

FEDERAL AVIATION ADMINISTRATION

**2001 AVIATION RULEMAKING ADVISORY  
COMMITTEE MEETING**

Hyatt Regency Crystal City  
at Reagan National Airport  
Washington, D.C.

Wednesday, February 7, 2001  
10:00 a.m.

**EXECUTIVE COURT REPORTERS, INC.  
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## P R O C E E D I N G S

10:00 a.m.

## Welcome and Introductions

MR. PREST: I have a gavel for the first time in my life, and I refuse to use it. Seems rather primitive in this sophisticated environment.

Welcome to the Aviation Rulemaking Advisory Committee, ARAC as we know it, and I want to especially extend my thanks to everyone for your commitment to the important work that we do.

I'm going to take a moment here and just turn on the microphone, and we have some folks that we will introduce here shortly that are dialing in, and the red -- pardon my reach.

I'm Al Prest, current Chairman of the ARAC Executive Committee. Glenn Rizner, who is the Vice Chair, is unable to be here today, and I apologize on behalf of him, and to my left is Tony Fazio, Executive Director of ARAC, and at this time, I'd like to ask Tony to read the required portion of every meeting that we call the "gospel".

MR. FAZIO: Thank you, Mr. Chairman.

1           This meeting is being held pursuant to a  
2       Notice published in the Federal Register on January  
3       18th, 2001. The agenda for the meeting will be as  
4       announced in that Notice with details as set out in the  
5       agenda handed out today.

6           I am the designated FAA official responsible  
7       for compliance with the Federal Advisory Committee Act  
8       under which the meeting is conducted.

9           It is my responsibility to see to it that the  
10      agenda is adhered to and that accurate minutes are  
11      kept. I also have the responsibility to adjourn the  
12      meeting should I find it necessary to do so in the  
13      public interest.

14          Placards for the Executive Committee members  
15      are set out on the conference table in front of you.  
16      Only those members may participate in any discussions  
17      and vote on matters put to a vote by the Chair.

18          The meeting is open to the public, but  
19      members of the public may address the Executive  
20      Committee or the full ARAC only with the permission of  
21      the Chair, which should be arranged by giving advance  
22      notice concerning the scope and duration of the  
23      intended presentation.

1           The Chair may entertain public comment if, in  
2           his judgment, doing so will not disrupt the orderly  
3           progress of the meeting and will not be unfair to any  
4           other person.

5           Members of the public are welcome to present  
6           written material to the committee at any time, and I  
7           should note that we are continuing this meeting after  
8           lunch as the Executive Committee, and the same  
9           announcement of procedures apply to that meeting, also.

10          Thank you, Mr. Chairman.

11          MR. PREST: And thank you, Mr. Fazio.

12          A couple of housekeeping items. They should  
13          be listed in the first page of the packet that you  
14          picked out with regard to restrooms and the basic  
15          amenities offered by the Hyatt.

16          We will break for lunch, as mentioned by  
17          Tony, and those of you who are not members of the  
18          Executive Committee are welcome to stay and listen to  
19          the proceedings of the afternoon session. So, you may  
20          make plans accordingly.

21          The agenda is also in your packet, and I  
22          trust you all have one in front of you. It's an agenda  
23          that is designed to review and remind some of us of the  
24          way in which we operate at ARAC, and for new members,

1     it will be an excellent tutorial as to how business is  
2     conducted here. This is your group. For it to  
3     function, you must participate, and we think we have a  
4     pretty good track record and certainly a high level of  
5     enthusiasm among the participants in ARAC.

6             A couple of additional housekeeping items.  
7     As we go around the table, the microphone has a push-  
8     to-talk button, and we would ask you to turn that off  
9     after you have made your comments.

10            The floor mike in the back of the room or the  
11     front of the room, if you will, has an on/off switch,  
12     and those of you choosing to use that microphone, if  
13     you would not mind -- turning it on and off, so that we  
14     don't get feedback, I would appreciate that as well.

15            I would like to begin with introductions, and  
16     please introduce yourself by name and the organization  
17     that you represent and make any brief comments that you  
18     would like to at this point, and then we'll get right  
19     into the formal agenda, and I will start again with the  
20     Executive Director, if he would like to add any  
21     comments, and then we'll move right around counter-  
22     clockwise with Mr. Byrne.

23            MR. FAZIO: Thank you, Al. Tony Fazio from  
24     the FAA, Office of Rulemaking.

1           MR. BYRNE: Don Byrne, FAA, Assistant Chief  
2 Counsel for Regulations.

3           MR. REDHEAD: Ian Redhead, American  
4 Association of Airport Executives.

5           MS. DUNHAM: Gail Dunham, National Air  
6 Disaster Alliance. We represent survivors, those who  
7 have lost loved ones, from over 75 disasters. We're  
8 the largest grassroots air safety organization in the  
9 United States.

10          MR. HUDSON: Paul Hudson, Aviation Consumer  
11 Action Project.

12          MR. PREST: Paul, do you want to go once  
13 more, please?

14          MR. HUDSON: Paul Hudson, Aviation Consumer  
15 Action Project.

16          MR. PREST: Thank you.

17          MR. MOODY: Michael Moody, Independent Pilots  
18 Association, representing the pilots of United Parcel  
19 Service.

20          MS. BANKS: Jennifer Banks, Airports Council  
21 International, North America.

22          MR. ROBESON: Bob Robeson, Aerospace  
23 Industries Association.

1           MR. LOTTERER: Dave Lotterer, Regional  
2     Airline Association.

3           MS. MCKINLEY: Nancy McKinley, International  
4     Airline Passengers Association.

5           MR. JOSEPH: Norman Joseph, Airline  
6     Dispatchers Federation.

7           MR. KRECKIE: Jack Kreckie, representing the  
8     Aircraft Rescue and Firefighting Working Group.

9           MR. WERKING: Andrew Werking, Aircraft Owners  
10    and Pilots Association.

11          MR. KIM: Hank Kim, International Association  
12    of Firefighters.

13          MR. GANLEY: Mike Ganley from Airbus.

14          MR. WITKOWSKI: Chris Witkowski from the  
15    Association of Flight Attendants.

16          MR. WASSELL: Tony Wassell, AIA in New York.

17          MR. EDMUNDS: Bill Edmunds, Airline Pilots  
18    Association.

19          MR. CROOK: Jim Crook, Air Traffic Control  
20    Association.

21          MR. JONES: Rick Jones, Balloon Federation of  
22    America.

23          MR. VARSEL: Jim Varsel, International  
24    Association of Machinists and Aerospace Workers.



1 MR. DONOHUE: Alex Donohue, Public Citizen.

2 MS. MEYER: Meg Meyer, representing Flight  
3 Dispatchers, Meteorologists and Operations Specialists  
4 Union.

5 MR. BENNING: Ray Benning, International  
6 Brotherhood of Teamsters, Airline Division.

7 MS. MacLEOD: Sarah MacLeod, Aeronautical  
8 Repair Station Association.

9 MR. KUPCIS: Ed Kupcis, the Boeing Company.

10 MR. CORRAO: Joe Corrao, Helicopter  
11 Association International.

12 MR. WEISS: Rick Weiss, Experimental Aircraft  
13 Association.

14 MR. PRIDDY: Ron Priddy, National Air Carrier  
15 Association.

16 MR. BOLT: Craig Bolt, Pratt and Whitney.

17 MR. BOULLAY: Edmond Boullay, JAA.

18 MR. HILTON: David Hilton from Gulfstream  
19 Aerospace.

20 MS. HAMN: Florence Hamn, FAA, Office of  
21 Rulemaking.

22 MS. FEDE: Roberta Fede, Department of  
23 Transportation, Committee Management Officer.

1           MR. PREST: And at this time, we have some  
2     representatives from FAA, I believe, exclusively on the  
3     call-in. If you wouldn't mind identifying yourself,  
4     please? Do we have anyone at FAA Headquarters?

5           MS. HAMN: There are some people on  
6     teleconferencing. Could you identify yourselves,  
7     please? Nancy, are you still on the line?

8           MS. TREMBLEY: Yes, I am. I'm Nancy Trembley  
9     in the Office of Rulemaking.

10          MR. MATTHEWS: Reggie Matthews, Air Traffic  
11     Group.

12          MS. HAMN: That's all that's there.

13          MR. PREST: You see how much authority I  
14     have. It takes Florence Hamn to get on there to make  
15     it work.

16                 I represent the Air Transport Association,  
17     and let the record reflect that we were ready at 10:00,  
18     the advertised and published schedule and departure  
19     time for this meeting, but we were not getting the  
20     necessary support that we needed to move our airplane.

21                 At this time, it would have been my pleasure  
22     to introduce Tom McSweeney, the Associate Administrator  
23     for Regulation and Certification. It was Tom's idea to  
24     have this meeting today and to invite the larger

1 plenary group that makes up the total ARAC, and we  
2 applaud Tom for that.

3                   Unfortunately, he's a bit under the weather  
4    this morning and sends his apologies, but he also sent  
5    Tony Fazio with the message to deliver.

6           So, I would call on Tony at this time to  
7   represent Tom McSweeney, who is -- has the overall  
8   responsibility for ARAC, and thank you for stepping in,  
9   Tony.

10	Remarks
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11 MR. FAZIO: Thank you, Al.

12 I'll try my best to capture the Minnesota  
13 accent that Tom would have given you here today, but,  
14 unfortunately, I'm from Maryland, and I don't think  
15 that's going to come out.

16           Let me pass on Tom's regrets.  Indeed, it was  
17   his idea to have this meeting.  Tom feels very strongly  
18   about the work that you do in ARAC, and I'm sure he is  
19   saddened that he could not be here because the message  
20   that we're going to convey to you today is his message.

21 I can assure you he has looked at this  
22 message. He approved it. He had substantive changes  
23 that he wanted to convey to you. So, having said that,  
24 this is what Tom would have told you today.

1            "We thank each of you for coming to this  
2 meeting of the full ARAC. It gives us, in the FAA, a  
3 clear message that you recognize the value of working  
4 together to produce a safer and more efficient aviation  
5 system. We continue to be impressed by your  
6 professionalism and commitment to aviation safety."

7            As for Tom, he wants you to know that this is  
8 what ARAC is all about, doing the very best we can in  
9 industry and government to do the public's work.

10           It's been nearly a decade since the full ARAC  
11 met. So, those of you who were there at the outset,  
12 it's 10 years now. Tom asked several months ago to  
13 hold this meeting to address with you how we should  
14 proceed in the next decade.

15           Today, I want to highlight the changes that  
16 we face in aviation, our partnership successes, process  
17 improvements, and the agency's future vision for ARAC.  
18 Let's start off with the obvious.

19           This is an extraordinary time in aviation.  
20 It is a time that is exhilarating, exciting, sometimes  
21 exhausting, but always challenging. The need for  
22 partnership has never been greater than it is today.

23           To deal with the expected 50 percent increase  
24 in aviation traffic over the next decade, the White

1 House Commission on Aviation Safety and Security laid  
2 out a goal for enhancing aviation safety.

3 The National Civil Aviation Review Commission  
4 then reinforced the urgency of our safety mission by  
5 stressing that the enormous growth in aviation would  
6 mean more accidents, unless we lower the already-low  
7 accident rate.

8 Both commissions reinforced the need for the  
9 FAA to develop the tools, the programs and, most  
10 importantly, the partnerships necessary to reduce the  
11 fatal accident rate fivefold in this decade.

12 As a result, working with the aviation  
13 industry and public, we developed a long-range plan for  
14 Safer Skies in America. Many of you were part of that.  
15 A focused agenda for safety.

16 The goal of Safer Skies is ambitious yet  
17 achievable. By 2007, our aim is to reduce the  
18 commercial aviation accident rate 80 percent, from the  
19 1996 level. The 1996 level is .051 percent per 100,000  
20 departures, using a three-year rolling average.

21 While the industry has an excellent safety  
22 record, we face some serious challenges. We all know  
23 that. How do we responsibly raise the bar on aviation  
24 safety? How do we target our resources to take the

1 steps that will bring the greatest benefits? How can  
2 we do business differently to bring about these  
3 changes?

