

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of the Executive Committee of the Aviation Rulemaking Advisory Committee.

**DATES:** The meeting will be held on December 16, 2010, at 10 a.m.

**ADDRESSES:** The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 10th floor, MacCracken Room.

**FOR FURTHER INFORMATION CONTACT:** Renee Butner, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267- 5093; fax (202) 267-5075; e-mail [Renee.Butner@faa.gov](mailto:Renee.Butner@faa.gov).

**SUPPLEMENTARY INFORMATION:** Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of a meeting of the Executive Committee of the Aviation Rulemaking Advisory Committee taking place on December 16, 2010, at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591. The Agenda includes:

1. Updates on:
  - a. Commercial Air Tour Maintenance (CATM) Working Group
  - b. Process Improvement Working Group (PIWG)
  - c. Charter Renewal
  - d. "One Stop Shopping" Web Site
  - e. Committee Manual Revisions
2. Issue Area Status Reports from Assistant Chairs
3. Remarks from other EXCOM members

Attendance is open to the interested public but limited to the space available. The FAA will arrange teleconference service for individuals wishing to join in by teleconference if we receive notice by December 7. Arrangements to participate by teleconference can be made by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Callers outside the Washington metropolitan area are responsible for paying long-distance charges.

The public must arrange by December 7 to present oral statements at the meeting. The public may present written statements to the executive committee by providing 25 copies to the

Executive Director, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC on November 22, 2010.

**Dennis Pratte,**

*Acting Deputy Director, Office of Rulemaking.*

[FR Doc. 2010-29922 Filed 11-26-10; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Railroad Administration**

[Docket No. FRA-2000-7257; Notice No. 64]

**Railroad Safety Advisory Committee; Notice of Meeting**

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Announcement of Railroad Safety Advisory Committee (RSAC) Meeting.

**SUMMARY:** FRA announces the forty-third meeting of the RSAC, a Federal advisory committee that develops railroad safety regulations through a consensus process. The RSAC meeting topics will include opening remarks from the FRA Administrator, and status reports will be provided by the Passenger Hours of Service, Training Standards, Track Safety Standards, Passenger Safety, and Medical Standards Working Groups. Further discussions will also be held on the previously accepted RSAC Task 10-02 regarding the Development, Use, and Implementation of Rail Safety Technology in Dark Territory. This agenda is subject to change, including the possible addition of further proposed tasks under the Rail Safety Improvement Act of 2008.

**DATES:** The meeting of the RSAC is scheduled to commence at 9:30 a.m. on Tuesday, December 14, 2010, and will adjourn by 4:30 p.m.

**ADDRESSES:** The RSAC meeting will be held at the National Association of Home Builders National Housing Center, 1201 15th Street, NW., Washington, DC 20005. The meeting is open to the public on a first-come, first-served basis, and is accessible to individuals with disabilities. Sign and oral interpretation can be made available if requested 10 calendar days before the meeting.

**FOR FURTHER INFORMATION CONTACT:** Larry Woolverton, RSAC Administrative

Officer/Coordinator, FRA, 1200 New Jersey Avenue, SE., Mailstop 25, Washington, DC 20590, (202) 493-6212; or Robert Lauby, Deputy Associate Administrator for Regulatory and Legislative Operations, FRA, 1200 New Jersey Avenue, SE., Mailstop 25, Washington, DC 20590, (202) 493-6474.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), FRA is giving notice of a meeting of the RSAC. The RSAC was established to provide advice and recommendations to FRA on railroad safety matters. The RSAC is composed of 54 voting representatives from 31 member organizations, representing various rail industry perspectives. In addition, there are non-voting advisory representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico, the National Transportation Safety Board, and the Federal Transit Administration. The diversity of the Committee ensures the requisite range of views and expertise necessary to discharge its responsibilities. See the RSAC Web site for details on prior RSAC activities and pending tasks at: <http://rsac.fra.dot.gov/>. Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740), for additional information about the RSAC.

Issued in Washington, DC, on November 22, 2010.

**Robert C. Lauby,**

*Deputy Associate Administrator for Regulatory and Legislative Operations.*

[FR Doc. 2010-29870 Filed 11-26-10; 8:45 am]

**BILLING CODE 4910-06-P**

**DEPARTMENT OF TRANSPORTATION****Federal Railroad Administration**

[Docket Number FRA-2010-0027]

**Notice of Petition for Waiver of Compliance; Notice of Petition for Statutory Exemption**

In accordance with 49 U.S.C. 21102(b), Cargill Incorporated (CI), on behalf of its employees performing work governed by the hours of service law (HSL) (49 U.S.C. Chapter 211) at its Channelview, TX, facility, has petitioned the Federal Railroad Administration (FRA) for an exemption from certain provisions of the HSL. Specifically, CI requests an exemption from the requirements of 49 U.S.C. 21103(a)(1) and 21103(a)(4) as it applies to employees at its Channelview facility. In a separate petition, which CI requests that FRA consider in the event that FRA

**AVIATION RULEMAKING ADVISORY COMMITTEE  
EXECUTIVE COMMITTEE  
RECORD OF MEETING**

**MEETING DATE:** December 16, 2010

**MEETING TIME:** 10 a.m.

**LOCATION:** Federal Aviation Administration  
800 Independence Avenue SW.  
10th Floor  
MacCracken Room  
Washington, DC 20519

**PUBLIC ANNOUNCEMENT:** The Federal Aviation Administration (FAA) told the public of this Aviation Rulemaking Advisory Committee (ARAC) meeting in a Federal Register notice published November 29, 2010 (75 FR 73158).

