

December 9, 2022

Brandon Roberts
Executive Director, Office of Rulemaking, ARM-1
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Re: Final Report – Part 145 Working Group

Dear Mr. Roberts,

On behalf of the Aviation Rulemaking Advisory Committee (ARAC), I am pleased to submit the enclosed Recommendation Report from the Part 145 Working Group.

During the December 8, 2022, ARAC meeting at NASA's Ames Research Center in Mountain View, CA, Ms. Sarah MacLeod and Mr. Ric Peri, the working group chairs, presented an overview of the report, along with the five recommendations and logic behind each. ARAC members who attended the December 8 meeting, in-person and virtually, voted to accept the recommendation report. With that, I would welcome the agency's timely review, acceptance, and actions to implement the working group's recommendations.

I want to thank the chairs and members of Part 145 Working Group for their thorough and diligent work in response to the agency's tasking – including a comprehensive review of the history of the agency's control of legal entities that performed maintenance and alteration on aeronautical products and articles. I am confident that, once implemented, the results will markedly improve the agency's guidance on the certification and oversight of Part 145 repair stations.

Lastly, I wanted to highlight and support the working group chairs' request that the FAA further task the Part 145 Working Group with (1) completing the AMC; and (2) develop training to support the AMC. Those taskings would greatly help with implementing the working group's recommendations.

Sincerely,



David Oord
ARAC Chair

Enclosure: Final Report – Part 145 Working Group

Federal Aviation Administration
Aviation Rulemaking
Advisory Committee

Part 145 Working Group
Final Report

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Executive Summary

The Federal Aviation Administration (FAA) tasked the Aviation Rulemaking Advisory Committee (ARAC) to provide recommendations to the agency's guidance on the certification and oversight of all part [145](#)¹ repair stations. The ARAC accepted the task, and the Part 145 Working Group was established to serve as staff to the ARAC and provide preliminary and final reports with advice and recommendations for the ARAC's review.²

The [Preliminary Report](#) was provided to and accepted by the ARAC during its December 9, 2020 meeting; the report was subsequently forwarded to the FAA for its consideration. On June 16, 2022, a [Special Report](#) was prepared at the agency's request regarding the ability of an applicant or certificate holder to work from multiple locations under a single quality system. The Special Report was provided to and accepted by the ARAC and forwarded to the FAA for its consideration. This Final Report includes the results of the [Preliminary](#) and [Special](#) Reports along with recommendations for consideration by the ARAC.

During its deliberations, the Working Group delved into the entire history of the agency's control of legal entities that performed maintenance and alteration on aeronautical products and articles. The Working Group found that the 1962 recodification of the Civil Aeronautics Regulations to the Federal Aviation Regulations—

- (1) Made unintended changes to the regulations and significantly altered the agency's method for creating and disseminating guidance to repair station applicants, certificate holders, and the agency's workforce.

Prior to 1962, the Civil Aeronautics Manuals contained information for both the agency and the public. All information necessary for certification and surveillance was in one place. The applicant was required to be familiar with the information *before* making an application for certification, and aviation safety inspectors were trained in the performance-based regulations, their history, intent, and expected results. The manuals were updated whenever new *requirements* were introduced, or applicable legal opinions were issued by the Chief Counsel's office, or other tribunals.

After 1962, the FAA introduced advisory circulars for the public and internal FAA orders for its workforce – essentially segregating and duplicating compliance information. Moreover, current advisory circulars are focused solely on manual creation, not how to show compliance with Chapter [1](#). Internal orders diverge significantly from the plain language of the regulation. The rules are performance based while the guidance is prescriptive.

More unsettling, the agency's safety assurance system's (SAS) data collection tools (DCTs) are being used as the de facto standard for certification and surveillance even though only twenty percent (20%) cite a regulation.

- (2) Moved definitions from the repair station certification requirements to section [1.1](#). While claiming the move did not create significant changes, the amendment directly affected the verbiage's unique article-specific applications in the repair station certification process.

Since recodification, guidance material has increased from four to twenty volumes while education of the industry and agency workforce on the plain language of the regulation, its history, intent, and expected

¹ All references are to [14](#) Code of Federal Regulations ([CFR](#)) unless otherwise noted.

² See, 83 FR [2715](#) (January 18, 2019) (announcing the formation of the Working Group and asking for members).

results has deteriorated. The current oversight system creates barriers to certification by not differentiating compliance requirements from risk indicators.

The Working Group recommendations realign the agency and industry with the performance-based regulations applicable to certificating repair stations. This alignment will enable the agency to efficiently manage the certification and oversight of repair stations.

Recommendations

To efficiently manage the oversight of repair stations the Congress had directed the agency to consider the amount, type, scope, and complexity of work performed and the certificate holder's size.³ The current oversight system does not accomplish this requirement efficiently or effectively.

The Working Group's recommendations and draft Acceptable Means of Compliance (AMC) document⁴ ensure efficiency, stability, and consistency in repair station certification and oversight by following fundamental legal principles of regulatory construction, interpretation, and application. The recommendations and draft AMCs are written with the understanding that the agency has almost complete discretion in how and when it enforces its regulations, which enables it to adapt to changes in business practices that are not prohibited by the rules.

Recommendation (1)

Adopt a single AMC document containing the compliance information needed by applicants and certificate holders to apply for and maintain, and for the agency's personnel to certificate and surveil part [145](#) repair stations. The adoption of a single, consolidated document with acceptable ways of showing and finding compliance will ensure guidance is current and complete. It will also ensure the agency's findings of compliance remain directly aligned with the plain language and historical requirements of the aviation safety regulations and other legal mandates. (*See, Acceptable Means of Compliance (AMC).*)

Since the Working Group was unable to complete its draft AMC document, it asks the agency to accept the final report approved by ARAC and extend the task to allow time to complete the AMC.

Recommendation (2)

Develop regulation-based training that provides the history, intent, and expected results for the certification and oversight of repair stations using the chronological information on the control of civil aviation maintenance. (*See, Part 145 Working Group [Preliminary](#) Report, December 2020, page 9 of 23.*)

- (a) Develop the training in conjunction with industry, either through another task to the ARAC Working Group or through other collaborative avenues.
- (b) Make the training available to all applicants, certificate holders, and aviation safety inspectors.

Prior to recodification, aviation safety inspectors were trained in the performance-based regulations, their history, intent, and expected results. Current training is based purely on the policy material in Order 8900.1, which is prescriptive and has diverged from the plain language of the performance-based regulation.

³ *See, Sec. 308 of the FAA Modernization and Reform Act of 2012 (Pub. L. [112-95](#))* requiring the FAA to, "establish and implement a safety assessment system for all part 145 repair stations based on the type, scope, and complexity of work being performed."