4 We will achieve our safety goal only partly  
5 by developing better safety standards, regulations and  
6 policy. To raise the bar on safety the rest of the way  
7 will take the collective expertise, talent and  
8 commitment of the public, industry, users and the  
9 government. We cannot act in isolation. It will take  
10 constructive collaboration in ways that build on our  
11 prior successes.

12 But as the saying goes, we will not rest on  
13 our laurels. We must seek new, creative and  
14 cooperative ways to continue to make improvements, yes,  
15 by working together.

16 As you know, the agency has been faced with  
17 difficult safety issues. Some of our current  
18 regulatory issues are tough, much more complex than in  
19 the past. Because the agency is often confronted with  
20 novel issues, it takes significant collaboration with  
21 the public to assess the impacts on aviation safety.

22 We know that ARAC can make a major  
23 contribution towards reducing the accident rate because  
24 it is a significant forum for bringing together

1 industry, the general public and governments from all  
2 over the world in an open, informed debate of safety  
3 issues.

4 By looking at all sides of the issues, you  
5 work hard to reach consensus, knowing that this may  
6 require debate and deliberation between divergent  
7 segments of the industry, the flying public and  
8 government regulators.

9 Consensus with its give and take must always  
10 be our goal. On the rare occasion when we cannot reach  
11 consensus, we know that it can be difficult for the  
12 agency to develop timely, effective solutions to safety  
13 issues by itself.

14 So, right up front, Tom wants you to hear  
15 this message. He wants you to make consensus the key  
16 word, our objective for this decade, in our work in  
17 ARAC, and by consensus, we mean an agreement by all  
18 that a specific course of action is acceptable, even if  
19 it may not be 100 percent of what you really wanted  
20 when you entered into that debate.

21 Consensus can be unanimous or near unanimous.

22 Consensus does not mean majority rules. It is  
23 important to reach consensus in every phase of the ARAC  
24 process rather than voting on issues in ARAC or at

1 working group meetings. Voting is important, but it  
2 should only be used when attempting to determine the  
3 level of consensus; that is, do we have a full  
4 consensus, do we have a general consensus, or no  
5 consensus at all?

6 If a full consensus is not reached, we in the  
7 FAA need to know both the majority and minority views,  
8 so that we can make an informed decision. That is the  
9 fundamental principle of ARAC.

10 You've each been provided a copy of ARAC's  
11 most recent charter, and I hope you've had an  
12 opportunity to read it. Bear with me, though, because  
13 I feel it's important to underscore certain passages in  
14 it.

15 "The committee is to provide advice and  
16 recommendations to the Administrator through the  
17 Associate Administrator for Regulation and  
18 Certification concerning the full range of the FAA's  
19 rulemaking activity with respect to aviation-related  
20 issues, such as air carrier operations, airman  
21 certification, aircraft certification, airport security  
22 and noise.

23 The committee will afford the FAA additional  
24 opportunities to obtain direct firsthand information



1 and insight from the substantially-affected interests  
2 meeting together and exchanging ideas with respect to  
3 proposed rules and existing rules that should be  
4 revised or eliminated.

5 This advice will result in the development of  
6 better rules. However, the activities of the committee  
7 will not circumvent the normal coordination process or  
8 the public rulemaking procedures."

9 What is our interpretation of what this  
10 passage says? Well, we believe (1) it's responsible  
11 dialogue between the FAA and the public, as this is the  
12 only legal way such dialogue can take place, gain the  
13 public's input into the FAA's rulemaking activity early  
14 in the process, improve the FAA's regulations by  
15 involving interested members of the public in their  
16 development, move regulations through the rulemaking  
17 process much more quickly, believe it or not, and avoid  
18 placing any unnecessary burdens on the public because  
19 of lack of information.

20 Now, where are we today at ARAC? In 1991,  
21 ARAC consisted of 56 members and nine issue areas.  
22 Today, we have 75 committee members and 11 issue areas,  
23 as shown in your handouts. We initially tasked ARAC  
24 with 14 issues. Today, our partnership has grown so

1     that ARAC is currently addressing about 75 issues, a  
2     significant increase, as you can see.

3             To date, ARAC has submitted approximately 100  
4     recommendations to the FAA. Since 1991, this  
5     translates into 27 final rules, including some  
6     significant ones, such as the revisions to digital  
7     flight data recorder regulations, 29 NPRMs, including  
8     revised structural load requirements for transport  
9     airplanes, and training and qualification requirements  
10    for check airmen and flight instructors, 21 advisory  
11    circulars, including crew resource management and taxi,  
12    take-off and landing roll design, five technical  
13    standard orders, and two reports to Congress.

14            All in all, this is an impressive  
15    accomplishment for 10 years. Could we have done this  
16    without you? We do not believe so. Clearly, you have  
17    really helped the agency enhance aviation safety  
18    regarding these important aviation issues.

19            Recently, we received some good feedback from  
20    you on various ARAC issues. Since ARAC's inception,  
21    we've learned a lot, not just about important aviation  
22    issues but also how to function more smoothly and  
23    effectively as an administrative body.

1           Based on your comments and our lessons  
2     learned, we are revising the Operating Procedures for  
3     the Aviation Rulemaking Advisory Committee, more  
4     commonly known as the ARAC Green Book, and, sorry, Al,  
5     we did not call it the Pink Book, as you had requested.

6           These revised procedures will continue the  
7     important work we started in May of 1991. You should  
8     each have a summary of the major changes to the Green  
9     Book in your handouts today.

10           So, what's changed in the Green Book? The  
11     first thing we're doing is making the Green Book much  
12     easier to read. It is being rewritten in the Plain  
13     Language question and answer format. Sorry to those of  
14     you who don't particularly like question and answer,  
15     but I think you'll find it much more helpful.

16           There are also three major changes I'd like  
17     to discuss with you. Many members have told us that  
18     participating in ARAC can be costly. We therefore have  
19     made some changes that should aid in reducing the  
20     expense of ARAC involvement.

21           First, we now require that ARAC issue  
22     meetings be held in Washington, D.C., in a federal  
23     building. The agency's Committee Management Order  
24     clearly spells this out.

1           However, if it is more cost-effective and  
2     convenient to hold a meeting elsewhere, we will  
3     consider a waiver from this policy by submitting a  
4     written request to the Department of Transportation's  
5     Committee Management Officer. So, we're willing to  
6     listen to your ideas and your concerns about these  
7     meetings and where they're held.

8           However, for any meetings held outside of  
9     Washington, D.C., we'd ask that the assistant chair and  
10    the assistant executive director ensure that (1) the  
11    location is easily accessible and (2) is located in a  
12    major transportation hub.

13           One of the concerns expressed to me has been  
14    that some meetings are held in very isolated locations,  
15    making it difficult for members to get convenient  
16    fares, convenient flights to these areas, requiring the  
17    use of a rental car and thus increasing the cost of  
18    participation.

19           We should ensure that if meetings cannot be  
20    held in a federal facility, they should be held at a  
21    neutral location. If you require a waiver from this  
22    policy, from holding meetings in Washington, we request  
23    that this waiver be submitted to us 60 days before the  
24    proposed meeting. This will give us ample time to

1 coordinate the request with the department, and we'll  
2 strive to respond to you within two weeks.

3 Also, if you need to reschedule meetings,  
4 they should be coordinated with all members prior to  
5 rescheduling, and should be done well in advance of the  
6 proposed meeting dates to accommodate advance purchase  
7 of air fares.

8 Second, use of teleconferences. Some ARAC  
9 members have indicated that it is often difficult to  
10 attend issue and working group meetings. They believe  
11 that teleconferencing will enhance the level of  
12 participation.

13 Based on your comments, we conducted a few  
14 meetings using teleconferencing. While not perfect,  
15 and we recognize that, it does help improve  
16 participation for those unable to travel. We also  
17 found that a meeting that is longer than four hours is  
18 generally not conducive to teleconferencing.

19 We will take this into account when we plan  
20 future meetings, and we encourage those of you who also  
21 are conducting these meetings to take that into  
22 consideration. We're learning in this area, and we  
23 welcome any suggestions.

1           As a result, we now plan to announce in the  
2       Federal Register Meeting Notices that teleconferencing  
3       will be made available, if requested at least 15 days  
4       before the meeting. So, we want to encourage you to  
5       let us know if you need that capability. It is very  
6       costly. It's very difficult to administer. We are  
7       willing to do that, but we will do it only if it's  
8       needed.

9           The third area I'd like to talk about is  
10      harmonization. Since the harmonization of the FAA's  
11      regulations and the joint aviation regulations is a  
12      high agency priority, it had to be integrated into the  
13      existing rulemaking program.

14           To address harmonization, we developed a  
15      method to enhance our internal process for  
16      recommendations that are submitted by ARAC. This  
17      process is new, and we're still making some  
18      modifications.

19           If we are successful, we plan to incorporate  
20      portions of the harmonization process into the ARAC  
21      Program. For example, instead of asking the  
22      Harmonization Working Groups to develop NPRMs, we ask  
23      them to address a series of regulatory questions,

1 including specific economic questions. We will do the  
2 drafting afterwards.

3 The responses to these questions will assist  
4 the agency in developing the necessary regulatory  
5 documents and regulatory evaluations or economic  
6 evaluations.

7 Does the present organizational structure  
8 adequately address current issues that are facing ARAC?

9 We don't believe so. Therefore, we have made two  
10 important changes. We have changed the name and  
11 expanded the scope of what used to be called "Emergency  
12 Evacuations Issues Area". We will now call it the  
13 "Occupant Safety Issues Group".

14 The Emergency Evacuation Issues Area was  
15 initially charged with providing advice and  
16 recommendations to the FAA on regulatory standards to  
17 enhance the ability of passengers to quickly and safely  
18 evacuate an aircraft in an emergency. The new name  
19 will clearly describe the focus of their new efforts.

20 We've also expanded the scope of work on the  
21 Occupant Protection Issues Area. They will provide  
22 advice and recommendations to the FAA and JAA on  
23 occupant safety and protection and emergency  
24 evacuation.

1           Secondly, we decided to combine the General  
2   Aviation Business Aircraft and General Aviation Issues  
3   Area. This issue area is now called the "General  
4   Aviation Certification and Operations Issue Group".

5           This group will be co-chaired by industry  
6   representatives with general aviation operational and  
7   certification backgrounds. It also will have co-  
8   assistant executive directors from the FAA with general  
9   aviation operational and certification backgrounds.

10          The group will provide advice and  
11   recommendations to the FAA regarding a variety of  
12   certification and operational issues.

13          As you know, the primary work of ARAC is  
14   accomplished in working groups. We strive very hard  
15   for a good balance of members in each working group.  
16   If some interests believe they are being omitted from  
17   working group activity, we encourage them to petition  
18   the working group chair for membership.

19          I would like to stress that an organization  
20   does not need to be a full ARAC member to participate  
21   on a working group. The decision to add an  
22   organization to a working group would be left to the  
23   working group chair and the assistant chair and  
24   assistant executive director of the issue area.



1           The chairs ensure that the working group  
2       members have the appropriate level of technical  
3       knowledge, and that they can materially contribute to  
4       the final product.

5           As I said before, you have worked hard over  
6       the past 10 years. You have developed into a  
7       tremendous asset to the FAA, and together, we have  
8       accomplished a lot. I've now been at the FAA or in  
9       this job a year and a half, and I've heard a lot of  
10      criticism about ARAC, but I just want to stress those  
11      accomplishments you've made over the last 10 years, we  
12      could not have done this without your help. So, while  
13      we're quick to criticize, we also should be quick to  
14      praise.

15          So far, I've focused on issues and  
16      organizations. What next? Where do we go from here?  
17      For the safety record to improve even more, we must  
18      reaffirm our respective commitments and rededicate  
19      ourselves to forge an even stronger partnership.

20          As I said at the outset, we face enormous  
21      challenges in the years ahead. We have tough issues,  
22      issues that are often made even more complicated  
23      because they're played out in the public arena.