**ATTENDEES: Executive Committee Members**

Norman Joseph	Airline Dispatchers Federation, <i>ARAC Chair</i>
Dan Elwell	Aerospace Industries Association, <i>ARAC Vice Chair</i>
Craig Bolt	Pratt & Whitney, <i>Transport Airplane and Engine Aeronautical Technical Subject Area, Assistant Chair</i>
Walter Desrosier	General Aviation Manufacturers Association (GAMA), <i>Aircraft Certification Procedures Aeronautical Technical Subject Area, Assistant Chair</i>
William Edmunds	Air Line Pilots Association, <i>Air Carrier Operations Aeronautical Technical Subject Area, Assistant Chair</i>
Julian Hall	European Aviation Safety Agency (EASA)

Pam Hamilton	Federal Aviation Administration, Office of Rulemaking, <i>Executive Director</i>
Dennis McGrann	NOISE (National Organization to Insure a Sound-controlled Environment), <i>Noise Certification Aeronautical Technical Subject Area, Assistant Chair</i>
Christopher Oswald	Airport Council International— North America, <i>Airport Certification Aeronautical Technical Subject Area</i>
George Paul	National Air Carrier Association, <i>Training and Qualifications Aeronautical Technical Subject Area, Alternate Assistant Chair</i>
Ric Peri	Aircraft Electronics Association, <i>General Aviation Certification and Operations Aeronautical Technical Subject Area, Assistant Chair</i>
David York	Helicopter Association International, <i>Rotorcraft Aeronautical Technical Subject Area, Assistant Chair</i>
Daniel Zuspan	Boeing Commercial Airplanes <i>Occupant Safety Aeronautical Technical Subject Area, Assistant Chair</i>

**Attendees**

Renee Butner	Federal Aviation Administration, <i>Office of Rulemaking, ARM-20</i>
Steve Carver	Aviation Management Associates, Inc.
Jennifer Ciaccio	Federal Aviation Administration, <i>Flight Standards Service, AFS-310</i>
Brenda Courtney	Federal Aviation Administration, <i>Office of Rulemaking, ARM-200</i>
Katie Haley	Federal Aviation Administration, <i>Office of Rulemaking, ARM-200</i>

Joseph Hawkins	Federal Aviation Administration, <i>PAI Consulting (Office of Rulemaking, ARM-20)</i>
Tom Howard	Chromalloy
Ida Klepper	Federal Aviation Administration, <i>Office of Rulemaking, ARM-100</i>
Koichi Kiuchi	Japan International Transport Institute (JITI)
Julie Lynch	Federal Aviation Administration, <i>Office of Rulemaking, ARM-20</i>
Sol Maroof	Federal Aviation Administration, <i>Aircraft Certification Service, AIR-110</i>
Dennis Pratte	Federal Aviation Administration, <i>Office of Rulemaking, Acting ARM-2</i>
Bob Robeson	Federal Aviation Administration, <i>Office of Aviation Policy and Plans, APO-200</i>
Frank Wiederman	Federal Aviation Administration, <i>Aircraft Maintenance Division, AFS-330</i>
Dan Woods	Turbomeca USA
Robin Meredith	PAI Consulting

**COMMITTEE ADMINISTRATION**

The ARAC Chair, Mr. Norman Joseph, called the meeting to order at 10:03 a.m. Mr. Joseph noted the meeting would adjourn at 12:30 p.m. The Executive Director, Ms. Pam Hamilton, read the required Federal Advisory Committee Act (FACA) statement.

Mr. Joseph invited all attendees to speak. He welcomed Mr. Julian Hall, EASA, to the ARAC and invited his comments and opinions. Mr. Joseph also introduced Ms. Renee Butner, who replaced Ms. Gerri Robinson in providing the ARAC with administrative support. Meeting attendees introduced themselves and stated their affiliations.

## **CERTIFICATION OF MINUTES**

Mr. Joseph asked for any corrections or comments to the draft minutes of the June 16, 2010, meeting. Noting no objections, Mr. Joseph certified the minutes.

## **UPDATE, COMMERCIAL AIR TOUR MAINTENANCE (CATM) WORKING GROUP**

Mr. Dan Woods presented the Recommendation Report of the CATM Working Group. Mr. Woods noted this was his first experience with the ARAC, and thanked Ms. Katie Haley and Mr. Frank Wiederman for their help.

Mr. Woods stated the CATM Working Group first met about one year ago to discuss its tasking, which followed a 2007 air tour accident in Hawaii. He explained an incorrectly installed servo actuator caused the accident. He noted the helicopter had flown for 130 hours after installation of the servo, and the accident resulted in fatalities. After its investigation of the accident, the National Transportation Safety Board (NTSB) recommended rulemaking to require air tour operators to (1) establish a continuous analysis and surveillance system and (2) provide formal, model-specific helicopter maintenance training. He stated the FAA tasked the ARAC to address the NTSB recommendations and an FAA recommendation to require air tour operators to have an inspection program.