⁴ The Working Group is not submitting its draft AMC with this Final Report as the document is incomplete; a draft will be submitted to the ARAC during its December 2022 meeting as an example of the work to date.

By creating training based solely on the history and plain language of the current rules, the agency can ensure showings and findings of compliance and the agency's oversight remain directly aligned with the plain language of all regulations in Chapter [1](#) applicable to repair stations.

Making the training available to applicants, certificate holders, and agency personnel will enhance the certification process by ensuring all interested parties are well-informed on the regulatory requirements. Knowledgeable applicants and certificate holders will be able to efficiently show compliance. Additionally, agency personnel will have the tools to make compliance findings based upon the history, intent, and expected results of the regulations.

Recommendation (3)

Amend the SAS DCTs to clearly differentiate between compliance elements and risk indicators. (*See, **Acceptable Means of Compliance (AMC)**.*)

Compliance elements are those directly linked to the plain language of an applicable regulation and are the only ones needed to show and find compliance and issue the certificate to which the applicant is entitled.

Risk indicators are those that may, depending upon the amount, type, scope, and complexity of work performed and the certificate holder's size, show a need to increase the agency's oversight.

With the current backlog in repair station applications and certification projects, the DCTs that do not reference a regulation⁵ must be given consideration only during surveillance planning.

Recommendation (4)

Update the application process to reflect the current requirements of part [145](#) (*see, **Application Process***).

- (a) Remove submittal of the pre-application statement of intent (Form [8400-6](#)) or adjust the Office of Management and Budget information to accommodate repair stations. The form is currently only valid for air carriers. (*See, **Pre-Application Statement of Intent***.)
- (b) Adjust the information gathered on FAA Form [8310-3](#)—
 - (i) Adjust Block 1.b. to accommodate changes to multiple locations. (*See, **Block 1.b. – Location Where Business Is Conducted***.)
 - (ii) Adjust Block 2 to accommodate all the requirements for submission and align it with the regulations. (*See, **Block 2 – Reason for Submission***.)
- (c) Remove the compliance checklist from the SAS on-line application process; the requirement was specifically rejected in the 2014 final rule.⁶

Recommendation (5)

Review the operations specifications' paragraphs and remove any that are not safety limitations. (*See, **Operations Specifications' Paragraphs***.)

The Working Group reviewed the [letter](#) sent by multiple trade associations and companies to the Executive Director of Flight Standards Service on April 13, 2018 for guidance (*see, **Appendix A: 2018 Industry Letter on Operations Specifications***). The letter is based upon a statutory requirement that without “a

⁵ *See*, Part 145 Working Group [Preliminary](#) Report, December 2020, page 12 of 23, first bullet: “Most SAS DCTs (at least 80 percent) do not reference a regulation as the basis for the question(s), rather content points to guidance (e.g., AC, Order, policy, etc.) as the primary or only source for the “requirement.” (Emphasis in original.)

⁶ *See*, 79 FR [46981](#), August 12, 2014.

written finding of necessity, based on objective and historical evidence of imminent threat to safety, the Administrator shall not promulgate any operations specification, policy, or guidance document that is more restrictive than, or requires procedures that are not expressly stated in, the regulations.”⁷ The industry letter sets forth a methodology that the agency could follow in establishing compliance with the congressional mandate.

Task

The Part 145 Working Group’s task required two significant steps. First, to investigate the relationship among and between part [145](#) regulations, internal and external guidance, and policies to determine whether each supports the others.

Second, where misalignments are found, make recommendations for improvements to ensure the internal and external guidance material is—

1. Aligned and compliant with the aviation safety regulations, other laws and executive orders.
2. Annotated to the applicable rule, other law, or executive order; and,
3. Consistently numbered to ensure a comprehensive relationship between the guidance document and the annotated rule, law, or executive order.
4. Developed to communicate the agency’s expectations for compliance to the public and the FAA workforce in a comprehensive and consistent manner and includes the tools necessary to ensure the application and evaluation of compliance supports performance-based oversight that takes into account the amount, type, scope and complexity of work performed and the certificate holder’s size.

The [Preliminary](#) Report provides a detailed description of the Working Group’s review and analysis of the assigned tasks and completion of its first step, which supports the **Recommendations** in this Final Report.

Summary of Work Performed

The purpose and intent of the federal government’s aviation safety certification and oversight of persons performing maintenance, preventive maintenance, rebuilding, and alteration has not changed since its inception.

The Working Group completed a comprehensive compilation of the regulatory material directly related to applications for, issuances, and oversight of air agency certificates under part [145](#). The review revealed a significant drift from the plain language of the regulation to guidance material.

Further, the current acceptable means of compliance, e.g., advisory circulars, and the information expected to be followed by the agency’s workforce, i.e., Order [8900](#) contain significant differences. The Working Group also noted that the way the Aviation Safety organization adopted its quality management system (i.e., ISO 9000) has compounded the prescriptive nature of the agency’s workforce performance. While the agency encourages critical thinking, its method of developing guidance discourages deviation from the prescriptive measures contained in orders and policy. This combined with the workforce’s lack of regulatory training prohibits critical thinking.

Finally, the agency’s safety assurance system elements, notably the DCTs, include questions that intimate a repair station is obligated to create quality assurance and safety management procedures that are not

⁷ See, Public Law [115-141](#), Section 420(b).

required by regulation. The often-conflicting information creates uncertainty and delays in the certification of air agencies under part [145](#).

After collecting the historical documents associated with issuance of certificates authorizing organizations to perform maintenance, preventive maintenance, rebuilding, and alterations on civil aircraft, the Working Group began compiling information related to each paragraph of part [145](#) into an AMC document.

Acceptable Means of Compliance (AMC)

The Working Group has developed a draft AMC document that contains the information needed by both the agency and industry. Applicants, certificate holders, agency personnel, and the public will have one place to find comprehensive information on making the required showings and findings of compliance based on the plain language of the current part [145](#), its historical intent, and expected result.

The Working Group’s research revealed that information on intent and compliance requirements has remained consistent since the introduction of federal control of civil aviation in 1920. Since no significant changes were introduced during the 1962 recodification of part 52 to part [145](#),⁸ the Working Group included information in its AMC from earlier regulations and guidance material to ensure continuity of compliance.