1           As tough as these issues are, we have a  
2           unique opportunity. The ARAC structure provides a  
3           unique opportunity to make it happen. Through our  
4           partnership, we can continue to be an integral part of  
5           being on the frontier of significant safety standards  
6           and regulations that will further reduce the aviation  
7           accident rate.

8           Achieving consensus is the essential  
9           ingredient that will get us there, and while it is not  
10          often easy, consensus should be a fundamental objective  
11          if the public is to reap the benefits of our safety  
12          partnership.

13          We in the FAA are confident that the ARAC,  
14          all of you, will be a positive force for a change that  
15          enhances aviation safety at all levels within the  
16          system. Your service is deeply appreciated.

17          Thank you for attending today and for being a  
18          part of the aviation history.

19          I'll be glad to answer any questions, Mr.  
20          Chairman.

21                 MR. PREST: Do we have any questions for  
22          Tony? Yes, Paul?

23                 MR. HUDSON: What is the status of this Green  
24          Book revision now?

1           MR. FAZIO: We're very close. We are doing  
2 this under contract. I've not seen a draft of it yet,  
3 but we expect to have it out within two months.

4           MR. HUDSON: Because what is the -- is it in  
5 order for the committee members to comment on this  
6 outline here? Is there going to be a period for that  
7 or is that now?

8           MR. FAZIO: I think we can make that. I  
9 would prefer to do it through the Executive Committee,  
10 but I think that could be possible.

11          MR. HUDSON: Okay. Because I -- this is the  
12 first time I've seen this, and the last time this group  
13 got together was in 1991, the only other time. So, I  
14 think it would be appropriate if, at some point, you  
15 could have some time for people to put their comments  
16 on the record.

17          MR. FAZIO: Sure. Okay.

18          MR. HUDSON: Thank you.

19          MR. PREST: A point of clarification. Your  
20 chairman merely suggested a change in color from green  
21 to something else, so that we could readily determine  
22 if one were using an obsolete book to reference. There  
23 were no specific recommendations with regard to  
24 specific color, although pink representing a warm color

1 on the spectrum would probably be appropriate for a  
2 consensus-building group. So, I may modify my  
3 suggestion and resubmit it.

4 MR. FAZIO: Point well taken, sir.

5 MR. PREST: Mr. Priddy?

6 MR. PRIDDY: Mr. Chairman, I think we started  
7 out with yellow and now we're green.

8 MR. PREST: I see.

9 MR. PRIDDY: Pink wouldn't be too bad, but to  
10 piggyback on Tony's response to Paul, Tony, isn't that  
11 document as it exists now and as we're operating with  
12 is available on your web site?

13 MR. FAZIO: Yes, it is, and in fact, within a  
14 half an hour, we'll be able to show you how to get to  
15 it. Okay. It is the current version of the Green Book  
16 without the changes.

17 MR. PREST: Do we have any other questions?

18 (No response)

19 MR. PREST: At this time, we'd like to move  
20 forward. To my right is Ms. Roberta Fede from the  
21 Department of Transportation, and as you know, ARAC is  
22 part of the Federal Advisory Committee Act, operates  
23 under the Act, and with some details beyond that, it's

1 my pleasure to introduce Ms. Fede, who will explain  
2 some of the details.

3 Federal Advisory Committee  
4 Management Act Requirements

5 MS. FEDE: Thank you.

6 I'm pleased to be invited, and hopefully I  
7 can clarify some of the issues which probably will come  
8 up for some of the older members who have been members  
9 of ARAC for awhile, and for some of the new members, I  
10 would like to go back and just do a brief review of the  
11 Act and the requirements of the Act.

12 After that, after this brief review, I'd like  
13 to give you a chance for questions because I don't know  
14 what your concerns are, but I would like to start with  
15 a brief overview of FACA.

16 The Federal Advisory Committee Act was  
17 enacted in 1972. It was enacted in a climate where  
18 Congress was looking at organizations and special  
19 interests who are coming in and talking to federal  
20 officials, and they were concerned that these special  
21 interests had a privileged access, that the opposition  
22 viewpoints were not being allowed similar access or  
23 were not being allowed access at the same time to voice  
24 various concerns.

1           Therefore, FACA was enacted in order to  
2           somehow seek control of the access to federal  
3           officials. So, it has a rather dual purpose. It's a  
4           purpose of bringing in the public, bringing in the  
5           interests, but it also seeks to control that access, so  
6           that it is not unlimited.

7           I'd like to just read for you the definition  
8           of an advisory committee. Basically, an advisory  
9           committee is any group that has one or more non-federal  
10          members. If you're all federal members, there's no  
11          problem. It's simply an inter-agency or an agency  
12          committee. If it has one non-federal member, it  
13          becomes an advisory committee, and if it advises a  
14          federal official. If it has operational functions,  
15          then it would not fall under the advisory committee  
16          umbrella.

17          But let me just give you this brief  
18          definition. "Any committee, board, commission,  
19          council, conference, panel, task force or other similar  
20          group which is established by statute, established or  
21          utilized by the President or any agency official, for  
22          the purpose of obtaining advice or recommendations on  
23          issues or policies which are within the scope of his or  
24          her official responsibilities."

1           So, it's a broad definition. That comes  
2       straight out of the Act, and it's never really been  
3       redefined. It's been debated a lot, and there have  
4       been court cases, but it has never really been defined  
5       beyond that.

6           The three tenets of FACA that I encourage all  
7       of you to keep in mind are openness, access, and  
8       balance. Critical factors, and if all of these are  
9       adhered to, we can be assured that legal challenges  
10      will be minimal or nil.

11          From there, I would like to go into the  
12      requirements of the Act, and I'll touch on all of these  
13      three areas of openness, access and balance.

14          The first requirement, of course, is for a  
15      charter, and I know that Tony talked about your  
16      charter. The charter has various requirements.  
17      Basically, it sets out your mission, your goals, your  
18      membership, and who is supporting the group, who is  
19      providing staff support and financial support.

20          This charter is approved by the Secretary of  
21      Transportation, and then it is sent to OMB, and it is  
22      sent to the Oversight Committees who would have  
23      jurisdictional responsibility in both the House and the  
24      Senate.

1           If it happens to be a statutory committee, of  
2     course, they're already aware of it because they  
3     established the -- they created the statute, but in any  
4     case, we notify them that we are hereby establishing a  
5     committee which falls under their jurisdiction.

6           The second requirement of FACA is for open  
7     meetings. We put, as Tony said, a 15-day notice in the  
8     Federal Register for committee meetings, and we ask  
9     that those meetings be accessible to the public.

10          That brings up the definition of a meeting,  
11     and what is covered. GSA, who does -- and OMB, who do  
12     oversight of the Advisory Committee Act, have just  
13     completed a new rule defining -- further defining the  
14     Act and giving us guidance, and in the new rule, there  
15     is a change, and that is, they have not required that  
16     subcommittees hold open meetings.

17          It has always been the assumption that they  
18     would. This has been DOT's policy since the beginning,  
19     and it continues to be DOT's policy, to encourage open  
20     meetings in all -- if at all possible, but the feeling  
21     behind the new rule is that if a group meets, be it  
22     subcommittee, task force or whatever, if the  
23     deliberations then occur at a full committee meeting,  
24     and the whole committee has a chance to deliberate on



1     whatever issue was discussed at that meeting, then the  
2     subgroup does not have to be open, and if any  
3     recommendations of the subgroup go through that full  
4     committee, they do not pass directly to a federal  
5     official, but they go through the full committee, then  
6     it is not required to be open, but that is not DOT  
7     policy.

8             Our policy is openness and access at all  
9     times, if at all possible. So, we will not change that  
10    policy simply because the rule gives us the leeway to  
11    change that policy.

12            There are only two exceptions to our policy,  
13    and that is, issues that concern either national  
14    security or proprietary information, and clearly those  
15    do not need to be open, and a special request is made  
16    for a closed meeting.

17            Task forces, and I think you call them  
18    working groups. We don't require open meetings at that  
19    level. We encourage openness and access at all levels.  
20    We don't require it, but the goal of a task force or a  
21    working group is to gather data, prepare issue papers,  
22    reports, summaries, but not to deliberate. Those  
23    deliberations are to take place in an open meeting, be  
24    it at the subcommittee or at the full committee level.

1           The third requirement of the Act is balanced  
2 membership. Nobody's ever been able to clearly define  
3 balance. There have been a number of court cases, and  
4 the closest we have come to defining balance, a general  
5 interpretation, is that it should include all of the  
6 interest groups or the stakeholders, the public groups,  
7 which are -- have an interest in the particular subject  
8 matter.

9           Certainly, geographical balance,  
10 gender balance and diversity and all kinds of things  
11 can plug into that, but they have never been -- the  
12 primary concern is balance of interests.

13           We do not want to leave out one or two of the  
14 parties or any of the parties who have a particular  
15 interest in the subject matter because it simply leads  
16 to litigation or concerns down the road. So, we want to  
17 bring everyone in.

18           The Act requires, of course, minutes of the  
19 meetings, and it requires that minutes, reports, and  
20 any other data issued by the committee be available to  
21 the public within a reasonable amount of time, and if  
22 the committee is looking at a particular document at  
23 the meeting or discussing a document, that document

1     also must be available to the public, and it should be  
2     available at the time of the meeting.

3             This is critical because advisory committees  
4     are basically -- they're open. They're public access  
5     to federal officials, to federal agencies, to  
6     deliberations. Therefore, whatever an advisory  
7     committee does is automatically a public record, unless  
8     again if it's dealing with national security or  
9     proprietary information. Otherwise, it is a public  
10    record and must be made available.

11            It's required, of course, that a designated  
12    federal official be at each meeting. If there is not a  
13    federal official, it's not an advisory committee  
14    meeting, and members may get together and discuss  
15    issues on their own, but if they do not have a federal  
16    official there, it is not a formal meeting. They  
17    cannot deliberate. They cannot vote, and their actions  
18    would not be recognized.

19            Finally, the Act, of course, requires  
20    adequate resources and staff support to support a  
21    committee. You can't adequately convene a committee  
22    and expect it to do its business and achieve its goals  
23    without adequate staff support. So, that is required,

1 and it is specified in the charter who shall be  
2 supporting that committee.

3 These are the areas that I wanted to stress,  
4 the openness, the access, and the balance. I am glad  
5 that Tony talked about meetings and where they're held  
6 because we do have some DOT requirements which are just  
7 a little beyond the general requirements.

8 As I say, we require open -- we would like  
9 openness at all levels, if at all possible. We would  
10 like meetings to be held in federal space, if at all  
11 possible, and I understand sometimes it's difficult  
12 because - - because of the size of the groups, but we  
13 do encourage it, and we do encourage that meetings be  
14 held in Washington, D.C., if possible.

15 We recognize that sometimes there are reasons  
16 where it is more convenient to hold the meeting  
17 elsewhere, but because of access, because of the  
18 interests of the public, because so many of the  
19 interest groups who are right here in Washington, and  
20 basically because of costs, it is recommended that  
21 meetings be held in Washington, if at all possible.

22 So, those are not specified in the Act, but  
23 the Act is very simple. It is short. It's concise,  
24 and it's open to all kinds of interpretation. As I

1     said, there have been many legal challenges over the  
2     years, but basically this is what we come down to,  
3     openness, access, and balance.

4             I'm going to open this up to questions, see  
5     what people would like to ask me, because there are  
6     probably areas you want to deal with that I have not  
7     addressed.

8             MR. PREST: Questions for Roberta, please?

9             MS. FEDE: Yes?

10            MR. PREST: Mr. Hudson?

11            MR. HUDSON: The Green Book or the procedures  
12     we've been operating under provide that if something is  
13     not covered, then Roberts Rules of Order are generally  
14     applied. Is that something that's normal in your  
15     experience?

16            MS. FEDE: That is up to your Chair. We at  
17     the departmental level will not get into how -- what --  
18     I would say is that it's all right. Roberts Rules of  
19     Order are acceptable.

20            We do not specify what rules you must use for  
21     the advisory committee. It really is up to your  
22     sponsoring officials.

1           MR. HUDSON: Also, are there any rules or  
2 suggestions you have regarding quorums or various forms  
3 of proxy or absentee voting?

