SUBJ: Organization Designation Authorization (ODA) Holder Interference with ODA Unit Members (UMs) and Communication between UMs and the Federal Aviation Administration (FAA)

1. Purpose of This Notice. This Notice supplements FAA Order 8100.15B, Organization Designation Authorization Procedures, by providing instructions and procedures intended to prevent ODA Holder interference with UMs performing their authorized functions and to ensure free communication between UMs and the FAA. The Notice also updates certain instructions and procedures for FAA personnel in evaluating applications submitted for ODA under the procedural requirements set forth in Title 14 of the Code of Federal Regulations (14 CFR) part 183 subpart D and conducting oversight of ODA Holders approved under subpart D. To the extent that this Notice conflicts with FAA Order 8100.15B, the contents of this Notice supersede the Order.

2. Background. The FAA has broad statutory authority to delegate certain functions related to issuance of certificates per 49 U.S.C. 44702(d). In 2020, the Aircraft Certification, Safety, and Accountability Act, Pub. L. 116-260, (the Act) added several provisions specific to the FAA’s oversight of ODA Holders. To ensure that ODA unit members can conduct delegated functions without interference by their employer, Section 107 of the Act amended Chapter 447 of title 49, United States Code, by adding 49 U.S.C. 44742, Interference with the duties of organization designation authorization unit members. Section 44742 includes requirements that specifically apply to ODA holders that manufacture transport category airplanes, including provisions that prohibit ODA Holder interference with UM duties, and mandate ODA Holder investigation and reporting in support of the prohibition on interference. This Notice includes provisions that implement these recent statutory requirements for all ODA Holders, pursuant to 14 CFR part 183. Additionally, this Notice is consistent with 14 CFR § 183.57(c), which broadly prohibits such interference. § In some instances, the term “undue pressure” has been used by industry, the FAA, and other governmental entities to describe situations in which a UM faces interference from any company or organizational elements regarding UM performance of authorized functions on the FAA’s behalf. The term “undue pressure” is a form of “interference” addressed in 49 U.S.C. 44742 and 14 CFR § 183.57(c).
Section 107 of the Act also amended 49 U.S.C. 44736 such that it mandates free communication between UMs and the FAA. See 49 U.S.C. 44736(f). The FAA recognizes the importance of open communication between UMs and the FAA, and with this Notice, provides procedures to support this statutory requirement. The FAA recognizes that direct communication between UMs and the OMT or other staff is an important part of the ODA system.

3. **Audience.** The audience for this Notice includes ODA Applicants, ODA Holders including their UMs, and the FAA offices that evaluate, appoint and manage ODA Holders.

4. **Where Can I Find This Notice?** You can find this Notice on the MyFAA employee Web site at https://employees.faa.gov/tools_resources/orders_notices/. This Notice is available to the public at http://www.faa.gov/regulations_policies/orders_notices/. This Notice is also located on the FAA’s Dynamic Regulatory System (DRS) website at http://drs.faa.gov.

5. **Policy to Prevent Interference with UM Performance of FAA Authorized Functions.** Preventing interference with a UM’s performance of their authorized functions on behalf of the FAA is necessary to ensure that such functions are properly conducted. The definition of “interference” in 49 U.S.C. 44742(d)(2) includes not only outright acts such as harassment, beratement, threats, and reprisal, but also the presence of other activities that conflict with the UM’s performance. Thus, in reviewing whether interference occurred and how it can be prevented, the FAA and ODA holders should look not only for obvious acts or threats directed at the UM, but also review the totality of the circumstances, including whether any other action, assigned duties, activities, or time constraints inhibit the UM from properly performing their authorized functions.

The ODA Unit is an independent entity within the organization when exercising a delegated function, and pressure must not be allowed to interfere with UMs in properly performing their authorized functions on behalf of the FAA. ODA Holders, including ODA administrators, and FAA Organization Management Teams (OMTs) must continually exercise vigilance in their management and oversight activities, respectively, to guard against UM interference. ODA Holders must have approved procedures to effectively manage and investigate all reports of alleged or suspected UM interference and address instances of interference so that it does not reoccur. Interference with UMs performing their authorized functions on behalf of the FAA may result in suspension or termination of the ODA and/or civil penalties.

a. **Procedures Manual Content Regarding UM Interference.** The ODA Holder’s procedures manual must address the procedures, to include monitoring, investigation, reporting, corrective actions, preventative actions, and training, necessary to ensure compliance with 49 U.S.C. 44742 and 14 CFR § 183.57(c), as further described below. The purpose of incorporating, into the ODA Holder’s procedures manual, the procedures related to UM interference described in this Notice is to provide an understanding of actions that constitute interference so that it can be avoided. This Notice discusses monitoring, investigation, and reporting systems so that the ODA Holder can promptly address any interference that arises.

