



# **AVIATION SAFETY ACTION PROGRAM (ASAP) FOR PILOTS**

## **Memorandum of Understanding**

**Continuing Program  
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**Aviation Safety Action Program (ASAP)  
for Pilots**

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# Air Wisconsin Airlines

## Aviation Safety Action Program (ASAP) for Pilots

### Memorandum of Understanding

1. **GENERAL.** Air Wisconsin Airlines Corporation (A6WA) is an air carrier operating under Title 14 of the Code of Federal Regulation (14 CFR), Part 121, engaged in scheduled passenger service within United States and Canada. Air Wisconsin operates 70 aircraft, and employs approximately 600 pilots. The pilots are represented by the Airline Pilots Association (ALPA).
2. **PURPOSE.** The Federal Aviation Administration (FAA), Air Wisconsin, and ALPA are committed to improving flight safety. Each party has determined that safety would be enhanced if there were a systematic approach for pilots to promptly identify and correct potential safety hazards. The primary purpose of Air Wisconsin Airline's Aviation Safety Action Program (ASAP) is to identify safety events, and to implement corrective measures that reduce the opportunity for safety to be compromised. In order to facilitate flight safety analysis and corrective action, Air Wisconsin and ALPA join the FAA in voluntarily implementing this ASAP for pilots, which is intended to improve flight safety through pilot self-reporting, cooperative follow-up, and appropriate corrective action. This Memorandum of Understanding (MOU) describes the provisions of the program.
3. **BENEFITS.** The program will foster a voluntary, cooperative, non-punitive environment for the open reporting of safety of flight concerns. Through such reporting, all parties will have access to valuable safety information that may not otherwise be obtainable. This information will be analyzed in order to develop corrective action to help solve safety issues and possibly eliminate deviations from 14 CFR. For a report accepted under this ASAP MOU, the FAA will use lesser enforcement action or no enforcement action, depending on whether it is a sole source report, to address an event involving possible noncompliance with 14 CFR. This policy is referred to in this MOU as an "enforcement-related incentive".
4. **APPLICABILITY.** The Air Wisconsin ASAP applies to all pilot employees of Air Wisconsin and only to events that occur while acting in that capacity. Reports of events involving apparent noncompliance with 14 CFR that are not inadvertent or that appear to involve an intentional disregard for safety, criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification are excluded from the program.

- a. Events involving possible noncompliance with 14 CFR by Air Wisconsin that are discovered under this program may be handled under the Voluntary Disclosure Policy, provided that Air Wisconsin voluntarily reports the possible noncompliance to the FAA and that the other elements of that policy are met. (See the current version of AC 00-58, Voluntary Disclosure Reporting Program, FAA Order 2150.3B, Compliance and Enforcement Program, and Compliance Enforcement Bulletin No. 90-6).
  - b. Any modifications of this MOU must be accepted by all parties to the agreement.
5. **PROGRAM DURATION.** This is a Continuing Program that is subject to renewal every two years after a review by the Parties to the MOU to ensure the particular ASAP program is meeting its objective. This ASAP may be terminated at any time for any reason by Air Wisconsin, the FAA, or ALPA. The termination or modification of a program will not adversely affect anyone who acted in reliance on the terms of a program in effect at the time of that action; i.e., when a program is terminated, all reports and investigations that were in progress will be handled under the provisions of the program until they are completed. Failure of any party to follow the terms of the program ordinarily will result in termination of the program. Failure of Air Wisconsin to follow through with corrective action acceptable to the FAA to resolve any safety deficiencies ordinarily will result in termination of the program.
6. **REPORTING PROCEDURES.** When a pilot observes a safety problem or experiences a safety-related event, he or she should note the problem or event and describe it in enough detail so that it can be evaluated by a third party.
  - a. **ASAP Report Form.** At an appropriate time during the workday (e.g. on a long layover in a hub, or at the end of a workday), the employee should complete the ASAP Reporting Form for each safety problem or event and submit it to the ASAP Manager. If the safety event involves a deviation from an ATC clearance, the pilot should note the date, time, place, altitude, flight number, and ATC frequency, along with enough other information to fully describe the event and any perceived safety problem.
  - b. **Time Limit.** Reports that the Event Review Committee (ERC) determines to be sole-source will be accepted under the ASAP, regardless of the timeframe within which they are submitted, provided they otherwise meet the acceptance criteria of paragraphs 11a(2) and (3) of this MOU. Reports which the ERC determines to be non sole-source must meet the same acceptance criteria and must also be filed within one of the following two possible timeframes:

