150.3. The SNAAP is not to be used for remedial training, voluntary disclosures, or cases where further corrective action must be taken. It should not be used when an inspector determines that inclusion in an administrative action letter of summary of facts text is appropriate, since SNAAP does not allow for entry of such text. It should not be used for ASAP administrative action letters when, based on the consensus of the ASAP ERC, inclusion of summary of facts information in the letter is determined to be appropriate. The SNAAP is highly recommended for letters of no action and should replace the manual preparation of such letters.

U. Sole Source Report. For the purposes of FAA action under ASAP, the ERC shall consider a report to be sole source when all evidence of the event available to the FAA outside of ASAP is discovered by or otherwise predicated on the ASAP report. It is possible to have more than one sole source report for the same event.

V. Sufficient Evidence. Sufficient evidence means evidence gathered by an investigation not caused by, or otherwise predicated on, the individual's safety-related report. There must be sufficient evidence to prove the violation, other than the individual's safety-related report. In order to be considered sufficient evidence under ASAP, the ERC must determine through consensus that the evidence (other than the individual's safety-related report) would likely have resulted in the processing of an FAA enforcement action had the individual's safety-related report not been accepted under ASAP. Accepted ASAP reports for which there is sufficient evidence must be closed with FAA administrative action unless the ERC has elected

through unanimous consensus to employ the EDT for an accepted non-sole source report and determines through the EDT process that informal action is appropriate, as follows: If sufficient evidence supports a violation for an accepted non-sole source report, the ERC may employ the EDT—Individual matrix and associated guidance (refer to Order 2150.3). This matrix may be used to determine, through ERC consensus under the ASAP process, whether the accepted non-sole source ASAP report should be closed with administrative or informal action (and corrective action, if appropriate).

W. Voluntary Disclosure Reporting Program (VDRP). 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 VDRP receive a letter of correction in lieu of civil penalty action. Voluntary disclosure reporting procedures are outlined in the current edition of AC 00-58, Voluntary Disclosure Reporting Program.

11-38 APPLICABILITY. ASAPs are intended for air carriers that operate under part 121, 135, and major domestic repair stations certificated under part 145. Other certificated entities may also apply, and will be evaluated for acceptance on a case-by-case basis to determine whether adequate resources are available to maintain program quality control (QC). ASAPs are entered into voluntarily by the FAA, a certificate holder, and if appropriate, other parties.

11-39 DEVELOPMENT. Certificate holders may develop programs and submit them to the FAA for review and acceptance in accordance with the guidance provided. Ordinarily, programs are developed for specific employee groups, such as flightcrew members, F/As, mechanics, or dispatchers. The FAA will determine whether a program is accepted. The FAA may suggest, but may not require, that a certificate holder develop an ASAP to resolve an identified safety problem.

A. Development and Implementation of an ASAP.

- 1) The certificate holder, employee group, and the FAA must first develop a relationship that will promote the ASAP concept. The reluctance of one or more parties to commit to the program is detrimental to the process.
- 2) The process for report review must be outlined in detail.
- 3) Safety data collection, analysis, and retention processes must be developed and agreed upon.
- 4) Event investigation tasks must be assigned.
- 5) Before implementing the ASAP, a comprehensive company employee and management education program must be undertaken.
- 6) The ASAP process may require cultural change for all parties involved.

7) Continuity of ERC representation personnel during the early stages of program implementation will promote the desired partnership relationship between program members.

B. Demonstration Programs. Certificate holders initially must develop a demonstration program for each employee group sought to be covered by an ASAP. The objective of a demonstration program is to measure its effectiveness and ensure that it meets the safety objectives of the specific ASAP.

1) The initial demonstration program should have a duration of 18 months. However, the FAA may authorize the extension of a demonstration program, when the FAA determines that a longer period of time is needed to achieve the desired goals and benefits articulated in the program.

2) At the conclusion of the initial demonstration program, all parties will review the program. Demonstration programs that require modification may be extended for an additional time, ordinarily not to exceed 12 months, to effectively measure any change(s) made to the original program to address a deficiency identified by any of the parties to the MOU.

3) The ERC is responsible for preparing a final report on the demonstration program at its conclusion. If an application for a continuing program is anticipated, the ERC will prepare and submit a report with the certificate holder's application to the FAA 60 days in advance of the termination date of the demonstration program. All demonstration programs will be subject to an FAA program review prior to transition from a demonstration to a continuing ASAP.

C. Continuing Programs. After a demonstration program is reviewed and determined to be successful by the parties to the agreement, it may be accepted as a continuing program, subject to review and renewal every 2 years by the FAA.

D. Withdrawal. Regardless of the duration of a program, any party to the ASAP MOU may withdraw from the program at any time for any reason.

11-40 RESOURCES. An ASAP can result in a significant commitment of both human and fiscal resources by the parties to the program. During the development of a program, it is important that each party is willing to commit the necessary personnel, time, and monetary resources to support the program. Programs for which adequate resources from all parties are not available, including the FAA in particular, should not be recommended by a CHDO for acceptance.

11-41 ASAP CONCEPTS. The specific provisions of an ASAP are described by an MOU, which is primarily developed by the certificate holder, FAA CHDO, and in some cases, a third party such as an employee labor union. A sample MOU is provided in the current edition of AC 120-66. An automated MOU template is also available through the FAA Web page at <http://www.faa.gov/about/initiatives/asap/>. The guidance material contained in this section and in AC 120-66 provides structure and guidance in preparing a program acceptable for FAA participation. Several workable concepts have emerged from the ASAP demonstration programs. These concepts should be addressed in the MOU, and are explained below:

A. ERC. The determination of whether reports qualify for inclusion in the ASAP will be made by a consensus (unanimous agreement) of the ERC.

1) The ERC is composed of one designated representative and an alternate each from the FAA, the certificate holder, and a third party, if applicable (e.g., a representative from the employee's union or a person chosen from the employee group to serve as an employee voting representative on the ERC).

2) The ERC will:

- Review and analyze reports submitted under the ASAP.
- Determine whether such reports qualify for inclusion, including, if appropriate, interviewing or requesting clarification from the reporter. The ERC may elect to interview an employee prior to an acceptance decision.
- Identify actual or potential problems from the information contained in the reports.
- Propose solutions for those problems.
- Conduct an annual review of the ASAP database to determine whether corrective actions have been effective in preventing or reducing the recurrence of targeted safety-related events.

3) For official meeting purposes, a quorum exists when all designated ERC representatives or their alternates are present. Some reported events may involve matters that are complex or sensitive, or that require the expertise of other FAA or industry persons. The ERC representatives are encouraged to consult with such persons as needed during the ASAP process.

B. FAA ERC Member Responsibilities.

1) Determine if the FAA has received independent evidence on a reported event (e.g., preliminary pilot deviation (PD) report, Administrator's Daily Alert Bulletin, etc.).

2) Assist in determination of a possible 14 CFR regulatory violation.

3) Assure the ERC investigation ascertains all pertinent facts and circumstances prior to acceptance/exclusion, including, where appropriate, ERC interview of the employee(s) prior to acceptance of a report.