(1) ODA Holder Monitoring for Interference. The ODA Holder’s procedures manual must include means by which the ODA Holder monitors the ODA Unit for evidence of UM
interference that has not been the subject of a report, and monitors the efficacy of any corrective actions, including:

- An anonymous annual UM survey related to interference as part of the ODA Holder’s annual self-audit; and
- An internal self-assessment process for evaluating the effectiveness of the ODA Holder’s monitoring and correcting of UM interference. This self-assessment should consider feedback from UMs who have reported interference.

The ODA Holder must evaluate data gathered from its UM interference monitoring system. If the ODA Holder identifies potential or suspected interference, the procedures manual must address the matter in accordance with the procedures described in paragraphs 5.a.(2) through 5.a.(6) of this Notice.

(2) UM and ODA Administrator Reporting of Alleged or Suspected Interference. The ODA Holder’s procedures manual must incorporate reporting procedures for UMs and ODA Administrators to follow when they have experienced or have perceived any interference. These procedures must also address the means for individuals other than the ODA Administrators and UMs to make reports when they witness or suspect interference that could affect the performance of any authorized functions by the ODA Unit or a UM. The procedures manual must also advise UMs and ODA administrators that they may report their concerns directly to the FAA by contacting the OMT, or contacting the FAA through the FAA Hotline.

The ODA Holder’s memorandum of understanding (MOU)\(^2\) with the FAA, signed by the appropriate senior management of the organization must include a commitment to protection from reprisal against any UM who reports suspected interference, regardless of the outcome. Evidence of reprisal may include, but is not limited to, changing the employment status, pay, duties, work location, or retention rating, of any UM that reported a concern related to interference alleged to have occurred within the previous twelve months.

(3) Investigation by the ODA Holder. The ODA Holder’s procedures manual must include procedures that identify an ODA Administrator responsible for investigating reports of alleged or suspected interference with UMs, and describe how ODA Holder personnel will conduct investigations.

The ODA Administrator must conclude investigations of reports of alleged or suspected interference within 30 calendar days of a report made directly to the ODA Holder, or within 30 calendar days of receiving a report from the FAA requesting the ODA Holder to begin an investigation as a result of a report made directly to the OMT, or the FAA Hotline.

(4) Reporting Alleged or Suspected Interference to the OMT. The ODA Holder’s procedures manual must require all reports of alleged or suspected interference be provided to the OMT within two business days after learning of the incident. The ODA Holder’s report to the OMT must contain the following information:

\(^2\) See FAA Order 8100.15B, paragraph 3-7 and Appendix A.
• Date the ODA Holder first learned of the incident;
• Summary of the alleged interference (i.e., who, what, when, where, why, etc.);
• Documentation of evidence;
• Action(s) taken, if any, to address the report of interference; and
• Summary of actions(s) taken to launch an investigation.

(5) Reporting Investigation Results to the OMT. The ODA Holder’s procedures manual must require that the ODA Holder provide a report on the results of its investigation to the OMT within 15 days of completing the investigation, for OMT to accept and review. The report must include:

• A determination by the ODA Administrator as to whether or not interference occurred and a detailed explanation of that determination;
• If the ODA Administrator determined interference occurred, the root cause(s) of the interference, both individual and systemic; and
• A Summary of all corrective actions proposed and taken.

Note: Reports of alleged or suspected UM interference do not qualify as voluntary reporting under Advisory Circular, AC 00-68, Aircraft Certification Service Voluntary Disclosure Reporting Program.

(6) ODA Holder Corrective Action Related to Interference. The ODA Holder’s procedures manual must require corrective action be taken by the ODA Holder for all cases in which an investigation determines that interference occurred. The ODA Holder’s corrective action process should include:

• A causal analysis to determine the appropriate corrective actions;
• A determination of whether an instance of interference was systemic;
• A process for mandating both immediate and long-term actions as necessary;
• A schedule for actions; and
• Procedures for verification of implementation and effectiveness of corrective actions.

