

Mr. Richard Mathews  
Federal Aviation Administration  
Flight Standards Service  
800 Independence Ave, SW #820  
Washington DC 20591

9 October, 2015

**Subject: 313 ARC Member Comments**

**Ref: FAA Draft Order 8000.AFSGDD Flight Standards Service Document Development**

Dear Mr. Mathews,

The Aerospace Industries Association of America (AIA), Aeronautical Repair Station Association (ARSA), and General Aviation Manufacturers Association (GAMA) were several of the industry members of the Consistency of Regulatory Interpretation (CRI) Aviation Rulemaking Committee (ARC) that was established by the FAA Modernization and Reform Act of 2012, Section 313. The CRI ARC provided a total of 6 recommendations; one of which is a recommendation for the FAA to develop a standardized decision making methodology for the development of all policy and guidance material to ensure such documents are consistent with adopted regulations. The undersigned associations are writing to offer the following feedback in response to the FAA's proposed Order 8000.AFSGDD Flight Standards Service Document Development.

The undersigned associations support these initiatives that improve the consistency of interpreting regulations by the Administration's Flight Standards Service and Aircraft Certification Service. As an active member of the Consistency of Regulatory Interpretation (CRI) Aviation Rulemaking Committee (ARC) we have endorsed all of the recommendations including the particular recommendation that encourage the FAA to develop instructions for FAA personnel with policy development responsibilities that ensure such documents are consistent with adopted regulations. To that end, we are supportive of the concepts contained within the proposed Order 8000.AFSGDD Flight Standards Service Guidance Document Development. The undersigned associations appreciate the opportunity to review and offer the following comments for consideration.

**General Comments Regarding Guidance Development Instructions**

The proposed FAA Order 8000.AFSGDD represents an important step in promoting consistency of regulatory interpretations and application. As stated in the CRI ARC, one of the root causes of inconsistency was inadequate and nonstandard regulatory application. The ARC highlighted that the absence of guidance development instructions for FAA personnel allowed for guidance to be published that was not based or consistent with regulations which contribute to inconsistent application of the rule and confusion.

The CRI ARC recommended that the FAA develop new guidance that directs policy offices to ensure their policy/guidance do not exceed its scope and/or contradict regulations or existing guidance. While the stated audience of the proposed Order 8000.AFSGDD is all AFS employees who write or review policy and guidance documents, the recommendations of the CRI ARC were directed towards AFS and AIR.

The CRI ARC endorsed previous efforts by the FAA's Aircraft Certification Service that specifically targeted policy memorandums and deviation memorandums within FAA Order 8100.16 and requested that the FAA apply similar concepts to AFS guidance development instructions. The undersigned associations are happy to see the FAA begin to apply these principles on a broader scale. Particularly, the idea that guidance does not contradict or otherwise negate a current acceptable method of compliance and that guidance documents are consistent with regulatory language should be a fundamental requirement that is applied to all facets of the FAA, not just AFS or AIR; similarly, so should the clarification that the primary audience for directives is internal stakeholders, including designees, while the primary audience for AC's is external stakeholders.

FAA Order 8100.16 titled, Aircraft Certification Service Policy Statement, Policy Memorandum, and Deviation Memorandum Systems, is applicable to AIR employees regarding the development of policy statements, policy memorandums, or deviation memorandums, while the proposed draft FAA 8000.AFSGDD titled, Flight Standards Service Guidance Document Development, is directed toward all AFS employees regarding the development of guidance. In order to satisfy the ARCs recommendation to develop instructions for the development of all policy and guidance material to ensure such documents are based and consistent with adopted regulations or statutes, the undersigned requests that the FAA, at a minimum, also update FAA Order 8100.16 to expand the scope of instructions to include all guidance document development consistent with the proposals within draft Order 8000.AFSGDD.

## Section Specific Feedback

### Section 1.7

The undersigned associations fully supports and appreciates the FAA's recognition and clarification that FAA Directives' primary audience is internal stakeholders, including designees, while Advisory Circulars primary audience is external stakeholders. This clarification is expected to reduce the examples of directives being used as a vehicle to impose requirements on external stakeholders.

However, another common area of confusion is when there is a disparity between an Order and an AC. Even though this draft order clarifies the primary audiences for both, there will still be confusion as a result of internal stakeholders following the direction of the Orders and external stakeholders following the acceptable means of compliance identified in an Advisory Circular. Therefore, the undersigned request that the FAA add a statement in the definitions section to clarify that in the event of disagreements, the regulation or statute takes precedence. Further, in the event that an Order and Advisory Circular are in disagreement, the FAA should provide clarification that the Advisory Circular is the external communication that provides acceptable means of compliance to the rule and therefore any differences from the Order should not impose additional requirements beyond what has been established by regulation and the accepted method.

### Section 3

The undersigned associations fully support the requirement to base guidance on regulations and or statutes and appreciate the FAA's efforts to clarify this in the draft Order. However, it appears these terms and the expectations may have been inconsistently used in the proposed language. For example;

Since Directives include Orders, Notices, and Supplements, the undersigned requests the following locations replace the proposed terminology with "directives"

- Section 3.2 states "e.g., the primary audience for orders..." and undersigned believes it should be changed to "e.g., the primary audience for directives..."
- Section 3.7 first paragraph states "with this Order AFS is extending this requirement to all orders, including Order 8900.1" and the undersigned believes it should be changed to "with this Order AFS is extending this requirement to all directives, including Order 8900.1". Otherwise, there is an implication that the requirement to base and cite in the guidance applicable regulations and statutes only applies to Orders and not directives.
- Section 3.7 states "for orders other than..." and the undersigned believe it should be "for directives".

### Section 5

As acknowledged in the CRI ARC report, one of the reasons for inconsistency are that there are numerous database that the FAA uses to store documents making it difficult for internal and external stakeholders to ensure they have all current information. As a result, the CRI ARC's primary recommendation is for the FAA to develop a single master source for guidance organized by 14 CFR part. The undersigned associations are encouraged by the progress that the FAA has made on the Dynamic Regulatory System.

Section 5.2 highlights the ongoing difficulty in having numerous document information management systems however there is no clear direction to the guidance writer on where to publish the document and no direction for users on where to find it.

### Section 7

Paragraph 7.3 states "this ensures consistency between these supporting documents and the regulations, related orders, and ACs" and the undersigned requests it be changed to "...this ensures consistency among these supporting documents and the regulations and related guidance".

The undersigned associations appreciate your attention to these comments and would welcome the opportunity to answer any questions regarding our feedback.