4) Assist in determining event resolution in the best interest of safety.

5) Recommend corrective action whenever it is appropriate.

6) Follow through on corrective action to ascertain satisfactory completion.

NOTE: Some reported events may involve matters that are complex or sensitive, or that require the expertise of other FAA or industry persons. FAA ERC representatives are encouraged to consult with such persons as may be needed

during the ASAP process to better understand the nature of an event and its appropriate disposition. FAA management should be advised when potentially controversial events have been submitted for consideration under ASAP. Providing briefings and information to other FAA personnel concerning the nature of the safety event and associated results of ERC/FAA investigation is appropriate, provided that the identity of the reporting employee is not disclosed outside of the ERC. It is appropriate for the FAA member of an ASAP ERC to share information on safety issues identified through ASAP with other FAA personnel.

C. Consensus of the ERC. The success of ASAP is built on the ability of the ERC to achieve consensus on each event that is reported. Consensus of the ERC means the voluntary agreement of all representatives of the ERC.

1) The ERC must reach a consensus when deciding whether a report is accepted into the program and when deciding on corrective action recommendations arising from the event, including whether FAA administrative action is appropriate. It does not require that all members believe that a particular decision or recommendation is the most desirable solution, but that the result falls within each member's range of acceptable solutions for that event in the best interest of safety. In order for this concept to work effectively, the ERC representative must be empowered to make decisions within the context of the ERC discussions on a given report. Senior management and supervisors should ordinarily not preempt their respective ERC representative's decisionmaking discretion for an event reported under the ASAP. If the parties to an ASAP MOU do not permit their respective ERC representative to exercise this discretion, the capacity of the ERC to achieve consensus will be undermined, and the program will ultimately fail.

2) 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 49 U.S.C. and FAA Order 2150.3. 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 medical certification or qualification issue, the FAA ERC representative will decide how the report should be handled (e.g., acceptance or exclusion of the report, or corrective action for an event accepted under ASAP). The FAA will not use the content of an ASAP report in any subsequent enforcement action except as described in subparagraph 11-43B1).

3) When the ERC becomes aware of an issue involving the medical qualification or medical certification of an airman, the ERC must immediately advise the appropriate Regional Flight Surgeon (RFS) about the issue. The ERC will work with the RFS and the certificate holder's medical department or medical consultants to resolve any medical certification or medical qualification issues or concerns revealed in an ASAP report, or through the processing of that report. The FAA ERC member must follow the direction(s) of the RFS with respect to any medical certification or qualification issue(s) revealed in an ASAP report.

4) The program may be terminated at any time by any party for any reason.

5) Report De-identification. ASAP provides for confidentiality of reporter identity outside of the ERC, but not reporter anonymity within the ERC itself. The ASAP manager may elect to remove the employee's name (but should not remove any other information, such as date of the event, tail number, etc.) for initial ERC report review. The purpose of removing the reporter's name is simply to reduce the likelihood that personal knowledge of the individual may bias the initial evaluation of the event. FAA ERC members need the specifics (other than employee identity) concerning the event (date, flight number, location, etc.) in order to efficiently accomplish their responsibility to determine whether the FAA has received independent information (i.e., information such as a preliminary PD report, outside of the ASAP) concerning the event.

6) Safety Data Collection, Analysis, and Retention Processes. Through the collection and aggregation of de-identified ASAP data, the parties to the MOU can identify and analyze trends and target resources to reduce risks. Data are gathered from the reports and used to identify trends. Corrective actions are devised to counter adverse trends. Data are again gathered to determine the effectiveness of any corrective actions undertaken. If needed, new or additional corrective actions are devised and implemented. Data are used to evaluate the effectiveness of these new actions. This process continues until the actions are deemed successful, and then data are used to monitor long-term success and ensure there is no recurrence.

7) ASAP Manager. The person, designated by the air carrier, serving as the focal point for information about, and inquiries concerning the status of, ASAP reports, and for the coordination and tracking of ERC recommendations. Duties include:

- a) Receives, records, tracks, analyzes, and responds to ASAP reports.
- b) Maintaining the ASAP database and facilitating ERC member access, as needed.
- c) Preparing meeting agenda.
- d) Tracking corrective action(s).
- e) Recording repeat instances of noncompliance with the 14 CFR.
- f) Providing employee feedback.

8) ASAP Database. Individual program participants may develop data acquisition, event categorization, and risk analysis schemes that work best for them. However, FAA representatives should be cognizant of FAA-sponsored development and implementation of a voluntary national information sharing venue for ASAP, and should convey that information to their ERC counterparts, as well as to the ASAP manager. In order to enable voluntary sharing of ASAP information from multiple program participants, a common taxonomy (classification scheme) tailored to the type of events and corrective actions appropriate for a particular employee group must be created. Although not required to do so, operators interested in participating in safety information sharing at a national level may want to consider adopting

part or all of the endorsed national classification scheme for a given employee group, in order to facilitate their participation in that initiative. In any case, regardless of a participant's internal classification scheme for ASAP events, participants who wish to participate in national information sharing will need to map their events to the agreed upon national scheme for a given employee group in order to participate in that information sharing effort. Information concerning the national information sharing initiative for ASAP is available from the manager, Air Carrier Training Systems and Voluntary Safety Programs Branch (AFS-280).

a) Suggested items for inclusion in a report tracking/categorization scheme include:

- Report number (certificate holder defined);
- Event category (certificate holder defined);
- Report type (sole or non-sole source);
- Referred to another line of business (when, what department, followup);
- Possible 14 CFR violation (yes/no);
- Sufficient evidence (yes/no);
- Risk category (certificate holder defined);
- Safety Assurance System (SAS) element (if appropriate);
- Corrective action recommendation (description);
- FAA action, if any (letter of correction, warning notice, or letter of no action);
- Written counseling, or oral counseling action accomplished, if any;
- Completion date, followup required (yes/no);
- Corrective action effective (yes/no);
- Time to completion; and
- Person responsible for additional information (investigation/interview, etc.).

b) Database information retention requirements: Safety-related information should be retained for a period of time sufficient for the ERC to determine whether its recommended corrective actions have been effective, but not less than for 2 years.

D. Sole Source Reporting. Often, the only information available concerning a safety event will be the individual's ASAP report. Under ASAP this is referred to as a "sole source" report. Therefore, for the purposes of FAA action under ASAP, an individual's ASAP report is considered sole source when all evidence of the individual reporter's involvement in the event available to the FAA is discovered by or otherwise predicated on the report. The intent of the ASAP is to correct safety concerns that are identified by the program. Safety risks/threats identified in sole source reports must be addressed by the ASAP ERC. Corrective action for the individual and/or the air carrier should be recommended, if appropriate.

1) The ERC will close the sole source report and provide feedback to the reporting employee in a form and manner acceptable to the ERC.

2) It is possible to have more than one sole source report for the same event.