- (1) Within 24 hours after the end of the flight sequence for the day of occurrence, absent extraordinary circumstances. For example, if the event occurred at 1400 hours on Monday and a pilot completes the flight sequence for that day at 1900 hours, the report should be filed no later than 1900 hours Tuesday. In order for all employees to be covered under the ASAP for any apparent noncompliance with 14 CFR resulting from an event, they must each fill out and submit separate signed reports for the same event. Electronic ASAP Reporting Forms can be submitted via the company's e-mail system or, for written reports, via fax or company mail. If email or fax is not available to the pilot at the time he or she needs to file a report, the employee may contact the ASAP manager's office and file a report via telephone within 24 hours after the occurrence of the event, absent extraordinary circumstances. Reports filed telephonically within the prescribed time limit must be followed by a formal report submission within three calendar days thereafter.
  - (2) Within 24 hours of having become aware of possible non-compliance with 14 CFR provided the following criteria are met: If a report is submitted later than the "time period after the occurrence" of an event stated in paragraph 6b(1) above, the ERC will review all available information to determine whether the pilot knew or should have known about the possible noncompliance with 14 CFR Within that time period. If the ERC determines that the employee did not know or could not have known about the possible noncompliance with 14 CFR until informed of it, then the report would be included in ASAP, provided the report is submitted within 24 hours of having become aware of possible noncompliance with 14 CFR, and provided that the report otherwise meets the acceptance criteria of this MOU. If the employee knew or should have known about the possible noncompliance with 14 CFR, then the report will not be included in ASAP.
- c. Non-reporting employees covered under this ASAP MOU. If an ASAP report identifies another covered employee in an event involving possible noncompliance with 14 CFR and that employee has neither signed that report nor submitted a separate report, the ERC will determine on a case-by-case basis whether that employee knew or reasonably should have known about the possible noncompliance with 14 CFR. If the ERC determines that the employee did not know or could not have known about the apparent possible noncompliance with 14 CFR, and the original report otherwise qualifies for inclusion under ASAP, the ERC will offer the non-reporting employee the opportunity to submit his/her own ASAP report. If the non-reporting employee submits his/her own report within 24 hours of notification from the ERC, that report will be afforded the same consideration under 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/her own report within 24 hours of notification from the ERC, the possible noncompliance

with 14 CFR 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 this ASAP MOU. If an ASAP report identifies another AIR WISCONSIN employee who is not covered under this MOU, and the report indicates that employee may have been involved in possible noncompliance with 14 CFR, 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 from the ERC, 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 from the ERC, the possible noncompliance with 14 CFR 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.
7. **POINTS OF CONTACT.** The ERC will be comprised of one representative from Air Wisconsin management; one representative from the ALPA; and one FAA inspector assigned as the ASAP representative from the Certificate Holding District Office (CHDO) for Air Wisconsin; or their designated alternates in their absence. In addition, Air Wisconsin will designate one person who will serve as the ASAP manager. The ASAP manager will be responsible for program administration, and will not serve as a voting member of the ERC.
  8. **ASAP MANAGER.** When the ASAP manager receives the report, he or she will record the date and time of any event described in the report and the date and time the report was submitted. The ASAP manager will enter the report in the database along with all supporting data, and place it on the agenda for the next ERC meeting. The ERC must then determine by unanimous consensus if the report satisfies all applicable acceptance criteria as established by this MOU. To confirm that a report has been received, the ASAP manager will send a confirmation email to each employee who submits a report verifying that the report was received. A second notification will be sent letting the reporting employee know if the report has been accepted. The ASAP manager will serve as the focal point for information about, and inquiries concerning the status of, ASAP reports, and for the coordination and tracking of ERC recommendations.

9. **EVENT REVIEW COMMITTEE (ERC).** The ERC will review and analyze reports submitted by the pilots under the program, identify actual or potential safety problems from the information contained in the reports, and propose solutions for those problems. The ERC will provide feedback to the individual who submitted the report.
  - a. The ASAP manager will maintain a database that continually tracks each event and the analysis of those events. The ERC will conduct a 12-month review of the 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.
  - b. This review is in addition to any other reviews conducted by the FAA.