In drafting its AMC, the Working Group followed fundamental legal principles of regulatory construction, interpretation, and application by consistently—

- Restating the applicant's responsibility to establish and continue to “show” compliance, and the agency’s responsibility to “find” compliance with the regulations.
- Providing pertinent performance-based information on the application, certification, continued compliance, and oversight of part [145](#) applicants and certificate holders based upon the plain language of the regulation and the safety intent expressed in rulemaking and legal documents⁹ so it can be applied to each unique applicant and certificate holder.
- Including valid information from previous versions of the applicable regulations for background, perspective, and parameters for certification and oversight activities.
- Ensuring elements or information reserved for agency personnel as tools to make an appropriate performance-based finding to a regulation do not contain data on compliance or oversight that impinge upon the requirements or rights of an applicant or certificate holder. Allowing items such as manipulation of information and assignment of personnel that are solely the purview of the federal agency but removing hidden “requirements” that are not supported or contained in the material directed at applicants and certificate holders.

The AMC creates a transparent method of imparting information to applicants, certificate holders, agency personnel, and the public. It includes the language of the regulation, its scope or intent, an acceptable means of compliance for the applicant or certificate holder, how the agency handles the data it collects or

⁸ “It is the purpose of the program to restate these rules and regulatory requirements, wherever they are found, in simple straightforward language, eliminating or clarifying, as required, ambiguous, contradictory, obscure, repetitive, obsolete or unnecessary provisions. The preparation of a common set of definitions is basic to the recodified structure.” (See, 26 FR [10698](#), Nov. 15, 1961.)

⁹ Concepts and guidance that did not change during the transition from the Civil Aeronautics Regulations to the Federal Aviation Regulations, including preambles to the notices of proposed rulemaking and final rules, generally applicable legal interpretations from the Office of Chief Counsel, administrative (National Transportation Safety Board and Administrator) proceedings, and federal courts decisions have validity in applying today’s regulations.

is required to review, and additional explanations or background to help aid compliance, certification, and oversight.

The AMC imparts information regarding the obligations of applicants and certificate holders in a manner that complies with the task by following the numbering system associated with the applicable part [145](#) section and paragraph.

As the example in the Special Report provides, the draft AMC is organized by citing each paragraph of part [145](#) followed by—

- (1) Scope—imparts information on the meaning and intent of the paragraph.
- (2) Acceptable Means of Compliance—imparts information to applicants and certificate holders on methods or parameters that must be shown to achieve the intended result.
- (3) Guidance Material—imparts information to the agency’s workforce on how to handle or evaluate the information to make a finding of compliance.
- (4) Related Regulations—imparts information on every paragraph of parts [43](#), [65](#), or [145](#) that is directly impacted by the cited paragraph.
- (5) Additional Information—imparts information that helps an applicant or certificate holder show compliance or the agency’s personnel find compliance. Examples include legal opinions from the agency’s Office of Chief Counsel, or another legal tribunal, or additional historical information that helps put compliance with the cited paragraph in perspective.

The near hundred-year progressive regulatory history on the performance of restoration activities in civil aviation cannot be lost in the application and oversight of repair stations in the current era. The standards created in the 1920s are a solid basis for the performance-based technical requirements and quality systems required today.

The agency’s steadfast insistence that the 1960s recodification did not introduce substantive changes cannot be forgotten during the application and enforcement of today’s requirements. Therefore, policy, guidance, and interpretations issued throughout the regulatory history have applicability and were incorporated.

Moving Definitions

The purpose and intent of the aviation safety regulations controlling persons performing maintenance, preventive maintenance, rebuilding, and alteration has not changed since the inception of federal oversight in the 1920s. As the Working Group gathered and reviewed historical documents associated with federal rulemaking activities related to repair stations, it found that the 1962 rulemaking eliminated essential definitions from maintenance and repair station regulations in the consolidation to part [1](#).¹⁰

Unfortunately, loss of the regulations’ specific definitions and explanations in the maintenance arena resulted in the inability to properly apply the regulations, i.e., parts [43](#) and [145](#). An example is the redefinition of airframe, which has led to a misunderstanding of what that word means when applied to repair station ratings.

Since the 1962 rulemaking specifically noted that it was not a significant rulemaking, and it was not intended to amend the application or implementation of the previous regulations, the Working Group has

¹⁰ “The definitions, abbreviations, and rules of construction contained in Part 1 [New] published in the FEDERAL REGISTER on May 15, 1962 (27 F.R. 4587) apply to the new Subchapter H.” See, 27 FR [6655](#).

included language from past regulations and guidance documents in its draft AMC to ensure continuity with the original intent.

Application Process

The application process is meant to establish the applicant's knowledge of and capability to show compliance with the basic elements of parts [43](#) and [145](#).¹¹ When FAA Form [8310-3](#) is completed and reviewed properly, it provides the agency with the information necessary to show and find *initial* compliance to the regulatory requirements.

Unfortunately, knowledge of the history and current language of the regulations in certification teams, the oversight office, and the applicant or certificate holder can vary greatly. The agency's ability to draw on resources from various locations to support certification has created differences in expectations between the certification teams and the oversight office.

The regulations have always demanded that the certificate holder have knowledge of the regulations. In 1952, the Civil Aeronautics Manual was explicit—

52.5-1 Procedure for applying for a repair station certificate (CAA rules which apply to sec 52.5)—(a) General. When an applicant has satisfied himself that he is thoroughly familiar with the contents of this part, he shall make an application for a repair station certificate on Form ACA-394.

The laws and regulations have been consistent and clear; applicants must *show* compliance before the agency *finds* compliance. Unfortunately, the agency's current certification and oversight procedures has created a reversal in this fundamental legal principle; now it is the agency that demands how compliance must be shown.

Knowledge of the history and current language of the regulations in the agency's workforce is discouraged by the current certification and oversight process. The SAS DCTs are prescriptive and are viewed by the agency's workforce as required for certification and operation. The Working Group found during its initial review of the DCT questions that only twenty percent (20%) were associated with regulatory requirements.¹² Rather than following a checklist that is problematic, the agency's workforce must be provided the knowledge to evaluate the applicant's "showing" against the plain language of the regulations to determine if compliance can be found.

To ensure the agency and industry have the knowledge required to show and find compliance it developed **Recommendation (2)**.

Pre-Application Statement of Intent – FAA Form 8400-6

According to agency guidance, the application process begins with the use of FAA Form [8400-6](#), the *Pre-Application Statement of Intent* (PASI). The PASI was designed for air operations under part [119](#),¹³ the

¹¹ During its review of the FAA Form [8310-3](#), and related advisory circulars and guidance material, the Working Group noted that the agency should change the words and acronym Flight Standards District Office (FSDO) to Flight Standards Office (FSO).

¹² See, [Preliminary](#) Report, December 2020, page 12 of 23.

