

[4910-13]

Federal Aviation Administration

DEPARTMENT OF TRANSPORTATION

Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), 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 on June 10, 2009, at 10:00 am

ADDRESS: 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: Gerri Robinson, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-9678; fax (202) 267-5075; e-mail Gerri.Robinson@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 June 10, 2008, at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. The agenda includes:

1. Leadership Transition, Executive Committee Officers
2. Rescue and Firefighting Requirements Working Group Report
3. New ARAC task – Maintenance Requirements for Commercial Air Tour Operations
4. Issue Area Status Reports from Assistant Chairs
5. Continuous Improvement (Committee Process)

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

MEETING DATE: June 10, 2009

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 May 8, 2009 (74 FR 21734).

ATTENDEES: Executive Committee Members

Craig Bolt	Pratt & Whitney, <i>ARAC Chair</i>
Norman Joseph	Airline Dispatchers Federation, <i>ARAC Vice Chair</i>
Walter Desrosier	General Aviation Manufacturers Association (GAMA), <i>Aircraft Certification Aeronautical Technical Subject Area, Assistant Chair</i>
Rosemary Dillard	National Air Disaster Alliance Foundation (NADA/F) <i>Public Interest Representative</i>
William Edmunds	Air Line Pilots Association, <i>Air Carrier Operations Aeronautical Technical Subject Area, Assistant Chair</i>
Pam Hamilton	Federal Aviation Administration, Office of Rulemaking, <i>Executive Director</i>
Paul Hudson	Aviation Consumer Action Project, <i>Public Interest Representative</i>

Richard Marchi	Airport Council International— North America, <i>Airport Certification Aeronautical Technical Subject Area, Assistant Chair</i>
Dennis McGrann	NOISE (National Organization to Insure a Sound-controlled Environment), <i>Noise Certification Aeronautical Technical Subject Area, Assistant Chair</i>
Ric Peri	Aircraft Electronics Association, <i>General Aviation Certification and Operations Aeronautical Technical Subject Area, Assistant Chair</i>
Ty Prettyman	National Air Carrier Association, <i>Training and Qualifications 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

Doug Anderson	Federal Aviation Administration, <i>Central Region Airports Division, ACE-611</i>
Tim Anderson	Soaring Society of America
Ali Bahrami	Federal Aviation Administration, <i>Transport Airplane Directorate, ANM-100</i>
Dorenda Baker	Federal Aviation Administration, <i>Aircraft Certification Service, AIR-1</i>
Edmond Boullay	U.S. Center for Research and Education on Science and Technology (U.S.-CREST)
Ranee Carr	Aerospace Industries Association

Brenda Courtney	Federal Aviation Administration, <i>Office of Rulemaking, ARM-200</i>
Gail Dunham	National Air Disaster Alliance Foundation (NADA/F)
Rob Hackman	Aircraft Owners and Pilots Association
Katie Haley	Federal Aviation Administration, <i>Office of Rulemaking, ARM-200</i>
Gregory J. Kilgore	Federal Aviation Administration, <i>Small Airplane Standards Office, ACE-110</i>
Ida Klepper	Federal Aviation Administration, <i>Office of Rulemaking, ARM-100</i>
Charles Leocha	Tripso.com
Don McCune	National Air Disaster Alliance Foundation (NADA/F)
Joyce Mulligan	Federal Aviation Administration, <i>Aircraft Certification Service</i>
Gerri Robinson	Federal Aviation Administration, <i>Office of Rulemaking, ARM-20</i>
Melissa Sabatine	American Association of Airport Executives
Nan Shellabarger	Federal Aviation Administration, <i>Office of Aviation Policy and Plans, APO-1</i>
Mona Tindall	Federal Aviation Administration, <i>Aircraft Maintenance Division, AFS-300</i>
Marc Tournacliff	Federal Aviation Administration, <i>Airport Safety and Operations, AAS-300</i>
Frank Wiederman	Federal Aviation Administration, <i>Aircraft Maintenance Division, AFS-330</i>

Christa Brolley	PAI Consulting
Michael Derrick	PAI Consulting

COMMITTEE ADMINISTRATION

The ARAC Chair, Craig Bolt, called the meeting to order at 10:05 a.m. The Executive Director, Pam Hamilton, read the required Federal Advisory Committee Act (FACA) statement.