4           MS. FEDE: Quorums are an interesting issue  
5 because, as Tony indicated, we'd like to work by true  
6 consensus, and if you're working through consensus, we  
7 hope that a quorum would not -- we'd hope it would not  
8 be an issue.

9           We would hope that there would be more than a  
10 majority there, and that they would not be voting.  
11 Certainly, there are issues that will be voted upon,  
12 but I would say if the chair or if the sponsoring  
13 agency wants to put a quorum requirement in, say at  
14 least X number of members need to be there, that's  
15 fine.

16           We do not require a quorum, but we encourage,  
17 of course, full committee participation, and we  
18 encourage consensus. We do not encourage voting by  
19 proxy. Again, it's not a policy.

20           We don't have anything in writing, but we  
21 don't encourage it because full participation needs to  
22 be in there, and if the members are not able to  
23 participate, who uses that proxy? Who is authorized?  
24 We have had that come up in other committees, where the

1 member designates someone to vote for them. Then it  
2 becomes a question of does that member have full access  
3 to the deliberations and discussions and vote.

4 We prefer that that not take place, but again  
5 if the committee has a reason for doing it, we're not  
6 going to say no, you cannot.

7 Yes?

8 MR. WITKOWSKI: Chris Witkowski with the  
9 Association of Flight Attendants.

10 You mentioned that the working groups do not  
11 deliberate, and I'm wondering if you could explain  
12 that.

13 MS. FEDE: Yes. Working groups are not to  
14 deliberate. Working groups -- deliberate means open  
15 discussion. A working group may deliberate in putting  
16 together a report or putting together issues.

17 They're going to discuss, but the idea is  
18 that they should not -- there needs to be an open  
19 deliberation among the full membership, and if it is  
20 done at the working group level, if the working group  
21 puts together a report, and the report is whisked up,  
22 voted upon and sent to the agency, with no further  
23 deliberation, the public has no access to that report.  
24 The public has no opportunity to offer input into

1     that, and therefore when we talk about deliberations,  
2     certainly there are discussions, but there needs to be  
3     a deliberation at a higher level by the committee,  
4     because the working group is not solely composed of  
5     advisory committee members. You have outside members  
6     on the working group.

7             There needs to be a deliberation process by  
8     the committee.

9             MR. WITKOWSKI: Well, the actual work of ARAC  
10    is done at the working group level. Why are those  
11    meetings not kept open and minutes taken of those  
12    deliberations? Because sometimes the details of the  
13    work product are contained in those -- would be  
14    contained in minutes, if they were required to be kept  
15    and publicly available.

16            MS. FEDE: That's not a problem. If those  
17    committee meetings are open, and the public has access  
18    to those meetings, that is not a concern.

19            But many of our committees have task forces  
20    which are not open, and if they're not open, and it  
21    never is deliberated at the committee level, then there  
22    is never an opportunity for input from the public.  
23    That is the concern.



1           MR. WITKOWSKI: Well, I guess I'm wondering  
2 why aren't they open at some of the working group  
3 level, and why aren't minutes kept?

4           MS. FEDE: If that is the only level of  
5 deliberation that is occurring, then those should be  
6 open.

7           MR. WITKOWSKI: Well, it will be sent to the  
8 issues group, but I'm saying that there are important  
9 issues discussed at the working group level, and I fail  
10 to see a justification for not taking minutes of those  
11 deliberations and having them accessible to people, so  
12 that they see how the work product that goes to the  
13 issues group was generated, and I haven't heard a  
14 justification for keeping them secret.

15          MR. FAZIO: Roberta, let me address that.  
16 Our principle has always been that the working groups  
17 would be closed, simply because we do not want a  
18 chilling effect of these groups.

19               We feel that if we get "the broad  
20 representation", that all the issues will be raised in  
21 that working group and will be deliberated, and you  
22 know, you participate in several issue areas, you know  
23 the kind of deliberation that occurs at these issue  
24 areas, and for some of the newer members, I'd encourage

1     that they participate in the issue areas, because our  
2     view is the issue area is essentially a board.

3             They are deliberating. They're asking the  
4     hard questions of the working group, of the experts,  
5     the technical experts, and then forwarding to us their  
6     recommendations, based on their experience.

7             So, we find we meet the full requirement of  
8     ARAC. We're trying to do more. Of course, you'll see  
9     through our web site, making things open. You know  
10    what the taskings are. These groups are not -- while  
11    the meeting themselves are closed off, we will publish  
12    in the Federal Register the formation of that working  
13    group, when they meet, that sort of thing.

14            MR. WITKOWSKI: My response to that would be  
15    that in the United States, rulemaking is a public  
16    process.

17            MR. FAZIO: Absolutely.

18            MR. WITKOWSKI: If we did not have the ARAC  
19    group, we would have notice and comment procedures  
20    where the FAA would develop the rule. They may even  
21    put out an NPRM to get information and advice.

22            MR. FAZIO: Absolutely, and we still do.

23            MR. WITKOWSKI: It's done -- and you do that  
24    still, and any data or information that industry

1 participants feel would be necessary to address the  
2 rulemaking proposal would be placed in the docket.

3 So, in some cases, they may want to have that  
4 information shielded for some reason, and they may make  
5 a request on that, but in terms of the working group  
6 activity, this chilling effect -- I don't see this  
7 chilling effect.

8 I mean, the Aviation Security Advisory  
9 Committee meets, and those meetings of the full  
10 committee and the subcommittees are open, and I've  
11 never experienced any chilling effect by participants  
12 who are industry or union or public in those meetings.

13 I don't understand this idea of chilling  
14 effect, because it's used to basically keep the  
15 meetings closed and to prevent minutes from being  
16 recorded and made available.

17 MR. FAZIO: But again, the minutes will be  
18 reflected in the issue area deliberations, which should  
19 account for all of the discussions that occur -- not  
20 all of the discussion but the major points raised by  
21 the working group.

22 MR. WITKOWSKI: That may be true.

23 MR. FAZIO: Absolutely.

24 MR. WITKOWSKI: It may not be true, you know.

1           MR. FAZIO: Well, that is the official word  
2     from those of us that have the responsibility to ensure  
3     that that occurs, and that's why we wanted to discuss  
4     this here today, because we want to ensure that is  
5     occurring.

6           MR. PREST: I would add one question from the  
7     right, please.

8           PARTICIPANT: It's a corollary question  
9     really, and it might help clarify, and it's for Tony  
10    Fazio.

11           Tony, is it not true that in our initial  
12    announcement of a new task and the formation of a  
13    working group, that all ARAC members are invited to  
14    participate in that working group, and then people  
15    elect to participate in the working group?

16           Once the working group is formed, I can tell  
17    you from my own personal experience that one of the  
18    reasons why you don't want to have new working group  
19    members is the education process. Once you've had a  
20    number of meetings, and you have new people come in,  
21    then you spend a great deal of time on your meeting.

22           But is it not true that initially, when a  
23    working group is formed, anyone who is an ARAC member  
24    may participate?

1           MR. FAZIO: That's true, and I'll even go  
2       beyond that. Any member of the public can participate  
3       in that working group, who has the technical expertise  
4       to contribute to that task, whatever that might be.  
5       So, yes, you're absolutely correct.

6           I'll even go farther and say that even for an  
7       established working group, now in all of our Federal  
8       Register notices, new taskings, if that goes to an  
9       existing working group, we do have a provision in there  
10      saying that if someone is interested in contributing to  
11      this working group, they can apply or seek membership  
12      to that working group. But again that would be for a  
13      new tasking, because we do agree that if there is a  
14      task out there that has been deliberated or been worked  
15      on by a working group for who knows, a year or two  
16      years, I think it would be a bit disruptive to add new  
17      members at that point.

18          MS. FEDE: Can I just add to that for a  
19      moment? That is, that when we talk about openness, we  
20      don't mean adding new members. A working group is a  
21      working group, and the fact that a public person wanted  
22      to come in and observe those proceedings would not mean  
23      that they are entitled to participate. We wouldn't  
24      require that.

1           MR. FAZIO: Can I just add to that? Because  
2 while I've never participated in a working group, I do  
3 understand that members of the public do attend that  
4 aren't members of the working group. I've been told  
5 that by a number of working group chairs. So, we do in  
6 fact do that.

7           MS. FEDE: And that is exactly what we're  
8 talking about. If the public wants to come in and see  
9 what's going on, that's fine, but, no, we would never  
10 advocate that in the middle of a working group, that  
11 you start expanding the membership. That basically  
12 defeats what has already taken place.

13          MS. DUNHAM: The National Air Disaster  
14 Alliance, as a public interest group, supports access  
15 to information. We support the open meetings. I do  
16 understand what you're saying about a working group,  
17 where people want to have that kind of dialogue with  
18 each other when they're hashing out these problems and  
19 perhaps not having press quoting them out of context  
20 and things like that.

21           My concern is groups, such as the Fuel Tank  
22 Inerting Working Group, which is a main committee, I  
23 think that should be classified, the main group of the  
24 10 to 12 people. I think that should be classified as

1 an issue group, so that those meetings are open, but  
2 yet I would respect that the working groups are closed,  
3 and I'm just adding a word of caution here.

4 Please don't classify something as a working  
5 group if it can in fact be an issue group and open to  
6 the public.

7 MS. FEDE: That's something that I think can  
8 be worked out, hopefully with the sponsors of the ARAC.  
9 I think that needs to be discussed and looked at, yeah.

10 MR. FAZIO: You might want to raise --  
11 discuss that issue, because we do have a limitation on  
12 the number of advisory committees we can form. Can you  
13 address that?

14 MS. FEDE: Full committees, yes.

15 MR. FAZIO: Right.

16 MS. FEDE: I am not sure that she was talking  
17 about establishing a new committee. We do have -- we  
18 have had an absolute limit on the advisory -- number of  
19 advisory committees we can establish. That has sort of  
20 gone by the wayside now with the new Administration.

21 We haven't had any new limitations. However,  
22 we still do not encourage just random establishment of  
23 new advisory committees, though I think you were  
24 talking about a subgroup, right, under ARAC?

1 MS. DUNHAM: Fuel Tank Inerting. There's  
2 actually a group of 10 to 12 people.

3 MS. FEDE: Right.

4 MS. DUNHAM: I see their work more as an  
5 issue group, --

6 MS. FEDE: Right.

7 MS. DUNHAM: -- because they have all these  
8 subworking groups, and I --

9 MS. FEDE: Right.

10 MS. DUNHAM: -- would respect that those  
11 subworking group meetings would be closed, --

12 MS. FEDE: Right.

13 MS. DUNHAM: -- and I'm just thinking that  
14 you not classify something as a working group if it can  
15 be classified as an issue group, so that it is open to  
16 the public.

17 MS. FEDE: Right. And as I said, I think  
18 that can be worked out. I assume that would be within  
19 ARAC, and that would be worked out. Yes, that could  
20 be worked out.

21 MR. PREST: Just a point there, and what I  
22 would ask is, if you can establish eye contact or put  
23 your hand up, the Chair will remember the order,  
24 hopefully, in which that event occurs, and I'll get to



1     you in the order in which you were recognized, and  
2     perhaps that way, it'll keep you from being on the edge  
3     of your seats.

4             But I think the point on the Fuel Tank  
5     Inerting Group, it reports directly to the EXCOM,  
6     which, correct me if I'm wrong, someone, but there is  
7     the opportunity for the broader public participation.

8             Everything we do has checks and balances  
9     built into it, and regardless of what it's called,  
10    there is a level above the grassroots level where the  
11    public has total access and should at that point  
12    exercise whatever type of input is required to get the  
13    broader context at either the working group level or,  
14    in the case of the Fuel Tank Inerting Group, these are  
15    highly specialized experts that basically can only  
16    communicate among themselves, I'm finding.

17            They're extremely-talented people who know  
18    the language. I don't know the language. However,  
19    there are some common sense types of inputs that need  
20    to be inserted into the process, and every one of our  
21    processes has that ability for the public to get in and  
22    apply the overall common sense test to the work that's  
23    being done at the technical level, and that's where  
24    each one of us has a responsibility within the groups

1     that we represent to ensure that we're watching what's  
2     going on, and that we have people teed up and ready to  
3     participate and make input at the proper time and at  
4     the proper level, and we all have that responsibility,  
5     and we have been successful to this point.