Mr. Woods described the working group's research and review process, including consideration of the accident circumstances and FAA regulations. He explained one of the working group's biggest challenges was defining "air tour operator." He noted helicopters flown under part 91 of Title 14, Code of Federal Regulations (14 CFR) or 14 CFR part 135 are often multiple-use aircraft. He stated, for example, an operator with a part 135 certificate may conduct air taxi operations one day and air tours the following day. Mr. Woods stated the working group received little, or conflicting, data in response to its requests for air tour industry data from the FAA and the NTSB. He noted most data is voluntarily reported and air tour operators are protective of their data for competitive reasons, especially in Alaska, Las Vegas, Nevada, and Hawaii, where there is a high concentration of such operators. He stated part 135 operators are not required to report mission changes, and the working group could not even find out which part 135 operators conducted air tours.

Mr. Woods stated the working group closely examined the Commercial Aviation Safety Team (CAST) system of formal, model-specific training and conducted industry benchmarking: the working group determined model-specific training is a standard in the air tour industry for large operators with a primary mission. He noted the working group also researched what model-specific training was available for aircraft used in air tours. Mr. Woods stated some air tour operators fly older aircraft only a few times a year, for which model-specific training is not available.

Mr. Woods stated the working group decided it could not provide rulemaking recommendations without correct data to quantify what is happening in the industry. In addition, Mr. Woods noted the working group found that, if current rules had been followed, the accident could have been prevented. The working group decided to recommend the FAA issue two Advisory Circulars (AC) containing (1) an air tour operator's best practices manual and (2) a voluntary air tour industry accreditation program modeled after the Helicopter Association International program.

Mr. Joseph asked about the working group's consideration of human factors. Mr. Woods responded the NTSB found the mechanic involved in the Hawaii accident did not have model-specific training. However, Mr. Woods noted the NTSB investigation did not address the following facts: (1) the applicable manual required a second inspection, which was not performed; (2) the mechanic had worked overtime and was tired; and (3) the mechanic performed the work without supervision or oversight. Mr. Woods stated a human factors expert told the working group there is an 80 percent chance that human factors were a primary contributor to the accident. He added if the NTSB had recommended rulemaking to address duty time limitations for mechanics, the working group's recommendation would be the same because of the lack of good data. He noted ACs should address human factors awareness and training.

Mr. Hall asked if the working group reviewed European human factors standards. Mr. Woods responded they did not. Mr. Hall noted European maintenance regulations address (1) human factors, which is a special condition in the bilateral agreement with the United States for repair stations; and (2) requirements for helicopter type-specific training. Mr. Woods acknowledged the differences between the EASA and U.S. regulations, noting U.S. maintenance regulations do not require helicopter type-specific training or duty time limitations. In response to a question from Mr. Joseph, Mr. Hall explained the European regulations require maintenance personnel to have a basic license and to complete a type rating course for every type on that license. Mr. Ric Peri noted the FAA regulation requires task training. He stressed that although the FAA requirements do not distinguish between different models of helicopters, in this particular case, the regulations required the mechanic to be trained on the servos regardless of what platform carries those servos.

On the lack of available data, Mr. Christopher Oswald asked about the potential for mandatory reporting requirements. Mr. Wiederman stated there is no current requirement or proposed rulemaking on this issue.

Mr. Daniel Zuspan asked Mr. Woods to comment on how the working group decided the current rules are sufficient in light of the NTSB's recommendations. Mr. Woods stated the working group did not believe a type-specific training requirement would have prevented the accident. Mr. Woods added the working group did not determine the accident involved a training issue, but rather involved a failure to follow the current rules. In addition, Mr. Woods noted the working group did not find any evidence of sanctions against the operator or the mechanic who broke the rules or that the FAA was proactively enforcing the current rules for the operator in question.

Mr. Zuspan raised the issue of FAA enforcement. Mr. Woods noted one of the working group's recommendations addresses how to help the FAA do its job. He noted one of the biggest issues for the FAA is that air tour operators move around geographically. As an example, Mr. Woods noted an air tour operator may be based in Louisiana, but for 4 or 5 months of the year conduct its operations in Alaska in response to tourist demands. In that case, the operator's local Louisiana Flight Standard District Office (FSDO) cannot inspect the operator while it conducts air tours in Alaska. He stressed the FAA cannot move around as fast as many operators. Mr. Woods explained that for the particular case at hand, the primary FAA maintenance inspector was based in Las Vegas, Nevada, but the accident occurred in Hawaii.

Mr. Zuspan asked if the working group considered extending the Safety Management System (SMS) for part 121 to cover part 91 and 135 and whether the SMS regulations would align with the NTSB's recommendations. Mr. Woods stated the working group had heated discussions and felt SMS regulations would benefit all part 135 operators, but decided it was outside the scope of the working group's tasking. Mr. Woods stated the working group was tasked to look at the air tour industry with regard to part 91 and 135 operators. He noted part 91 operators have no manual or certificate, and may perform air tour operations within a 25 nautical mile (nm) radius of their home base with a simple letter of authorization (LOA) from the FAA. He further stated the NTSB recommended imposing SMS elements on part 91 and 135 operators, but only for air tour operations; therefore, air taxi operations would not have the same level of safety as air tour operations. Mr. Woods added expansion of SMS regulations to part 135 operations, but not part 91 operations, was beyond the working group's task.

