

# ORDER

## U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

1110.134

5/15/03

### SUBJ: AVIATION SAFETY AND HEALTH PARTNERSHIP PROGRAM AVIATION RULEMAKING COMMITTEE

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**1. PURPOSE.** This order constitutes the charter for the Aviation Safety and Health Program (ASHP) Aviation Rulemaking Committee, which is designated and established pursuant to the Administrator's authority under Title 49 of the United States Code (49 U.S.C.) 106 (p) (5).

**2. DISTRIBUTION.** This order is distributed at the director level throughout the Office of the Associate Administrator for Regulation and Certification in Washington headquarters; to the Assistant Administrators for Financial Services, Government and Industry Affairs, and Public Affairs.

**3. BACKGROUND.** The joint Federal Aviation Administration (FAA) and Occupational Safety and Health Administration (OSHA) Aviation Safety and Health Team (ASHT) was established by a Memorandum of Understanding (MOU) between the two agencies. The ASHT determines whether certain OSHA requirements could be applied to the working conditions of employees on aircraft in operation (other than flightdeck crew) without compromising aviation safety.

**a.** The team identified several issues, including a lack of reliable empirical data, that prevented a definitive determination or recommendation that FAA's jurisdiction over the working environment of employees on aircraft in operation be granted or ceded to OSHA.

**b.** Subsequently, the team developed an action plan that created the FAA ASHP and proposed that air carriers voluntarily enter into an Aviation Safety and Health Partnership Program (ASHPP) with the FAA.

(1) The ASHPP proposes:

**(a)** That air carriers provide certain safety and health protections.

**(b)** The establishment of a rulemaking committee (steering group) that consists of members from the FAA, air carriers, and air carrier employee unions.

**(c)** The development of evaluation criteria to assert program effectiveness and procedures for air carriers to report employee injury and illness data to the FAA, thereby enabling the FAA to obtain the required data on injury and illness hazards within the air carrier

industry.

(2) This data will be analyzed and used by the ASHP Rulemaking Committee to recommend if the FAA should or should not take additional measures, including rulemaking activities, to address safety and health issues in air carrier operations.

**4. OBJECTIVES AND SCOPE OF ACTIVITIES.** The objectives and scope of the Rulemaking Committee is to provide advice and recommendations to the FAA concerning the identification and extent of hazards to employees in air carrier operations and to determine how best to resolve the issues through FAA protocols without compromising aviation safety. The Rulemaking Committee will:

- a. Assist in development of the core elements and scope of the data collection covered by the ASHPP agreement.
- b. Review the analyzed data results obtained from the ASHPP.
- c. Only undertake tasks assigned by the FAA.
- d. Act solely in an advisory capacity.
- e. Make its recommendations to the FAA Chair, including any recommendations for rulemaking, as appropriate.

1. 5.

**ORGANIZATION AND ADMINISTRATION.**

a. The FAA shall have the sole discretion to appoint members to the Rulemaking Committee. The Rulemaking Committee shall consist of employees of the FAA and members of the air carrier industry who are selected by the FAA as most representative of the various viewpoints pertinent to the purpose and operation of ASHP.

b. The manager of AFS-200W shall receive all committee recommendations and reports and Flight Standards will be responsible for providing administrative support for the committee.

c. The FAA's ASHP Manager shall chair the Rulemaking Committee. The duties of the Chair are as follows:

- (1) Determine, in coordination with the other members of the committee, when a meeting is required and where it will be held.
- (2) Arrange notification to all committee members of the time and place for any meeting.
- (3) Formulate an agenda for each meeting.

(4) Conduct the meeting.

d. The Rulemaking Committee is not required to keep minutes, but may elect to do so.

e. The Rulemaking Committee's meetings shall not be open to the public.

6. **MEMBERSHIP.** The committee will consist of member organizations selected by the FAA based on a balanced representation of interests and knowledge of the subject matter.

7. **COMPENSATION.** Non-Government representatives serve without Government compensation and bear all costs related to their participation on the committee.

8. **ESTIMATED COST.** The estimated annual operating cost (including pro rata share of salaries of FAA employees) is \$155,000. PC&B costs will be borne by the employee's home organization. Any additional costs, such as for miscellaneous supplies, will be borne by the Associate Administrator for Regulation and Certification.

9. **PUBLIC PARTICIPATION.** Unless otherwise decided by the FAA, all meetings of the committee shall be closed. People who want to attend a meeting, but are not members of the committee, must request and receive approval in advance of the meeting from the Chair. The FAA anticipates that meetings will be held quarterly.