(7) ODA Holder Annual Review and Report to OMT. As a stand-alone part of the annual self-audit, an ODA Holder must review all reports of alleged or suspected interference and submit to the OMT a summary of the reports, including those determined not to be interference, and any resulting indicators, patterns of actual or potential interference, and system improvements that have been made or are needed.

b. Training. ODA Holders must develop initial and recurrent training procedures for ODA Administrators and UMs regarding UM interference. Training should also be developed for individual signatories on the ODA MOU and for other personnel who are expected to be involved in ODA authorized functions or interactions with UMs. ODA Holder training for ODA personnel should address the following:
• FAA regulatory requirements and policy related to UM interference and ODA Holder internal procedures related to UM interference;
• For supervisory employees of an ODA Holder that manufactures transport category airplanes, an act of interference with a UM’s performance of authorized functions may be subject to a civil penalty under section 46301(a)(1).
• Roles and responsibilities of the ODA Holder and ODA Unit related to preventing, addressing, and reporting interference with a UM;
• Contact information for the OMT; and
• Information on the Administrator’s Hotline reporting program. (Reference: https://hotline.faa.gov/)

Training records related to interference with a UM must be retained with the UM training records required by 14 CFR § 183.61(a)(6) and FAA Order 8100.15.

c. FAA OMT Oversight.

(1) Review Reports of Investigation of Alleged or Suspected Interference. Reports of alleged or suspected interference determined by the ODA Holder to not be interference must be reviewed by the OMT and a notification of acceptance or rejection must be provided to the ODA Holder within 30 days of receipt. In reviewing the report for acceptance, the OMT will consider the evidence documented by the ODA Holder and its rationale for making the determination. Notifications of rejection must contain the OMT’s rationale for the rejection; and describe the expected follow up action or request that a meeting between the OMT lead and the ODA Administrator be held within 15 days, to seek resolution.

(2) Annual Oversight. The OMT must conduct oversight of the ODA Holder’s compliance with the statutory and regulatory requirements discussed in this Notice. OMT oversight must include an annual evaluation of the effectiveness of the ODA Holder’s processes in addressing interference and related issues, including a review of results of the annual survey of unit members required in section 5.a.(1). The OMT oversight must consider all reports of alleged or suspected interference, including those determined by the ODA Holder not to be interference as a result of the ODA Holder’s investigation, and any indicators, patterns of actual or potential interference, and the effectiveness of system improvements made by the ODA Holder. This annual oversight action must be documented using a supervision record.3

d. FAA OMT Response to Reports of Alleged or Suspected Interference. Ensuring an environment free of interference is foundational to the confidence the FAA places in each ODA Holder. OMTs must ensure that reports of alleged or suspected interference are fully investigated and, if warranted, corrected by ODA Holders. Reports determined to be interference are disclosures of noncompliance with § 183.57(c) and OMTs must follow FAA Order 2150.3C, Compliance and Enforcement Program, to prevent recurrence. To determine whether compliance or enforcement actions are appropriate, OMT personnel should refer to FAA Order 2150.3C, or its successor, and consult with AGC-300.

3 Supervision records are discussed in detail in FAA Order 8100.15B, Chapter 5 and Appendix A.
(1) Individual Civil Penalty for Supervisory Employees of ODA Holders that Manufacture Transport Category Airplanes. Section 44742(b) of title 49, U.S.C. makes it unlawful for any individual who is a supervisory employee of an ODA Holder that manufactures a transport category airplane to commit an act of interference with a UM’s performance of authorized functions. Violators shall be subject to a civil penalty under 49 U.S.C. 46301(a)(1).

(2) Suspension and Termination of ODA authority. An FAA delegation is a privilege and not a right. Suspension or removal of specific areas of authority as well as suspension or termination of all ODA Holder authority can be taken at any time by the OMT, if necessary. Suspension and termination of ODA authority is accomplished in accordance with FAA Order 8100.15B, which may or may not include compliance and enforcement action(s) in accordance with FAA Order 2150.3C, or its successor. The Administrator will take suspension or termination actions when warranted to ensure the FAA’s continued confidence in the independent decision making of the ODA Holder’s UMs and in the ODA Holder as a designee of the Administrator.