3) After the investigation is complete and the only evidence of the individual reporter's involvement in the event available to the FAA is obtained from the reporting individual, or is caused by or predicated upon that individual's accepted sole source report, *no additional* FAA enforcement action or correspondence outside of the ERC is required. Such reports are closed with an ERC response to the submitter, and corrective action under ASAP, if the ERC determines that such corrective action is appropriate.

4) Accepted sole source reports shall *not* be closed with an FAA letter of no action, letter of correction, or a warning notice.

E. Sufficient Evidence. Sufficient evidence means evidence gathered by an investigation not caused by, or otherwise predicated on, the individual's safety-related report. (See subparagraph 11-37V for the complete definition.) Reports that are accepted into the program and supported by sufficient evidence are referred to as non-sole source reports.

1) For accepted non-sole source reports, the inspector should only open an Enforcement Investigative Report (EIR) at such time during the investigation that it is determined that sufficient evidence of an apparent violation exists, as defined in subparagraph 11-37V.

a) For non-sole source reports that are accepted under an ASAP, neither administrative action nor informal action will be taken against an individual for an apparent violation unless there is sufficient evidence of the violation, other than the individual's safety-related report.

NOTE: If sufficient evidence supports a violation for a non-sole source report, the ERC may employ the EDT—Individual matrix and associated guidance (refer to Order 2150.3). This matrix may be used to determine, through ERC consensus under the ASAP process, whether the accepted non-sole source ASAP report should be closed with administrative or informal action (and corrective action if appropriate).

b) For non-sole source reports that are accepted under an ASAP, an FAA warning notice, letter of correction, or informal action (see note above), in addition to an appropriate ERC reply to the reporter, would be used to close an ERC investigation when the evidence provided for the accepted non-sole source report is sufficient to prove a violation.

c) For non-sole source reports that are accepted under ASAP, an FAA letter of no action, in addition to an appropriate ERC reply to the reporter, would be used to close an ERC investigation when there is not sufficient evidence, as defined in subparagraph 11-37V.

2) Under ASAP, except for reports that appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification, the content of any

individual's ASAP report will not be used as evidence by FAA for any purpose in an FAA enforcement action.

3) 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.

a) Corrective action for employees is any safety-related action determined necessary by the ERC based upon a review, investigation, and analysis of the event(s).

b) Corrective action for certificate holder systemic issues is any safety-related recommendation determined necessary by the ERC, based upon a review, investigation, and analysis of the event(s).

1. The ASAP manager should convey such ERC recommendations to the appropriate company department head for consideration.

2. The certificate holder may implement (as recommended), modify, or decline to implement.

3. The ASAP manager must record, track, and follow up company response and action.

4. Any recommended corrective action that is not implemented will be recorded along with the stated reason why it was not implemented.

5. Repeated occurrences of systemic issues should be brought to the attention of company and FAA management.

4) The FAA ERC representative:

a) Should recommend corrective action whenever it is appropriate given the nature of the event, regardless of whether it is sole source or non-sole source.

b) Is responsible for tracking and followup for ERC-recommended corrective action to assure that it has been accomplished to the satisfaction of the FAA.

c) May elect to observe accomplishment of corrective action to ascertain acceptability.

F. Enforcement-Related Incentive. An enforcement-related incentive is the minimum FAA enforcement action that is needed to achieve the desired goal(s) and results of the program when alleged infractions of the 14 CFR are involved.

NOTE: If sufficient evidence supports a violation for a non-sole source report, the ERC may employ the EDT—Individual matrix and associated guidance (refer to Order 2150.3). This matrix is used to determine, through ERC consensus under

the ASAP process, whether the accepted non-sole source ASAP report should be closed with administrative or informal action (and corrective action if appropriate).

1) Apparent violations of the regulations by employees of a certificate holder disclosed through safety-related reports will be addressed with administrative action or informal action if (see note above):

a) Sufficient evidence exists; and

b) The apparent violation(s) is inadvertent and does not involve an intentional disregard for safety.

2) Violations that are not inadvertent or that involve an intentional disregard for safety are specifically excluded from the program and any enforcement-related incentive will not apply to these violations.

NOTE: ASAP ERC members are encouraged to consider the conduct definitions and associated attributes found in Order 2150.3 when determining whether a report should or should not be accepted under the ASAP.

3) Reports that appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification are automatically excluded from the program and are turned over to the proper authorities for further investigation.

4) Conduct that raises a question of a lack of airman competence or qualification, medical certification, or other employee competence/qualification issues may be addressed by the ASAP; however, the employee must successfully complete all of the recommendations in a manner satisfactory to all members of the ERC to be covered by the program and the ERC must comply with subparagraph 11-41C3).

5) Reports initially accepted under an 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 a certificate holder to follow through with corrective action acceptable to all members of the ERC to resolve any safety deficiencies will ordinarily result in termination of the program. In addition, failure of any individual to complete corrective action for an apparent violation, a competence or qualification issue, or a medical certification 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.

11-42 GUIDELINES FOR ACCEPTANCE AND EXCLUSION OF REPORTS UNDER AN ASAP. Participation in the ASAP is limited to certificate holder 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 ASAP must either sign the same report or submit

separate signed reports. The ERC should not complete its deliberations on acceptance/exclusion of a report, classification as sole source/non-sole source, etc., until the FAA member informs the ERC that he or she has completed the investigation of the event.

A. Criteria for Acceptance. The following criteria must be met in order for a report involving a possible violation to be covered under ASAP:

1) The employee must submit a report in a timely manner. In order to be considered timely, a report must be submitted in accordance with either of the following two criteria:

a) Within a time period following the event that is defined in the MOU, such as within 24 hours of the end of the duty day in which the event occurred. If the ERC reaches consensus that this criterion has been met, a report would not be rejected for timeliness, even if the FAA was already aware of the possible noncompliance with the regulations, and may have brought it to the attention of the employee; or

b) Within 24 hours of having become aware of possible noncompliance with the 14 CFR in accordance with the following criteria:

1. If a report is submitted later than the time period after the occurrence of an event stated in the MOU, the ERC will review all available information to determine whether the employee knew or should have known about the possible noncompliance with the 14 CFR within that time period.

2. If the employee did not know or could not have known about the apparent noncompliance with the 14 CFR within that time period, then the report would be included in the ASAP, provided the report is submitted within 24 hours of having become aware of possible noncompliance with the 14 CFR, and provided all other ASAP acceptance criteria have been met.

3. If the employee knew or should have known about the apparent noncompliance with the 14 CFR, then the report will not be included in ASAP, unless the MOU states that a sole source report that meets all other ASAP acceptance criteria except timeliness will be accepted.

2) The alleged regulatory violation must be inadvertent and must not appear to involve an intentional disregard for safety. As stated in Order 2150.3, inadvertent apparent violations are generally the result of simple failure to exercise reasonable care.

NOTE: ASAP ERC members are encouraged to consider the conduct definitions and associated attributes found in Order 2150.3 when determining whether a report should or should not be accepted under the ASAP.

3) The reported event must not appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.

