June 5, 2021

Mr. Tim Shaver
Deputy Director, Office of Safety Standards, AFS-2A
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20571

Dear Mr. Shaver:

On behalf of the Flight Standards Transparency, Performance, Accountability, Efficiency Aviation Rulemaking Committee (FST PAcE ARC), we are pleased to provide you with the attached ARC report and its recommendations on Flight Standards Reform, which concludes the work of the Committee's charter.

The representatives of the Committee were proud to serve and are hopeful that the collective recommendations will be reviewed and found acceptable as satisfying the original intent of the legislation.

The FST PAcE ARC membership included:

Capt. Bob Fox, Industry Co-Chair (ALPA)	Jim Graham (Delta)	Doug Carr (NBAA)
Tim Shaver, FAA Co-Chair	Mike Mertens (Duncan Aviation)	Michael Perrone (PASS)
Leslie Riegle (AIA)	David Earl (Flight Safety, International)	Alan Kasher (Southwest)
Kimball Stone (American)	Jens Hennig (GAMA)	Bryan Quigley (United)
Christopher Cooper (AOPA)	Chris Martino (HAI)	Myron Wright (UPS Flight Forward)
Sarah MacLeod (ARSA)	George Paul (NACA)	
Crystal Maguire (ATEC)	John McGraw (NATA)	

This attached report satisfies the requirements of the FST PAcE ARC charter tasking Section 222. The recommendations focus on the six objectives specified in the ARC's Terms of Reference and provide detailed actions that the agency can accomplish to achieve these taskings.

When implemented, these recommendations will identify best practices and provide recommendations, for current and anticipated budgetary environments. The focus for the fifteen recommendations is Safety Management Systems, along with improved guidance, transparency, and efficiency on behalf of the agency.

The ARC does recognize that the training aspects of the recommendation may be beneficial for the Safety Oversight and Certification Advisory Committee's Subcommittee Workforce Development and Training Tasking.

We appreciate the opportunity to provide this recommendation.

Sincerely,

Capt. Bob Fox
First Vice President and National Safety Coordinator
Air Line Pilots Association, International
FST PAcE ARC Industry Co-Chair

Federal Aviation Administration
Flight Standards Transparency, Performance, Accountability, Efficiency Aviation Rulemaking Committee

Section 222 Subgroup Recommendation Report

Background: At the initial meeting of the Federal Aviation Administration (FAA) Flight Standards Transparency, Performance, Accountability, Efficiency Aviation Rulemaking Committee (FST PAcE ARC), held on 20-21 February 2020, the Committee directed the establishment of a *Section 222 FAA Task Force (aka 222 Subgroup) on Flight Standards Reform* as set forth in the *FAA Reauthorization Act of 2018.* At a minimum, the duties of the subgroup include identifying best practices and providing recommendations for current and anticipated budgetary environments as outlined in section 2. of the FST PAcE ARC Charter dated August 1, 2019 with respect to:

(1) simplifying and streamlining flight standards regulatory processes, including issuance and oversight of certificates;
(2) reorganizing Flight Standards Services to establish an entity organized by function rather than geographic region, if appropriate;
(3) FAA aviation safety inspector training opportunities;
(4) ensuring adequate and timely provision of Flight Standards activities and responses necessary for type certification, operational evaluation, and entry into service of newly manufactured aircraft;
(5) FAA aviation safety inspector standards and performance; and
(6) achieving, across the FAA, consistent…
(A) regulatory interpretations; and
(B) application of oversight activities.

The membership of the Section 222 Subgroup consisted of a combination of FST PAcE ARC members and subject matter experts sponsored by ARC members.

