U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
Aviation Rulemaking Committee Charter

Effective Date: 1/22/2024

SUBJECT: Instructions for Continued Airworthiness Aviation Rulemaking Committee

1. **PURPOSE.** This charter establishes the Instructions for Continued Airworthiness (ICA) Aviation Rulemaking Committee (ARC), according to the Administrator's authority under Title 49 of the *United States Code* (49 U.S.C.) § 106(p)(5). The sponsor of the ARC is the Associate Administrator for Aviation Safety. This charter outlines the ARC's organization, responsibilities, and tasks.

2. **BACKGROUND.** U.S. operators transport millions of passengers each year. The expectation of the flying public and the FAA is that they will conduct their operations to the highest levels of safety. Operators are required by applicable regulations to operate and maintain aircraft in an airworthy condition. While an operator may make arrangements with another source to perform maintenance and approve a product or article for return to service, the operator ultimately is responsible for the airworthiness, maintenance, and safe operation of their aircraft. To fulfill their responsibilities, operators must have access to complete and up-to-date ICA.

   Applicants for FAA design approvals must prepare acceptable ICA as required by rules governing the certification of products and articles. The sole purpose of ICA is to support an operator's responsibility for maintaining airworthiness. Without ICA, operators and maintenance personnel may not be able to meet applicable compliance responsibilities.

   The FAA published requirements for ICA in Title 14 of the Code of Federal Regulations (14 CFR) in 1980. Those requirements are found in 14 CFR § 21.50. ICA are intended to provide documentation of recommended methods, inspections, processes, and procedures to maintain the airworthiness of aircraft, aircraft engines, propellers, and installed articles. ICA furnished or made available by a Design Approval Holder (DAH) are intended to enhance the ability of operators and maintenance personnel to comply with applicable maintenance requirements.

   Section 21.50 requires the holders of certain design approvals, or changes to those design approvals, to furnish ICA upon delivery of the affected aircraft (or aircraft engine or propeller) on issuance of the aircraft's first standard airworthiness certificate. A DAH must also make those instructions available to any person required to comply with any of the terms of those instructions. The DAH is responsible for ensuring there is enough information in the ICA to maintain the continued airworthiness of the product.

Different expectations for ICA applicability, content, and availability among DAHs, modifiers, maintenance and repair providers, and operators show a lack of universal understanding and inconsistent structure associated with ICA and its overarching purpose. Additionally, the aviation system is changing rapidly, which is placing greater demands on its participants. The aviation system is more complex, more interconnected, incorporates new business models, and is more reliant on new technologies, both domestically and internationally. These changes have led the FAA to issue multiple policy clarifications and interpretations of the ICA requirements. Therefore, the FAA determined that it is necessary to conduct a comprehensive review of ICA objectives and requirements. This review may determine that current requirements for ICA applicability, content, and availability should be revised to meet the current and future demands of DAHs, aircraft operators, and aircraft maintenance providers.

3. **OBJECTIVES OF THE ARC.** The ICA ARC will provide recommendations to the FAA for ICA regulations, policy, and guidance. In doing so, the ARC will recommend a clear definition for ICA and recommend performance-based requirements for ICA applicability, content, and availability. It will propose how to distinguish between safety and customer convenience provisions in ICA and describe the safety intent of recommended ICA requirements. The ARC will consider the role of repair source approval and restrictions on the use of ICA to certain entities. The ARC's recommendations will consider the standards of other authorities and, when possible, further international harmonization.

4. **TASKS OF THE ARC.** The tasks of the ARC are:

A. Propose a clear baseline standard defining ICA, recommending performance-based requirements for applicability, content, and availability as necessary to address the following areas of controversy:

i. An apparent lack of consistent understanding across segments of industry about the intent for DAH-provided ICA and its contribution toward operators' compliance with operating rules. The focus should consider the flow down of operator's airworthiness responsibilities as follows:

a. Fulfilling expectations for ICA to provide a means for operators (under 14 CFR parts 121, 125, 135, and part 91 subpart K) to maintain the airworthiness of their aircraft. ICA can provide a basis to establish approved aircraft inspection programs (AAIP), maintenance programs, continuous airworthiness maintenance programs (CAMP), and (approved) maintenance programs.

b. Fulfilling expectations for ICA to provide a means for other owner/operators, including non-certificated operators, to inspect and maintain the airworthiness of their aircraft under part 91.

ii. The contribution ICA are expected to provide for supporting safety through the availability of information to maintain, verify, and restore airworthiness (conformity with type design and condition for safe operation). If other factors exist that affect ICA's contribution, they must be identified and addressed.