4) Sole source reports that meet all of the MOU acceptance criteria except timely submission will be accepted under an ASAP, provided that the ASAP MOU includes a specific provision to that effect.

5) Reports involving the same or similar possible noncompliance with the 14 CFR that were previously addressed with administrative action under the ASAP will be accepted into the program, provided they otherwise satisfy the acceptance criteria under subparagraph A of this paragraph. The ERC will consider on a case-by-case basis the corrective action that is appropriate for such reports.

B. Nonreporting Employees. Nonreporting employees are employees of the certificate holder that have been identified in an ASAP report as possibly having been involved in an alleged violation and have neither signed that report nor submitted a separate report. For the purposes of the ASAP, there are two types of nonreporting employees—those employees of the group covered by an ASAP MOU and those employees that are not covered by an ASAP MOU.

1) 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 the ASAP, the ERC will offer the nonreporting employee the opportunity to submit his or her own ASAP report.

a) If the nonreporting employee submits his or her own report within 24 hours of notification from the ERC, that report will be afforded the same consideration under the ASAP as that accorded the report from the original reporting employee, provided all other ASAP acceptance criteria are met.

b) If the nonreporting employee fails to submit his or her own report within 24 hours of notification by the ERC, 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.

2) If an ASAP report identifies another employee of the certificate holder 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.

a) If the employee submits an ASAP report within 24 hours of notification by the ERC, that report will be covered under an ASAP.

b) If the employee fails to submit an ASAP report within 24 hours of notification by the ERC, 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 agencies, if warranted.

C. Excluding Reports from ASAP. The following types of reports are excluded under an ASAP:

1) Reports involving an apparent violation that is not inadvertent or that appears to involve an intentional disregard for safety. For example, a pilot misreading an item on a checklist would ordinarily be considered inadvertent. Failure to use the checklist, however, would not be considered inadvertent.

NOTE: ASAP ERC members are encouraged to consider the conduct definitions and associated attributes found in Order 2150.3 when determining whether a report should or should not be accepted under the ASAP.

2) Reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.

3) Untimely reports excluded under subparagraph A1) above or reports where a consensus on acceptance under this paragraph is not reached by the ERC.

4) Reports of events that occurred when *not* acting as an employee of the certificate holder.

5) Reports initially included in an 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, a competence or qualification issue, or medical certification or 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. Failure of a certificate holder to follow through with corrective action acceptable to all members of the ERC to resolve any safety deficiencies will ordinarily result in termination of the program.

11-43 ENFORCEMENT POLICY. The content of the ASAP report will not be used to initiate or support any company disciplinary action, or as evidence for any purpose in an FAA enforcement action, except as provided in subparagraph B1) below. The following enforcement policy shall apply to reports submitted under ASAP:

A. Reports Accepted Under ASAP. An individual's report that is accepted into ASAP will be addressed using the following enforcement policy:

1) Those non-sole source reports included in ASAP with sufficient evidence (see paragraph titled "Key Terms" subparagraph V above for the definition of sufficient evidence) to support a violation of 14 CFR will be closed with administrative action or informal

action (see note). Those non-sole source reports without sufficient evidence to support a violation of the 14 CFR will be closed with an FAA letter of no action.

NOTE: If sufficient evidence supports a violation for a non-sole source report, the ERC may employ the EDT—Individual matrix and associated guidance (refer to Order 2150.3). This matrix may be used to determine, through ERC consensus under the ASAP process, whether the accepted non-sole source ASAP report should be closed with administrative or informal action (and corrective action, if appropriate).

NOTE: *Important:* If the SNAAP is used, source code 44 must be entered on the SNAAP job aid. If it is not used, code 44 must be entered on the FAA Form 2150-5, Enforcement Investigation Report, for those non-sole source reports included in ASAP supported by sufficient evidence and closed with administrative action. Code 44 signifies that the information is protected from release under 14 CFR part 193.

2) Those sole source reports that are included in ASAP will be closed with appropriate corrective action and an ERC response to the submitter (no FAA action).

3) Those reports included in ASAP that demonstrate a lack of qualification or competence, or that raise a question of a lack of qualification or competence, will be addressed with appropriate corrective action recommended by the ERC, provided the employee completes the corrective action in a manner satisfactory to all members of the ERC.

B. Reports Excluded from ASAP. Reported events that are excluded from ASAP will be referred to the FAA for possible enforcement action and/or reexamination under 49 U.S.C., Subtitle VII, and as prescribed in FAA Order 2150.3.

1) Reports of events 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. If upon completion of subsequent investigation it is determined that the event did not involve any of the aforementioned activities, then the report will be referred back to the ERC for a determination of acceptability under ASAP. Such reports will be accepted under ASAP provided they otherwise meet the acceptance criteria contained in the paragraph titled “Guidelines for Acceptance and Exclusion of Reports under an ASAP” subparagraph A.

2) Neither the written ASAP report nor the content of the written ASAP report will be used to initiate or support company discipline or as evidence for any purpose in an FAA enforcement action except as provided for in subparagraph B1) above. The FAA may conduct an independent investigation of an event disclosed in a report.

C. Reopening Reports Based on New Evidence. All safety-related reports should be fully evaluated and, to the extent appropriate, investigated by the FAA. The ERC should not

accept or close a report until all member investigations concerning the event are completed, including the determination of whether independent information on the event (i.e., information not obtained from, or predicated upon, the ASAP report) is known to the FAA. A closed ASAP case, including any related EIR, involving a violation addressed with administrative action, informal action, or for which no action has been taken, may be reopened and appropriate enforcement action taken if evidence is later discovered that establishes that the violation should have been excluded from the program.

D. Violations of Certificate Holders. Apparent violations of certificate holders disclosed through a safety-related report under an ASAP may be handled under the VDRP, provided the certificate holder voluntarily reports the apparent violations to the FAA and the other elements of that policy are met. (Refer to AC 00-58 and FAA Order 2150.3.) The FAA shall use the knowledge of the event to conduct such independent investigation of the operator's apparent violation(s) as is deemed appropriate, including opening an EIR and, where the FAA has accepted the voluntary disclosure of a violation by the regulated entity, the FAA shall close the event with an FAA letter of correction (administrative action).

1) Special provisions exist for apparent violations by certificate holders when a voluntary disclosure is made based on information in an ASAP report. If the FAA has learned of an apparent violation by a certificate holder from an ASAP report, a voluntary disclosure can still be accepted by the FAA, even though the FAA has already learned of the violation from the ASAP.

2) In such cases, the FAA may, at its sole discretion, accept the corrective action recommended by an ASAP ERC for an accepted ASAP report as the comprehensive fix for the voluntary disclosure. This is acceptable when the following conditions all apply (even when an apparent employee qualification or competency issue is involved):

a) The FAA determines that the violation is due entirely to the actions of the employee(s) and not to a systematic or procedural deficiency of the company; and

b) The employee completes the corrective action recommended by the ASAP ERC to the satisfaction of the FAA.

E. Enforcement Investigation Coordination. The CHDO is the focal point of all enforcement-related investigations resulting from events reported through the ASAP.

