



Aviation Safety Action Program (ASAP)

For

Mechanics and Related Employees

Memorandum of Understanding

Between

Federal Aviation Administration,

International Brotherhood of Teamsters,

And

Continental Airlines, Inc.

Memorandum of Understanding

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TERMS AND ABBREVIATIONS

AC	FAA Advisory Circular
ASAP	Aviation Safety Action Program
ASRS	NASA Aviation Safety Reporting System
Certified Employees	Mechanics Certified by the FAA
CFR	Code of Federal Regulations
CMO	Certificate Management Office
Company	Continental Airlines, Inc.
Corrective Action Letter	ERC requests reporter to comply with corrective recommendations i.e. attend training, re-qualify
ERC	Event Review Committee
ERC Response	Disposition of an reported event by the ERC
FAA	Federal Aviation Administration
FAA Administrative Action	FAA Warning Notice or FAA Letter of Correction
FAA Warning Notice	A type of FAA Administrative Action
FAR	Federal Aviation Regulations
HAZMAT	Hazardous Materials
IBT	International Brotherhood of Teamsters
MOU	Memorandum of Understanding
MSAP	Maintenance Safety Action Program (Synonymous with Aviation Safety Action Program)

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NTSB	National Transportation Safety Board
NASA	National Aeronautics and Space Administration
Non-certified employees	Employees not certificated by the FAA
Part 121	Operating Requirments;Domestic, Flag and Supplemental Operations
Title 14 CFR	Code of Federal Regualtions Title 14, Aeronautics and Space
Unanimous consensus	Voluntary agreement of all three ERC representatives

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SECTION 1 PREAMBLE

1.1 GENERAL.

Continental Airlines is a Title 14 Code of Federal Regulations (14 CFR), Air Carrier operating under Part 121 engaged in Flag Air Carrier Operations within North America, Central America, South America, Europe and Asia. Continental Airlines operates approximately 350 aircraft, and employs about 4000 mechanics and certificated management employees. The International Brotherhood of Teamsters (IBT) represents the mechanics.

In order to distinguish the Technical Operations program from any other Aviation Safety Action Program (ASAP) in use by Continental Airlines the program may be referred to as a Maintenance Safety Action Program (MSAP). Therein, Aviation Safety Action Program (ASAP) and Maintenance Safety Action Program (MSAP) are synonymous.

1.2 PURPOSE.

The Federal Aviation Administration (FAA), Continental Airlines, and the IBT are committed to improving safety. Each party has determined that safety would be enhanced if there were a systematic approach for Technical Operations employees to promptly identify and correct potential safety hazards. The primary purpose of the Continental Airlines Technical Operations 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 safety analysis and corrective action, Continental Airlines and the IBT join the FAA in voluntarily implementing this ASAP, which is intended to improve safety through mechanic and related employee self-reporting, cooperative follow-up, and appropriate corrective action. This Memorandum of Understanding (MOU) describes the provisions of the program.

1.3 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, the FAA will use lesser enforcement action, no greater than an administrative 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".

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1.4 APPLICABILITY.

The Continental Airlines ASAP applies to all Technical Operations employees of Continental Airlines and only to events that occur while acting in that capacity. It applies to both certificated and un-certificated persons, who perform, approve, or support maintenance. Reports of events involving apparent noncompliance with 14 CFR that is not inadvertent or that appears 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 Continental Airlines that are discovered under this program may be handled under the Voluntary Disclosure Policy, provided that Continental Airlines 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 2150.3A, 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.

1.5 PROGRAM DURATION.

This is a Demonstration Program the duration of which shall be 18 months from the date this MOU is signed by the FAA. If the program is determined to be successful after a comprehensive review and evaluation, the parties intend for it to be a continuing program. This ASAP may be terminated at any time for any reason by Continental Airlines, the FAA, or any other party to the MOU. 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 comply with the terms of the program ordinarily will result in termination of the program. Failure of Continental Airlines to follow through with corrective action acceptable to the FAA to resolve any safety deficiencies ordinarily may result in termination of the program.

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SECTION 2 PROGRAM DESCRIPTIONS

2.1 REPORTING PROCEDURES.

Continental Airlines Technical Operations employees are encouraged to report any event or observation they feel is a potential safety hazard or FAR violation. When an employee observes a procedural non-compliance or experiences a safety-related event, he or she shall describe the problem or event in sufficient detail so that it can be evaluated by a third party.