Note: OMTs should exercise discretion and judgment when deciding on the appropriate action(s) to take in situations in which repeated violations are reported and confirmed. Consideration of factors such as the nature and frequency of violations, specific personnel involved, etc. may be appropriate (e.g., 2 violations within 6 months by the same person versus 2 violations within 6 years by different individuals).

e. OMT Reports of Interference to the ODA Office (AVS-6). OMTs will submit to the ODA Office quarterly, any reports of investigation of alleged or suspected interference received pursuant to the process under paragraph 5.a.(5) of this Notice. OMTs will also submit the ODA Holder’s annual review and report to the OMT received in accordance with paragraph 5.a.(7) of this Notice along with a copy of the OMT’s supervision record required under paragraph 5.c.(2) of this Notice.

6. Policy Regarding UM and FAA Communication. Communication between the ODA Holder, ODA Administrators, UMs, and the OMT is essential for the success of the ODA program, and thus, is in no way prohibited. The ODA program relies on the ODA Holder as the FAA’s designee to act on behalf of the FAA. The ODA Holder is responsible for ensuring UMs follow the ODA Holder’s procedures manual, as well as the FAA regulations and policy related to the performance of the ODA Holder’s authorized functions.

This Notice clarifies that the FAA recognizes direct communication between UMs and the OMT or other FAA staff as an important part of the ODA system. An ODA Holder’s procedures manual may include the preferred procedures for UMs seeking guidance and clarification from within the organization. However, an ODA Holder, through its procedures manual or otherwise, must not prohibit communication to be initiated by a UM, such as when a UM needs more detailed guidance from the OMT beyond that obtained from their ODA administrator(s) or other UMs, or seeks to communicate with or seek the advice of FAA staff, for any purpose.

If the OMT needs information regarding the ODA Holder’s programs, schedules and corrective actions, OMT members should contact the ODA Administrator rather than individual UMs as the
agency expects the ODA Administrator to be best positioned to provide that information; however, the ODA Holder may not prohibit either the OMT, or other FAA staff from communicating with a UM.

a. Procedures Manual Content Regarding UM and OMT Communication. The ODA Holder’s procedures manual must state that UMs are free to communicate directly with the OMT, or other FAA staff, without restriction. Additionally, it is acceptable for a procedures manual to include a process for sharing the results of communication within the organization in order to ensure that all UMs receive similar guidance, when appropriate.

b. Reprisal Against a UM for Communication. Employer reprisal actions taken against a UM for reporting safety concerns to the FAA related to performance of an authorized function may be determined to be a violation of 49 U.S.C. 44742(b)(1) and/or 14 CFR § 183.57(c).

c. ODA and OMT Communication Training. ODA Holder training provided to UMs should address the ability for UMs to communicate freely with the FAA.

7. ODA Holder Submission of Procedures Manual Content for Preventing Interference, UM and OMT Communications, and FAA Approval. Each OMT will notify its ODA Holder of the procedures manual changes identified in this notice. An ODA Holder’s failure to submit for FAA approval within 90 days of the effective date of this Notice, proposed procedures manual updates consistent with this Notice, may result in suspension of the ODA Holder’s authorization. If the OMT is unable to approve the ODA procedures manual within 180 calendar days of the date of this Notice, the OMT lead will notify the appointing office manager to request an extension where appropriate. The ODA Office must be notified when an ODA holder’s procedures manual has been approved, or of any suspension or extension approvals.

8. Distribution. This Notice is available for general access by FAA staff and the public on the FAA website at http://www.faa.gov/regulations_policies/orders_notices/.

9. Deviations. It is necessary to adhere to the procedures contained in this Notice in order to achieve uniform administration of this directive material. Any deviation to this Notice must be approved by AIR-600 or AFS-600 as appropriate.

10. Suggestions or Comments. Send suggestions and comments to 9-awa-avs-designee-directives@faa.gov. All suggestions and comments will be reviewed and sent to the respective policy holder(s). AIR-600 and AFS-600 welcome and will consider all suggestions or comments regarding this Notice. For your convenience, use FAA Form 1320-19, Directive Feedback Information is included to submit any suggestions or comments. Please use the “Other Comments” block on FAA Form 1320-19 to provide a complete explanation of why a suggested change is considered necessary.

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