iii. Variations in the regulations, policy, and guidance that are not clearly associated

with the level of safety expected between different product types or categories. Variations in the requirements for articles produced under a Parts Manufacturer Approval (PMA) and design approval under 14 CFR 21.8 (d) must be addressed. ICAs are not linked to PMAs and design approvals under 14 CFR 21.8 (d) per our regulatory framework (14 CFR 21.11 states that Subpart B regs apply to type certificates, STCs, and amended TCs). If the ICA ARC proposes different requirements for different types or categories of aeronautical products or articles, then it must provide a rationale for why those differences exist. It is understood that the acceptable safety risk for various categories of aircraft, embodied in the airworthiness standards, is one source of differences.

B. Propose how to distinguish between safety-related provisions and service enhancements contained in ICA:

   i. Recommend criteria for which maintenance information is necessary for the safe operation of the product (presumably ICA) and which information is provided for customer convenience (presumably not ICA). This difference is particularly complicated when the same types of documents (e.g., aircraft maintenance manuals, component maintenance manuals, service bulletins) are used to communicate both types of information.

   ii. Propose how industry must distinguish between safety and commercial interests when developing acceptable ICA.

C. Propose definitions and guidelines for the terms “furnish,” “make available,” and “any other person” as used in 14 CFR § 21.50 that are based on the safety intent for ICA. Address the following areas of controversy:

   i. Which persons must have access to ICA for purposes of safety and regulatory compliance. The meaning of terms used to describe the availability of ICA are not universally understood. Additionally, questions have arisen regarding licensing and operators providing access to other persons (including third-party or subcontracted maintenance providers).

   ii. The requirement that maintenance providers must have the latest version of the ICA accessible even if earlier versions of the ICA remain valid. This requirement must be evaluated for its safety intent, considering that operators may have their own maintenance programs.

   iii. The validity of ICA furnished or made available by a DAH. ICA remains valid until the FAA determines it to be unsafe. Propose DAH responsibilities for ongoing enhancements of ICA and describe how enhancements must be distributed and put into effect.

   iv. The requirement that a DAH must furnish or make available the ICA it develops while a maintenance provider does not have a similar requirement to distribute in-house developed maintenance data as ICA. The ARC must address this inconsistent requirement for DAHs and maintenance providers.

   v. Cost as an obstacle to the availability of ICA. Specifically, there may be a point at which cost renders ICA unavailable from a practical standpoint. The ARC must propose how the FAA must address and regulate this issue appropriately.

D. Propose how to protect intellectual property while achieving safety objectives: Identify what intellectual property factors exist that may affect the content of ICA and its availability to product owners and maintenance providers. Describe how these factors can be addressed while preserving the purpose of ICA. Consider whether requirements for ICA availability must be based on maintenance programs or specialized providers, which may lead a maintenance provider to need only a subset of ICA, rather than complete ICA, to perform required maintenance.

E. Propose the role of repair source approval and criticality of parts and repairs:

   i. Evaluate whether the current ICA and maintenance regulations provide sufficient controls to maintain required safety characteristics for products and component parts (such as for "critical" and "influencing" parts) and appliances. Consider any differences in rigor regarding process oversight that may exist in the manufacturing environment versus the maintenance environment.

   ii. Determine whether situations exist that warrant different treatment when working on safety critical parts and features. In the interest of safety, assess if there is a legitimate need to engage the DAH based on the criticality of parts or features when developing or performing repairs or other maintenance. This is an area of consideration due to potential differences in requirements or policy between the FAA and the European Union Aviation Safety Agency (EASA), wherein EASA may include DAHs more closely in critical part repairs and repair source approval.

   iii. Evaluate whether the FAA must expand the scope of critical design configuration control limitations, referred to as "CDCCLs," currently used solely for transport airplane fuel tank safety, beyond fuel tanks to other products, such as rotorcraft, and to other areas of the aircraft, such as engines.

F. Propose harmonized requirements for adoption internationally: civil aviation authorities share a common objective of safety through continued airworthiness. Consider the standards of other authorities and the International Civil Aviation Organization and provide recommendations that may increase harmonization.

G. Consider other issues that arise from this effort that are deemed worthy of consideration by the ICA ARC FAA and Industry Co-Chairs.