## 10. **ERC PROCESS.**

- a. The ERC will meet as necessary to review and analyze reports that will be listed on an agenda submitted by the ASAP manager. The ERC will determine the time and place of the meeting. The ERC will meet at least once a month and the frequency of meetings will be determined by the number of reports that have accumulated or the need to acquire time critical information.
- b. The ERC will make its decisions involving ASAP issues based on consensus. Under the Air Wisconsin ASAP, consensus of the ERC means the voluntary agreement of all representatives of the ERC. It does not require that all members believe that a particular decision or recommendation is the most desirable solution, but that the result falls within each member's range of acceptable solutions for that event in the best interest of safety. In order for this concept (ERC) to work effectively, each ERC representative shall be empowered to make decisions within the context of the ERC discussions on a given report. Senior management and supervisors shall not preempt their respective ERC representative's decision-making discretion for an event reported under ASAP. 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. For example, the ERC should strive to reach a consensus on the recommended corrective action to address a safety problem such as an operating deficiency or airworthiness discrepancy reported under ASAP. The corrective action process would include working the safety issue(s) with the appropriate departments at the airline and the FAA that have the expertise and responsibility for the safety area of concern. In 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 2150.3B. In the

event there is not a consensus of the ERC on decisions concerning a report involving an apparent violations), a qualification issue, or medical certification or medical qualification issue, the FAA ERC representative will decide how the report should be handled. A failure to reach a unanimous consensus on any event after all options have been explored may be grounds for termination of the ASAP by any party as defined in paragraph 5. The FAA will not use the content of the ASAP report in any subsequent enforcement action, except as described in paragraph 11a(3) of this MOU. All reports are de-identified (e.g., the reporting employee's name redacted) for initial ERC review. The ERC may elect to contact an individual employee for further information.

- c. It is anticipated that three types of reports will be submitted to the ERC: safety-related reports that appear to involve a possible noncompliance with 14 CFR, reports that are of a general safety concern, but do not appear to involve possible noncompliance with 14 CFR; and any other reports, e.g., involving catering and passenger ticketing issues. All safety-related reports shall be fully evaluated and, to the extent appropriate, investigated,
- d. The ERC will forward non-safety reports to the appropriate Air Wisconsin department head for his/her information and, if possible, internal resolution. For reports related to flight safety, including reports involving possible noncompliance with 14 CFR, the ERC will analyze the report, conduct interviews of reporting pilots, and gather additional information concerning the matter described in the report, as necessary.
- e. The ERC should also make recommendations to Air Wisconsin for corrective action for systemic issues. For example, such corrective action might include changes to Air Wisconsin flight operations procedures, aircraft maintenance procedures, or modifications to the training curriculum for pilots. Any recommended changes that affect Air Wisconsin will be forwarded through the ASAP manager to the appropriate department head for consideration and comment, and, if appropriate, implementation. The FAA will work with Air Wisconsin to develop appropriate corrective action for systemic issues. The ASAP manager will track the implementation of the recommended corrective action and report on associated progress as part of the regular ERC meetings. Any recommended corrective action that is not implemented should be recorded along with the reason it was not implemented.

- f. 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 about the issue. The ERC will work with the Regional Flight Surgeon 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 Regional Flight Surgeon with respect to any medical certification or medical qualification issue(s) revealed in an ASAP report.
- g. Any corrective action recommended by the ERC for a report accepted under ASAP must be completed to the satisfaction of all members of the ERC or the ASAP report will be excluded from the program, and the event will be referred to the FAA for further action, as appropriate.
- h. Use of the Air Wisconsin ASAP Report: Neither an ASAP report nor the content of an ASAP report will 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 paragraph 11a(3) of this MOU. The FAA may conduct an independent investigation of an event disclosed in a report.