¹³ "Organizations that desire to become or remain certified as air carriers or commercial operators are mandated to report information to the FAA. The information collected reflects requirements necessary under parts 135, 121, and 125 to comply with Federal Aviation Regulation part 119 – Certification: Air Carriers and Commercial Operators. The FAA will use the information it collects and reviews to ensure compliance and adherence to regulations and, if necessary, to take enforcement action on violators of the regulations. The latest form for Federal Aviation Regulation Part 119 Certification: Air Carriers and Commercial Operators expires 2021-08-31 and can be found here." Supporting Document: <https://omb.report/icr/202011-2120-001/doc/108707400>.

Working Group could find no regulatory requirement or support for its use in the part [145](#) application process.

The regulation, § 145.51(a), indicates that the certification process begins when application for a repair station certificate is made through FAA Form [8310-3](#). The only additional information provided by the PASI is the expected timeline for the certification steps.

While the PASI may aid resource allocation for the agency and planning the application and certification process by the applicant, this information is obtained in the first step of the certification process and is therefore redundant.

The Working Group recommends that the PASI should be removed from the application process, *see*, **Recommendation (3)(a)**.

Application – FAA Form 8310-3

During the development of the AMC, the Working Group performed an extensive review of the FAA Form [8310-3](#) and concluded it should be adjusted to make it less confusing while accommodating the current regulatory language. **Recommendation (3)** results from the Working Group’s deliberations.

Block 1.b. – Location Where Business Is Conducted

This block can be confusing for applicants wishing to add a location or a satellite facility. Therefore, the Working Group recommends that the term “principal place of business” be used to illicit the location from which managerial control will be exercised in either case. The term is used to describe an air carrier’s primary administrative location and therefore would be consistent with the regulatory oversight of multiple locations under a single certificate or a satellite under the managerial control of a primary location.

To accommodate these options, the Working Group recommends the following changes to Block 1.b.—

Block 1.b. Location Where Business Is Conducted. *Insert the address of the principal place of business. ~~physical location of the primary repair station facility. This location will be inspected by the FAA for compliance with 14 CFR 145.~~*

Block 2 – Reason for Submission

The current selections in this Block do not help the certification process, they are based upon older versions of the regulation as to when an application for change to the certificate must take place.

The current regulations require the agency be notified when a repair station—

- (1) Changes its name, location, or rating (*see*, § 145.57(a)).
- (2) Changes any paragraph in its operations specifications as it would require an amendment to the certificate (*see*, § 145.5(a)).
- (3) Changes housing or facilities required by § 145.103 that could have a significant effect on its ability to perform work (*see*, § 145.105(b)), which does not affect its location.
- (4) Sells or transfers its *assets* (*see*, § 145.57(b)), which would denote a change in the “person” holding the certificate. The term “ownership” could be interpreted as applying to stock sales, and other financial transactions that are not sales of assets.

To accommodate these requirements, the Working Group proposes the following changes to Block 2—

Block 2—Reason for Submission	
Current Language	Recommended Language
Original application for certificate and ratings	Original application for certificate
Change in rating	Change in rating
	Change in operations specifications
Change in location or housing and facilities	Change in location
	Change in housing or facilities
Change in name or ownership	Change in name
	Sale of assets
Other (specify)	Other (specify in additional sheet(s) of paper)
4 blank lines	Remove

Ratings and Rating System

To complete the AMC sections and paragraphs relating to ratings, the Working Group reviewed and discussed the issues associated with the current system. The Working Group also studied the ARAC Working Group’s technical [report](#) from 2001 on the same subject.

The Working Group came to understand that with the change in the definitions of terms used to issue ratings the agency has developed a tendency to amend its policy regarding “proper” ratings (*see, **Moving Definitions***). Thus, the Working Group included an Acronyms and Definition section in its draft AMC to provide all versions of the definitions used over the years to help the agency’s workforce and the industry understand the nature, intent, and scope of the ratings it may issue.

When the agency’s policy changes, it often unilaterally changes the air agency certificate, operations specifications’ paragraphs, or limitations of a certificate holder. Policy cannot override the plain language of the regulation; changes in policy that directly impact the public must be handled under the rulemaking provisions of the Administrative Procedure Act.

Since any change to the air agency certificate or operations specifications is certificate action under part [13](#), it is advantageous to the agency and the industry to maintain stability in the issuance of ratings. To establish stability, the agency needs to recognize that regardless of the ratings allowed, or issued, there may always be more than one rating that will be appropriate. Additionally, bilateral agreements have dictated a compromise in how the agency issues ratings, e.g., EASA only recognized a limited number of specialized services.

The regulation governing repair stations has always been clear: ratings do not authorize work that cannot be accomplished correctly. The work approved for return to service must always meet the quality requirements of parts [43](#) and [145](#). The certificate holder must always follow its quality system, and have the appropriate housing, facilities, tools, tooling, equipment, and test apparatus under its control on premises or through contract. Thus, all work, no matter the rating issued by the agency, is limited by the technical capabilities of the certificate holder.

Issuance of a rating is simply a snapshot in time of the *general technical capabilities* the applicant demonstrated to the FAA. Once the certificate, ratings, and any limitations are issued, it is the certificate holder’s quality control system that assures the *continued capability* to perform the work under part [43](#)

standards. The recommendations for issuance of ratings in the draft AMC acknowledge the continued obligation of a certificate holder to comply with part 43 quality requirements no matter what ratings were issued.

Consistency in issuance of certificates includes stability in how the agency addresses what may be perceived as "incorrect" ratings. Since it is fully acknowledged that more than one rating can be held for similar work, the agency issues what its representatives believe are appropriate ratings at the time of demonstration. Therefore, when the FAA changes its policy regarding the appropriate rating, the information originally submitted by the applicant must be reviewed. If the rating was appropriate at the time of issuance, the agency should not change the rating merely because the policy changed. If the agency finds that it has issued an incorrect rating, it must not blame the certificate holder. It may merely explain why another rating is more appropriate and request the certificate holder's cooperation in obtaining a new, or more appropriate one.

The Working Group's draft AMC makes clear that when the agency's policy regarding the issuance of ratings changes, the inspector assesses whether the certificate holder's work scope has changed since the original rating(s) were issued. If the ratings originally issued were appropriate at the time, an amendment is unnecessary unless the regulations or certificate holder's work scope has changed. If the certificate holder's work scope changed, but it has maintained the *technical capability* to perform the work correctly, it should be requested to apply for an additional or different rating. However, unless a safety issue is present, enforcement action needs to be avoided.

Class Ratings

A review of part 145's history indicates that issuing a certificate was an administrative function designed to capture the *general technical capabilities* of an applicant. The certificate holder was always required to work within part 43, no matter the certificate or rating issued.