Section 222 Subgroup Membership:

Stacy Bechdolt	ALPA	Mike Mertens*	Duncan Aviation
Ellen Birmingham	United Airlines	Ray Morgan	FAA (PASS)
Christopher Cooper*	AOPA	George Paul*	NACA
David Earl*	Flight Safety International	Michael Perrone*	FAA (PASS)
Bob Fox*	ALPA	Daniel Porter	FAA (PASS)
Steve Jangelis	ALPA	Bryan Quigley*	United Airlines (Lead)
Jens Hennig*	GAMA	Leslie Riegle*	AIA
Keith Johnston	Bombardier	Tim Shaver	FAA
Alan Kasher*	Southwest Airlines (Lead)	Jim Stieve	Southwest Airlines

*ARC Members

During the February 2020 in-person meeting, the Section 222 Subgroup met in an initial breakout session to discuss the tasking and develop a list of initial recommendations to guide the Subgroup. The Subgroup initially decided to split the 222 subgroup tasks between two leads. However, due to several issues, the largest of which being the impacts of the global COVID pandemic, the Section 222 Subgroup did not meet again until July 29, 2020; after which the Subgroup recombined into one and established a biweekly meeting schedule. The group held 13 meetings between 29 July and 12 January, identifying best practices and providing the following recommendations for the ARC's consideration and to inform the ARC's final recommendations to the FAA.

Recommendations:

RECOMMENDATION 1: **Recommend bringing all types of operators and repair stations under the SMS umbrella.** Create and support a method of complying with a Safety Management System (SMS) for operators, including part 145 repair stations, 142 training centers, 135 operators, 91k, etc. Expand

knowledge of FAA to support development and implementation of a voluntary safety program. Provide a method of acceptance for a third party validated safety management program that fits the type of operation. As an example the tenets of ICAO ANNEX 8 for Airworthiness. SMS is a best practice.

RECOMMENDATION 2: FAA to adopt the framework of the 24/7 Airworthiness Directive (AD) compliance for regulatory non-compliance/non-conformance. Whether there is a safety of flight issue or a technical non-compliance, provide a method to mitigate safety risks by assembling the appropriate and knowledgeable FAA personnel for timely resolution. As described in FAA Order 8900.1 V3C60S2 (*Interdependent Risk-Based Compliance and Management Decision Making*), the Compliance Program provides the framework for interdependence, but does not provide timeliness as a parameter for the regulator to consult with the appropriate FAA offices and/or personnel to evaluate and address a regulatory issue. In addition, this guidance is repetitive, references multiple sections outside of this section and could be simplified, using plain language similar to FAA Order 8110.103B (*Alternate Methods of Compliance (AMOC)*). Appendix E of this Order provides plain language for simplifying consistency, interdependence, and critical thinking that the appropriate and knowledgeable collaboration of FAA offices and industry can use to resolve areas of safety, compliance, and conformance concerns.

This task force considers the AMOC process a best practice, used for aircraft certification, and recommends that similar processes should be considered for other Flight Standards certifications and approvals. Summarizing some elements of FAA Order 8110.103B describes that an AMOC may be necessary because an operator devises a different or better way of addressing an unsafe condition, or because an operator wishes to adjust the compliance time stated in an AD, or because existing modifications, alterations, or repairs to a product make compliance with AD actions difficult or impossible, or to address errors in a service document or in an AD, and more.

While a certificate holder may request expedited approval, there is a lack of definition for how the FAA will quickly address a possible compliance issue, across multiple divisions. Guidance should include a process for assembling the right people for the discussion to get a quick decision for certification and/or rule interpretation and return to full compliance. This task force expects that as the FAA culture continues its shift to the Compliance Program system of oversight and regulatory management, best practices will be developed in the areas of timeliness and appropriateness in managing risk using safety management principles and open a dialogue with operators.

For example, if an audit of pilot training curriculum finds that a required training element was inadvertently not delivered for 2-3 years, would the operator then be required to cease operations? In addition to using the Voluntary Disclosure and Reporting Program (VDRP), this non-compliance would benefit from a commitment to bring together the necessary resources to address the issue quickly.