Mr. Walter Desrosier asked whether the part 91 LOAs impose any more responsibilities to perform air tours. Mr. Woods stated the LOAs only impose drug and alcohol restrictions. He added the working group could not identify a standard for who authorizes those LOAs and surveillance or inspections required to receive an LOA, and it appeared much was left to the discretion of the local FSDO. Mr. Tom Howard noted the issue involves noncompliance with existing rules and not whether there was an SMS or training requirement. Mr. George Paul asked, for the Hawaii accident, if the FAA reviewed the operator manual to discover if there were other violations. Mr. Woods stated the FAA did not share that information with the working group but the group determined the FAA did not issue any violations for the Hawaii accident.

Mr. Peri noted there are existing rules based on an honor system and the Hawaii accident is an example of cheating in that system. He stated 14 CFR part 65 requires personnel to have been trained on the task and asked whether recordkeeping would have helped in that situation. He also asked whether there was evidence of training. Mr. Peri added the biggest difference between the European and U.S. system is not whether there is task or type training, but recordkeeping. Mr. Woods added recordkeeping might have helped if the records were regulatory. He stated the operator's operations manual included a requirement that mechanics be trained on specific models, and the operator violated its own manual with regard to the mechanic. In addition, he noted the Required Inspection Item (RII) inspection was not performed as required in the manual. The manual said two things should happen (model-specific training and RII inspection) and both were ignored: he questioned whether other records would have prevented the accident.

Referring to EASA's Operational Suitability Data rulemaking task, Mr. Peri asked if the original equipment manufacturers could define the RII. He added 14 CFR part 43 should be amended to address the RII. Mr. Desrosier noted that once a rule is in place, the manufacturers will support the rule and the Instructions for Continuing Airworthiness documentation will reflect this item.

Mr. Dan Elwell agreed with the working group's conclusions. He noted the problem with multiple definitions of air tour operators, and stated this is an area where one level of safety does not exist. Mr. Elwell stated the working group's recommendations are suitable in response to the tasking statement. He asked whether the ARAC should examine the definition, but noted narrowing it down to one definition would likely put many air tour operators out of business. He worried the public is unaware of the differences among air tour operations. Mr. Elwell encouraged the ARAC to consider this issue at its next meeting. Mr. Woods noted that concern is echoed by the frustrations of the CATM Working Group in addressing the tasking.

Mr. Desrosier asked whether the working group considered requirements other than those recommended by the NTSB. Mr. Woods stated the working group questioned whether the FAA's and NTSB's intentions are to do away with part 91 air tour operators. He noted there is a gap in current regulations that allows part 91 operators to fly air tours within 25 nm of their home base. He added if the FAA imposed stricter requirements on the part 91 operators than those currently applied to the part 135 operators, the small operators would not be able to perform air tours. He did not believe the Committee was ready to make that decision. Mr. Desrosier suggested the working group could consider what elements to add to the part 91 LOA and guidance for inspectors for issuance of an LOA.

On the data limitations, Mr. Bob Robeson asked about the practicality of imposing reporting requirements that would not be too burdensome. Mr. Woods stated part 135 operators currently track pilot times and flight hours, and imposing more requirements on those operators would not be difficult. He believed the issue with a reporting requirement would be concerns about data sharing with competitors and, if the data were not made public, part 135 operators would likely not oppose such a requirement. However, Mr. Woods noted imposing a reporting requirement on part 91 operators would be difficult because little is currently required. He added a part 91 reporting requirement would come back to what the LOA allows and requires them to do.

Ms. Hamilton asked whether AFS-300 is satisfied with the CATM Working Group report and whether it has the information needed to make proper policy decisions. Mr. Wiederman stated the working group did a good job addressing the tasking statement. Ms. Hamilton asked whether AFS-300 would be seeking more work from the CATM Working Group. Mr. Wiederman asked for help drafting the recommended ACs. Ms. Hamilton suggested that work may need a new tasking, and the FAA will consider this issue.

Mr. Peri raised concerns about some air tour operations that resembled "barnstorming days." He asked whether the working group could make any recommendations for better oversight of such operations. Mr. Wiederman responded the FAA recently established standards for surveillance of part 91 air tour operators. Mr. Peri noted he was more concerned about part 135 operations based at one geographical location under an operating certificate but working as nomads throughout the country. Mr. Elwell asked whether there is a requirement for FSDO-to-FSDO transfers for seasonal operations. Mr. Wiederman responded there was not, but he would need to



review the LOAs to find out whether they allow part 91 operators to move around. Mr. Dennis Pratte noted LOAs specify a geographical area with other areas added as needed, and regulation of these operations has increased under 14 CFR part 136. In addition, Mr. Pratte stated under part 136, operators performing 5 or more operations a month and Hawaiian tour operators, including part 91 operators, are regulated to a level comparable to or better than the regulation provided under part 135. Mr. Wiederman noted the accidents seem to be occurring under part 135. Ms. Hamilton added AFS is reestablishing its geographical inspector program, which should address Mr. Peri's concerns.