6             But as the projects become more complex, as  
7     we become larger, I think our responsibilities expand,  
8     and it becomes more acute.

9             Mr. Hudson?

10            MR. HUDSON: Yes. It's been my experience  
11     that enrollment is not open in working groups, and even  
12     at the outset, when they're formed. In the last 10  
13     years, I've applied to several of them, and it's been  
14     my experience that the members of the working groups  
15     are determined by the FAA in consultation with the  
16     chair of the issues group.

17            Am I incorrect in that?

18            MR. PREST: I would invite some points, Tony.

19            MR. FAZIO: Technically, yes, that is  
20     correct. Actually, it's the ARAC Assistant Director  
21     that actually forms that in consultation with the FAA  
22     representative. Okay?

23            MR. HUDSON: We have, you know, addressed  
24     this issue of -- or the principles of access and

1 balance. The only other meeting that the full ARAC  
2 had, it was suggested, I believe, by the person that  
3 was then sitting in your seat, Tony Broderick, that the  
4 FAA determine the members of all the issue groups, and  
5 they had actually prepared assignments for everybody at  
6 the time, and motions were made from the floor, I'm  
7 sure you can review the minutes on this, to the effect  
8 that they should have open enrollment in the issue  
9 groups.

10 I think if you were to go ahead with this  
11 change to your Green Book, it provides for the  
12 assistant chair to select all the issue group members.

13 We could be going backwards instead of forwards  
14 because the chairs are -- a large majority of them are  
15 industry representatives.

16 MR. FAZIO: Can I clarify? I think you're  
17 confusing issues groups with the working groups.

18 MR. HUDSON: No. I'm talking now about issue  
19 groups.

20 MR. FAZIO: Anyone can be a member of an  
21 issue group. If you're a member of ARAC, you are de  
22 facto a member of an issue group. The question is  
23 whether you participate in that particular activity or  
24 not.

1 MS. HAMN: There is a typographical error in  
2 the matrix -- it should be working groups.

3 MR. HUDSON: It says that issue group members  
4 are selected by the assistant chair.

5 MS. HAMN: Yes.

6 MR. FAZIO: That's a typographical error.  
7 No.

8 MR. HUDSON: That's great to hear.

9 MR. FAZIO: Just to clarify, especially for  
10 the newer members, this is, as I said in my remarks, a  
11 very large body, 75-member organizations, very, very  
12 diverse. If you look around the room at the placards,  
13 you can see the diversity we have here in technical  
14 interest.

15 So, one way to get around that was to form  
16 these issue areas, so that someone who has interest in  
17 general aviation activities would only participate in  
18 those activities and may not be interested in air  
19 transport issues, for example. So, we apologize for  
20 that typo.

21 MR. HUDSON: It's great to hear we don't have  
22 to revisit it.

23 MR. FAZIO: No, no, we don't have to.

1           MR. PREST: What I would like to do at this  
2 time is draw your attention to the appropriate page  
3 that is the green page in your handout, and it is  
4 Number -- they don't have that.

5           MS. HAMN: Page 1.

6           MR. PREST: Page 1. Subject Number 1.  
7 Where's the correction, please, again, Florence? On  
8 the right-hand side?

9           MS. HAMN: ARAC Issue Groups, and we're  
10 really talking about the working groups. We're really  
11 talking about two things. We have --

12          MR. PREST: Turn your microphone on, please.

13          MS. HAMN: We're referring to two things. My  
14 bulb is out on my mike.

15                Anyway, we're referring to two things in this  
16 particular one. As Tony mentioned in Tom's remarks, we  
17 have consolidated two of the issue groups, the General  
18 Aviation Business Aircraft with the General Aviation  
19 Operations Groups, they have been merged into one  
20 group, and, so, therefore, we deleted the number from  
21 12 issue areas to 11 issue areas.

22                But then, when we are ascertaining the  
23 composition of the working groups, that is done by the  
24 assistant chair, assistant executive director and the

1 working group chair. So, that was a typographical  
2 error. We were combining two thoughts in one  
3 paragraph, and we apologize for that.

4 MR. PREST: Thank you for clarifying that.  
5 It shows once again that a little meaningful dialogue  
6 at the appropriate time can resolve issues most always.

7 So, do I have a question from Bob Robeson?

8 MR. ROBESON: Bob Robeson from AIA.

9 I just wanted to comment on two things. One,  
10 with respect to the Fuel Tank Group, the reason that  
11 that's constituted the way it is, instead of being put  
12 under an existing working group, was that when the  
13 original task came to the EXCOM for assignment, we  
14 realized that it was going to cut across the areas of  
15 responsibility of a number of issues groups, including  
16 Aircraft Certification, Operations, etc.

17 So, rather than put it into a particular  
18 issues group, we decided the thing to do was have it  
19 report directly to the EXCOM as a working group, and  
20 that the EXCOM would function effectively as a large  
21 issues group, and all those meetings were open to the  
22 public, and the press attended and everything else. I  
23 think it was a pretty open process.

1           With regard to the functioning of the working  
2 groups, I just want to emphasize that the working  
3 groups are responsible for documenting all the  
4 positions that are held by the working group members  
5 and dispositioning all of those positions.

6           So that, if there is dissent from one or more  
7 of the members, that's documented in the package that's  
8 taken to the issues group for deliberation, and those  
9 points of view are considered before the issues group  
10 makes a determination as to whether to accept or modify  
11 that recommendation or send it back to the issues group  
12 for further work or toss it over the transom to the FAA  
13 as being in the too-hard category.

14           MR. PREST: Thank you, Bob. Any more  
15 questions? Yes, sir? Chris Witkowski?

16           MR. WITKOWSKI: One of the things in the  
17 Operating Procedures talks about there has to be  
18 consensus from the ARAC issues group before the  
19 document or product is passed on to the FAA.

20           There have been experiences in the past where  
21 there hasn't been consensus, and a document was passed  
22 on. Is the FAA from this point on going to make sure  
23 that doesn't happen in the future? Any response to  
24 that?

1           MR. FAZIO: Well, as I said in my remarks or  
2 Tom's remarks, consensus is the fundamental principle  
3 behind the ARAC.

4           Now, if you have a 10-to-6 or a better  
5 example would be 7-6 split, obviously we need to know.

6       We need to know both sides. So, we would encourage  
7 both viewpoints to present their views to us. Surely  
8 we don't want to take any kind of regulatory action not  
9 knowing the full scope of the deliberations and the  
10 opinion out there. I think it would be time not  
11 productive for us.

12           So, the Green Book is clear on that, that we  
13 need to know both the majority and minority views, even  
14 if that minority is one person.

15           MR. WITKOWSKI: One general comment on some  
16 of the discussion. The point was made about the  
17 working groups, any person can apply, but then it was  
18 clarified that it's basically a decision of FAA and the  
19 assistant chair.

20           The other limiting factor in participation in  
21 a working group is basically time and money, and the  
22 reality of ARAC is that those who are directly affected  
23 in terms of the products they produce or the products  
24 they operate have the -- they have more of the



1 resources to devote to attending the ARAC working group  
2 meetings as well as the issue group meetings, but, more  
3 importantly, the working group meetings, where the  
4 products are done; whereas, there are other members of  
5 ARAC who have less resources or the public interest  
6 groups who have little, if no, funds available for  
7 attending multiple, you know, working group activities.

8           So, it takes me back again to the point that  
9 I made earlier, that I fail to see why there isn't a  
10 more transparent process in terms of the working group  
11 activity. Because of the limiting factors, you know,  
12 decisions made by people, ARAC management about who  
13 attends, and also the limiting factors of cost and  
14 time, why isn't it more transparent, so that the  
15 minutes can be taken at the working group meetings, and  
16 that those individuals who can't attend can at least  
17 review what's going on?

18           I mean, I've seen cases in the past where  
19 there are people within FAA who have been denied access  
20 to working group deliberations, and, you know, it would  
21 be basically healthy to have those minutes taken and  
22 have them available to anyone who wants to address  
23 them, and my concern about that still stands.

1           MR. PREST: Gentleman in the back had his  
2 hand up. If you would be kind enough to step to the  
3 microphone and introduce yourself, please, and then Joe  
4 is next.

5           MR. HOLLINGER: Yes. My name's Kent  
6 Hollinger, and I'm Chair of the Aging Transport Systems  
7 Rulemaking Advisory Committee, which is an organization  
8 that's set up outside of ARAC here.

9           The question I had is, I was looking over the  
10 multitude of issues and working groups that are in the  
11 yellow paper that Tony was referring to. By the way,  
12 I'm also involved with the RTCA work, and it struck me  
13 that there's a lot of similarity and overlap in a lot  
14 of these -- at least in the titles, if not in the  
15 actual work that's going on between ARAC, RTCA, other  
16 advisory groups, such as ATSRAC, and other bodies.

17           I'm wondering, how do you, if you do at all,  
18 or how do you plan to harmonize even that and  
19 administer that to avoid duplication of efforts and to  
20 make sure that these groups are working together or at  
21 least not in conflicting terms with each other, and so  
22 to avoid duplicity and overlap of efforts.

23           MS. FEDE: If you're addressing that to me?

1           MR. HOLLINGER: Actually, that was one of the  
2 items that was in the RTCA Task Force Certification  
3 Committee Report that was out two years ago. It was  
4 talking about the multitude of committees that are out  
5 there, and I'm wondering how that's being addressed.

6           MS. FEDE: We at the departmental level look  
7 at the full advisory committee, which is being  
8 established. Now, the RTCA is an entity in and of  
9 itself because it is an incorporated body that has a  
10 life totally and fully outside of its advisory  
11 committee functions. It's utilized as an advisory  
12 committee, but, of course, it has a very broad life of  
13 its own.

14           So, we can't control or monitor what it does  
15 outside of its advisory committee functions, but we do  
16 look at that. We look at aviation rulemaking. We look  
17 at the Research Engineering and Development.

18           We look at the goals in the subgroups that  
19 are being established, but, frankly, at the  
20 departmental level, we are not able to know exactly  
21 what all of the task forces or the working groups are  
22 doing or whether there is overlap.

23           We hope that that will be addressed by the  
24 appropriate sponsoring officials.

1           MR. FAZIO: Let me address Kent's concern. I  
2 think we in the FAA do that monitoring. I think in  
3 your case, for example, the ATSRAC has a very specific  
4 task. As all advisory committees, you have a two-year  
5 charter. So, we envision your work, while it will go  
6 on for another two years, ultimately will end.

7           Now, Roberta probably doesn't want to hear  
8 this, but our intent with ARAC is that it will  
9 continue, and we have to renew the charter every two  
10 years. Our focus in ARAC is specifically rulemaking.  
11 I think in ATSRAC, some of it was rulemaking, other was  
12 other advisory recommendations to us. So, there's a  
13 difference there.

14           In regards to RTCA, I don't think RTCA gets  
15 that involved in rulemaking per se. They tend to  
16 provide us technical advice. Those of you who  
17 participate can probably speak better to that than I  
18 can.

19           While they may on the surface, and when you  
20 look at some of the issue group titles, seem similar,  
21 they are in fact very different. Our focus in ARAC is  
22 essentially either rulemaking or advisory circular  
23 kinds of things, TSO now and then, as I said, and a  
24 report to Congress.

1           I don't know if that answers your question,  
2     Kent, but we do look at that, because from our  
3     perspective, it is very time-consuming, and it's  
4     administratively very burdensome, and when we get  
5     criticized that we're not producing rulemaking in a  
6     timely fashion, one of the reasons is because we have  
7     to support all these bodies. So, we are very cognizant  
8     of that.

9           MS. FEDE: That's a point well taken, because  
10    we see aviation rulemaking as the only rulemaking in  
11    FAA. The other groups are there and looking at  
12    technical issues but not rulemaking.