RECOMMENDATION 3: **Improve guidance for certification process and project management.** FAA policy (8900.1 V1C3S2) describes the use of critical thinking, interdependence and consistency, and is considered a best practice. AFS-910 Certification and Evaluation Program Office (V2C3S3) provides procedures for consistency in project management and should be leveraged for successful application of this policy for 121, 135, 91, 142, 145 certification projects. This subgroup recommends experienced inspectors run the major change process supporting the local Certification Project Manager (CPM). Often, industry sees a lack of consistency at the Certificate Management Office (CMO) level when identifying requirements for certification projects. Consistency and interaction with the certificate holder is critical in ensuring timely, effective, and successful project management. Project management

responsibilities associated with the major change process is a draw on CMO and Flight Standards District Office (FSDO) resources and has the potential to distract them from their day-to-day regulatory oversight tasks.

Both CMOs and FSDOs need to engage AFS-910 Certification and Evaluation Program Office and HQ levels. The lack of FSDO engagement of HQ-level resources for the significant changes creates inconsistencies. Industry/certificate holders are appropriately served by the 8900.1 guidance for Major Change Process and Certification change requests, when that guidance is properly applied. Including HQ level inputs and resources results in highly compliant products and certifications.

- Example – An Air Carrier's initial ETOPS application requires Airworthiness, Avionics, Dispatch, Flight Operations, Cabin Safety, OpSpecs, and validation flights.
- Example – New delivery aircraft acquisition process requires project management coordinating Airworthiness, Avionics, FO, Cabin Safety, OpSpecs, special programs (ETOPs, OUSD CAT II/III, HUD, EFB, ANSP), proving runs, evac demonstrations. Different processes for an aircraft M/M that is new from manufacturer for initial ops worldwide, new aircraft M/M that is new to the operator but ops worldwide, used aircraft new to operator, used aircraft in addition to an operator fleet, new aircraft in addition to operator fleet.
- Example – FSDO (Part 135; Single pilot certificate request for increased authorizations for Basic / Full 9 or less passenger and or 10 or more passenger certificate holder status. Inclusions of increased complexity aircraft and or systems for the change request.

RECOMMENDATION 4: The FAA to expedite the exemption process and give operators greater visibility to the status of exemption requests and after the exemption has been renewed for certain number of times with no change in conditions or limitations, the FAA should have a process to expeditiously implement changes through the rulemaking process (e.g., a direct final rule).

Operators, individually or through industry groups, often submit requests for exemption renewals 4 to 6 months prior to the existing exemption's expiration date. The FAA often does not issue the renewal until just prior to (within 1-2 days in some cases) the expiration date. As such, carriers are left uncertain whether an exemption will be approved; and when the exemption is finally issued, Certificate Management Offices are under tight timeframes to approve the renewed exemptions in the carrier's Operations Specifications. With respect to less routine exemptions, the timeline to receive a decision can be substantial (i.e., more than a year). In addition, certain exemptions are routine and have been issued to certificate holders for years. For example, Exemption No. 3585U provides relief from 14 CFR §§ 121.613, 121.619(a), and 121.625 by permitting airlines to continue to dispatch airplanes under instrument flight rules under limited circumstances when certain language in a weather report states that the weather at the destination, alternate airport, or both airports could be below the authorized weather minimums. The exemption has been in use for roughly thirty-six years with no changes in the conditions and circumstances which warranted the original grant of exemption. Instead of granting relief through continued exemptions, the FAA should reevaluate exemptions such as No. 3585U, and consider alternative relief such as no expiration date on the exemption, a new Operations Specification paragraph, or modifications to the underlying regulations. (As shared by A4A as part of the regulatory reform recommendations, this is not a new concern). The FAA needs to define a process to mandate a regulatory review and establish a rulemaking process to address long standing exemptions.

We recommend fixing the process, streamlining it to remove longstanding exemptions addressed through the rulemaking process. Considering the 36-year-old exemption in our example, operators have safely operated under the conditions and limitations which could then be applied to rulemaking and would alleviate the exemption approval back log at the FAA. Evaluate the opportunities with FAA AGC/ARM/AFS with industry to establish a transparent approach for the exemption process (part 11). Exemptions are sometimes issued with errors, omissions, or inaccuracies that preclude the use of the conditions and limitations until corrections are made. We suggest industry review an exemption before it is issued to address errors and/or changes from initial request.