Mr. Bolt called for general introductions of the meeting attendees in the room and those joining by teleconference. He reviewed the meeting agenda and adjusted the sequence of items to promote participation in the continuous improvement discussion.

REVIEW OF MINUTES

Mr. Bolt asked for any corrections or comments to the draft minutes from the December 10, 2008, meeting. Hearing no comments or corrections, Mr. Bolt certified the minutes as drafted.

ISO FEEDBACK FORM

Mr. Bolt asked everyone to complete the ISO-9001 feedback forms before the end of the meeting and return them to Gerri Robinson.

RESCUE AND FIREFIGHTING REQUIREMENTS WORKING GROUP—REPORT OUT FROM WORKING GROUP

Richard Marchi, Assistant Chair for Airport Certification Aeronautical Technical Subject Area, provided a report from the Rescue and Firefighting Requirements Working Group. Mr. Marchi provided background on the group's work and the report. The group was formed in 2001 to address an ARAC task to review airport rescue and firefighting (ARFF) needs. There were four areas to be reviewed: (1) the number of trucks and amount of agent, (2) vehicle response times, (3) personnel requirements, and (4) categorization of airport ARFF indexes. The group worked until March 2004 and developed a report covering the assigned task.

The group drafted the report using language similar to that of a notice of proposed rulemaking (NPRM). However, because the group was unable to reach a consensus on the major items in the report, it was not forwarded. When Mr. Marchi joined the ARAC EXCOM, Ms. Hamilton asked him to track down the report and try to move the issue forward. Because many of the original participants had retired or were no longer working in their former positions, this was difficult. There now is renewed interest in the report. (A provision in the House version of the 2009 FAA Reauthorization Act requires the FAA to develop an NPRM on ARFF requirements within 180 days of passage of the Act and complete the final rule within 2 years.) Mr. Marchi noted the Senate version of the Act contains an identical provision. Mr. Marchi stated that while there was no consensus on several areas, much work went into the report and it contains a significant amount of useful information.

Mr. Bolt thanked Mr. Marchi for the background, and asked for guidance from the FAA on further steps about the report and whether it could be of value. He stated because the task was never officially completed, it is still considered open. He suggested the report be delivered as is without consensus, as it does contain good information. Ms. Hamilton stated the most logical step is to submit the report without consensus and show the task as complete. She confirmed the FAA would be interested in a copy of the report because it would likely be useful during the rulemaking process if the FAA is asked to deliver an NPRM. Ms. Hamilton noted it is unlikely the FAA will ask for the original working group to be reinstated. It is possible the FAA could ask ARAC to create a new working group to address rescue and firefighting requirements. Mr. Marc Tournaclyff (AAS-300) verified there is no commitment to set up such a working group at this time. Ms. Hamilton then confirmed the task should be considered complete and a report submitted to the FAA. Mr. Marchi expressed appreciation for the working group, stating that they would likely see this outcome as validation of the hard work that went into developing the report.

Mr. Bolt asked if there were any further comments on the subject. He added if anyone had comments on the report, they would be included in the transmittal letter to the FAA. Paul Hudson stated he had not had enough time to review the report and asked the document be held open for comment for a few days for his organization to review and comment. Mr. Bolt stated that he would take any comments offered until June 19, 2009.

Daniel Zuspan offered a point of order, and inquired if Mr. Bolt should send the report forward because his term as Chairman of the ARAC was ending on this day. It was agreed that Mr. Bolt had received the report before the end of his term. He would be eligible to send it to the FAA. Incoming Chairman, Norman Joseph, would coordinate with Mr. Bolt on delivery of the report to the FAA.