10. **AVAILABILITY OF RECORDS.** Subject to the conditions of the Freedom of Information Act, 5 U.S.C section 552, records, reports, agendas, working papers, and other documents that are made available to or prepared for or by the committee shall be available for public inspection and copying at the FAA, Flight Standards Service, 800 Independence Avenue, SW., Washington, D.C. 20591. Fees shall be charged for information furnished to the public in accordance with the fee schedule published in Title 49 of the Code of Federal Regulations part 7.

11. **PUBLIC INTEREST.** The establishment of the ASHP Rulemaking Committee is determined to be in the public interest in connection with the performance of duties imposed on FAA by law.

12. **EFFECTIVE DATE AND DURATION.** This committee is effective May 15, 2003, which is the filing date of this charter. The committee shall remain in existence for 2 to 5 years after this date, unless sooner terminated or extended by the FAA.

  
Marion C. Blakey  
Administrator

[Federal Register: March 4, 2003 (Volume 68, Number 42)]  
[Rules and Regulations]  
[Page 10145-10147]  
From the Federal Register Online via GPO Access [wais.access.gpo.gov]  
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Docket No. FAA-2003-14578]

Aviation Safety and Health Partnership Program

AGENCY: Federal Aviation Administration

ACTION: Notice of program establishment and request for comments.

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SUMMARY: By this notice, the Federal Aviation Administration (FAA) announces the creation of the air carrier Aviation Safety and Health Partnership Program (ASHPP). The FAA intends to enter into partnership agreements with participating air carriers, which will provide, at minimum, air carrier employee injury and illness data to the FAA for collection and analysis. The FAA will establish an Aviation Safety and Health Program (ASHP) Aviation Rulemaking Committee to provide advice and recommendations to:

a. Develop the scope and core elements of the partnership program agreement,

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b. Review and analyze the employee injury and illness data,

c. Identify the scope and extent of systematic employee injury and illness trends,

d. Make recommendations to the FAA concerning remedies that uses all current FAA protocols, including rulemaking activities if warranted, to abate employee hazards, and

e. Any other advisory and oversight functions deemed necessary by the FAA.

The FAA invites air carriers interested in entering into an ASHPP to respond in accordance with this notice. Additionally, the FAA invites persons interested in serving on the ASHP Aviation Rulemaking Committee to request membership in accordance with this notice. The FAA will select members to provide a balance of viewpoints, interests, and expertise. Membership on the committee may be limited to facilitate discussions and maintain a balance of interests. This program preserves FAA's complete and exclusive responsibility for determining whether proposed abatements of safety and health hazards would compromise or negatively affect aviation safety.

DATES: Membership: Air carriers interested in participating in the voluntary ASHPP with the FAA should submit their intentions and the

name and contact information of their representative before March 31, 2003. Air carriers belonging to a trade organization may elect to be represented by that organization. Air carrier trade associations, air carrier employee unions and other persons interested in participating on the ASHP Aviation Rulemaking Committee should submit their request on or before March 31, 2003. Selected committee members will be advised, in writing, of their participation and first meeting details.

Comments: The FAA will consider all comments on this ASHP Aviation Rulemaking Committee filed on or before May 30, 2003. We will consider comments filed late if it is possible to do so without incurring expense or delay.

ADDRESSES: Membership: People that request membership or participation in the ASHP Aviation Rulemaking Committee should contact the person listed below under FOR FURTHER INFORMATION CONTACT.

Comments: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify docket number FAA-2003-14578 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

You may also submit comments through the Internet at <http://dms.dot.gov>.

You may review the public docket containing comments to

the ASHP Aviation Rulemaking Committee, in person, in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review comments made to this public docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Gene Kirkendall, AFS-200W, rm. 831, 800 Independence Ave., SW., Washington, DC 20591, (202) 267-7074, facsimile at (202) 267-5229, or by email: [Gene.Kirkendall@FAA.GOV](mailto:Gene.Kirkendall@FAA.GOV)