13          MR. PREST: Do we have any other questions  
14    for Roberta, please? Joe?

15          MR. CORRAO: Thank you, Mr. Chairman.

16          I had a comment a few moments ago with regard  
17    to the discussion of open versus closed meetings. My  
18    sense is now that we might have moved beyond that, and  
19    I'm willing to restrain myself in an unaccustomed act  
20    of discretion.

21          I can be persuaded to speak, though, if  
22    anybody wants to hear what I have to say.

23          (No response)

1           MR. PREST: Seeing no hands or hearing no  
2 comments.

3           MS. FEDE: Thank you.

4           MR. PREST: Roberta, thank you very much. We  
5 appreciate that oversight.

6           At this time, we're going to move into the  
7 Public Accessibility Issue, which is foremost on our  
8 minds apparently this morning, and before we do that,  
9 and Florence Hamn does her presentation, the Executive  
10 Director's tapped me on the shoulder here.

11          MR. FAZIO: I would like, before we start  
12 this next presentation, to just say that I've heard a  
13 number of comments about transparency, openness and  
14 that sort of thing, and what Florence is now going to  
15 show you is our attempt to increase that transparency,  
16 increase that openness to all of you and to the public,  
17 general public.

18          We hope that this will do it. Obviously it  
19 doesn't get to the issue of closed meetings and that  
20 sort of thing, but you will have now, and Florence  
21 might as well go ahead and show them, I think, access  
22 to the information that is deliberated and discussed  
23 within ARAC.

24          Public Accessibility to ARAC Information

1 MS. HAMN: Thank you.

2 We've received a lot of comment and feedback  
3 from the public and aviation industry, saying FAA, you  
4 have a lot of information. The problem is that it's  
5 very, very difficult to find.

6 So, in an attempt to make it easier to find  
7 information, what we've done is revised our web site to  
8 make it easier to access regulatory information and  
9 especially made it easier to access Aviation Rulemaking  
10 Advisory Committee information as well as the Aging  
11 Transport Systems Rulemaking Advisory Committee  
12 information.

13 If you look up on -- I hope that everybody  
14 can see the screen. If you look at the screen, we've  
15 divided our web site into three major sections. The  
16 first is called General Rule Information. Basically,  
17 this gives you general information about our  
18 regulations and 14 CFR. You can look at recently-  
19 published rules.

20 One of the other concerns that was raised to  
21 us is that we realize we can look in the Federal  
22 Register, but we're really only concerned with aviation  
23 issues. So, FAA, would you please make it easier for

1     us to look at those rules and regulations that we're  
2     interested in?

3             I'll just show you real quickly.

4     Unfortunately, today, I'm not hooked up to the  
5     Internet. This is actually on the desktop. So, there  
6     are certain sections that I can't go in. So, the  
7     highlighted sections, I can go in and show you, but the  
8     other ones, I cannot.

9             The first one here is recently-published  
10    rules. Here, you can see the documents that we've  
11    recently issued. We plan on keeping them up on the web  
12    site for at least a year. After a year, we're going to  
13    move the older ones off, and if you click on the FAA  
14    over here where the hand is, the document viewer, this  
15    will take you into the Docket Management System, and  
16    because we're not connected to the web, I cannot  
17    actually go in and show you how easy it is to do that,  
18    but you can be sitting at your desk and actually access  
19    this information.

20            I'm sorry. Yes?

21            MR. ROBESON: I just have a question. I  
22    noticed the first item there is Civil Penalty Actions  
23    for Commercial Space. Is ARM handling space rules as  
24    well?



1                   MS. HAMN: Yes, we do handle space issues as  
2 well.

3                   MR. ROBESON: Okay.

4                   MS. HAMN: Okay. I'm going to go back and  
5 show you that you can get into the Airworthiness  
6 Directives, and we recently started publishing  
7 exemption requests in the Department of  
8 Transportation's Docket Management System, beginning  
9 September 1st, and, so, you can actually just click on  
10 and follow directions there and access any exemption  
11 requests that we've received since September 1st.

12                   We also have a section here for Miscellaneous  
13 Regulatory Documents. There are no documents in there.  
14 We plan on placing our withdrawal notices or technical  
15 amendments or clarifications in that particular  
16 section.

17                   We have something called a Regulatory  
18 Guidance Library, and that basically contains all of  
19 the regulatory information on certification issues in  
20 14 CFR as well as the historical parts. We're hoping  
21 to expand that and include all of the aviation  
22 regulations as well as the historical parts in one  
23 location.

1           The next item is the Unified Regulatory  
2   Agenda, and that's a regulatory agenda you can look at  
3   to ascertain all of the regulations that the agency  
4   plans on working on within the next six months to a  
5   year.

6           The section under that contains advisory  
7   material, and we have it segregated by program office.

8   For example, if it's an operational issue, you would  
9   look under Flight Standards or certification issue and  
10  so forth and so on.

11          We have Flight Standards Bulletins, Notices  
12  to Airmen and various operations manuals.

13          Then going over to the Participating in the  
14  Process, again we have received comments from the  
15  public indicating that it's sort of difficult to  
16  participate in our rulemaking process. You had to send  
17  a copy over to the Docket or you had to get up and just  
18  hand-carry something over. So, we're trying to make it  
19  more user-friendly, and you can sit at your desk now,  
20  and you can participate in the rulemaking process.

21          You can actually look at Notices of Proposed  
22  Rulemakings that have been published. You can sit at  
23  your desk, you can submit comments from your desk as  
24  well by simply following the procedures that are

1 outlined. Again, today, I can't actually go in and show  
2 you one, but again this is an NPRM where we're  
3 requesting comments, and you can just simply click on  
4 the docket number. You can go into that document. You  
5 can see the comments that have already been submitted.

6 You can comment on those comments or you can just  
7 submit your own comments as well.

8 There are Notices of Proposed Rulemaking in  
9 here that are open for comment at this time, and  
10 notices requesting comments are, also.

11 You can also go directly to the Docket  
12 Management System from our web site, and we also have  
13 instructions on how to submit petitions for exemption  
14 or petitions for rulemaking.

15 We have a section on Notices of Public  
16 Meetings, and this is right now just a Word or PDF  
17 format document. So, for example, if you're interested  
18 in seeing the notice for this meeting, you would simply  
19 click on it, and it should come up, and hopefully it  
20 will be quick. But it contains that type of  
21 information.

22 And to address some of the ARAC concerns, I'm  
23 going to go back, but you can just scroll down, and all  
24 the information is there. We initially had the

1 calendar up on the web, and we still do, but the  
2 concern raised there is that, okay, I can see the date  
3 of the meeting, but what's going to transpire at the  
4 meeting? What's going to be discussed? So, that's why  
5 we added this feature to the web site.

6 Now, looking at the Aviation Rulemaking  
7 Advisory Committee, and then we also have a place for  
8 Aging Transport Systems Rulemaking Advisory Committee,  
9 they both contain basically the same drop-down boxes.  
10 You can go in and look at the calendar of meetings that  
11 are scheduled for this year, and you just move down.  
12 We have the contact individual's information. That's  
13 why it's very important for you to let us know when you  
14 plan on holding issues meetings as well as working  
15 group meetings as noted here.

16 Then we have the calendar for 2002. I think  
17 that's empty right now. You can go in and look at the  
18 ARAC charter. You can also look at the minutes. What  
19 Tony just mentioned regarding being more open, we're  
20 trying to have this information up on the web site.

21 Some recent comments that we received  
22 regarding this particular portion of our web site,  
23 okay, you have the minutes up, but it would also be  
24 nice if you included the attachments. So,

1 futuristically, when we receive minutes, and we receive  
2 the attachments electronically, we're going to try to  
3 attach that to the minutes as well.

4 If the committee has issued any ACs, and  
5 there are no ACs posted at this time, but they would be  
6 ones that have been issued within the last few months.

7 We have the membership listing here. So, you  
8 can easily go in and find out who's a member of the  
9 Executive Committee, and if you scroll down, we have  
10 the Air Carrier Operations and all the other committee  
11 members.

12 Tony mentioned earlier that our Operating  
13 Procedures or the Green Book is up on the web, and this  
14 is a list of the published rules that have come out of  
15 ARAC, and again if you click here, we can't do it  
16 today, but it would take you to the Docket Management  
17 System.

18 Lastly, we have a list of tasks, and it's  
19 broken up by Executive Committee and then each issue  
20 area, and you can actually click on it and see the  
21 actual tasks. Then if you scroll down to the Aging  
22 Transport Systems Rulemaking Advisory Committee, we  
23 basically have the same information in there.

1           Then we also have a section, and we can't  
2   look at it today, on Plain Language Initiatives. So,  
3   for those of you who may not be familiar with Plain  
4   Language, you can get general information, and it also  
5   gives you helpful hints as to how to write something in  
6   the Plain Language Format.

7           We have something else called Related Links.

8       We have a lot of regulatory requirements that we have  
9   to take into consideration before we promulgate a rule.  
10   For example, if you're interested in our Administrative  
11   Procedure Act requirements, you can look that up in  
12   that section, or if you're interested in our Small  
13   Business Regulatory Enforcement Fairness Act  
14   requirements, you can look that up, as well as the  
15   Executive Orders that we must comply with, things of  
16   that nature.

17           Are there any questions on our web site?

18   Yes?

19           MR. JOSEPH: Thank you. Norm Joseph, Airline  
20   Dispatchers Federation.

21           First of all, my congratulations. That's a  
22   heck of an improvement over what existed not too long  
23   ago.

24           MS. HAMN: Thank you.

1           MR. JOSEPH: A couple of questions or perhaps  
2       objections. On the Advisory Circulars and Rules, both  
3       actual and proposed, --

4           MS. HAMN: Okay.

5           MR. JOSEPH: -- is there any procedure where  
6       you can search those by the AC or FRA number as opposed  
7       to just a general classification? The same would be by  
8       title or key word.

9           So, if you're going in looking for a subject  
10      matter or for a specific AC and didn't know what it  
11      dealt with, that you can find it without having to  
12      actually scroll through everything that's in there.

13          MS. HAMN: Under the Regulatory Guidance  
14      Materials, there's a listing of ACs, and I think you  
15      can search by topic, but I'm not sure whether you can  
16      search by number or not.

17          MR. FAZIO: Let me add right now. Just as an  
18      aside, the agency's in the process of reformatting its  
19      web site because we've gotten a number of comments like  
20      this.

21          If you've used the agency web site, you  
22      recognize that there's a lot of information out there.

23      It's just hard to get to. It's not a very well-  
24      organized web site.

1           So, we have finally recognized that. We have  
2   a team together now to look at that, and I can bring  
3   back that suggestion to them, but the idea would be  
4   that all Advisory Circulars would be in one site. So,  
5   you wouldn't have to go to Flight Standards. You  
6   wouldn't have to go to Certification or Airports or  
7   wherever it is, and some of those tools for searching,  
8   I think, would be something we could probably  
9   accommodate.

10           MR. JOSEPH: I would suggest your  
11   consideration. It just makes it quicker to get  
12   something in a hurry.

13           MR. FAZIO: Absolutely. Yes.

14           MR. JOSEPH: The other question I have. You  
15   did mention that requested exemptions or exemptions  
16   currently under consideration, when they're out of  
17   existing exemptions, are they listed anywhere?

18           MS. HAMN: We plan on putting those up on the  
19   web site by the end of this fiscal year. So, by  
20   September 30th. As of now, they are not on the web.

21           MR. JOSEPH: Sounds like a great plan.

22           MS. HAMN: Okay. Yes?

23           PARTICIPANT: Norm, I would point out that in  
24   the limited sense, for the time being, you can go to



1 the Flight Standards home page and get into exemptions.

2 It doesn't have a very good search engine, though,  
3 which is very important to us, but it provides some  
4 accessibility.

5 MS. HAMN: And that is only for Operational  
6 Exemptions.

7 Any other questions? Yes, sir?

8 MR. O'MARA: Tom O'Mara.

9 Have you made any consideration about  
10 limiting all the abbreviations, etc.? It would really  
11 make understanding a lot easier.