NEW ARAC TASK—MAINTENANCE REQUIREMENTS FOR COMMERCIAL AIR TOUR OPERATORS

Mr. Bolt introduced the next agenda item, a new tasking for ARAC that would establish a working group to review maintenance requirements for commercial air tour operators that use aircraft seating nine passengers or less. Walter Desrosier commented that an Aviation Rulemaking Committee (ARC) covering parts 125 and 135 of Title 14, Code of Federal Regulations (14 CFR) conducted a review of maintenance procedures for operators of very large aircraft under part 135. He stated the ARC recommended a review of the maintenance procedures for all part 135 operators based solely on the number of seats rather than size and complexity of the operation. He noted that while this new task was specific to air tour operators in small aircraft, there was a previous recommendation by the ARC for a broader assessment.

Frank Wiederman, AFS-330, provided background on the work of the Part 125/135 ARC and reinforced that this tasking dealt only with air tour operations. Mr. Desrosier agreed, but expressed concern that by focusing on air tour operations only, the group would likely face the same issues with overall maintenance requirements for part 135 operations previously found by the ARC. He stated that recommendations by a new working group may well be proper for all part 135 operations. Mr. Wiederman expressed appreciation for Mr. Derosier's point, but stated the tasking on commercial air tour operator maintenance was specific and was related to two safety recommendations issued by the National Transportation Safety Board (NTSB). Mr. Wiederman explained there was no intent to expand the scope to the broader issue of maintenance requirements for all part 135 operations. He added that this working group would consider air tour operations conducted under 14 CFR part 91, which was not covered by the ARC.

Ms. Hamilton inquired if Mr. Desrosier was recommending to FAA Flight Standards Service (AFS) the scope be broader. Mr. Desrosier stated that he believes the recommendations that come out of this working group may be suitable for other operations beyond just air tour operations. Mr. Wiederman agreed the recommendations may apply beyond air tour operators in aircraft seating nine passengers or less. He explained the group will need to stay focused on just the stated issue. He offered to further discuss the issue with Mr. Desrosier.

Mr. Bolt inquired if the ARAC should accept the tasking as is, or with recommendation to the FAA the scope be broadened. Mr. Desrosier stated ARAC should accept the task as it, but it may be efficient to consider making recommendations beyond air tour operators. Mr. Wiederman raised the point the requirements for safety management systems (SMS) coming in 2012 may cover the maintenance requirements for part 135 operations. Ric Peri commented that maintenance requirements for commercial air tour operators under parts 91 and 135 should be explored separately. Mr. Wiederman stated the maintenance requirements for aircraft seating nine or less passengers were identical under parts 91 and 135. Mr. Hudson asked for a definition of "commercial air tour operator." Mr. Wiederman stated that it is covered in 14 CFR part 136.

David York offered the perspective of the Helicopter Association International (HAI) on commercial air tour operations (because many tours are conducted by helicopter operators). He inquired if focus on these operations was appropriate. Mr. Wiederman responded that this tasking is focused on maintenance, not operations, and several efforts have previously been undertaken in that area. He then offered a specific definition of "commercial air tour" from § 136.1 for Mr. Hudson, stating they are "flights conducted for compensation or hire for sightseeing." Mr. Hudson inquired if there was any mention of number of passengers carried, specifically nine or fewer. Mr. Wiederman stated there wasn't, and clarified that reference to passenger capacity deals with maintenance requirements.

Mr. Joseph expressed agreement with Mr. Desrosier's earlier opinions. He noted that though the tasking is in response to NTSB recommendations, broadening the scope may be appropriate. Mr. Wiederman agreed, but added the earlier work of the ARC met difficulties with this issue. He revisited the issue of safety records of operations under part 135. He questioned whether there is anything in the rules about maintenance for aircraft seating nine or fewer or ten or more passengers that would cause either of these operations to be less safe than the other. He stated that he did not think the ARAC could determine which was more or less safe based solely on information from previous studies. Ms. Hamilton asked if data analysis should be conducted as part of the working group process. Mr. Wiederman stated the NTSB provided safety data as part of its recommendations and no further data was available.

Mr. Bolt asked for a vote on whether to accept the task. It was unanimously approved. Notification will be published in the Federal Register.

Mr. Bolt offered information for those interested in joining a working group that will be formed to cover the task. Mr. Peri inquired if it would be proper for the ARAC Air Carrier/General Aviation Maintenance Aeronautical Technical Subject Area to oversee the tasking. Mr. Bolt agreed that this was a good point. Ms. Hamilton clarified Mr. Peri's expectation--the Air Carrier/General Aviation Maintenance Aeronautical Technical Subject Area would sponsor briefings to the EXCOM. He agreed.