H. Within 24 months from the first meeting after the effective date of the charter, submit a recommendation report. This recommendation report must document both majority and dissenting positions on the findings and the rationale for each position. Any disagreements must be documented, including the rationale for each position and the reasons for the disagreement. The FAA Co-Chair may task the ARC with subsequent recommendation reports with deadlines prior to the ARC's sunset date.

   i. The Industry Co-Chair(s) sends the recommendation report to the FAA Co-Chair and the Executive Director of the Office of Rulemaking.

   ii. The FAA Co-Chair determines when the recommendation report and records, pursuant to paragraph (8), will be made available for public release.

5. ARC PROCEDURES.

A. The ARC acts solely in an advisory capacity by advising and providing written recommendations to the FAA Co-Chair.

B. The ARC may propose related follow-on tasks outside the stated scope of the ARC to the FAA Co-Chair for consideration.

C. The ARC may reconvene following the submission of the recommendation report for the purposes of providing advice and assistance to the FAA, at the discretion of the FAA Co-Chair, provided the charter is still in effect.

6. ARC ORGANIZATION, MEMBERSHIP, AND ADMINISTRATION. The FAA will set up a committee of members representing a diverse set of aviation stakeholders, including design approval holders, operators, and maintenance providers. Members will be selected based on their familiarity and experience with ICA matters related to the tasks of the ARC. Membership will be balanced in viewpoints, interests, and knowledge of the committee's objectives and scope.

The provisions of the August 13, 2014, Office of Management and Budget (OMB) guidance, "Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions" (79 FR 47482), continue the ban on registered lobbyists participating on Agency Boards and Commissions if participating in their "individual capacity." The revised guidance allows registered lobbyists to participate on Agency Boards and Commissions in a "representative capacity" for the "express purpose of providing a committee with the views of a nongovernmental entity, a recognizable group of persons or nongovernmental entities (an industry, sector, labor unions, or environmental groups, etc.) or state or local government." For further information, refer to the OMB Guidance at 79 FR 47482.

Membership is limited to promote discussion. Attendance, active participation, and commitment by Members is essential for achieving the objectives and tasks. When necessary, the ARC may set up specialized and temporary working groups that include at least one ARC member and invited subject matter experts from industry and government.

The ARC will consist of members from the ICA stakeholder community. The FAA and other U.S. Government subject matter experts, as well as foreign civil aviation authorities and regional safety oversight organizations, may be requested to participate as observers and provide technical support to the ARC members.

A. The Sponsor, the Associate Administrator for Aviation Safety, will designate the FAA Co-Chair who will:

   i. Select and appoint industry Members and FAA participants,

   ii. Select the Industry Co-Chair(s) from the membership of the ARC,

   iii. Ensure FAA participation and support from all affected lines of business,

   iv. Notify Members of the time and place for each meeting, and

   v. Receive any status report and the recommendations report.

B. The Industry Co-Chair(s) will be appointed from the ICA stakeholder community. Once appointed, the Industry Co-Chair(s) will:
   i. Coordinate required ARC meetings to meet the objectives and timelines,
   ii. Establish and distribute meeting agendas in a timely manner,
   iii. Keep meeting notes, if deemed necessary,
   iv. Perform other responsibilities as required to ensure the objectives are met,
   v. Provide status reports, as requested, in writing to the FAA Co-Chair, and
   vi. Submit the recommendation report to the FAA Co-Chair and the Executive Director of the Office of Rulemaking.

7. **PUBLIC PARTICIPATION.** Meetings are not open to the public. Persons or organizations outside the ARC who wish to attend a meeting must secure approval in advance ofthe meeting from the Industry Co-Chair(s) and the FAA Co-Chair.

8. **AVAILABILITY OF RECORDS.** Subject to the applicable Freedom of Information Act exemptions pursuant to Title 5 U.S.C. § 552, the FAA will make records provided by the ARC to the FAA available for public inspection and copying. Available records will be located at the Office of Aircraft Certification, FAA Headquarters, 800 Independence Ave. SW, Washington, D.C. 20591. Fees will be charged for information furnished to the public according to the fee schedule published in 49 CFR part 7.

   This charter is available on the FAA Committee Database website at: http://www.faa.gov/regulations_policies/rulemaking/committees/documents/.

9. **DISTRIBUTION.** This charter is distributed to: the Office of the Associate Administrator for Aviation Safety, the Office of the Chief Counsel, the Office of Assistant Administrator for Policy, International Affairs, and Environment, and the Office of Rulemaking.

10. **EFFECTIVE DATE AND DURATION.** The ARC is effective upon issuance of this charter and will remain in existence for a maximum of 32 months unless the charter is sooner suspended, terminated, or extended by the Administrator.

Issued in Washington, D.C., on January 22, 2024.

Michael G. Whitaker
Administrator