A. ASAP Report Form. At an appropriate time following the reportable occurrence or event the employee will complete Continental Airlines ASAP Form (Form 40.0201) for each safety problem or event and submit it to Continental Airlines Aviation Safety Action Program Manager.

- (1) In the case of an immediate airworthiness concern, the employee should report the concern by immediately contacting the Maintenance Control Shift Manager and request ASAP confidentiality.

NOTE: Contacting Maintenance Control does not constitute formal submission of an ASAP report. Credit for submission of an ASAP report can only be made when the ASAP report is submitted in accordance with the procedure contained in paragraph 2.1 B (1) of this MOU. The report should identify the event was reported to Maintenance Control as an immediate airworthiness concern.

B. Time Limit. Reports the ERC determines to be sole-source will be accepted under the ASAP, regardless of the timeframe within which they are submitted, provided they meet the acceptance criteria of paragraphs 2.6 A (2) and (3) of this MOU. Reports the ERC determines to be non sole-source must meet the same acceptance criteria and be filed within one of the following two possible timeframes:

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- (1) Within 24 hours after the end of the duty shift, absent extraordinary circumstances. For example, if the event occurred at 1400 hours on Monday and a mechanic completes the duty shift 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 submit separate signed reports for the same event. If the Continental Airlines Technical Operations Aviation Safety Action Program reporting system is not available to the mechanic or related employee 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 fax or telephone on the ASAP Hotline within 24 hours after the end of the duty shift, absent extraordinary circumstances. Reports filed on the ASAP Hotline 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 2.1 B (1), the ERC will review all available information to determine whether the mechanic knew or should have known about the possible noncompliance with 14 CFR within that time period. If the ERC determines the employee did not know or could not have known about the possible noncompliance with 14 CFR until informed of it, 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, 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. If the ERC determines that the employee did not know or would not have known about the apparent possible noncompliance, and the original report 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 by 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 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.

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D. Non-reporting employees not covered under this ASAP MOU. If an ASAP report identifies another Continental Airlines employee who is not covered under this MOU, and the report indicates that employee may have been involved in possible noncompliance, 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 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.

2.2 NASA AVIATION SAFETY REPORTING SYSTEM – PARTICIPATION.

Advisory Circular 00-46D describes the NASA Safety Reporting Program (ASRP). Submission to the NASA Aviation Safety Reporting System (ASRS) is guaranteed on all ASAP reports. Upon receipt of an ASAP report, the ASAP Manager will forward a copy of the event report for confidential participation in the ASRS. The ASAP Manager will assume the responsibility of fulfilling the ten-day ASRS reporting requirement on all reports that meet the ASAP 24-hour reporting deadline. The reporting employee will receive an acknowledgement directly from NASA ASRS.

The primary purpose of ASAP's integration with NASA is to contribute to the worldwide aviation safety database at ASRS. Information and analysis derived from such data continues to enhance aviation safety and accident prevention.

2.3 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 through the reporting system. The ASAP manager will enter the report, along with all supporting data, on the agenda for the next ERC meeting. The ERC will determine whether a report is submitted in a timely manner or whether extraordinary circumstances precluded timely submission. To confirm that a report has been received, the ASAP manager will notify each employee who submits a report. The receipt will confirm whether or not the report was determined to be timely. The ASAP manager will serve as the focal point for information about, and inquiries concerning the status of ASAP reports, and for the coordination and tracking of ERC recommendations.

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2.4 EVENT REVIEW COMMITTEE (ERC).

The ERC will be comprised of the Continental Airlines ASAP Manager who will serve as the voting member representing the company; one representative from the IBT (for associated employees), or one representative from Continental Airlines Safety and Regulatory Compliance (for non-union employees), or one person designated by the Staff Vice President Maintenance (for international employees); and one FAA inspector assigned as the ASAP representative from the Certificate Management Office (CMO) for Continental Airlines; or their designated alternates in their absence. The ERC member representing the interest of non-IBT employees shall act solely in the interest of the individual, independent of Continental Airlines while acting in that capacity. The ERC will review and analyze reports submitted by the individual 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. The ASAP manager will be responsible for program administration in addition to serving as a voting member of the ERC representing the company.