In summary, Mr. Joseph stated there is consensus that the CATM Working Group satisfactorily addressed the original tasking, and he asked whether the Executive Committee accepts the report. Mr. Joseph also asked for any objections to including comments from the meeting in the transmittal letter to the FAA. No one objected.

On the recommended voluntary accreditation program, Mr. Wiederman noted the FAA envisions the program to be similar to the Voluntary Industry Distributor Accreditation Program outlined in AC 00-56. He explained the AC would contain a set of standards, and an operator that meets these standards may advertise it does so.

Mr. Joseph stated he will email a draft of the transmittal letter to the Executive Committee members for comment. He asked the members to provide him with current email addresses.

## **CONTINUOUS IMPROVEMENT**

### ***1. Process Improvement Working Group (PIWG)***

Mr. Zuspan and Mr. Craig Bolt, co-chairs of the PIWG, provided the Executive Committee with a copy of the PIWG Recommendation Report, a submittal letter for the report, and a copy of their PowerPoint presentation. In addition, they summarized the presentation for the Executive Committee members and other attendees.

#### Slide 2

Mr. Zuspan referred to the list of PIWG members. He thanked the FAA and the Executive Committee for its support of the PIWG efforts.

#### Slide 3

Mr. Zuspan stated discussions began 1 ½ years ago on examining the ARAC processes and recommending improvements. He added notice of this task was published in the Federal Register in the Fall of 2009. He explained the PIWG Recommendation Report is consistent with the general direction of the recommendations outlined at the June 2010 Executive Committee meeting, except the final report includes seven steps in the ARAC process (versus five steps outlined at the June 2010 meeting).

Mr. Zuspan turned the presentation over to Mr. Bolt.

#### Slide 4

Mr. Bolt identified the PIWG's recommended seven steps for the ARAC process as follows:

1. The FAA tasks the ARAC.
2. The ARAC teams are formed and team members' effectiveness is evaluated.
3. The ARAC addresses tasks and submits recommendations.
4. The FAA considers and addresses the ARAC recommendations.
5. The ARAC responds to the FAA request for more information (optional).
6. The FAA addresses the ARAC recommendations in a notice of proposed rulemaking (NPRM) or advisory material.
7. The FAA seeks the ARAC's support to address comments to the NPRM (optional).

Mr. Bolt noted the final report contains recommendations related to each step and the working group's thought process behind its recommendations.

#### Slide 5

Mr. Bolt explained many of the recommendations associated with step 1 address the evolution of the ARAC tasking statement. He noted many are obvious, such as providing clear objectives and background information, including an explanation of why the FAA is tasking the ARAC and whether NTSB recommendations are involved. He stated the working group found, based on the survey and personal experience, it helps a working group focus if the tasking statement has a list of questions to answer. He further stated the tasking statement should identify a specific time limit, which will vary depending on the complexity of the task; state whether harmonization is an objective; and state whether any more ARAC support is requested.

Mr. Elwell referred to page 39 of the final report and asked for clarification on question 2, which asks whether it is effective for a tasking statement to request a draft rulemaking document. Mr. Bolt stated most commenters wanted only the rule language provided, rather than the entire rulemaking document, which includes sections like the preamble. Mr. Zuspan added the first two questions on page 39 reflect two different scenarios—whether detailed questions are effective or if it is effective to ask for a rulemaking document—and question 3 asked the commenters which scenario they preferred. The preference was for detailed questions. Mr. Elwell stated the report does not reflect this. Mr. Desrosier noted there were many comments submitted in addition to answers to the survey questions. He stated many comments noted the time and effort spent negotiating specific rule language. He added there is compromise involved and, once a recommendation is made to the FAA, the FAA does not have to stand by the “give and take.” Mr. Desrosier stated this is viewed as a weakness in the process.

## Slide 6

On step 2, Mr. Bolt discussed the importance of a working group chair, including that person's qualifications concerning subject matter and leadership ability. He noted the PIWG recommends working groups be a manageable size and encourages the use of task groups if appropriate. In addition, the PIWG recommends the following:

- Working groups be balanced and reflect all aspects of the industry;
- If harmonization is an objective, those groups should be included in the working group; and
- The FAA should aid the working group in all areas, such as economist and legal support.

## Slide 7

Mr. Bolt reviewed the PIWG's recommendations associated with step 3 as follows:

- Working group members and FAA representatives should be "face to face" at the first meeting. He recognized after the first meeting working groups can work effectively through web sites and teleconferences, but the first meeting should be in person. At the first meeting, the FAA's Office of Rulemaking (ARM) should provide a briefing on the ARAC process so all working group members understand the ARAC provides recommendations and is not negotiated rulemaking. The FAA technical representative should be present to provide background on the tasking. The PIWG also recommends the Office of the Chief Counsel (AGC) and the Office of Aviation Policy and Plans (APO) take part in the first meeting, in person or by teleconference, to explain their roles.
- Working groups need a work plan with a timeline that is consistent with the tasking statement.
- Each working group member must commit to the timeline, to keeping his or her management and constituents informed so issues do not arise later when the NPRM is published for comment, and ensure the recommendations reflect the organization they represent, not just their own views.
- Eliminate the requirement for a concept paper that is currently in the Office of Rulemaking Committee Manual.