A class rating merely represented the ability of the applicant/certificate holder to accommodate multiple articles with the same technical and operational requirements. Thus, the applicant needed similar housing, facilities, tools, tooling, equipment, test apparatus, data, and knowledgeable personnel (the technical infrastructure) to meet the quality standards of part 43.¹⁴

The agency historically recognized the fact that all ratings require the applicant to account for the work authorized either through in-house capabilities¹⁵ or by contract.¹⁶ The technical infrastructure and the processes and procedures describing the operations contained within the repair station, quality control, form, and training manual(s) will be evaluated before any rating is issued.

The agency may issue class ratings when it finds the applicant has the technical infrastructure, in-house or by contract, to meet the quality standards of part 43 for more than a single make and model or nomenclature of product or article.

The agency's current practice of requiring a "representative number" of articles within a category as the basis for issuing a class rating is inconsistent with the history and plain language of the regulation. The

¹⁴ See, § 52.27 Limited ratings. "Ratings may be issued with appropriate limitations, where found appropriate by the Administrator, to a repair station which engages solely in the maintenance, repair, or alteration of a particular type of airframe, powerplant, radio, instrument, accessory, or the components thereof, or engages in specialized service with respect to the maintenance, repair, or alteration of an aircraft or component thereof." (Emphasis added.) See also, the definition of type in § 1.1, which states that with respect to aircraft and engines, it means those of similar design. The examples given are DC-7 and DC-7C or JT8 and JT8D-7.

¹⁵ See, §§ 145.103(a)(1), 145.109(a), and 145.151(b).

¹⁶ See, §§ 145.201(a)(2) and 145.217(a).

“requirement” is only in guidance. With the 2001 rule change, the only difference between a class and limited rating is the latter must keep a capability list. Since all work is limited to capabilities for compliance with part [43](#) and § 145.[201](#), the agency’s guidance can change to enhance simplicity and standardization.

Following the historical intent of the regulations, the Working Group’s draft AMC associated with ratings is based upon the following principles—

- (1) A class-rated facility has the privilege to maintain or alter any item on or removed from the top assembly associated with the rating. Therefore, the applicant needs to account for all the articles that may be contained in the article through in-house or contracted capabilities.
- (2) Class ratings also encompass the authorization of corresponding limited ratings. There is no work that can be accomplished under a limited rating that cannot be done under the corresponding class rating.
- (3) An airframe or product (aircraft engine (powerplant) or propeller) based class-rated facility will have the privilege to maintain or alter any article on or removed from the product *provided the approval for return to service is issued for the product* from which the article was removed.

However, if the approval for return to service will be issued for the work on a removed item, or for a specialized service, a separate rating applicable to the article, or the work, in the case of a specialized service, should be issued.

- (4) Ratings associated with accessories, instruments, and radios are downward compatible within the type, *i.e.*, mechanical. However, when there are multiple technical or operational requirements for an assembly, *e.g.*, mechanical and electronic, the primary technical or operational requirements will dictate the appropriate rating.
- (5) In all situations, the applicant must establish that it has the technical infrastructure and quality elements necessary to perform that work and approve it for return to service as required by the quality standards of parts [43](#) and [145](#).
- (6) A certificate holder must be able to establish that the elements necessary to hold the certificate and perform the work are available on premises, or by contract, to be issued an appropriate rating.

Limited Ratings

Since 1926 the *general technical capabilities* were assumed as a function of the rating, and thus the rating system, except for non-destructive testing and specialized services, is based upon the article on which tasks will be performed. At some point the agency started issuing ratings based upon the work that was performed rather than the rating system’s classification of articles. Since the issuance of a certificate is an administrative function that captures the *general technical capabilities* at the time of demonstration, the draft AMC refocuses the issuance of a limited rating on the class to which the article is related.

Since 1952, the agency has issued limited ratings to repair stations that maintained or altered a *single type* of article, or engaged in a specialized service.¹⁷ Thus, the *work* allowed under a limited rating is merely a microcosm of the maintenance or alterations authorized by a class rating. The original concept and intent were lost when the agency began to manage the oversight of repair stations through internal policy that focused on the work performed rather than the type of article.

¹⁷ See, § 52.27 (June 15, 1952).

The regulation requires all limited ratings be accompanied by a capability list. Since 2001, applicants and certificate holders have the option of keeping a self-maintained list of articles by make and model or nomenclature, or the list can be maintained by the agency in an operations specifications paragraph. The regulation states that the agency “may” issue limited ratings for a list of articles “of a particular make and model” that are redundant to many of its class ratings.¹⁸ However, the listing illustrates the original intent of limited ratings. i.e., appropriate for articles that have limited technical or operational requirements and for applicants maintaining or altering only one type of product. The need for technical infrastructure, operational, and quality elements is less than those required to maintain or alter multiple types of accessories, instruments, or radios. Similarly, maintaining or altering a single type of completed product requires less technical and operational capability than multiple makes and models.

The quality control system requires all repair stations to perform evaluations to ensure compliance with parts [43](#) and [145](#).¹⁹ The self-evaluation documentation required by a limited rated certificate holder must ensure the additional work is within the repair station’s current ratings.²⁰

The AMC brings back the original language and intent of limited ratings in the context of today’s regulations. It also makes clear to class-rated repair stations that documentation may not be needed to establish compliance when new articles are taken on, but the regulations require the technical and operational elements be in place when the relevant work is done.²¹

Operations Specifications’ Paragraphs

Under part [145](#), the operations specifications are part of the air agency certificate. The plain language of the regulation and its history indicates they are only to be issued “in the interest of safety” as there is no other authority specified. Unfortunately, the current method of assigning operations specifications’ paragraphs ignores the limitation on the agency’s authority and may be contrary to other laws and executive orders associated with information collection.

Section 145.5(a) states the certificate holder must not operate “...without or in violation of, a repair station certificate, ratings, or *operations specifications*” (emphasis added). Any operations that are contrary to an operations specifications’ paragraph create an allegation of non-compliance. Those paragraphs that are not directly aligned with a regulation must be scrutinized under the Administrative Procedure Act.²²

It appears the method by which operations specifications are issued has also ignored the requirements of the Paperwork Reduction Act (PRA)²³ in that paragraphs contain information that is not collected during the application process and is personal or business related. The air agency certificate and operations specifications’ paragraphs are subject to public inspection and can be released under a Freedom of Information Act (FOIA)²⁴ request. Any information that is extraneous to the air agency certificate or limitations issued in the interest of safety must be scrutinized under the PRA.

The Working Group found within the part [145](#) operations specifications’ paragraphs that—

¹⁸ See, § 145.61(b)(1)-(12); § 145.61(b)([13](#)), which states that the agency may also issue a limited rating for “[a]ny other purpose for which the FAA finds the applicant’s request is appropriate.” The Working Group believes the AMC reflects appropriate ratings for each of those listed in § 145.61(b)(1)-(12).