ISSUE AREA STATUS REPORTS

Ms. Hamilton stated that at the last meeting, the FAA Office of Rulemaking (ARM) had taken a task to provide a listing of open working groups. She stated the task was still a work in progress. The EXCOM was provided with a draft list of active working groups and the number of tasks that each is working. Ms. Hamilton stated that Ms. Robinson would revise the document and add the titles of each task. Ms. Hamilton asked for any comments. Several members suggested listing a point of contact for the projects. Ms. Hamilton agreed to add that information.

Transport Airplane and Engine Aeronautical Technical Subject Area (TAE)

Mr. Bolt stated the Subject Area has four active working groups and held its last meeting in March 2009 in Washington, DC. The Propeller Harmonization Working Group had a task related to propeller critical parts and definition and handling of such parts. They submitted their final report. This report was harmonized with the European Aviation Safety Administration (EASA). EASA representatives took part in the working group. The report was approved by TAE and submitted to the FAA. Pending any further request by the FAA to disposition any comments from future rulemaking or further tasking, the Propeller Harmonization Working Group has completed its activities. The next meeting will be held in Seattle, Washington, June 11, 2009, with two areas of focus. The Icing Working Group has a phase IV review of draft materials to discuss with TAE. The Airplane Level Safety Analysis Working Group is working a concept of specific flight risk versus average fleet risk. That group is about 75% finished with its tasks and will report to TAE on its activities.

Air Carrier Operations Aeronautical Technical Subject Area

Mr. William Edmunds stated the Subject Area has one active working group. The All-weather Operations Harmonization Working Group is revising and updating its terms of reference to be more in line with Next Generation Air Transportation System (NextGen) and EASA principles versus Joint Aviation Authorities (JAA) principles. Mr. Edmunds inquired if Ms. Robinson had heard from the group, and she responded that she had not. Mr. Edmunds took an action to remind the group that they needed to coordinate with Ms. Robinson.

Airport Certification Aeronautical Technical Subject Area

Mr. Marchi stated the Subject Area has the previously mentioned task on ARFF completed and will submit the report to the FAA. Pending any further work, there is nothing further to report.

Air Carrier/General Aviation Maintenance Aeronautical Technical Subject Area

No activities to report.

Aircraft Certification Procedures Aeronautical Technical Subject Area

No activities to report.

Noise Certification Aeronautical Technical Subject Area

No activities to report.

Occupant Safety Aeronautical Technical Subject Area

No activities to report.

Training and Qualification Aeronautical Technical Subject Area

No activities to report.

Rotorcraft Issue Aeronautical Technical Subject Area

No activities to report.

Mr. Joseph asked Mr. Edmunds a question regarding the Air Carrier Operations Aeronautical Technical Subject Area's All-weather Harmonization Working Group. He stated the group has been reporting to the Performance-based Operations Aviation Rulemaking Committee (PARC) and ARAC. He wondered if this needed to continue, if one area was more appropriate than the other, and if this dual reporting is causing confusion. Mr. Edmunds responded that he would check with the group. Mr. Joseph stated that he did not have a problem with the dual reporting continuing if it was of benefit.

LEADERSHIP TRANSITION OF EXECUTIVE COMMITTEE OFFICERS

Mr. Bolt was recognized as the outgoing chair of the ARAC. Ms. Hamilton read a letter from Associate Administrator for Aviation Safety, Margaret Gilligan, thanking Mr. Bolt for his service to the ARAC and highlighting accomplishments during his tenure. Ms. Hamilton added her appreciation for Mr. Bolt's service, and introduced the incoming chair Mr. Joseph. Ms. Hamilton read a letter from Ms. Gilligan recognizing Mr. Joseph's service as vice chair of the ARAC and welcoming him as chair. Ms. Hamilton stated that work was underway to appoint a new vice chair to fill Mr. Joseph's former position and several candidates are under consideration. She stated an announcement should be made by July 31, 2009. Ms. Hamilton also highlighted the progress in filling vacant assistant chair positions on the Executive Committee. She stated the Air Traffic Aeronautical Technical Subject Area assistant chair is still vacant, but should be filled by the next EXCOM meeting.