RECOMMENDATION 5: FAA to design a transparent system that shows/tracks where the document is in the process, who it is assigned to, and when it is planned to move to the next step. Accountability for certification process. A process for the applicant to contact that person at AVS level for project management.

- Rule change
- OpSpec Change
- FAA Notice/Order
- Policy change
- Advisory Circular

With the FAA restructure several years ago, the personnel directory was removed from faa.gov. Currently, there is no easy method of identifying reporting structures, names, contact information (names, email addresses, phone) for anyone at the FAA. Contact information is needed for communicating directly, processing an application, documentation, guidance, etc. Develop a method for positive confirmation on a project's status. For improved transparency, recognize the need for a standard management tool by expanding the capabilities of the SAS External Portal.

RECOMMENDATION 6: **Prioritize FAA active participation in industry working groups.** Effective, applicable, and appropriate active participation in industry working groups by AFS, CMO, AEG, AGC, AIR, etc. would improve transparency and communication. Examples of successful participation are listed below. Industry needs the FAA to participate at crucial times, such as with the 513 group (AFX-500) that has 30 FAA groups. Clarity, consistency, and commitment to these groups is needed. We need less examples and ad hoc committees and more processes to solidify standing up a charter. Consider a recommendation back to the FAA to develop measures for effectiveness of these collaborations with industry; determine the return on investment for both the FAA and industry. Clear up the different group types (chartered, voluntary cooperative group, etc.) and look for a method whereby industry requests and the FAA supports collaboration on significant guidance changes (i.e., Passenger & bag weights OpSpec A099). There needs to be a strategic plan for promoting safety.

- OSWG
- MMEL IG
- InfoShare
- CAST
- ASIAS
- PARC
- Equip 2020

RECOMMENDATION 7: The FAA should modify the process for issuing Legal and policy interpretations for industry that fundamentally change long standing practices, policy, issues where there is Flight Standards division oversight. To find the best safety or policy solutions, it is crucial to understand the complete picture. This is especially true when a request for interpretation is for a specific set of facts that cannot, or should not, be widely applied in general application of the rule. Compliance with the standards can be achieved differently across the variety of persons and organizations overseen by the Flight Standards Service. Requests for policy interpretations are often misrepresented or misunderstood when transiting from an operator through their CMO/FSDO to Flight Standards. Similarly, requests for legal interpretations may miss the intended point resulting in unnecessary consequences. Legal interpretations that come out significantly different from long-standing policy or process may require significant change and introduce risk into established programs.

The FAA policy division should provide a method for risk-based implementation planning to incorporate changes resulting from a legal or policy interpretation into legacy systems, processes, and procedures. The pathway should foster collaboration with affected CMO/FSDOs and certificate holders before actions are taken, considering an operator's SMS analysis. Examples of legal and policy interpretations introducing significant changes to long standing compliance methods incudes Part 117, B757/B767 related aircraft designation, and reinforcing long standing intent of reserve rule rest requirements (§ 121.471(b)).

RECOMMENDATION 8: **Recommend FAA implement SMS principles (i) as part of risk management for development of new regulations, Orders, Notices or reinterpreting long standing applications of existing regulations, (ii) as a tool for determining compliance with performance-based rules.** While part 121 operators are required to implement SMS, the FAA has been hesitant to adopt SMS principles for themselves when considering Notices, Orders, Policies, Memorandums, and Legal Interpretations. Public comment periods should include not only the cost/benefit analysis, but a method for industry to provide assessments of risk introduced to their operations. This would enable the FAA to fully understand the potential impact and unintended consequences related to rule and policy changes while still in the development stage. Industry must apply SMS principles, maintain compliance with regulations and address the intent of the regulation. SMS is best practice. By implementing its own SMS principles, the FAA will be better positioned to apply, oversee, and enforce non-prescriptive, performance-based rules, thus leading to less subjectivity and greater consistency among CMOs. Failure to address potential risk during rulemaking and policy development, forces operators to shift focus away from existing issues to new issues created by the FAA's failure to use the subject matter expertise available through industry working groups and the public comment processes. Historical examples include but are not limited to the following:

- Changing 25 years of operating the B757 and B767 as a common aircraft type, introducing related aircraft requirements without identifying any safety risk(s). Thousands of man hours were spent across the industry to make significant changes in standards for a proven safe method of fleet management, taking away valuable resources from regulatory and safety areas within operations.
- The practice of issuing an exemption instead of an OpSpec for Fatigue Risk Management Systems (FRMS) isn't logical when § 117.7(a) clearly states that no provision of § 117 may be exceeded unless approved under an FRMS. An exemption is not an FRMS; only OpSpec A318, Table 1 provides authorization for an FAA-approved FRMS.

- AC 120-27F introduced significant changes for passenger and bag weights without considering industry subject matter experts' analysis for best methods to determine accurate weight and balance data. In addition, concerns related to implementing these new standards during a pandemic were ignored.

RECOMMENDATION 9: Improvement to FAA guidance documents. FAA Order 8900.1 policy guidance should not go above and beyond Advisory Circulars by incorporating methods of compliance. This would also apply to DCTs which drive the Inspectors to require compliance with their 8900. Two major objectives of the Flight Standards Service are to standardize the functions of the ASI position and provide consistency to industry stakeholders. This task force considers FAA standards of professionalism for critical thinking, interdependence, and consistency as a best practice that should be reinforced throughout the agency. The FAA should not incorporate methods of compliance into future revisions of FAA Order 8900. Where existing 8900 guidance incorporates methods of compliance that conflict with Advisory Circulars or exceed guidance contained in Advisory Circulars, FAA should establish a resolution process to amend the 8900 guidance by removing all methods of compliance from 8900. ***Industry supports a single source regulatory reference library.*** Flight Standards should establish a guidance document standard that incorporates rule preamble clarifications and legal interpretations into a single repository.

RECOMMENDATION 10: **Defining no harm/no foul escalation processes.** Improve communications on applicable methods for managing differences in application of policy, procedure, and regulation, by ensuring CMO/FSDO and operators clearly understand the best method to employ. Current methods include Regulatory Consistency Communication Board (RCCB), Consistency & Standardization Initiative (CSI), and the Flight Standards Information System (FSIMS) Librarian). The Airworthiness Directive (AD) 24/7 process is considered a best practice and is clearly defined. Provide a method to address issues at a lower level process before elevating it to CSI or RCCB, or another similar forum established by the FAA, that would comprise representatives from appropriate disciplines.

RECOMMENDATION 11: Expand the current protections provided by Part 193 to more fully cover SMS outputs, including permissible methods of compliance for performance-based rules developed in accordance with a carrier's SMS. SMS is protected by Public Law 49 USC § 44735, and while the FAA has provided guidance regarding the applicability of 49 USC § 44735 to SMS data, the FAA should amend Part 193 to further strengthen the protection of SMS data to include operator data obtained under 14 CFR § 5.71.

Part 193 prevents the disclosure of voluntarily submitted safety or security information that is not required to be submitted as part of a mandatory program, such as SMS. The FAA designated the following programs as protected from public disclosure (FOIA, rulemaking, press releases, or to a party for legal action):

- Aviation Safety Action Program (ASAP)
- Flight Operational Quality Assurance (FOQA)
- Air Traffic Safety Action Program (ATSAP)
- Commercial Aviation Safety Team (CAST)
- Voluntary Disclosure Reporting Program (VDRP)
- Rotor Manufacturing Induced Anomaly (ROMAN) Database

- Technical Operations Safety Action Program (T-SAP)
- Federal Contract Tower Safety Action Program (SAFER–FCT)
- Air Traffic Safety Action Program for Engineers & Architects, Staff Support Specialists, Aviation Technical System Specialists (Series 2186) and Flight Procedures Team (ATSAP–X)
- Line Operations Safety Audit (LOSA)

RECOMMENDATION 12: Joint industry/FAA training where appropriate. The FAA should provide joint industry and FAA inspector training for significant regulatory changes prior to implementation.