12 MS. HAMN: We'll take that under advisement.  
13 Any other questions?

14 (No response)

15 MR. PREST: Anything at all out there for  
16 Florence?

17 (No response)

18 MR. PREST: I'd like to -- yes, sir?

19 MR. EVANS: I'm David Evans with Air Safety  
20 Week.

21 I'd like to congratulate the FAA for the  
22 increased openness of its web site. We recently were  
23 following the discussion or the debate stimulated by

1 the proposal to upgrade the standards for thermal  
2 acoustic insulation blanketing.

3 An NPRM went out. Request for comments. A  
4 lot of interest because of the cost and the safety  
5 implications, and instead of having to schlep down to  
6 FAA Headquarters and do the one-page xerox machine, we  
7 were able to obtain all of that and craft, I think, an  
8 appropriate story for our readership.

9 Having said that, I'd like to offer just one  
10 footnote. I knew that the Airline Pilots Association  
11 had some definite concerns and did not see their  
12 statement on the web site. There were, you know,  
13 dozens there, but I would offer that. We were able to  
14 scramble and get their position, but it was from them  
15 directly.

16 Thank you.

17 MS. HAMN: Okay. Thank you for bringing that  
18 to our attention.

19 MR. FAZIO: Let me just add. If others see  
20 that happening, please let us know in the FAA. We do  
21 not manage the Docket Management System over at the  
22 department, but we will definitely bring that to their  
23 attention.

24 Paul?

1           MR. HUDSON: I'd just like to add my  
2     congratulations, that this is a really major  
3     improvement, and it's not some, you know, gadget. This  
4     is really major and urge you to go ahead, and when do  
5     we see a chat room?

6           MS. HAMN: Should I share that? Okay. Right  
7     now, we're exploring the possibility of holding our  
8     first virtual public meeting through the Internet, and,  
9     so, we're working with a contractor now. So, hopefully  
10    you'll see that some time in the near future.

11          MR. FAZIO: The other consideration, too, is  
12    again for our working groups. If you feel that you  
13    need the capability of an Internet or chat room of some  
14    sort, that is something we can probably accommodate  
15    within reason. That will then help keep costs down,  
16    also. It's a little bit more cumbersome, but if you  
17    have ideas, we'd love to hear them.

18          MR. PREST: Any other comments? Yes, sir?

19          MR. LOTTERER: Dave Lotterer with Regional  
20    Airline Association.

21                 This is somewhat of a peripheral comment, but  
22    it was brought up in the last discussion on the Plain  
23    Language Initiative.

1           Is the FAA going to have any open meetings  
2       with respect to their implementation of this in the  
3       rulemaking?

4           MR. FAZIO: We weren't planning any. Is  
5       there a problem that you've noticed with the Plain  
6       Language?

7           I mean, let me just -- for those who aren't  
8       aware, what the agency has embarked on is an initiative  
9       from the last Administration, though I think it will  
10      carry on with this Administration, to write our rules  
11      more clearly.

12          Now, there are various ways you can do that.

13      We mentioned question and answer earlier. We have  
14      done that in the Part 11 rewrite, which explains the  
15      Administrative Procedures for doing rulemaking.

16          We probably will not use that in more of the  
17      technical areas, but we do intend to write our rules  
18      more clearly, so that we get out the ambiguity. One of  
19      the things we've realized, I think all of you who have  
20      used our regulations know, that there can be ambiguity  
21      placed in regulations, whether intentional or non-  
22      intentional, and, so, our intent is to write as clearly  
23      as possible for the reader, that particular reader,  
24      that will use that particular rule.

1           But if you have a specific problem, we'd like  
2   to hear about it.

3           MR. LOTTERER: Well, right now, while you've  
4   adopted Part 11, your Kansas City for General Aviation  
5   ADs, they're doing it, and then you've recently  
6   proposed Part 39.

7           I talked to several FAA people on this, and  
8   it appears that it's -- that the policy right now is  
9   somewhat spotty; that is, to use it on the "simpler"  
10  type rulemaking processes, but when you get into  
11  complex regulations, for example, the Operation Rules,  
12  why, to break it down into the question/answer format  
13  would result in just a tremendous number of questions  
14  and answers which would be very, I guess in my opinion,  
15  would be very difficult to really find the information  
16  that you want, and I guess right now, I'm suggesting  
17  that maybe this should be a more open process.

18           I know you were in effect told to do this,  
19  but to do it to the regulations, I think, should be  
20  more open.

21           MR. FAZIO: Right. Well, as I said, the  
22  question/answers are only one format for Plain  
23  Language, and we intend to continue because we feel  
24  very strongly in this.

1           If we can write our regulations more clearly,  
2 more people will comply with them and less enforcement  
3 actions, that sort of thing.

4           Again, we're going to write to the intended  
5 reader. So, question/answer, you probably won't see  
6 that as often. You're seeing it in the ADs, but I  
7 think it's probably very effective in the ADs, and the  
8 feedback that we're getting is that there are a lot of  
9 people that like it.

10           We don't intend to dumb down. That's not  
11 Plain Language. I have an expert here, if you'd like  
12 to talk with him, he can give you our philosophy on  
13 this. The intent is to bring it down. So, -- and  
14 again, the key word that I use with my staff, we're not  
15 writing for you. You know this stuff. You know it  
16 backwards, forwards, you know it better than we do  
17 because you have to live it day after day.

18           We're writing for the next generation  
19 because, as you know, we don't change our rules that  
20 often, and, so, there are rules out there that are 40-  
21 50 years old, maybe not that old, 30-40 years old. So,  
22 we're writing for the next generation, who may not be  
23 as cognizant as you are of the regulations. So, that's

1 really what we're trying to get at, but I wouldn't be  
2 too concerned about the question and answer.

3 Tom, did you want to follow up on that? We  
4 can assure you that we're working a rule now that's  
5 very operational, and we're having a heck of a time,  
6 and Tom is actively involved, trying to make that as  
7 clear, and it's not easy.

8 MR. PREST: Thank you, sir. Thank you very  
9 much, Florence, for an excellent presentation.

10 (Applause)

11 MR. PREST: It doesn't happen often. In the  
12 interest of moving on, if there are any more questions  
13 in this area, I would ask that you come to one of us at  
14 lunch or at your convenience, and we will make sure  
15 that all questions are answered, and that you've left  
16 here with a thorough understanding of the work that  
17 we've talked about so far.

18 At this point in the agenda, we're moving  
19 forward. In accordance with the Federal Advisory  
20 Committee Act, on January 18th, a Federal Register  
21 Notice was published concerning the announcement of  
22 this meeting and also inviting participation from  
23 anyone who would like to speak to the group.

1           We received three responses, and we will  
2   honor that request in the order in which they were  
3   received at FAA, and I would at this time call on Mr.  
4   Tom O'Mara, National Air Disaster Alliance Foundation.

5           Mr. O'Mara?

6           Scheduled Statements and Comments  
7                           to the Committee

8           MR. O'MARA: Thank you. Good morning.

9           I did some quick math this morning, and it  
10   seems there are 535 people in this town who write laws  
11   for 260 million people, but within the ARAC, there's  
12   only about a hundred people who write the safety  
13   regulations for probably a billion passengers by the  
14   year 2010. So, ARAC has a great deal more  
15   responsibility than many people think it has.

16           I'm an alternate to the ARAC Executive  
17   Committee. I represent the National Air Disaster  
18   Alliance and Foundation. I attended my first ARAC back  
19   in 1992 on behalf of ACAP.

20           I'm here because my only child died at Sioux  
21   City, Iowa, in 1989, when a DC-10 crashed. 111 died,  
22   189 lived. Heather was 24 years old. She was a  
23   graduate of Tulane Law School, a member of the New  
24   Jersey Bar, and a captain in the U.S. Army JAG Corps,



1 serving at Fort Collins, Colorado, at the time of her  
2 death.

3 She was found on the tarmac. Her seat was  
4 ripped away from the floor, and she flew through one of  
5 those three hull breaches as that DC-10 tumbled down  
6 the runway.

7 Before her death, I was a corporate guy,  
8 working in sales management at the Wall Street Journal.

9 I was a proud father. I was confident that FAA would  
10 not allow Heather, myself or anyone we loved to board a  
11 plane with a known fatal flaw and defect.

12 I joined in the ARAC process because of the  
13 headline in the Wall Street Journal. The headline  
14 appeared two days, two days after Heather died. The  
15 headline referred to the "Achilles Heel" on the DC-10.

16 That was the first time I ever considered that the  
17 aviation industry or its regulator might cut corners on  
18 safety, might not fix fatal flaws on aircraft. Pretty  
19 naive, wasn't I?

20 I've met families from plane crashes, and I'm  
21 sorry to say that I have learned what we all know.  
22 There are fixable fatal flaws on commercial jets that  
23 are not fixed because the industry says, look, it's  
24 just too costly.

1           Here's what the families of air disasters  
2       asked me to convey to you this morning. We understand  
3       that accidents happen. We know that 40,000 have  
4       perished on commercial plane crashes since 1960.  
5       Roughly a thousand deaths per year. We know this is a  
6       low number compared to the numbers of those killed by  
7       cars, guns, heart attacks.

8           We understand that America averages one fatal  
9       crash every day in the U.S., and that does not include  
10      the military or foreign crashes of American passengers.

11      On an update on that, in January of this year, there  
12      were 75 crashes with 56 fatalities, according to the  
13      NTSB.

14           However, this is what we don't accept. We  
15      don't accept that the NTSB recommendations should be  
16      ignored by the FAA or by the industry, for five years,  
17      sometimes even decades.

18           For instance, if FAA had listened to the  
19      Safety Board in 1988, a year before Heather died,  
20      ValuJet would not have crashed in the Florida  
21      Everglades, killing -- in 1996, killing 110 passengers  
22      and crew members.

23           If FAA or Douglas had fixed the fatal flaws  
24      facing DC-10 passengers after that first crash at Orly,

1 France, in 1974, 15 years earlier, Heather and a 110  
2 others would not have crashed at Sioux City and lost  
3 their lives.

4 Why is that? Because that Turkish Air DC-10  
5 crashed at Orly due to a total loss of hydraulic power.

6 First, the door popped open, the door buckled, and the  
7 hydraulic lines under the floor snapped, precious life-  
8 giving hydraulic fluids pumped out of the lines, and  
9 all died.

10 If ARAC or Douglas had put a safety valve, a  
11 \$10,000 item back then, on the hydraulic lines to all  
12 three engines after Orly, Captain Al Haynes would not  
13 have faced the same total hydraulic loss 15 years  
14 later, when one of three engines let go.

15 There are other examples, but, look, let's  
16 look to the future here. Please remember that the ARAC  
17 members can prevent families from getting mugged twice  
18 when a plane crashes. The first mugging is the crash.

19 The second mugging is discovering that their loved  
20 ones didn't have to die.

21 Our members offer two suggestions for Safer  
22 Skies. Number 1, that FAA should require all NTSB  
23 recommendations published as part of a final accident

1 report be deployed within 18 months, sooner would be  
2 fine.

3 We know the industry feels this is a  
4 Draconian measure. It's not needed. It's too  
5 expensive. It's too difficult, etc. We've heard it  
6 all. Think about it. That's all we're asking you.

7 Number 2. There's something in this for  
8 everybody. We ask you to influence your companies to  
9 lobby Congress to create what we call a "fix trust  
10 fund".

11 This fix fund would pay airlines to deploy  
12 NTSB recommendations in a timely way. It could be  
13 funded by a dollar or two surcharge per ticket issued  
14 in the U.S. This would be nearly a billion dollars a  
15 year harvested for this purpose by the year 2005 and  
16 beyond.

17 We suggest the fix fund be managed by someone  
18 from outside aviation, someone like Jim Burnett, Jim  
19 Hall, Mary Schiavo, come to mind. We don't want the  
20 fix fund used to balance the nation's books, like the  
21 Aviation Trust Fund has been used on occasion.

22 These two actions by FAA and industry would  
23 soothe the souls of those of us who mourn the loss of

1 loved ones killed in predictable, preventable and  
2 foreseeable plane crashes.

3 The families wanted me to remind you that  
4 only chance puts us in our shoes and you in yours. No  
5 one should have to learn their loved one perished  
6 because a plane had an Achilles Heel, that some cost-  
7 benefit analysis person said you or someone you love is  
8 expendable, we're not going to fix it.