1) If an event occurs within the jurisdiction of a FSDO other than the CHDO of the certificate holder involved, the FSDO will contact the CHDO of the certificate holder to coordinate appropriate action. The FSDO should delay opening an EIR until establishing contact with the appropriate CHDO. The FSDO should determine whether the certificate holder has an ASAP for the applicable employee group by accessing the Flight Standards Service (AFS) ASAP Web page at http://www.faa.gov/about/initiatives/asap/media/asap_participants.pdf.

2) The CHDO, upon learning of an ASAP event that may involve a violation of the 14 CFR, will contact the investigating FSDO that has jurisdiction over the geographical area

where the event occurred. If the alleged violator has submitted an ASAP report that has been accepted into the certificate holder's ASAP, that FSDO shall transfer the investigation, including any open EIR, to the CHDO for further investigation and disposition. If the ASAP report was not accepted into the program, the investigation and EIR remain at the FSDO where the ASAP-reported event occurred unless the regional headquarters (HQ) agrees to transfer the case in accordance with Order 2150.3, chapter 6, paragraph 8b.

NOTE: Other related reports, such as an incident report or preliminary PD report, must be completed in accordance with current guidance materials regarding such reports. These reports should normally be completed by the FAA office having jurisdiction over the event. However, the CHDO may request the transfer of an incident report, preliminary PD report, or other report associated with an event reported under ASAP. If the CHDO requests transfer of a report, the CHDO must ensure that AFS responsibilities with respect to that report are completed in a timely manner.

11-44 MOU. The elements of an ASAP are set forth in an MOU between the FAA, certificate holder management, and an appropriate third party, such as an employee labor organization or their representatives. A program will be implemented in accordance with the provisions of its MOU. Each MOU will be based on the parties' different needs and purposes for an ASAP. Required elements of an MOU are identified in the ASAP MOU Checklist job aid (see Figure 11-11, Aviation Safety Action Program (ASAP) Checklist).

A. Parties to the MOU. For the purpose, the term "party/parties" refers to the certificate holder, the FAA, and any other person or entity that is a signatory to the MOU and would be a major contributor to the success of the respective ASAP. This could include labor unions or other industry or government entities. It should be noted that the FAA only regulates certificate holders and other persons subject to the 14 CFR. However, all signatories are expected to conform to the provisions of the MOU.

B. Development Theme. The MOU should be written with the theme of open communication and trust between the parties to the agreement.

C. MOU Elements. Each MOU will be based on the parties' different needs and purposes for an ASAP. The MOU shall set forth the elements of the ASAP.

1) An automated AFS ASAP MOU template is available to download at http://www.faa.gov/about/initiatives/asap/memo_generator/. While use of this template is not mandatory, it is recommended for use by certificate holders in developing their ASAP MOU. Benefits of using this template include expedited review and acceptance processes of the MOU.

2) Certificate holders may develop a proposed ASAP MOU that does not make use of the template referenced in the preceding paragraph. In these cases, the checklist provided (see Figure 11-11) shall be used by the FAA when the MOU is being reviewed. Certificate holders should use this checklist during development of their MOU to verify that all of the required content is present. This checklist provides the minimum elements necessary for an ASAP MOU

to be accepted by the FAA. The checklist should be completed in its entirety and forwarded with the MOU for processing. The CHDO should verify accurate completion of the checklist by the certificate holder prior to forwarding the MOU for review at the respective regional FAA HQ and AFS-280.

D. MOU Signatories. The MOU must be signed by an authorized representative of each party. The MOU will be signed by the CHDO Office Manager (OM) on behalf of the FAA following receipt of a letter of authorization (LOA) from the Office of the Director (AFS-1).

11-45 ASAP PROGRAM ACCEPTANCE, EXTENSION, RENEWAL, AND AMENDMENT PROCEDURES. When a certificate holder submits an MOU, assigned inspectors should review the key terms and concepts in AC 120-66 (as amended) and this section. The checklist job aid (Figure 11-11) should then be completed, if applicable, to ensure that the MOU complies with FAA policy.

A. Initial Review by the CHDO. The certificate holder should initially develop and present the program to the CHDO for review.

1) The CHDO and the certificate holder will review it to ensure that it satisfies the guidance in AC 120-66 and this section. Prior to acceptance, the program should be reviewed to ensure that sufficient FAA and company resources are available to administer the program effectively. Program proposals that require agency resources exceeding available levels should not be recommended by the CHDO for acceptance.

2) When the CHDO is satisfied that the program is acceptable under the guidance of ASAP, the CHDO manager forwards an electronic copy of the proposed MOU, and the CHDO's recommendation for acceptance, to the respective Flight Standards division Regional Office (RO) and to the ASAP program office, AFS-280. If the proposed MOU does not employ the ASAP MOU AFS automated template referenced in subparagraph 11-45F, a completed ASAP checklist (Figure 11-11) shall accompany the proposed MOU for processing.

NOTE: For the purposes of review by the Flight Standards division RO and FAA HQ, AFS-280, a signed copy of the MOU is not required. The MOU may be signed by the respective parties following receipt by the FAA CHDO manager authorized by AFS-1 to sign the MOU on behalf of the FAA.

a) The ASAP program office shall review and, if required, forward a copy of the MOU to the Office of the Chief Counsel (AGC), Enforcement Division (AGC-300), for appropriate legal review. MOUs that utilize the template do not require AGC review.

b) All programs, except for renewals of continuing programs, shall receive authorization on final acceptance from AFS-1. AFS-1 will indicate authorization for acceptance of the MOU by FAA memorandum to the CHDO manager through the regional division manager. AFS-280 will be responsible for preparing the memorandum for AFS-1's signature and submitting it with the ASAP package to AFS-1.

c) Following authorization by AFS-1, the CHDO manager shall sign the MOU on behalf of the FAA. The certificate holder should allow a minimum of 60 days for the FAA acceptance process to be completed once its ASAP program is received at FAA HQ for review.

B. Demonstration Program Extensions. If the company requests an extension of the initial demonstration program beyond 18 months, the local CHDO manager shall inform the AFS-280 manager of the request by electronic message. Upon receipt of authorization from AFS-280 by return electronic message, the CHDO manager shall grant the request by CHDO letter to the company. The CHDO manager must forward a signed copy of the extension letter to the ASAP program office, AFS-280, for program tracking purposes.

C. Continuing Program Initial Acceptance. Initial acceptance of a continuing program is processed in the same manner as described in subparagraph 11-45A.

D. Renewal of a Continuing Program. The renewal of an existing continuing program is accomplished every 2 years after a review by the parties to the MOU to ensure that the particular ASAP program is meeting its objectives. The renewal may be accomplished at the local CHDO level by the CHDO manager signing the MOU on behalf of the FAA. The company should notify the CHDO of its request for renewal 60 days in advance of the expiration of an existing continuing program ASAP MOU. The CHDO manager shall notify the ASAP program office, AFS-280, by email 45 days in advance of renewing an existing continuing ASAP program.