Ms. Hamilton announced the FAA has invited EASA to join as an observing member to the EXCOM. EASA has accepted the invitation, and Julian Hall will be EASA's representative. Because of an NTSB hearing, Mr. Hall was unable to be present at the EXCOM meeting today.

Mr. Bolt stated his appreciation for the recognition of his service. He also expressed his overall support for the work of ARAC. Mr. Joseph added his appreciation for Mr. Bolt's leadership and overall good communication. Mr. Joseph relayed his willingness to serve as the new chair of the ARAC and vowed to continue the outstanding leadership practiced by Mr. Bolt during his tenure.

The group took a short break to await the arrival of all relevant attendees for the continuous improvement discussion. Mr. Ali Bahrami (FAA) joined the discussion by telephone at this time.

CONTINUOUS IMPROVEMENT OF THE FAA RULEMAKING PROCESS

(NOTE: Copies of the presentation were distributed--"An Opportunity to Improve ARAC," which is attached to this record of meeting.)

Mr. Bolt opened the discussion with a brief review of the work done so far to improve the ARAC process. The presentation captured the thoughts of some EXCOM members on improving the ARAC process. A review of the committee manual was the first step. After a TAE meeting in March, three EXCOM members discussed how to continue to capture key thoughts for the presentation.

Mr. Zuspan began the presentation. Slide 1 offered background information. Slide 2 covered ARAC objectives.

Slide 3 covered issues and opportunities to improve the ARAC process. Both topics on this slide created discussion. Ms. Hamilton responded that regarding timeliness, ARM is aware of the issue and emphasis is being placed on improving the process. She recognized that it is important to define ARAC tasks with a clear plan and timeline. She noted an NPRM can differ with an ARAC recommendation if there is an extended period of time between ARAC's work and

release of the NPRM. Business cases may have changed between the two events, and ARAC members may no longer support what was previously agreed to. Ms. Hamilton asked for input from the ARAC members on the first bullet about timeliness of “tasking issuance to ARAC recommendation.” Mr. Zuspan added that discussion of this topic will probably be generated later in the presentation by bullets on possible actions. Mr. Marchi commented that he had participated in two working groups, one that had a focused task and another that was not as clear in scope. He stated the difference between the two was noticeable, and while not having any suggestions, working toward having the groups clearly focused would be valuable. Dorenda Baker added the issue of scope and deadlines would be covered on the next page, and more discussion would likely follow since it is an important topic. Mr. Bolt stated that having too many members on working groups can slow the process and cause a loss of focus. He explained that limiting the size of working groups to less than 10 members and using subgroups can help the process. Mr. Bolt added that effective project management is needed.

Mr. Zuspan reviewed “probable causes” of inefficiencies in the ARAC process. Discussion was generated by the statement, “There is no assurance the proposed rule/guidance released by FAA will be faithful to the ARAC recommendations.” Mr. Marchi commented the Airports task that reviewed part 139 requirements to airports that served smaller airplanes was very narrow. The FAA Airports organization believed that other areas of part 139 needed updating unrelated to the task and included these in the recommendation. Mr. Marchi stated that it would be helpful if the FAA communicated with ARAC when changes or additions are made. Ms. Hamilton responded that Mr. Marchi had a good point and will be explored.

Mr. Zuspan reviewed target actions to improve the ARAC process; most of the group’s discussion was generated by this slide. Ms. Hamilton noted the issue of sharing documents before publication had been discussed with the FAA Office of the Chief Counsel (AGC). She explained a draft NPRM can not be provided to ARAC. While the NPRM cannot be provided, Ms. Hamilton did state there were improvements to the communication process and cited an example of using technical documents and public meetings to share as much information as possible. Ms. Baker clarified that only technical documents can be shared, and a public meeting would not be required in every instance. Ms. Hamilton agreed. Ms. Baker stated this process would allow an opportunity for ARAC to discuss any misinterpretation or deviation from a recommendation. The FAA could highlight a change that was necessary because of a legal requirement or other reasons.