## **11. FAA ENFORCEMENT.**

- a. Criteria for Acceptance. The following criteria must be met in order for a report to be covered under ASAP:
  - (1) The employee must submit the report in accordance with the time limits specified under paragraph 6 of this MOU,
  - (2) Any possible noncompliance with 14 CFR disclosed in the report must be inadvertent and must not appear to involve an intentional disregard for safety; and,
  - (3) The reported event must not appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification. Reports involving those events will be referred to an appropriate FAA office for further handling. The FAA may use the content of such reports for any enforcement purposes and will refer such reports to law enforcement agencies, if appropriate. If upon completion of subsequent investigation it is determined that the event did not involve any of the aforementioned activities, then the report will be referred back to the ERC for a determination of acceptability under ASAP. Such referred back reports will be accepted under ASAP provided they otherwise meet the acceptance criteria contained herein.

- b. Administrative Action. Notwithstanding the criteria in FAA Order 2150.3B, possible noncompliance with 14 CFR disclosed in a non sole source ASAP report that is covered under the program and supported by sufficient evidence will be addressed with administrative action (i.e., a FAA Warning Notice or FAA Letter of Correction, as appropriate). 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 a FAA enforcement action had the individual's safety-related report not been accepted under ASAP. Accepted non sole-source reports for which there is not sufficient evidence will be closed with a FAA Letter of No Action.
- c. Sole-Source Reports. A report is considered a sole-source report when all evidence of the event available to the FAA 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 be addressed with an ERC response (no FAA action). It is possible to have more than one sole-source report for the same event.
- d. Reports Involving Qualification Issues. Air Wisconsin's ASAP reports covered under the program that demonstrate a lack, or raise a question of a lack, of qualification of a certificate holder 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/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 and reexamination and/or enforcement action, as appropriate.
- e. Excluded from ASAP. Reported events involving possible noncompliance with 14 CFR that are excluded from ASAP will be referred by the FAA ERC member to an appropriate office within the FAA for any additional investigation and re-examination and/or enforcement action, as appropriate.
- f. Corrective Action. 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. Failure of an employee to complete the ERC recommended corrective action in a manner satisfactory to all members of the ERC may result in the reopening of the case and referral of the matter for appropriate action.

- g. Repeated Instances of Noncompliance with 14 CFR Reports involving the same or similar possible noncompliance with the Regulations that were previously addressed with administrative action under ASAP will be accepted into the program, provided they otherwise satisfy the acceptance criteria in paragraph 6 above. The ERC will consider on a case-by-case basis the corrective action that is appropriate for such reports.
  - h. 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.
12. **EMPLOYEE FEEDBACK.** The ASAP manager will publish a synopsis of the reports received from pilots in the ASAP section of company's ASAP newsletter at least once a quarter. The synopsis will include enough information so that pilots can identify their reports. Employee names, however, will not be included in the synopsis. The outcome of each report will be published. Any employee who submitted a report may also contact the ASAP manager to inquire about the status of his/her report. In addition, each employee who submits a report accepted under ASAP will receive individual feedback on the final disposition of the report.
13. **INFORMATION AND TRAINING.** The details of the ASAP will be made available to all pilots and their supervisors by publication in the Air Wisconsin Flight Operations Manual Each AIR WISCONSIN pilot and Flight Department Manager will receive initial guidance outlining the details of the program. Each pilot will receive additional instruction concerning the program during the next regularly scheduled recurrent training session, and on a continuing basis in recurrent training thereafter. All new-hire pilot employees will receive training on the program during initial training.
14. **REVISION CONTROL.** Revisions to this MOU shall be documented using standard revision control methodology.
15. **RECORDKEEPING.** All documents and records regarding this program will be kept by the Air Wisconsin ASAP manager and made available to the other parties of this agreement at their request. All records and documents relating to this program will be appropriately kept in a manner that ensures compliance with 14 CFR and all applicable law (including the Pilot Records Improvement Act). ALPA and the FAA will maintain whatever records they deem necessary to meet their needs.

16. **SIGNATORIES.** All parties to this ASAP are entering into this agreement voluntarily.

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James Richard Swindell, Jr.  
MEC Chairman, Airline Pilots Association  
Air Wisconsin Airlines Corporation

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Date

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11/2/11

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Chris White  
Managing Director of Safety  
Air Wisconsin Airlines Corporation

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Date

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11/2/11

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Gerardo Martinez  
Manager, FAA CHDO for Air Wisconsin Airlines Corporation

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Date