E. Program Reviews and Reports.

1) Annual Review. The ERC conducts an annual review of the ASAP database with emphasis on determining whether corrective actions have been effective in preventing or reducing the recurrence of safety-related events of a similar nature. That review will include recommendations for corrective action for recurring events indicative of adverse safety trends.

2) End of Demonstration Program Report. The ERC is responsible for preparing a final report on the demonstration program at its conclusion. If an application for a continuing program is anticipated, the ERC will prepare and submit a report with the certificate holder's application to the FAA 60 days in advance of the termination date of the demonstration program. This allows the effective measurement of any change(s) made to the original program that addresses a deficiency identified by any of the parties to the MOU.

3) FAA Program Review. The purpose of the program review is to collect information, data, and feedback from participants that will enable an assessment of whether the safety objectives of the program are being achieved, and whether those results are being effectively documented. To the maximum extent possible, the FAA program review is scheduled to coincide with the end of demonstration or first continuing program MOU expiration. The review is completed onsite during a regularly scheduled ERC meeting. The review incorporates a survey questionnaire combined with an observation of the ERC meeting followed by feedback concerning the conduct of the meeting, including a discussion of the program review questionnaire responses. In addition, the reviewer provides clarification of ASAP policy,

guidance, and discussions of national program trends, and concludes with a short question and answer session.

F. FAA ASAP Policy Updates. As the FAA and industry gain experience with the ASAP, FAA ASAP policy will evolve to reflect lessons learned. AFS has established a Web page (<http://www.faa.gov/about/initiatives/asap/>) to provide the most current information on ASAP policy updates. If the FAA makes changes to ASAP policy, they will appear on the ASAP Web page prior to publication elsewhere. The Web page also contains an automated template to facilitate the generation of an ASAP MOU by airlines and major domestic repair stations interested in starting new programs. Although not required, use of the automated template is strongly encouraged, because MOUs that use the standard language from that program can be quickly accepted. The template will always reflect the most current FAA policy on ASAP. If the certificate holder and, where applicable, its associated labor association elect to revise an accepted MOU to incorporate updates to FAA ASAP policy, the following acceptance procedures will apply:

1) The AFS ASAP Web page will serve as the reference source for updates to FAA ASAP policy. Until revised, guidance to industry provided in AC 120-66 will continue to apply, except as noted on the ASAP Web page. The ASAP Web page will contain the exact language that describes policy updates to these documents.

2) The CHDO manager will accept revisions to accepted ASAP MOUs that are revised to incorporate updates to FAA ASAP policy when such revisions employ the exact policy language that appears in the MOU template on the AFS ASAP Web page. The FAA does not require coordination and review of such revisions above the level of the CHDO manager. However, an information copy of the revised MOU shall be provided to the AFS-280 manager P.O. Box 20027, Washington, DC 20041, following acceptance.

3) Following CHDO review, revisions to accepted ASAP MOUs that do not incorporate the exact policy language that appears in the MOU template on the AFS ASAP Web page must be forwarded for further review through the FAA regional HQ to AFS-280. The CHDO must provide, by cover letter, its recommendations regarding acceptance of such revisions.

G. Revision Control. The certificate holder should employ standard revision control methodology with respect to revisions to the MOU. The original and subsequent revisions should include:

1) For each revision to an 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;

2) A List of Effective Pages (LEP);

3) A table of contents;

- 4) On each page of the MOU, a calendar date for when that page was prepared or revised;
- 5) For all revisions to an original MOU, a revision number on each page that is revised; and
- 6) Sequential page numbers on all pages of the MOU (except the cover page, if applicable, which shall be understood to constitute page (i)).

H. Recordkeeping. The parties should maintain those records necessary for a program's administration and evaluation. Records submitted to the FAA for review relating to an ASAP are protected to the extent allowed by law under applicable exemptions of the Freedom of Information Act (FOIA). All records and documents relating to an ASAP must be kept in a manner that ensures compliance with the 14 CFR and all applicable laws, including the Pilot Records Improvement Act of 1996 (PRIA).

I. Aviation Safety Inspector (ASI) Training. ASIs should be adequately prepared to perform ASAP-related duties as outlined below:

- 1) ASIs who will review an ASAP MOU for recommended acceptance or who will participate in an ERC should attend training as prescribed by the Flight Standards Training Division (AFS-500).
- 2) ASIs who will serve as ERC representatives should meet the following minimum qualifications:
 - a) Three years of AFS experience (series 1825);
 - b) One year of part 121 or 135 certificate management experience (as applicable);
 - c) ASAP initial/continuing training; and
 - d) Except for new ASAP programs, attendance at three ERC meetings. For a new ASAP program, inspector attendance, if feasible, at another certificate holder's ERC is recommended for training purposes prior to the inspector's participation in the new program.

11-46 SAS AUTOMATION AND PROGRAM TRACKING AND REPORTING SUBSYSTEM (PTRS) INPUT.

A. SAS. SAS should utilize automation Data Collection Tools (DCT) 1.1.1 (OP/AW) Safety Management System, 1.1.2 (OP) Safety Program (Ground and Flight), 1.1.5 Safety Program (for 145 Repair Stations only).

B. PTRS. For activity associated with participation in the ASAP review committee, Operations inspectors and cabin safety inspectors (CSI) should enter the PTRS code 1391 for

each set of such reports reviewed, maintenance inspectors should use PTRS code 3395, and avionics inspectors should use 5395 for these reviews. Enter the designator code appropriate to the air carrier or major domestic repair station whose ASAP program was associated with the reports. Use the numeric-miscellaneous field to record the number of reports reviewed. Comments regarding the report content or conduct of the ASAP program may be entered as necessary. For sole source reports regarding actions of individual employees, the inspector should not enter the name of the employees.

1) If an enforcement investigation associated with an ASAP report is initiated, the inspector shall enter the code ASAP in the “National Use” block of the PTRS initiated in order to track aspects of ASAP. This entry is in addition to the PTRS code appropriate for the specific activity (e.g., 1735/33, 3731/33, 5731/33). It is also important to complete the “Designator” block with the appropriate air carrier or major domestic repair station designator code even when completing a PTRS activity involving an employee of the certificate holder.

2) For sole source reports regarding actions of individual employees, the inspector should not enter the name of the employees.

11-47 QUARTERLY REPORTS ON SAFETY ENHANCEMENTS.

A. The fundamental purpose of ASAP is to enhance safety. It is therefore important to maintain an audit trail of the extent to which the program is achieving that objective. OMs shall prepare a summary report of safety enhancements achieved each quarter by each certificate holder’s ASAP program(s) for which they have oversight responsibility. Quarterly reports shall be sent by electronic mail to the respective regional HQ AFS division office and to the AFS-280 manager, using the report format provided in the example, Figure 11-12, ASAP Safety Enhancement Report Format Example.