#### SUPPLEMENTARY INFORMATION:

##### Background

The joint FAA and Occupational Safety and Health Administration (OSHA) Aviation Safety and Health Team (ASHT) was established by a Memorandum of Understanding (MOU) between the two agencies in August 2000. The MOU directed the team to determine whether certain OSHA requirements could be applied to the working conditions of employees on aircraft in operation (other than flightdeck crew) without compromising aviation safety. The ASHT produced a report that outlined several legal, enforcement, compliance, and aviation safety issues that prevented the team from recommending jurisdiction over the working environment of employees on aircraft in operation be granted or ceded to OSHA. The team also identified a lack of reliable empirical data concerning injury and illness hazards on aircraft in operation necessary to justify any rulemaking activities at that time. The ASHT recognized that the overall safety of air carrier operations dictates that the FAA play an active role in the application of any safety and health standards and recommended abatements if they were to be applied

to the working conditions of employees on aircraft in operation. The team developed an action plan that created the FAA ASHP and proposed that air carriers voluntarily enter into an ASHPP with the FAA. These documents and other ASHP information may be obtained on the FAA, ASHP Web site at [www.faa.gov/avr/afs/osha/ashp.cfm](http://www.faa.gov/avr/afs/osha/ashp.cfm).

The ASHPP proposes that air carriers voluntarily provide selected safety and health protections for employees currently not covered by OSHA, establish a steering committee consisting of members from FAA, air carriers, and employee unions, and contain evaluation criteria to assert program effectiveness. The program would also preserve the FAA's preeminent authority over aviation safety issues by reserving to the FAA complete and exclusive responsibility for determining whether proposed abatements of safety and health hazards would compromise or negatively affect aviation safety. The ASHPP would include electronic web based procedures for air carriers to report employee injury and illness information, thereby enabling FAA to obtain the required data. This data will be used to determine if FAA should take additional measures, including rulemaking activities, to address safety and health issues in air carrier operations. The initial plan focused on those employees whose workplace was on aircraft in operation (other than flightdeck crew). Limiting the data collection to only one employee work group would exclude other air carrier employees, such as pilots, mechanics and ramp personnel, whose working conditions are or may also be preempted from OSHA coverage under section 4(b)(1) of the OSH Act. Therefore, at the discretion of the committee, the scope of the employee injury and illness data collection under the partnership program may be expanded to include other air carrier employees. This expansion of data collection would provide FAA with a more comprehensive assessment of the overall safety and health hazards present within the air carrier industry rather than limiting the data collection to specific air carrier employees or job functions.

#### Public Participation in the ASHP Aviation Rulemaking Committee

The FAA invites members of the public to serve on the ASHP Aviation Rulemaking Committee. The committee will serve as the steering committee, provide an oversight role, receive data evaluation results, and provide advice and recommendations to the FAA to assist the agency in determining if the FAA should take additional measures to address safety and health issues in air carrier operations. The committee acts solely in an advisory capacity. The committee will discuss and present input, guidance, and recommendations

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considered relevant to the ultimate disposition of issues.

Because of the diversity and complexities of the air carrier industry, the committee will be structured with a steering committee with the FAA as the chairperson. The steering committee will consist of members selected by the FAA, including aviation associations, industry representatives, employee unions, the FAA and other government entities (such as OSHA), and other participants, to provide a balance of views, interests, and expertise. Membership on the committee will be limited to facilitate discussions. Priority will be given to those applicants representing an identified segment of the air carrier community who are empowered to speak for that segment.

Other subcommittees or work groups may be established if required.

All non-Government representatives serve without Government

compensation and bear all costs related to their participation on the committee or work groups. Members and participants should be available to attend all scheduled committee or work group meetings for the duration of the committee activities.

The first meeting of the committee will be scheduled as soon as possible after the comment period is expired. Work groups will be scheduled as determined by the committee and work group members to provide information and meet schedule requirements.

Make your request to participate in the ASHPP and/or on the committee, in writing, on or before March 31, 2003. Your request should provide the following information:

- Contact information (name, company and position, address, phone, facsimile, and e-mail)
- Segment(s) of the industry or organization/association you represent
- Experience, subject expertise, or other background information

The FAA will notify all selected members and participants, in writing, in advance of the first meeting. Additional information on the committee, membership, dates, and other information may be obtained on the FAA ASHP Web site at <http://www.faa.gov/avr/afs/osh/ashp.cfm>.

Commenters should be as specific as possible and provide as much detail in comments as necessary to facilitate decisionmaking. The FAA anticipates that the comments provided in response to this voluntary ASHPP and ASHP Aviation Rulemaking Committee will assist the FAA in considering options to address and enhance the safety and health of employees in the air carrier industry.

Issued in Washington, DC on February 26, 2003.  
Louis C. Cusimano,  
Deputy Director, Flight Standards Service.  
[FR Doc. 03-5000 Filed 3-3-03; 8:45 am]

BILLING CODE 4910-13-U



## **Aviation Safety and Health Partnership Program ARC**

The ARC started in 2003, but never finished.