Doug Anderson (teleconferencing) asked about a process of transmitting a series of questions as an original tasking to ARAC for comment and having it returned to the FAA as recommendations from industry. He stated the FAA would review the recommendations and confirm the FAA understands ARAC’s recommendations. Mr. Zuspan stated that he did not agree that a series of questions as the original tasking was appropriate. Ms. Baker suggested a review of the work on Fast Track ARAC to help answer Mr. Anderson’s inquiry.

Mr. Bolt added that report format is more than a series of questions and answers—it identifies the working group’s recommendations to the FAA. The process is also used for advisory circulars. Groups were previously bogged down writing preamble language for NPRMs and performing other tasks. In general, the report format has been successful and has improved the process. Some reports are submitted with full consensus from the working group. In those

cases, it would be expected the NPRM would reflect what ARAC suggested. Some working groups do not reach consensus, but the reports contain good information and views that are useful for rulemaking. Mr. Bolt stated the task completion time has improved under this process. He noted there is still room for improvement, but good project management elements have improved the process.

Ms. Baker commented that if a report comes from the ARAC with a wide disparity of opinions and lack of consensus, it could be considered the original task may not have been clear and needs to be refined. Ms. Hamilton added that it is not the goal of the FAA to have ARAC working groups writing preamble language and drafting NPRMs—there are plenty of people within the FAA that handle those tasks. The focus should be on providing industry input and recommendations to the rulemaking process.

Mr. Marchi commented that early in the working group process, a check should be made if the group believes that it will be able to reach consensus on the task. Ms. Baker suggested that documenting the varying opinions could help with analyzing consensus, and avoid extended discussions. Mr. Edmunds commented on the importance of interaction is between ARAC working groups and the FAA representative to the group. The representative can often help keep the group focused on the task.

Mr. Ty Prettyman inquired why a draft NPRM could not be provided to the ARAC and about the reasons that prevented the FAA from doing so. Ms. Hamilton stated that a lively discussion with AGC on the topic determined there was no way around it. She stated the ARAC process is not negotiated rulemaking and, because of ex parte rules, an advance copy of an NPRM cannot be provided to a select group of people before it is released to the public. Mr. Anderson agreed. Mr. Zuspan asked if an intermediate step could be devised between the FAA's receipt of the recommendations from ARAC and the release of an NPRM. Ms. Hamilton stated that she expects more discussion on this. There may be an opportunity for consultation with industry between the Phase I and Phase II Rulemaking Project Record (RPR) to give feedback to industry on rulemaking without violating ex parte regulations. Mr. Anderson stated that he sees the most direct answer as the technical document process; while not worked out, is the most effective way of communicating with ARAC on the rulemaking process after recommendations have been received. Ms. Hamilton agreed, and stated that it looks like there are at least two opportunities for discussion on rulemaking efforts with ARAC: (1) before the Phase II RPR is approved and rulemaking officially begins and (2) through technical documents during the process if necessary rather than providing an actual draft.

Mr. Zuspan discussed the action plan for improving the ARAC process. Ms. Baker stated the ARAC process has a good structure and should be easy to build on. Mr. Bahrami agreed and added the ARAC process contains good accountability and clear expectations. He stated that some of the recommended actions were already being carried out informally. Ms. Baker offered an example of how "after action reviews" have been carried out informally in previous ARAC work.

Ms. Hamilton offered the FAA's perspective. She stated the framework for these improvements exists, and is likely more a task of tweaking the ARAC process rather than overhauling it. She inquired if Mr. Zuspan was asking that a working group be created to explore implementation of

the suggested improvements. Mr. Zuspan confirmed his vision, and asked for concurrence from Mr. Bolt and Mr. Desrosier. Mr. Bolt stated the fundamentals of the ARAC process were sound and need minor improvement. Mr. Marchi commented on working group size and the use of subgroups. He added that consulting resources provided by the FAA can increase the success of a large working group. Mr. Bolt agreed that a working group would be appropriate. Ms. Hamilton asked if Mr. Zuspan was volunteering, and he agreed. She added that ARM would like to have a representative as a member of the working group.