## Slide 8

(Continuation of recommendations associated with step 3.)

- At following meetings, the working group must uphold the schedule and keep the FAA, including AGC and APO, involved according to the work plan rather than waiting until the end of the process.

- Consensus is desirable but not required. Mr. Bolt noted the survey comments indicated too much emphasis is placed on gaining consensus. The PIWG recommended that if consensus is not practical, the working group should provide the FAA with a detailed accounting of all opinions.
- The Committee Manual should include an enhanced discussion of the key elements of a working group report.

#### Slides 9 and 10

On steps 4 and 5, Mr. Bolt stated the PIWG proposed a process to address situations where the FAA rulemaking team wants more information or clarification on a recommendation from the working group. Under this process, he noted the FAA would develop a letter to the ARAC identifying the issues or information needed and, if identified as an option in the original tasking statement, the FAA would send the letter to the working group, which would have 45 days to respond. Mr. Bolt explained if the original tasking statement did not include this option, the FAA would publish the new task in the Federal Register. He noted step 5 would be optional.

#### Slide 11

On step 6, the PIWG recommended the FAA address the disposition of the ARAC recommendations in NPRM preamble language. Mr. Bolt noted the FAA has done this in recent NPRMs but historically it had been a problem.

#### Slide 12

On step 7, Mr. Bolt noted the PIWG's recommendation that the FAA have the option to seek working group support with complex tasks that may involve many comments. This would need to be included in the tasking statement.

#### Slide 13

Mr. Bolt stated the submission of the final report ends the PIWG's work, and assuming the Executive Committee accepts the report, the PIWG will disband. He noted the working group would be available if needed.

With no more comments from the Executive Committee, Mr. Joseph thanked Dan Zuspan and Craig Bolt as co-Chairpersons, the working group for its work, and Ms. Hamilton and Ms. Haley for their support of the project. He noted the Executive Committee members had been provided copies of the final report by email and were asked for any comments.

Mr. Paul asked about sensitivity concerns within the FAA associated with sharing data. Ms. Hamilton noted the ARAC process is public and stated she has not heard of any concerns associated with release of ARAC recommendations.

Mr. Zuspan added the PIWG Recommendation Report does not address how to carry out its recommendations and expects ARM to make this determination. Ms. Hamilton stated that

assuming the Executive Committee accepts the PIWG recommendations and forwards them to the FAA, ARM will review the report page by page and decide how best to carry out the recommendations.

Mr. Joseph asked for further comments or objections. Without objections or comments, the Executive Committee accepted the report. Mr. Joseph stated he would prepare the letter to send the PIWG Recommendation Report to the FAA.

## 2. *“One stop shopping” web site*

Ms. Hamilton noted it is difficult for members of the aviation industry and the general public to find advisory committee recommendations to the FAA and to understand the distinctions between the ARAC and Aviation Rulemaking Committees (ARC). She explained ARM is working with the FAA Communications Office in updating the FAA’s web site to provide this information and the web site is expected to be operational by December 31, 2010.

Ms. Hamilton stated the next task will be to collect information for the web site. She noted the FAA has a good inventory of the ARAC recommendations from the last 21 to 22 years in both electronic and paper format. Ms. Hamilton expects the FAA to post a comprehensive set of the ARAC recommendations within the next 90 days. The information posted will include tasking statements, ARAC recommendations, ARAC transmittal letters, and FAA responses.

Ms. Hamilton stated the ARCs present a challenge. She noted ARM has not had direct responsibility for ARCs, and therefore does not have copies of most ARC recommendations. Ms. Hamilton explained the FAA Rulemaking Steering Committee has designated ARM as the central repository of ARC information. She noted ARCs are statutorily exempt from FACA, and the FAA is sensitive to maintaining the distinctions between ARCs and the ARAC. She stated ARM will not interfere with the flexibility associated with ARCs but will ensure ARC documents are preserved. Ms. Hamilton explained ARM is attempting to gather ARC documentation from FAA program offices but cannot estimate how much ARM will obtain. She noted that in the future, ARM will have processes in place to collect the information and make it available on the web site.

Mr. Joseph asked whether there has been discussion about posting information for the public about the creation of an ARC and a point of contact. Ms. Hamilton stated this has not been discussed. She noted that although ARC formations and tasking statements are not published in the Federal Register, ARC charters can be made available. With regard to making ARC recommendations available to the public, Ms. Hamilton stated not all ARC recommendations are released to the public when submitted to the FAA. As an example, she noted the Flight and Duty Time Limitations and Rest Requirements ARC asked that its recommendations not be released until the NPRM was published. Ms. Hamilton stated the FAA is still considering what the standard process should be for sharing ARC information. However, Ms. Hamilton stated once ARC information can be shared it will be posted in a central location.