- Joint training where new FAA processes, performance-based regulations or objectives, requirements, certifications, etc. are to be implemented.
- Joint training where FAA/Industry collaboration are part of a process design, e.g. ASAP, SMS, SAT, Performance Based Regulations, etc.

RECOMMENDATION 13: Expand the current Advisory Circular (AC) 00-58B Voluntary Disclosure Reporting Program (VDRP) to include 145 stations and Original Equipment Manufacturers (OEMS). The FAA should provide a method whereby a single voluntary disclosure can cover multiple certificates/entities if a non-compliance is related to a single issue and originated from one entity. Alternatively, a method whereby one entity's disclosure can be referenced and incorporated by another party to allow multiple stakeholders the opportunity to take corrective action(s), addressing safety and regulatory issues that interconnect these entities. There is an opportunity to avoid duplicate reporting and at the same time enhance safety across repair stations and operators with incentive to report failures in systems and processes and to provide the protections for all who file the disclosure(s).

RECOMMENDATION 14: Reduce duplication of effort for FAA and industry regarding Part 145 repair stations. It is not uncommon for certified Part 145 Repair Stations owned by a single company, to operate multiple facilities located in different geographic locations. Today, each facility is required to obtain a stand-alone (or satellite) certificate. Local FSDOs maintain oversight of each individual location leading to multiple FAA resources overseeing a single company's repair station operation. Even when industry and FAA agree to allow every facility to operate under a single Manual, there are still local policy issues and differing interpretations which causes extra work for both the FAA and industry.

In addition, there are regulations that prohibit one facility from fabricating a part for use by a different facility, without Parts Manufacturing Approval. This also causes great expense and unnecessary work for the operator and the FAA when both facilities are owned and operated by the same company. Under single certificate operations, each satellite center is still subject to audit by the FAA regardless of the certificate holders intensive audit protocols. The only difference is the audit is performed by one overseeing entity (CMO, etc.). Time savings may still be realized if the CMU/CMO/FSDO employ a risk-based approach to their auditing methods. For example, one satellite center may not have had any voluntary disclosures in the past 12-months so that FAA decides not to audit them during the current cycle because the risk of something being done incorrectly is deemed low.

The proposal is to allow operations/facilities owned and managed by a single person/company/organization to be certificated under a single certificate with oversight by a single FAA Management Team/Unit. For example, The Certificate Management Unit located at the Wichita FSDO oversees the FlightSafety International Part 142 Training Center single-certificate, UJFX071K. The controlling company would need the required processes in place to manage the entire certificate and

control the quality across the entire spectrum of the organization. The FAA Management Team/Unit could use its resources across the country to provide local inspections for the Management Team/Unit. This would keep the person hours needed, lower than they are currently.

RECOMMENDATION 15: FAA avail itself of the subject matter experts from the Operations Specifications Working Group (OSWG). In November 1997, the Aviation Industry and the Flight Standards Service (AFS) of the Federal Aviation Administration (FAA) began exchanging information in a timely and collaborative manner through the joint FAA/Industry Operations Specifications Working Group (OSWG). The OSWG was formed to provide a forum through which industry could exchange information with the FAA regarding Operations Specifications (OpSpecs), Management Specifications (MSpecs) and Letters of Authorization (LOA). This forum allowed the agency to obtain information in a timely manner as it the created those documents and related Flight Standards directives, FAA Orders, Advisory Circulars (ACs), and other associated materials. The objective of the OSWG is to facilitate timely collaboration between the FAA and Aviation Industry and to provide an industry perspective to AFS when developing authorizing documents, revisions, and related guidance materials. Recommend that the FAA leverage the subject matter expertise within the OSWG to obtain real-time information when improving data collection, managing avionics tables, and seeking opportunities for efficiencies in OpSpec and other certification authorizations.

Conclusion: The Section 222 Subgroup appreciates the opportunity to participate and provide industry input to the ARC on these important issues. The Subgroup stands ready to discuss its recommendations with the full ARC and looks forward to contributing to the development of the final recommendations report of the FST PAcE ARC.