B. This information is maintained on an FAA internal SharePoint site, access to which is available to any AFS inspector upon request to AFS-280. Regional division ASAP coordinators should use the SharePoint site to track compliance by individual FAA offices with the quarterly report submission requirement, as well as to review safety enhancements achieved in their region through ASAP. The information should be considered protected from public release under the current edition of FAA Order 8000.82, Designation of Aviation Safety Action Program (ASAP) Information as Protected from Public Disclosure under 14 CFR Part 193, and part 193. Direct access requests should be sent to the AFS-280 manager.

11-48 ASAP DATA AND INFORMATION CONFIDENTIALITY AND NON-DISCLOSURE CRITERIA.

A. A significant impediment to the sharing of ASAP information with the FAA is the aviation industry’s concern over public disclosure of the information, and, if disclosed, the potential for it to be used for other than the safety enhancement purposes for which the ASAP was created. Under 49 U.S.C. § 40123, certain voluntarily provided safety and security information is protected from disclosure in order to encourage persons to provide the information to the FAA.

B. Order 8000.82 designates information received by the agency from an ASAP as protected from public disclosure in accordance with the provisions of part 193.

C. Part 193 protection—with the exception of ASAP MOUs, and de-identified summarized information as specified in Order 8000.82—other ASAP data and information is protected from disclosure under FOIA.

D. FAA Guidelines on Use of Information from ASAP.

1) Classification. “Protected from disclosure under 49 U.S.C., section 40123 and 14 CFR part 193” and therefore should be considered “For Official Use Only”—to be disclosed within the FAA on a “need to know” basis.

2) ASAP Reports. De-identified information on an event may be used within the FAA for mission pertinent purposes, such as surveillance planning, policy development, or rulemaking.

3) ERC Deliberations. The FAA ERC member may communicate within the FAA the facts disclosed by the investigation and disposition of any event reported under ASAP, including followup for corrective actions. However, it is not considered a “best practice” for OMs and supervisors to inquire as to specific content of discussion within the ERC.

Figure 11-11. Aviation Safety Action Program (ASAP) Checklist

If the certificate holder chooses not to use the Aviation Safety Action Program (ASAP) Memorandum of Understanding (MOU) template (available on the Web at <http://www.faa.gov/about/initiatives/asap/>) when developing an MOU, it should use the following checklist to ensure that the MOU adequately addresses all necessary elements. Federal Aviation Administration (FAA) personnel shall use this checklist when reviewing an MOU developed without the aid of the template. An MOU may contain additional information not included in the checklist that is necessary for the operation of the program. This checklist shall be submitted to the FAA certificate-holding district office (CHDO) along with the completed MOU at the time of submission for FAA acceptance. The CHDO shall review this checklist to ensure that all provisions of the ASAP have been met in accordance with the guidance material and that the certificate holder has accurately completed the checklist. The CHDO shall include the completed checklist along with other applicable items discussed in this section for regional and headquarters (HQ) review. The “RESPONSE” column should be answered for each question. The response should be Yes, No, or NA (not applicable). All No or NA responses should include a brief explanation as to why that item was marked NO or NA. The “REFERENCE” column should also be completed by identifying the location of the particular item’s response in the certificate holder’s MOU (e.g., MOU, page 2, paragraph 3a).

ASAP MOU Checklist

NO.	ITEM	RESPONSE (Circle Yes, No, or NA)	MOU Paragraph REFERENCE
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NO.	ITEM	RESPONSE (Circle Yes, No, or NA)	MOU Paragraph REFERENCE
1	Does this program involve a part 121 or 135 air carrier or part 145 major domestic repair station?	Yes No NA	
2	Is this ASAP:		
a	Specific to an employee group(s)?	Yes No NA	
b	A demonstration program?	Yes No NA	
c	An extension of a demonstration program?	Yes No NA	
d	A continuing program?	Yes No NA	
e	A renewal of a continuing program?	Yes No NA	
3	Is the duration of the program limited to the period of time needed to achieve the desired goals and benefits articulated in the program? Demonstration programs initially should have a duration of no longer than 18 months and should be reviewed prior to renewal. Demonstration programs that undergo changes after their initial review may be renewed for no longer than 12 months. Programs that are classified as continuing must be reviewed and renewed every 2 years.	Yes No NA	
4	Have all parties to the ASAP entered into this agreement voluntarily?	Yes No NA	
5	Is there a description of the objective(s) of the program which includes:		
a	The essential safety information that is reasonably expected to be obtained through the program?	Yes No NA	
b	Any specific safety issues that are of a concern to any of the parties?	Yes No NA	
c	The benefits to be gained through the use of the program?	Yes No NA	
6	Is there a description of any enforcement-related incentive that is needed to achieve the desired goal and results of the program?	Yes No NA	
7	Is there a statement that all safety-related reports shall be fully evaluated and, to the extent appropriate, investigated by the event review committee (ERC)?	Yes No NA	
8	Is there a description of the manner in which ASAP records and reports shall be kept that ensures compliance with Federal aviation regulations or the Pilot Records Improvement Act of 1996 (PRIA), and any other applicable laws?	Yes No NA	

NO.	ITEM	RESPONSE (Circle Yes, No, or NA)	MOU Paragraph REFERENCE
9	Is there a description of the process for timely reporting to the ERC all events disclosed under the program?	Yes No NA	
10	Is there a description of the procedures that provide for:		
a	The resolution of safety-related events?	Yes No NA	
b	Continuous tracking of those events?	Yes No NA	
c	The analysis of safety-related events?	Yes No NA	
11	Is there a description of the ERC ASAP report acceptance and exclusion criteria?	Yes No NA	
12	Is there a description of the frequency of periodic reviews by the parties to determine whether the program is achieving the desired results? (These reviews are in addition to any other review conducted by the FAA or any other party individually.)	Yes No NA	
13	Is there a statement that the ERC shall be comprised of one representative from each party to the MOU, and a description of the duties of the ASAP manager? (The ASAP manager may either be the same individual assigned as the company management representative to the ERC, or it may be another individual from company management who will not serve as a voting member of the ERC.)	Yes No NA	
14	Is there a description of the process for training and distributing information about the program to certificate holder management and employees and procedures for providing feedback to individuals who make safety-related reports under the program?	Yes No NA	
15	Is there a statement that modifications to the MOU must be accepted by all parties?	Yes No NA	
16	Is there a statement that termination or modification of a program will not adversely affect anyone who acted in reliance on the terms of a program in effect at the time of that action (i.e., when a program is terminated, all reports and investigations that were in progress will be handled under the provisions of the program until they are completed).	Yes No NA	
17	Is there a statement that the program can be terminated at any time, by any party?	Yes No NA	