Mr. David York asked whether information like the CATM Working Group final report is available to the public. Ms. Hamilton stated it is public information because the report was presented at a public meeting. Mr. York asked the Executive Committee's preference on the issue. Mr. Elwell noted anything presented at a FACA meeting is public. Mr. Derosier added the meeting minutes will reference the report and will be posted on the web site, and once the report is formally transmitted to the FAA it will be posted.

Mr. Oswald asked if it is the FAA line of business that decides whether to pursue rulemaking. Ms. Hamilton responded affirmatively and explained that if recommendations are broader than the areas regulated by the sponsoring program office, the applicable office would make the decision on whether to accept a recommendation. She noted ARM supports all lines of business within the agency.

Mr. York asked whether the letter of transmittal for the CATM Working Group report will identify items discussed for possible future FAA action but not approved by the Executive Committee. Mr. Joseph stated, subject to the Executive Committee's approval, he will present in the transmittal letter the other issues discussed by the committee members. Ms. Hamilton added if the FAA requires more help, it will return to the ARAC with a new tasking.

### ***3. FAA update on Committee Manual Revision***

Ms. Hamilton stated current revisions to the Committee Manual include expanded guidance for the ARAC and, in particular, ARCs. She noted a need for standardized guidelines to increase ARC process efficiency. She added there will be substantial revisions to the manual in 2011.

With regard to the ARAC, Ms. Hamilton stated its workload is very different than it was 20 to 22 years ago when the ARAC organizational structure was established. She noted although FACA has not changed, the guidance and expectations of the Executive Branch about how advisory committees function has evolved. Based on her experience with advisory committees, Ms. Hamilton believes some of the current ARAC structures might not be considered best practices by the General Services Administration or Department of Transportation (DOT) FACA attorneys. She noted the FAA will seek input before making any decisions on restructuring the ARAC. Ms. Hamilton turned the meeting over to Mr. Joseph Hawkins for a PowerPoint presentation on recommended changes to ARAC.

#### Slide 2

Mr. Hawkins presented an outline of his presentation, the Aviation Rulemaking Advisory Committee (ARAC) - the Third Decade Recommendations for Change.

#### Slide 3

Referring to the June 2010 Executive Committee meeting, Mr. Hawkins noted several short-term recommendations were put forward, re-chartering the ARAC being the most critical, and this was accomplished.

#### Slide 4

Mr. Hawkins reviewed the Executive Committee's disposition at its June 2010 meeting of the recommendations presented:

- The recommendation to set up a process for appointing alternate members was tabled for further review.
- The Executive Committee decided it would hold a minimum of two public meetings a year with the option for more meetings if warranted, and the full ARAC would meet as needed to address issues raised by the Executive Committee.
- EASA would continue on the Executive Committee as a non-voting member, and Transport Canada was added as an Executive Committee non-voting member. The Executive Committee also determined other civil aviation authorities would be considered for membership upon request.

#### Slide 5

Mr. Hawkins reviewed the current state of the current ARAC, which includes 55 members. He noted the number of Aeronautical Technical Subject Areas has decreased from 12 to 2, and an overall decrease in the ARAC activity has resulted in some member inactivity. Mr. Hawkins stated it has been suggested that the current workload may warrant changes in the ARAC structure.

#### Slide 6

Mr. Hawkins presented a diagram of the ARAC organizational structure, and noted only two Aeronautical Technical Subject Areas remain. In response to a question, Ms. Hamilton explained the Executive Committee formally inactivated the other areas. Mr. Desrosier asked whether the inactivated areas were available for future tasking by the FAA. Ms. Hamilton stated those areas could be reconstituted, but more typically the Executive Committee has formed a new working group that reports directly to the Executive Committee.

#### Slide 7

Mr. Hawkins noted the ARAC's structure has served the organization well over the last 2 decades, but the current structure may not be sufficiently efficient or enable the Committee to work optimally. He stated the FAA believes there are opportunities to modify the ARAC's structure to enhance its effectiveness.

## Slide 8

Mr. Hawkins reviewed the following five options for going forward:

1. Maintain the status quo.
2. Reconstitute the Executive Committee and expand its membership. He noted membership would likely increase beyond the current 12 members but would never increase to the 55 members the ARAC currently has.
3. Transition the two remaining Aeronautical Technical Subject Areas to permanent working groups with recommendations going directly to the reconstituted ARAC/Executive Committee.
4. Eliminate the ARAC and only use ARCs.
5. Any options the Executive Committee may recommend.

Mr. Hawkins asked for comments from meeting attendees.

On the third option, Mr. Desrosier questioned the efficiency of reporting recommendations directly to the Executive Committee and noted the technical content of some working group activities could overwhelm a broad Executive Committee. Ms. Hamilton stated the issue being addressed is not process efficiency. She explained that if FACA attorneys and GSA experts examined the current ARAC structure they might be critical of the Transport Airplane and Engine Aeronautical Technical Subject Area because it is not established as a separate advisory committee. She further noted the FACA requirement for balanced representation, which is provided by the broader Committee. Mr. Desrosier asked whether the process for taskings and consideration of recommendations by the right technical people would remain the same. Ms. Hamilton answered affirmatively. It was noted there would be an opportunity for the broader stakeholders and industry to view the recommendation before it is accepted. Mr. Zuspan stated issue groups are still identified in the new Charter. Ms. Hamilton noted the Committee Manual and ARAC charter were revised when it was decided several years ago to make issue groups inactive.