Mr. Zuspan asked who should comprise the group. Mr. Bolt and Mr. Edmunds offered their assistance. Ms. Baker added that someone from her office would be interested in joining. Mr. Prettyman volunteered as well. Mr. Anderson volunteered, seeking Ms. Baker's approval. Ms. Hamilton stated that she would verify with the AGC that Mr. Anderson could serve as a working group member. Nan Shellabarger suggested coordination with an economist. She did not know if they needed to be a part of the working group. She offered Peter Ivory, Office of Policy and Plans (APO), as a point of contact. Ms. Baker agreed that APO's participation was important and worthwhile. Mr. Zuspan then reviewed the list of volunteers. Mr. Joseph requested notification of the group's establishment and progress.

Mr. Joseph revisited the earlier issue of NPRM sharing, stating that a working group is not necessarily a public body. He stated his understanding about not sharing a draft NPRM with a working group, but asked if sharing an NPRM as part of the agenda for a public EXCOM meeting is a problem. Ms. Hamilton reiterated that this would not be possible in the legal view of AGC. She added that if a rulemaking is designated as significant, it is not final until signed by the FAA Administrator. Ms. Shellabarger added APO's perspective on ex parte communications. Mr. Joseph stated that receiving a privileged advance copy of a draft NPRM wasn't the intent of the ARAC, but rather to confirm ARAC's recommendations were correctly interpreted by the FAA. Ms. Hamilton stated the FAA would share its intentions as much as possible with ARAC through technical documents, adding that sharing a draft NPRM is not possible. Mr. Bolt asked if there were any further comments on the continuous improvement discussion. There were none.

OFF AGENDA REMARKS FROM EXECUTIVE COMMITTEE MEMBERS

Mr. Hudson asked if it would be possible for FAA Administrator Randy Babbitt to address the Executive Committee at its next meeting. Ms. Hamilton agreed that this would be appropriate, but did not know if it would be possible given his schedule and only recently being confirmed by Congress. Ms. Hamilton stated that she would further explore the possibility.

NEXT MEETING

The next meeting will be held December 9, 2009.

ADJOURNMENT

Mr. Bolt accepted a motion to adjourn from Mr. Edmunds, seconded by Mr. Joseph. All were in favor. The meeting was adjourned at 12:07 p.m.

Approved by: Craig R. Bolt
 Craig Bolt, Chair

Dated: July 13, 2009

Ratified on: December 9, 2009

Attachment—An Opportunity to Improve ARAC

An Opportunity to Improve ARAC

Presented by ARAC ExCom Members:

- C. Bolt - Transport Airplane and Engines
- W. Desrosier –Aircraft Certification
- D. Zuspan – Occupant Safety

Introduction

- **Action from December, 2008, ARAC ExCom meeting**
 - As part of effort to re-invigorate the ARAC process, the ExCom was invited to provide input/ideas.
 - This is being presented to the June, 2009, ExCom participants as a way to strengthen some of the ARAC processes, and (by extension) improve rulemaking.

- **Objective:**
 - To communicate ideas, solicit additional ideas and propose actions for ExCom consideration as a recommendation for improvement activity.

ARAC Objectives

Per FAA Document ARM 001-015, “Committee Manual,” ARAC’s objectives are to —

- Improve development of the FAA’s regulations by involving interested members of the public early in the development stage. The ARAC—
 - *Includes the public’s concerns and opinions in certain documents to reduce the probability of receiving non-supportive public comments when a document is published.*
- Avoid placing unnecessary burdens on the public because of a lack of information.
- Exchange ideas through the ARAC process, which gives the FAA additional opportunities to obtain firsthand information and insight from those parties most affected by existing and proposed regulations.

Issues

- *ARAC Process Is Not Viewed as Timely*
 - Tasking issuance to ARAC recommendation
 - ARAC Recommendation to FAA Action

- *Non-Supported NPRMs and Advisory Material* – New proposed regulations/advisory material that contain requirements substantially *different** from what Industry expected or planned for -- even though Industry participated in the development of the rule (via ARAC, ARC, or other) and FAA participants were in consensus with ARAC/ARC recommendations.