9 There's much to do. As Norman Mineta warned  
10 in 1997, worldwide flights are expected to increase  
11 from 16 million this year to over 25 million by 2010.  
12 "If the current accident rate is extrapolated," I'm  
13 quoting, "over that traffic level, the number of  
14 accidents can be expected to climb to a point where  
15 there is a large jet aircraft crash every seven to 10  
16 days somewhere in the world." That's a lot. That's  
17 not acceptable.

18 Let's hope ARAC can be the dike that holds  
19 back the sea of sorrow that Secretary of Transportation  
20 Mineta predicted four years ago for air travel in  
21 2010.

22 Thank you very much.

23 (Applause)

24 MR. PREST: Thank you, Mr. O'Mara.

1 I'd like to now call on Dr. Ray Fenster,  
2 representing Information Overload Corporation.

3 Ray?

4 DR. FENSTER: Good morning.

5 After having served on several ARAC  
6 committees, it's become evident that three important  
7 factors help promote more resource-effective results.

8 One, an increased reliance on concrete facts,  
9 two, the inclusion of all potentially-impacted groups,  
10 and three, an increased emphasis toward thinking  
11 outside the box.

12 It may be advisable for ARAC to focus more  
13 energy on these major areas in order to generate a  
14 greater increase in safety. After all, the primary  
15 purpose of creating harmonized regulations is to foster  
16 an increasing ability to achieve global safety.

17 First, by focusing on performance-based  
18 outcomes rather than design end points, participants  
19 are given a greater latitude in utilizing qualitative  
20 and quantitative information in reaching a defensible  
21 solution. This allows for more creative, cost-  
22 effective and measurable deliverables.

23 Second, focusing on ARAC members as a  
24 valuable resource not only facilitates a constructive

1 method of obtaining additional information, but it  
2 helps advance the consensus process. Each stakeholder  
3 holds a guarded and unique position that must be  
4 solicited and respected, yet challenged when concrete  
5 information provides an alternative viable solution.

6           Next, advisory committee organizations,  
7 issues, working and task group participants, must  
8 understand that along with the ability to help shape  
9 the future of aviation regulations is the  
10 responsibility to be a productive, positive team  
11 player.

12           Participants must also realize and  
13 internalize that forum-shopping may provide short-term  
14 fixes but will bring into question the integrity of  
15 their organization and diminish future ARAC endeavors.

16           Finally, by focusing on human factors,  
17 including biological changes, rather than aircraft  
18 attributes, we acknowledge a true contributor in the  
19 vast majority of aviation safety failures.

20           Physiological changes occur in flight crew  
21 that may have an impact on performance. Research has  
22 demonstrated the cockpit and cabin crew have kidney,  
23 liver and pineal functions that move outside the  
24 acceptable reference range.

1           Research has also shown that human factor  
2     intervention, such as sympathetic residence technology,  
3     can maintain and even enhance physiological functions.

4           In conclusion, the ARAC process must continue  
5     to evolve along the same dynamic track as the aviation  
6     industry. Only ARAC members can assure that each  
7     challenge is viewed as an opportunity to improve and  
8     increase aviation safety.

9           Thank you.

10          (Applause)

11          MR. PREST: Thank you, Ray.

12          Our final speaker this morning is Mr.  
13     Christopher Witkowski, Association of Flight  
14     Attendants.

15          Chris?

16          MR. WITKOWSKI: Good morning.

17          Thanks for the opportunity to address the  
18     ARAC Committee. We appreciate this chance to speak to  
19     the group as a whole for the first time in 10 years.

20          This is an opportunity to take stock  
21     basically of how the ARAC process is functioning and  
22     evaluate the FAA's current approach of using ARAC as a  
23     single advisory committee to cover a multitude of  
24     aviation safety issues.



1           I want to take the time to briefly review how  
2   ARAC Operational Procedures have evolved over the years  
3   and provide some recommendations on how it could be  
4   restructured to better meet the spirit of the Federal  
5   Advisory Committee Act under which it was chartered in  
6   1991.

7           The earlier speaker talked about the Act and  
8   balance, openness and fairness as the principles that  
9   are supposed to be embodied when advisory committees  
10   are created, and we agree with that.

11           It's our belief that Congress and the  
12   American people have lost oversight of the deep  
13   workings of this major rulemaking committee. As it  
14   stands right now, ARAC is tailor-made to limit the  
15   participation of public interest groups and other  
16   organizations with limited resources.

17           The ARAC system is out of balance. It's  
18   dominated by industry representatives whose goal may  
19   sometimes be at odds with the public interest and  
20   biased against public participation.

21           The Federal Advisory Committee Act was meant  
22   to prevent such problems. Although the procedures for  
23   the ARAC Issues Group follow the FACA requirements, the  
24   actual work of ARAC, as I mentioned earlier, is

1 accomplished by the working groups dealing with a broad  
2 range of important issues.

3 There is no legal requirement that the  
4 working groups be balanced, only that a substantial  
5 attempt be made to balance the interests of those  
6 groups.

7 Working group meetings, as I said, are closed  
8 to the public, and it's not until after the working  
9 group has arrived at its recommendations that the chair  
10 presents those recommendations at the public meeting.

11 No minimum number of ARAC voting members need  
12 be present at that meeting to approve the working group  
13 recommendation and forward it to FAA for  
14 implementation.

15 The openness of ARAC serves as a ploy to  
16 justify the closed deliberations of the working groups.

17 The working groups suffer from many of the same  
18 problems that led to the passage of the Federal  
19 Advisory Committee Act. The deliberations are secret.

20 The public participation is limited to those who have  
21 specialized technical backgrounds and have been  
22 selected by ARAC management.

1           The work of the groups results in policy or  
2 regulations, and records of the deliberations are not  
3 required at this time.

4           The FAA use of ARAC as an advisory committee,  
5 we believe, is inappropriate. There is a continuing  
6 need obviously for advisory committees to provide  
7 information and advice to the FAA, but developing  
8 complete regulatory packages goes beyond the scope of  
9 information and advice.

10           The advisory committee structure should meet  
11 the intent as well as the letter of the Federal  
12 Advisory Committee Act.

13           In order to do this, we recommended a series  
14 of changes, and I might note that these are largely  
15 some of the changes that were mentioned in a speech by  
16 AFA President Pat Friend in 1997, which has been  
17 provided to the FAA since then.

18           The experiences of the last four years have  
19 reinforced the need for the FAA to act on these  
20 proposals, and a copy of the 1997 speech is provided  
21 with my remarks to the FAA.

22           Number 1. The FAA should limit the input  
23 from the advisory committee to advice, not complete  
24 regulatory packages.

1           This would eliminate the responsibility for  
2   achieving consensus within the working group, so that  
3   differing opinions or options would be forwarded to the  
4   FAA intact for its assessment at the agency.

5           Without the need to achieve consensus and  
6   prepare complete regulatory packages, the meetings of  
7   the working groups should be limited to two or three at  
8   the most on each issue tasked to it. After that, the  
9   working groups should be automatically dissolved.

10           A representative of the FAA should chair each  
11   working group to ensure that all participants are  
12   encouraged to present their advice without intimidation  
13   from others and to keep the group focused on the issue  
14   at hand.

15           All of the meetings, including those of the  
16   working groups, should be announced and open to the  
17   public, and participants should be encouraged to  
18   communicate with anybody necessary about the topic of  
19   the meeting.

20           Detailed minutes of each working group  
21   meeting and input from each of the participants should  
22   be forwarded to the FAA for its use and the public  
23   record. The responsibility for developing regulatory  
24   packages would revert to the FAA, where it belongs.

1           Number 2. In order for the public to have  
2     the opportunity for fair representation in an FAA  
3     advisory committee, the agency should charter a  
4     separate advisory committee for each specific issue on  
5     which it is seeking advice and take charge of the  
6     advisory committee's process.

7           If a group would like to participate in a  
8     second advisory committee but lacks the resources to do  
9     so because of current participation in an existing  
10    advisory committee, the agency should defer the  
11    formation of the second committee until the first has  
12    completed a task or the agency should complete the task  
13    itself.

14          The FAA should hold and chair each meeting of  
15    the advisory committee, take detailed minutes of each  
16    meeting and provide a forum in which each group can  
17    provide its point of view and relevant information to  
18    the FAA which would act as a neutral party. There  
19    should be equal representation between industry and  
20    non-industry participants.

21          If a working group or subcommittee is  
22    established for the advisory committee, it should  
23    operate under the same rules as the parent committee,  
24    with meetings open to the public and minutes and work

1 products made publicly available, and as I noted  
2 earlier, the FAA's Aviation Security Advisory  
3 Committee, by way of contrast with ARAC, is chaired by  
4 an FAA official, and meetings of the ASAC and its four  
5 subcommittees are generally open to the public.

6 Keep in mind here, we're talking about  
7 security issues and advice and recommendations, which I  
8 would think has a higher degree of sensitivity than  
9 some of the safety issues that are discussed in ARAC.

10 Number 3. This relates to harmonization. We  
11 believe that all FAA/JAA harmonization tasks should  
12 adopt the Fast Track Category 1 approach, which is to  
13 adopt the strictest provisions or elements from the  
14 relevant FAR and the JAR for the newly-harmonized rule.

15 This is a straightforward approach to  
16 harmonization that minimizes processing time and costs,  
17 whether tasked to an advisory committee or not. Travel  
18 and time costs for harmonization working groups are  
19 significant. Consequently, many members with limited  
20 resources are not able to make the necessary trans-  
21 Atlantic trips involved, and I know many of you can  
22 attest to the experience of the Category 1 approach in  
23 Fast Track. It moves very quickly.

1           Number 4. I think it's been addressed. We  
2     feel that the advisory committee of FAA should meet in  
3     Washington, D.C. Tony Fazio has explained that that  
4     basically has been done, but I wanted to make mention  
5     of it again, and that the working groups should meet in  
6     an accessible location to help reduce the costs and  
7     make it more convenient for the members of the working  
8     group, and the meeting should be chaired by the FAA, as  
9     I said earlier, in a federal building.

10           The last point is that in the event that  
11    consensus remains a goal, we do believe that proxy  
12    voting should still be allowed in order to ensure that  
13    the advisory committee members with less resources and  
14    staff can have their votes represented by proxy on  
15    motions or documents.

16           There are many places in the ARAC Green Book  
17    right now that calls for voting members, votes to be  
18    taken, etc. So, I know that trying to reach unanimous  
19    consent or near unanimous consensus on an issue is  
20    admirable, but it always comes down to where do people  
21    stand and votes are taken.

22           So, there are some cases where you can't have  
23    representation from some of the groups that are not  
24    able to come because of costs and resources.

1           We believe the changes would help prevent  
2       recommendations that are contrary to the public  
3       interest from being pushed through to the FAA by an  
4       industry majority and improve the ability of all groups  
5       to fully participate in offering advice and input to  
6       the FAA.

7           In this way, the FAA advisory committees  
8       would be an appropriate source of information and  
9       advice, and the original intent for public  
10      participation would be fostered.

11           Thank you very much.

12           (Applause)

13           MR. PREST: Chris, thank you, and thanks to  
14      all of our speakers who have made the trip here to  
15      express your views. We very much appreciate it.

16           Thank you to Kent Hollinger back there from  
17      our sister organization, the Aging Transport Systems  
18      Rulemaking Advisory Committee, and you brought members  
19      of your group with you, and I thank you for that.

20           Lastly, thanks to all of you who have  
21      participated in this morning's activities. As has been  
22      said often, this group cannot function without that  
23      participation and without the enthusiasm that you bring



1     toward making better rules, recognizing that we're all  
2     interested in a safer environment.

3             Having ended with a note on safety, I think  
4     that's appropriate to adjourn with the caveat that we  
5     will meet before the next 10 years elapses, I guarantee  
6     it. We will make it a point to get together more  
7     frequently.

8             We stand in adjournment. Again, the  
9     Executive Committee will meet back here at 1:00.

10            Thank you again.

11            (Whereupon, at 12:05 p.m., the meeting was  
12     adjourned.)