NO.	ITEM	RESPONSE (Circle Yes, No, or NA)	MOU Paragraph REFERENCE
18	Is there a statement that failure of any party to follow the terms of the agreement ordinarily will result in termination of the program?	Yes No NA	
19	Is there a statement that failure of a certificate holder to follow through with corrective action acceptable to the FAA to resolve any safety deficiencies will ordinarily result in termination of the program?	Yes No NA	
20	Is there a detailed description of the following concepts if they are included in the program and, if appropriate, how they will be used:		
a	ERC?	Yes No NA	
b	Consensus of the ERC?	Yes No NA	
c	Sole source reporting?	Yes No NA	
d	Sufficient evidence?	Yes No NA	
e	Enforcement-related incentive?	Yes No NA	
21	Is there a statement that repeated instances involving the same or similar possible noncompliance with the 14 CFR that were previously addressed with administrative action under the ASAP will be accepted into the program, provided that they otherwise meet the acceptance criteria of ASAP? (The ERC will consider on a case-by-case basis the corrective action that is appropriate for such reports.)	Yes No NA	
22	Does the ASAP include an MOU procedure to identify the date, time, location or fix, altitude, flight number, and air traffic control (ATC) frequency at the time the event occurred? (This applies to ASAP MOUs that contain provisions for ATC events.)	Yes No NA	
23	Is there a statement that employees initially covered under an 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 result in the reopening of the case and referral of the matter for appropriate action.)	Yes No NA	

NO.	ITEM	RESPONSE (Circle Yes, No, or NA)	MOU Paragraph REFERENCE
24	Is there a statement that any safety-related ASAP event that concerns an apparent violation(s) that is <i>excluded</i> from ASAP will be referred by the FAA ERC representative to an appropriate office within the FAA for any additional investigation and reexamination and/or enforcement action, as appropriate?	Yes No NA	
25	Is there a statement that a closed ASAP case, including a related EIR, that involves a violation addressed with administrative action or for which no action has been taken may be reopened if evidence is later discovered that establishes the event should have been excluded from the program?	Yes No NA	
26	Is there a statement that when the ERC becomes aware of an issue involving the medical qualification or medical certification of an airman, the ERC must immediately advise the appropriate Regional Flight Surgeon (RFS) about the issue? (The ERC will work with the RFS and the certificate holder's medical department or medical consultants to resolve any medical certification or qualification issues or concerns revealed in an ASAP report, or through the processing of that report. The FAA ERC member must follow the direction(s) of the RFS with respect to any medical certification or medical qualification issue(s) revealed in an ASAP report.)	Yes No NA	
27	Is there a statement that 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, as appropriate.	Yes No NA	
28	Is there a statement that the ASAP manager will maintain an electronic database that tracks each event through and including closure of that event by the ERC and enables trend analysis?	Yes No NA	

Figure 11-12. ASAP Safety Enhancement Report Format Example

CHDO: AEA-FSDO-99

REGION: EA

FISCAL YEAR: 2007

FISCAL YEAR (SEPT - OCT) QUARTER: 1ST

ASAP MOU HOLDER NAME: ABC Airlines

ASAP MOU HOLDER FAA DESIGNATOR: ABCA

ASAP MOU EMPLOYEE GROUP(S): Pilot, Mechanic

ASAP ERC CONTACT INFORMATION & PRESENT QUARTER STATISTICSPilot MOU

FAA Member: John Smith, john.smith@faa.gov 718-456-7890

Company Member: Fred Jones, fsjones@abcair.com 718-567-8901

Labor Member: Allan Doe, adoe@labor.org 718-678-9012

ASAP Manager: Mary Moppett, mmop@abcair.com 718-567-9001

Number of ASAP reports submitted present quarter: 20

Number of ASAP reports accepted present quarter: 19

Number of accepted reports present quarter that were sole source to the FAA: 17

Number of accepted reports present quarter (both sole source and

non-sole source) closed with corrective action under ASAP for the employee: 12

Number of reports present quarter which resulted in recommendations to the
company for corrective action: 5

Mechanic MOU

FAA Member: James Goodrench, james.goodrench@faa.gov 718-654-0987

Company Member: Miles Togo, mtogo@abcair.com 718-765-1098

Labor Member: Will Walker, wwalker@labor.org 718-876-2109

ASAP Manager: Miles Togo mtogo@abcair.com

Number of ASAP reports submitted present quarter: 15

Number of ASAP reports accepted present quarter: 15

Number of accepted reports present quarter that were sole source to the FAA: 10

Number of accepted reports (both sole source and non-sole source) closed with
corrective action under ASAP for the employee: 14

Number of reports present quarter which resulted in recommendations to the company for corrective action: 2

DESCRIPTION OF SAFETY ENHANCEMENTS:

Pilot ASAP:

Safety Issue Identified: Ambiguous procedures for radio frequency change on landing: An ASAP report was submitted stating that after landing in San Francisco, CA (SFO), the flightcrew was never advised to change frequency to Ramp Control. The report stated that the crew was under the impression that they were not supposed to change frequency unless advised to do so, and they therefore had taxied to the gate without contacting Ramp Control.

Corrective Action Taken: A pilot bulletin was issued to change the Jeppesen page 10-7 instructions, replacing “expect to contact Ramp Control on 127.57” with “You are required to contact Ramp Control on 127.57.”

Safety Issue Identified: Repeated instances of flightcrew members failing to take immediate and decisive aircraft flightpath modification in response to Traffic Alert and Collision Avoidance System (TCAS) warnings.

Corrective Action Taken: Need for pilot immediate compliance to TCAS warnings highlighted in the quarterly safety newsletter. TCAS events added to Line-Oriented Flight Training (LOFT) scenarios for all pilot recurrent training.

Mechanic ASAP:

Safety Issue Identified: Conflicting guidance between the General Procedures Manual and the Aircraft Maintenance Manual (AMM). The General Procedures Manual requires a leak check of the static lines after using a quick disconnect. The AMM does not require leak checks for quick disconnects.

Corrective Action Taken: A Quality Control Alert was issued to notify everyone that the General Procedures Manual procedures take priority over the AMM and quick disconnects will be leak checked prior to returning the aircraft to service.

Safety Issue Identified: Repeated instances of failure to use the torque wrench required in the maintenance manual, resulting in bolts coming loose during flight

Corrective Action Taken: Purchased additional torque wrench equipment to increase availability at all maintenance locations. Highlighted need to use torque wrenches as prescribed by maintenance manual procedures in monthly mechanic newsletter. Emphasized the safety issue to all maintenance supervisors in a quarterly maintenance safety meeting.

John Doe
CHDO/CMO Manager
Copy to: AEA-230
AFS-280

NOTE: This report should be prepared and forwarded electronically to the regional division office and to the AFS-280 manager as a Word document. In order to preclude submission of multiple files with the same file name and to facilitate archiving of reports over time, a specific file naming format should be used, as follows: ASAP-AIRLINE DESIGNATOR-FISCAL YEAR-FISCAL QUARTER-EMPLOYEE CATEGORY CODE(S).DOC. The following employee category codes should be employed: P for Pilot, D for Dispatch (or flight follower), M for Maintenance, L for Load Planners, F for F/A, R for ramp worker, and X for other. For reports containing safety enhancements for more than one employee group, multiple employee category codes should be strung together in the file name. Examples: ASAP-ABCA-2007-1-PM.doc; ASAP-ABCA-2007-1-PDM.doc.

RESERVED. Paragraphs 11-49 through 11-62.