*** *Different* =**

- *broader interpretation,*
- *more burdensome,*
- *more costly,*
- *less time for implementation and compliance,*
- *requirements go beyond ARAC recommendations and Industry expectations, and/or*
- *not harmonized (i.e., with EASA).*

Probable Causes

- ***Cause #1: Inadequate project management within ARAC Issue & Working Groups***
 - Tasking statements are often vague or ill-defined.
 - Objectives of the task may be defined, but not validated that they have been met. This has allowed “requirements creep” and unnecessary/undesired expansion of the scope of the project during development.
 - Clear expectations and boundaries of ARAC products are needed – check and verify at regular intervals that the team’s work is fulfilling the task.
 - There is no accountability or consequences for not meeting milestones or objectives.

- ***Cause #2: Incomplete feedback loop on ARAC recommendations***
 - Submission of recommendations to FAA is ARAC’s final requirement / interaction. No specific feedback – do products fulfill the tasking charter?
 - There is no specific declaration that FAA agrees with the recommendations.
 - There is no assurance that the proposed rule/guidance released by FAA will be faithful to the ARAC recommendations. (No “warning” that the rule will be different from the recommendations.)
 - Input from participants (both FAA and Industry) often is not “aligned” with their management throughout the ARAC process. Even if the FAA’s rule mirrors ARAC recommendations, there are often negative comments submitted from companies that participated on the ARAC team.

- ***Cause #3: No means to ensure data-driven compliance times***
 - There is no mechanism to ensure that Industry provides FAA with enough accurate, timely, verifiable data up front to enable them to develop reasonable and workable compliance times.
 - Improvements are needed in coordinating implementation plans/compliance times with other related rules, so that overlap does not occur.

Target

■ *“Systems Engineering” Approach to ARAC Process*

- Requirements management should be the foundation of the process.
- Objectives of the task are first clearly defined and understood by participants.
- From the beginning, a reasonable time schedule is set and each member of the team works to it.
- The intent and scope of the task are carried throughout the process – with regular “checks” to ensure objectives are being met and participants are focused on the same deliverables.
- If the team moves away from the objectives at any point, either a course correction must be made or FAA must agree to revise the task.
- A final validation should ensure that the team’s outcome reflects objectives of the task.

■ *More Transparency Prior to Publication of Documents*

- Allow ARAC team to review NPRM prepared by FAA based on ARAC recommendations prior to publication. This will prevent new “surprise” requirements that will assuredly result in adverse comments.
 - *For a similar existing process, see “Phase IV review” of Fast Track ARAC process.*
- Allow ARAC team to review FAA’s disposition of comments prior to publication of final rule. While the final rule reflects the FAA’s independent judgment to ensure technical credibility and legal validity, discussions with affected Industry prior to the rule publication to determine how the rules should best be implemented will help to develop a final rule that will ensure better compliance.
 - *For similar existing processes, refer to EASA’s Comment Response Document process, and the public meeting (with “FAA technical document”) held for the WFD rule.*

Action Plan

- *FAA and Industry map out and agree upon a process to establish Systems Engineering principles as basis of ARAC groups*
 - Ensure agreement up front on defined requirements.
 - Group activity is requirements-driven – with regular validation of objectives/outcome that are reached.
 - Recommendations, including compliance times, are data-driven.
 - To ensure harmonization of recommendations, team members should include participants representing other non-U.S. authorities (e.g., EASA).
- *Establish a (legal) process to allow ARAC groups to preview FAA's regulatory actions (NPRM and final rule) before publication*
 - FAA provides formal feedback to ARAC groups on recommendations submitted –acceptance/non-acceptance.
 - Allow agreement up front on compliance times so that Industry can plan ahead for new requirements.
 - Provide a means for dispute resolution.
- *Hold FAA-Industry "After Action Reviews" of rules that prove to be problematic in implementing*
 - Share "Lessons Learned" results and revise government and Industry processes appropriately.

Discussion

6. Off-agenda 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 June 1. 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 June 1 to present oral statements at the meeting. Members of 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."

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Executive Director
Aviation Rulemaking Advisory Committee