¹⁹ See, §§ 145.211(a) and (c)(1)([ix](#)).

²⁰ See, § 145.215(c), which states that the certificate holder may list an article on its capability list “only if the article is within the scope of the ratings of the repair station certificate.”

²¹ See, § 145.109(a).

²² See, 5 U.S.C. Subchapter [II](#).

²³ See, 44 U.S.C. [3501](#).

²⁴ See, 5 U.S.C. § [552](#).

- (1) The definitions paragraph contains language that is contrary to the regulatory hierarchy.
- (2) There is language that merely repeats the regulations, a practice that is doubly problematic since the operations specifications' paragraphs are not required to be changed when the rules do.
- (3) Some paragraphs have language that is not aligned with the regulations, thereby adding elements that cannot be supported by either the regulation or a limitation necessary "in the interest of safety."
- (4) Paragraphs require actions by applicants and certificate holders that are not addressed in the regulations. Additionally, the agency has the propensity to change or demand operations specifications' paragraphs without recognizing that it must follow the requirements of part [13](#).

The misalignment of operations specifications' paragraphs for part [145](#) is partly due to the system used to assign and issue them. The system is designed to accommodate the paragraphs developed for and assigned to part [119](#) certificate holders. Under part [119](#) not all operations specifications' paragraphs are part of the issued certificate. Changes to operations specifications that impact the certificate may be challenged under section [119.41](#), and the operations specifications' paragraphs that are not part of the certificate²⁵ can be challenged under section [119.51](#).

Under section 145.53(a), an applicant "...is entitled to a repair station certificate with appropriate ratings prescribing such operations specifications and limitations as are necessary in the interest of safety." Therefore, all operations specifications' paragraphs are considered part of the certificate; they must be in the interest of safety, and they cannot be changed or "required" unilaterally by the agency without rulemaking or formal legal proceedings under part [13](#).

Operations specifications' paragraphs that are directly linked to regulatory requirements are those associated with delineating the fixed locations of the certificate holder (A-001 and A-101), limitations of a rating or the process specification applicable to a specialized service rating (A-003), and the presence of a part [120](#) anti-drug and alcohol program (A-449).

The Working Group reviewed the regularly issued operations specifications' paragraphs and noted several are not directly linked to or required by a regulation and do not advance safety. Most notably, repair stations must obtain "permission" through operations specifications' paragraphs to perform privileges granted by the regulations, including—

- (1) Using electronic media to keep repair station manuals and other non-signatory documents, even though the "format" was specifically found acceptable in the preamble to the 2001 final rule.
- (2) Working away from the fixed location, even though § 145.[203](#) contains the privilege and the certificate holder is to have a procedure for doing so in its manual (*see*, § 145.209(f)).

Oversight System Usage

The Working Group continues to have deep concerns regarding the use of SAS DCTs in the certification and oversight of repair stations. The system still contains requirements that are not supported by the regulations applicable to repair stations. Since the introduction of the SAS DCTs, the waiting list for certification is longer than any Working Group member can recall, and it is growing.

The concerns provided in the [Preliminary Report](#) have not been addressed, while DCT questions are constantly being added without distinguishing between compliance and risk elements. Additionally—

- (1) Answers still imply that guidance information is a requirement; the only choices are if the CH has—

²⁵ See, § 119.7(b).

- Ü met regulatory and guidance requirements
 - Ü isolated instance(s) when guidance requirements were not met
 - Ü several instances when guidance requirements were not met
 - Ü regulatory noncompliance
 - Ü not observable
- (2) All three elements (Design, Performance, and Risk Management) are weighted the same, resulting in the agency spending as many resources on low-risk, well-managed persons as it does on high-risk, poorly managed applicants or certificate holders.
- (3) After completion of all “required” elements, the agency’s workforce still cannot obtain a risk assessment for a repair station when measured against the standard requested by Congress, that is “the type, scope, and complexity of work being performed.”

Use of Resources

The AMC contemplates the use of Flight Standards resources outside the local office where an applicant or certificate holder may be located.

The Working Group believes that centralizing the certification review and assignments of the inspector work force would enable resources to be managed more readily and effectively, and result in a more consistent application of the agency’s findings of compliance.

Appendix A: 2018 Industry Letter on Operations Specifications

April 13, 2018

Delivered by email; read receipt requested: john.s.duncan@faa.gov
Original delivered by certified mail
Return receipt requested
Receipt no: 7017 2680 0000 1157 2186

John S. Duncan
Executive Director, Flight Standards Service
Federal Aviation Administration
800 Independence Avenue, S.W.
Room 831
Washington DC 20553-0002

Re: Public law 115-141, Section 420(b)
Operations Specifications Paragraphs Review

Dear John:

The undersigned have long been concerned about the method by which the agency issues operations specifications paragraphs to and for operators and air agencies. The recent enactment of Public Law [115-141](#), Section 420(b) provides the perfect opportunity to review the agency's procedures for performing this important function.

Congress has directed that "[without] a written finding of necessity, based on objective and historical evidence of imminent threat to safety, the Administrator shall not promulgate any operations specification, policy, or guidance document that is more restrictive than, or requires procedures that are not expressly stated in, the regulations."

Currently, the agency promulgates "standard" operations specifications paragraphs for part [119](#) operators with participation from the Operations Specifications Working Group (OSWG). However, the group's working guide fails to provide objective criteria for developing and issuing paragraphs for different types of certificates nor is there direction on language or usage. Additionally, the agency does not seek similar information from other certificate holders that are issued operations specifications paragraphs.

To assist the agency in complying with the congressional mandate, this letter explains the current issues with how operations specifications paragraphs are promulgated. It concludes with a request that the agency take this opportunity to review and improve its methods of creating and applying operations specifications paragraphs.

(I) Issues

- (1) Air carrier and other operator operations specifications paragraphs are issued under part [119](#). Except for the required paragraphs identifying authorized operations, operations specifications paragraphs are specifically *excluded* from the certificate. Changes to the operations specifications paragraphs are instituted and appealed under sections [119.41](#) and [119.51](#).
- (2) Air agency certificates are issued under parts [145](#) and [147](#); those regulations make clear that the operations specifications paragraphs are all *part of the*

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certificate. Thus, changes to paragraphs must be requested or agreed to by the certificate holder or handled as a certificate action by the agency.