Mr. Zuspan asked about the responsibility of an Executive Committee member as assistant chairman of a subject area with regard to taskings. Mr. Desrosier noted under some of the proposed restructuring options future tasks might be directly assigned to a working group rather than to an Aeronautical Technical Subject Area. Mr. Joseph also noted the intent is to maintain a variety of representation and expertise on the Executive Committee.

On the fourth option, Mr. Peri noted he did not favor two systems. He asked, from a best practices perspective, whether the ARAC or ARCs come closer to the government's interest in ensuring public involvement. Mr. Peri also suggested considering EASA's approach to rulemaking activities, which involves only one system with one point of contact.



Ms. Hamilton stated eliminating the ARAC has been discussed in the past but she does not believe the FAA would consider combining the ARAC and ARCs. Ms. Hamilton explained the FAA is interested in maintaining the statutory flexibility associated with ARCs and not having all work go through a FACA organization. However, she noted the importance of the transparency of the ARAC process. Ms. Hamilton added the FAA recognizes it must better define when it is more appropriate for a program office to use an ARC rather than the ARAC.

Mr. Hawkins asked Mr. Hall if EASA has a provision similar to FACA. Mr. Hall stated EASA has a legal obligation to provide an open and transparent system. He explained that each stage of the EASA regulatory process is open to interested stakeholders, including those from the United States and Canada. He stated there is a web site for public comments and all comments are addressed. Mr. Desrosier noted the EASA Safety Standards Consultative Committee (SSCC) is similar to the ARAC and includes broad stakeholder representation, publication of its rulemaking program, an opportunity for public comment, and the publication of a comment disposition document that is open for further comment. Mr. Hall further noted EASA has a second consultative body, the Advisory Group of National Authorities (AGNA), which includes the representatives of EASA's 27 member states.

Ms. Hamilton asked Executive Committee members to forward comments on these issues to ARM through Ms. Butner by February 17, 2011. She stated ARM will send an email to the Executive Committee members with a notional ARAC organizational chart. Ms. Hamilton stated the FAA intends to present recommendations at the next Executive Committee meeting. She noted the next meeting will be scheduled for mid April, possibly April 13, 2011, and ARM will send meeting information to members. Mr. Desrosier asked whether ARM would welcome comments on the ARAC taskings as well as on the ARAC organizational structure. Ms. Hamilton responded affirmatively.

Mr. Peri asked whether there could be a rulemaking executive committee for both the ARAC and ARCs in a manner similar to the EASA SSCC without violating FACA. Mr. Peri stated he would include this question in his comments to ARM. Mr. Joseph noted members should submit their comments individually to ARM. He asked Ms. Hamilton to send slides 8 and 9 and a description of the issues to the ARAC members.

## **STATUS UPDATE ON CHARTER RENEWAL**

Ms. Hamilton stated the ARAC charter was renewed. She noted if structural changes are made to the ARAC, the charter will need to be revised out of cycle.

## **STATUS REPORTS FROM ASSISTANT CHAIRS**

### ***Air Carrier Operations***

Mr. William Edmunds explained the All Weather Operations Working Group is a harmonization group, and it coordinates its work closely with foreign authorities, such as EASA. He noted the April 2010 meeting in Paris, France, was cancelled because of volcanic ash, but the group met in Brussels in November 2010, where it discussed synthetic vision use in approach and landing. Mr. Edmunds explained there is concern about the financial ability of the EASA representative to attend the April 2011 meeting in the United States. Mr. Hall stated he had a possible solution and would speak to Mr. Edmunds after the meeting.

### ***Transport Airplane and Engine (TAE)***

Mr. Bolt stated the TAE Aeronautical Technical Subject Area group met in October 2010. He added the group received two taskings in the last 6 months: (1) low-speed alerting, which has a 9-month timeline and was assigned to the avionics working group; and (2) a working group was formed to address materials flammability and that working group has had its first couple of meetings. Mr. Bolt noted the speed alert tasking is related to CAST's work but is not a safety enhancement. He added the TAE group will hold a teleconference in January or February 2011 and meet in April 2011.

## **OFF AGENDA REMARKS FROM EXECUTIVE COMMITTEE MEMBERS**

Mr. Joseph reminded Executive Committee members to complete the International Organization for Standardization feedback form in their meeting packages.

Ms. Hamilton noted the Future of Aviation Advisory Committee (FAAC) recently forwarded 23 recommendations to the Secretary of the DOT. She explained one of the FAAC recommendations is to develop a process for FAA prioritization of rulemakings that have the highest safety implications. She stated the FAA may seek the ARAC's support in developing this process and welcomes advice from the Executive Committee. She noted the FAA will develop a plan over the next 6 weeks for addressing the recommendations.

Mr. Joseph adjourned the meeting at 12:22 p.m.

## **ADJOURNMENT**

Approved by:                   signed                    
Norman Joseph, Chair

Dated:           3/10/2011          

Ratified on:   3/30/2011