- 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. The ERC will also be 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 revised MOU with the certificate holder's application to the FAA 60 days in advance of the termination date of the demonstration program.

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2.5 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 monthly, or more frequently, as deemed necessary by the ERC based upon the number of reports that have accumulated or the need to acquire time-critical information.
- B.** Confidential ASAP event reports will be collected and forwarded to each ERC member in a secure manner once each week. All event reports will be de-identified (i.e., redacted, without the employees name or employee number) for initial ERC review.
- C.** The ERC may find it necessary to contact an individual employee for additional information. The IBT or company ERC representative will normally make the initial contact with the reporting employee. If it is necessary to interview the reporting individual, additional representation may be obtained at the employee's request.
- D.** For official meeting purposes, a quorum exists when all designated ERC representatives, or their alternate are present.
- E.** The ERC will make its decisions involving ASAP issues based on consensus. Under the Continental Airlines 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 results are 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, each ERC representative shall be empowered to make decisions within the context of the ERC discussions on a given report. 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. In 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. Recognizing that the FAA holds statutory authority to enforce the necessary rules and regulations, it is understood that the FAA retains all legal rights and responsibilities contained in Title 49, United States Code, and FAA Order 2150.3A. In the event there is not a consensus of the ERC on decisions concerning a report involving an apparent violation(s) the FAA ERC representative will decide how the report should be handled. The FAA will not use the content of the ASAP report in any subsequent enforcement action, except as described in paragraph 2.6 A (3) of this MOU.

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- F.** 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 not related to safety or regulatory violations. All safety-related reports shall be fully evaluated and, to the extent appropriate, investigated.
- G.** The ERC will forward reports that are not ASAP related to the appropriate Continental Airlines department for resolution. For reports related to safety, including reports involving possible noncompliance with 14 CFR, the ERC will analyze the report, conduct interviews of reporting individuals, and gather additional information concerning the matter described in the report, as necessary.
- H.** The ERC should also make recommendations to Continental Airlines for corrective action for systemic issues. Such corrective action could include changes to Continental Airlines aircraft maintenance procedures, modifications to the training curriculum for personnel, or flight operations procedures. Any recommended changes that affect Continental Airlines 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 Continental Airlines 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.
- I.** Any employee 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.
- J.** Use of the Continental Airlines ASAP Report: Neither the written ASAP report nor the content of the written 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 2.6 A (3) of this MOU. The FAA may conduct an independent investigation of an event disclosed in a report.

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2.6 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 2.1 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 paragraph 205 of FAA Order 2150.3A, 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.

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- D. Reports Involving Qualification Issues.** Continental Airlines 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 2.1. 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.

2.7 EMPLOYEE FEEDBACK.

The ASAP manager will publish a synopsis of the reports received from individuals in the ASAP Annual Report. The annual report shall be filtered by removing all employee names and other identifying information. The annual report shall be provided to each member of the ERC and additional distribution of the report as deemed necessary by the ERC. 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 acknowledging receipt and acceptance of the report following the ERC meeting where the report is discussed.

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2.8 INFORMATION AND TRAINING.

The details of the ASAP will be made available to all associated employees and their supervisors by publication in the Continental Airlines General Maintenance Manual. Training concerning the details of the program will be administered to all associated employees prior to implementation. All newly hired (or recalled) employees will receive training on the program during initial GMM training. De-identified reports may be released by the ERC to facilitate corrective action and to increase employee safety awareness.

2.9 REVISION CONTROL.

Revisions to this MOU shall be documented using standard revision control methodology. Proposed revision to the MOU will be discussed and approved by the ERC members.

2.10 RECORDKEEPING.

All official documents and records regarding this program will be kept by the Continental Airlines 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 regulations. The IBT and the FAA will maintain whatever records they deem necessary to meet their needs.

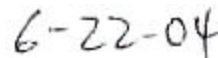
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SECTION 3 SIGNATORIES

3.1 **SIGNATORIES.** All parties to this ASAP have entered into this agreement voluntarily.



Don Treichler
Director, Airline Division
International Brotherhood of Teamsters



Date



Joseph Ferreira
Staff Vice President, Maintenance
Continental Airlines, Inc.



Date



Bernard Mullins
Manager, FAA Certificate Management Office
Continental Airlines, Inc.



Date