- (3) Application of the automated operations specifications to all certificate holders fails to recognize the distinctions between types of certificates.
 - (a) Changes to air carrier and other part [119](#) certificate holder operations specifications paragraphs are covered by due process procedures contained in that part.
 - (i) The application of any particular paragraph is rarely if ever challenged by an operator and the "blanket" application of certain paragraphs in fact, creates regulation by operations specifications.
 - (ii) Additional paragraphs and changes to existing paragraphs seem to be created without objective standards. Consequently, they can be complex and duplicative, not supported by a regulation or documented safety justification and in some cases have been specifically rejected during the rulemaking process.
 - (b) Changes to air agency operations specifications equate to certificate action, which can be accomplished by application from the certificate holder or through legal action by the agency.
 - (i) The agency has applied "mandatory" operations specifications paragraphs to repair stations without careful consideration of their impact and thus has created conflicts between the plain language of the regulations and the verbiage in operations specifications paragraphs.
 - (ii) Similar to operations specifications applicable to operators, additional paragraphs and changes to existing paragraphs are created without objective standards. Consequently, they can be complex and/or become increasingly "non-standard" in application.
- (4) Application of "standard" operations specifications carte blanche to all part [119](#) certificate holders is particularly problematic under the new mandate to ensure consistency with regulatory language.
 - (a) The agency develops and issues "standard" paragraphs to all part [119](#) certificate holders without ensuring the language is consistent with a regulation. Often extraneous language inadvertently adds requirements not contemplated by the plain language of a rule. The FAA should constantly review its "standard" paragraphs to ensure consistency with the regulations and removal of unnecessary language.
 - (b) The current methodology does not differentiate among and between paragraphs requested by an air carrier from those automatically applied by the agency. The agency can certainly have standard language for

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specific types of operations. However, some of the current paragraphs are already covered by a regulation and are only issued for the convenience of the agency. They gather information that exists within required manuals or procedures. This is particularly true with the advent of safety management systems—having an operations specifications paragraph noting positions, titles and contacts is for the convenience and administration of agency responsibilities. It is not in the interest of safety or any other requirement. If the agency wishes to collect this information, it may ask for voluntary submission under the proper procedures for such activity.

(II) Applicable regulations and guidance

(A) Regulations

- (1) Operations specifications for air carrier and operating certificates
 - (a) Section [119.7](#) sets forth the paragraphs of the operations specifications that are and are not part of an operator's certificate.
 - (b) Section [119.49](#) sets forth the paragraphs that are required, including items that are issued because "the Administrator determines [it] is necessary" (i.e., in the interest of safety).
 - (c) Changes to operations specification paragraphs are handled under sections [119.41](#) and [119.51](#).
- (2) Operations specifications for air agency certificates
 - (a) Section [145.53](#) for repair stations
 - (i) Definitions in sections [1.1](#) and [145.3](#).
 - (ii) Ratings issued under sections [145.59](#) or [145.61](#).
 - (iii) Changes to certificates and operations specifications paragraphs under section [145.57](#).
 - (iv) Privileges and limitations of repair stations under section [145.201](#).
 - (v) Capability lists for repair stations with limited ratings are kept as stated in section [145.215\(a\)](#); at the certificate holder's choice, either as part of the repair station's operations specifications or maintained by the repair station as set forth in § [145.209\(d\)\(1\) and \(2\)](#).
 - (b) Section [147.5\(b\)](#) for aviation maintenance technician schools
 - (i) Ratings issued under section [147.11](#).
 - (ii) Exemptions issued under section [11.15](#).

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- (iii) Utilization of designated mechanic examiners, as provided for in section [183.25\(a\)](#).
- (iv) Instructor listing, instructor requirements and instructor ratio requirements provided under sections [147.5](#), [147.23](#) and [147.36](#).
- (v) Student recordkeeping system requirements under section [147.33](#).
- (vi) Curriculum requirements in section [147.21](#).

(B) Public guidance

Unfortunately, there is no public information on the type, extent and necessity of operations specifications paragraphs.

(C) FAA guidance and procedure

- (1) Flight Standards Information Management System ([Order 8900.1](#)) for repair stations
 - (a) Volume 2, Chapter 1, [Section 4](#) "Preparation of FAA Operating Certificates".
 - (b) Volume 2, Chapter 11, [Section 5](#) "Safety Assurance System: Phase 5—Administrative Functions".
 - (c) Volume 3, Chapter 18, [Section 10](#) "Parts A, B, and D Operations Specifications for Part [145](#) Repair Stations".
- (2) Flight Standards Information Management System (Order 8900.1), [Volume 3, Chapter 18, Section 1](#) and [Section 10](#)
- (3) OpsSpecs Working Group Procedures [Guide](#)

(D) Legal interpretations and decisions

There are no legal interpretations addressing the difference between operations specifications issued under part [119](#) and those issued to air agencies. Additionally, there are no legal interpretations on the proper use and application of operations specifications paragraphs to all operators versus specific operators "in the interest of safety." Thus, the agency finds itself "regulating through operations specifications" without objective standards that distinguish among and between the types of certificate and/or operations specifications paragraphs.

There is at least one legal interpretation where the language in the operations specifications differed from the language in the regulation – [https://www.faa.gov/about/office_org/headquarters_offices/agc/practice_areas/regulations/interpretations/data/interps/2014/fraser-keystone%20turbine%20services%20-%20\(2014\)%20legal%20interpretation.pdf](https://www.faa.gov/about/office_org/headquarters_offices/agc/practice_areas/regulations/interpretations/data/interps/2014/fraser-keystone%20turbine%20services%20-%20(2014)%20legal%20interpretation.pdf) – precipitating a misunderstanding of the regulatory compliance issues.

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Legal obligations created by operations specifications for part [119](#) operators – [https://www.faa.gov/about/office_org/headquarters_offices/agc/practice_areas/regulations/interpretations/data/interps/2011/harris-avp-100%20-%20\(2011\)%20legal%20interpretation.pdf](https://www.faa.gov/about/office_org/headquarters_offices/agc/practice_areas/regulations/interpretations/data/interps/2011/harris-avp-100%20-%20(2011)%20legal%20interpretation.pdf).

Authority to issue part [119](#) operations specifications – [https://www.faa.gov/about/office_org/headquarters_offices/agc/practice_areas/regulations/interpretations/data/interps/2013/honeycutt-charterflight%20-%20\(2013\)%20legal%20interpretation.pdf](https://www.faa.gov/about/office_org/headquarters_offices/agc/practice_areas/regulations/interpretations/data/interps/2013/honeycutt-charterflight%20-%20(2013)%20legal%20interpretation.pdf).

(E) Ambiguities or inconsistencies in regulations, guidance or correspondence

A comprehensive review of any certificate holder's operations specifications paragraphs will quickly reveal ambiguities and inconsistencies among and between the regulations, policy and guidance.

A simple example is the definition paragraph for part [145](#) certificate holders that contains language differing from section [1.1](#) of the regulations.

(III) Precedent: FAA decisions on the issue

Although the agency has made no "decisions" on the particular issue of distinguishing between operations specifications issued to operators versus air agencies, it is clear the FAA does not make the appropriate distinction when creating or applying a particular paragraph.

The agency has "ordered" its inspector workforce to make various changes to air agency operations specifications in the name of "consistency." To date, it has merely sent the "changes" to the certificate holder and requested a signature, which clearly makes a change to the air agency's certificate without due process.

Similarly, it applies "new" or "changed" paragraphs to operator operations specifications without distinguishing when the paragraph is (1) required by part [119](#), (2) being issued for the convenience of the certificate holder or agency, (3) required as a limitation on a particular operator in the interest of safety, (4) repetitive of an existing or new regulation, or (5) "required" to be applied to all operators and why that broad application is necessary in lieu of a regulation.

Consequently, the addition of more operations specifications paragraphs has become the norm. The removal of outdated or unnecessary paragraphs is nearly impossible; thus creating a hodge-podge of "requirements" without clear need or regulatory basis.

(IV) Suggested Resolution

We respectfully request the agency establish a committee of internal and external regulatory compliance experts to:

- (1) Create objective criteria for adding and reviewing paragraphs to any certificate holder's operations specifications that will distinguish—
 - (a) The different types of certificates, for example—

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- (i) Those where the operations specifications are separate from the certificate.
- (ii) Those where the operations specifications are part of the certificate.
- (b) The types of operations specifications paragraphs, for example:
 - (i) Required by the regulations (e.g., part [119](#)).
 - (ii) Required by written finding of necessity, based on objective and historical evidence of imminent threat to safety (as required by the new law).
 - (iii) Requested by the air carrier for convenience or unique circumstances or operations.
 - (iv) Requested by the air carrier to capture essential safety information on particular types of operators or operations—only applicable to a specific class, type or group of certificate holders or an individual certificate holder under objective and specific criteria).¹
 - (v) Required by or for the convenience or administration of the agency and only applicable to the agency (e.g., noting a certificate holder uses electronic methods for creating and storing required documents or information).
 - (vi) The nature of the paragraph, for example—
 - (A) Temporary
 - (B) Permanent
- (2) After the appropriate objective standards are created, review each and every "available" operations specifications paragraph assigned to operators and air agencies to—
 - (a) Ensure the language is consistent with a specified regulation and that it does not inadvertently add burdens or requirements.
 - (b) Determine and assign their type and nature.
 - (c) Remove the outdated or unnecessary ones.
- (3) Establish procedures for—
 - (a) Developing (i) new operations specifications paragraphs that adhere to the objective criteria and (ii) measures to track efficiencies for the agency and the public.

¹ OMB approval may be required if the information is voluntarily provided to the agency at its request.

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- (b) Reviewing new and existing operations specifications paragraphs with directly impacted certificate holders on a regular and ongoing basis for reassignment or elimination.

Thank you for your consideration of this request; we look forward to the agency's prompt response so we may begin to resolve the issues identified.

Sincerely

Sarah MacLeod
Executive Director
Aeronautical Repair Station Association
121 North Henry Street
Alexandria, VA 22314-2905
703.739.9543 ext. 114
sarah.macleod@arsa.org

Ric Peri
Vice President, Government & Industry
Affairs
Aircraft Electronics Association
601 Pennsylvania Ave, NW
Suite 900, South Building
Washington, DC 20004-3647
202.589.1144
ricp@aea.net

David Oord
Senior Director, Regulatory Affairs
Aircraft Owners and Pilots Association
50 F Street, NW
Suite 750
Washington, DC 20001-1578
202.609.9719
david.oord@aopa.org

Robert Ireland
Managing Director, Engineering &
Maintenance
Airlines for America
1275 Pennsylvania Avenue, NW
Suite 1300
Washington, DC 20004-2450
202.626.4228
rireland@airlines.org

Michele Dickstein
President
Aviation Suppliers Association
2233 Wisconsin Avenue, NW
Suite 503
Washington, DC 20007-4104
202.347.6896
michele@aviationsuppliers.org

Crystal Maguire
Executive Director
Aviation Technician Education Council
Post Office Box 234
Jenks, OK 74037-0234
703.548.2030
crystal.maguire@atec-amt.org

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Joe Sambiasi
Director, Maintenance & Airworthiness
General Aviation Manufacturers
Association
1400 K Street, NW
Suite 801
Washington, DC 20005-2402
202.393.1500
jsambiasi@gama.aero

Jason Dickstein
President
Modification and Replacement Parts
Association
2233 Wisconsin Avenue, NW
Suite 503
Washington, DC 20007-4104
202.628.6777
jason@washingtonaviation.com

John McGraw
Director of Regulatory Affairs
National Air Transportation Association
818 Connecticut Avenue, NW
Suite 900
Washington, DC 20006-2733
202.774.1535
jmcgraw@nata.aero

Paul D. Wolf
Superintendent
Regulatory & Quality System Oversight
The Boeing Company, Commercial
Airplanes
P.O. Box 3707 MC 67-XC
Seattle, WA 98124-2207
425.237.3812
paul.d.wolf@boeing.com

Harold Summers
Director of Flight Operations & Technical
Services
Helicopter Association International
1920 Ballenger Avenue
Alexandria, VA 22314-2898
703.683.4646
harold.summers@rotor.org

George Paul
Vice President, Technical Services
National Air Carrier Association
1000 Wilson Boulevard
Suite 1700
Arlington, VA 22209-3928
703.358.8063
gpaul@naca.cc

Stacey Bechdolt
Vice President, Safety & Operations and
Regulatory Counsel
Regional Airline Association
1201 15th Street, NW
Suite 430
Washington, DC 20005
202.367.1252
bechdolt@raa.org

Ronald J. Witkowski
Director of Quality, Regulatory
Compliance
Gulfstream Aerospace Corporation
500 Gulfstream Road
Savannah, GA 31408-9643
912.395.0471
ronald.witkowski@gulfstream.com

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Paul Hawthorne
Director, Global Support Quality
MOOG Aircraft Group
Seneca & Jamison Roads
East Aurora, NY 14052-0018
716.805.2475
phawthorne@moog.com

cc: Rick Domingo
Larry Fields
Timothy W. Shaver
Patricia Williams
Jodi Baker

rick.domingo@faa.gov
lawrence.fields@faa.gov
tim.shaver@faa.gov
patricia.k.williams@faa.gov
jodi.l.baker@faa.gov