



U. S. Department of Transportation
Office of Inspector General

July 18, 2023

The Honorable Maria Cantwell
Chair
Committee on Commerce, Science, and Transportation
United States Senate
Washington, DC 20510

Dear Chair Cantwell:

We are responding to your January 3, 2023, letter requesting that our office conduct an independent review of the Federal Aviation Administration's (FAA) compliance with congressionally mandated aviation safety reforms within the Aircraft Certification Safety and Accountability Act (ACSAA). Specifically, you asked us to review FAA's compliance in two phases:

- The first phase reviewed FAA's compliance with ACSAA sections 106 (Limitation on Delegation), 107 (Oversight of Organization Designation Authorization Unit Members), 110 (Appeals of Certification Decisions), and 116 (Flight Crew Alerting).
- The second phase evaluated FAA's compliance with ACSAA sections 102 (Safety Management Systems), 105 (Disclosure of Safety Critical Information), 115 (System Safety Assessments and Other Requirements), 117 (Changed Product Rule), 121 (Implementation of Recommendations), and 122 (Oversight of FAA Compliance Program).

FAA has made significant strides toward meeting the statutory requirements of ACSAA. The Agency has fully implemented sections 106 and 121 and substantially completed sections 107, 110, 116, and 122. Sections 107 and 122 will not be complete until FAA submits required updates to Congress by the end of calendar year 2023, and section 110 will not be complete until FAA renders a final report to Congress at the end of calendar year 2025. In addition, FAA published a Notice of Proposed Rulemaking in December 2022 for section 116. However, this section will not be complete until the Agency publishes a final rule to ensure their implementation of design enhancements, pilot procedures, and training requirements meet National Transportation Safety Board recommendations.

FAA still needs to take additional steps to fully implement sections 102, 105, 115, and 117. While we found that certain deadlines within the statute were missed or are projected to be missed, FAA has taken action to address these provisions, including initiating two significant rulemakings, publishing four guidance documents, and issuing four policy memorandums. As the rulemaking process is inherently lengthy, we cannot currently assess whether these efforts will achieve the intent of ACSAA. To track these ongoing efforts, we have provided a

reference status chart as an enclosure describing each of the ACSAA sections we reviewed and assessing FAA's progress.

If you have any questions, please contact me or Nathan Richmond, Deputy Assistant Inspector General for Government and Public Affairs.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric J. Soskin". The signature is written in a cursive style with a large initial "E".

Eric J. Soskin
Inspector General

Enclosure: ACSAA Status Chart

- Provision Implemented and Deadline Met
- Provision Implemented but Missed Statutory Deadline, or Additional Steps Needed To Implement Provision
- Provision Not Implemented and Statutory Deadline Missed

Phase 1 Review (Sections 106 and 107)

Section	Initiative	Description	Overall Progress Rating	Deadline	Individual Action Status	Status
106	Limitation on Delegation	Prohibits the Federal Aviation Administration (FAA) from delegating findings related to a critical systems design feature's compliance with applicable standards or reviews of system safety assessments required for issuing certificates until FAA reviews underlying human factor assumptions.	●	None.	●	Met: FAA issued "Limitation on Delegation Memorandum" to all employees on September 16, 2021.
					●	Met: In July 2022, FAA completed "Issue Paper: Flight Crew Human Factors Assumptions in Aircraft and System Safety Assessments," which includes a template for future aircraft certification assessments.
107	Oversight of Organization Designation Authorization (ODA) Unit Members (UM)	FAA shall brief congressional committees on FAA's performance and timeliness in completing reviews; the basis for rejections during the preceding 90-day period; and any challenges with implementation.	●	March 27, 2021, and every 90 days thereafter through September 30, 2023.	●	Ongoing: FAA provides quarterly updates to Congress on progress with implementing ODA UM provisions in this section.
		FAA shall provide a report to congressional committees on progress, including periodic audits of ODA.			●	Met: FAA provides quarterly updates to Congress on progress with implementing provisions in this section. At least every 24 months, FAA evaluates all aspects of the ODA holder's performance.
		FAA shall provide a report to congressional committees on assigning FAA personnel with appropriate expertise to advise ODA UMs.			●	Met: FAA provides quarterly updates to Congress on implementing ODA provisions in this section. On October 15, 2021, the Agency issued supplemental policy which includes guidance on assigning FAA advisors for ODA UMs.
		FAA shall issue minimum qualifications to become an ODA UM.			●	Met: In addition to existing guidance, FAA updated its designee management policy on April 12, 2022, to include minimum qualifications for ODA UMs.
		To ensure members meet qualifications, FAA shall review the qualifications of each ODA UM who holds a type certificate for a transport airplane.			●	Met: The review process began in November 2021, and it was completed in May 2023.
		FAA shall eliminate or minimize interference by an ODA holder that affects UMs' performance of authorized functions.			●	Met: In September 2022, FAA published policy to prevent interference with ODA UMs and to facilitate open communication between UMs and FAA.
		None.			●	

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Phase 1 Review (Sections 110 and 116)

Section	Initiative	Description	Overall Progress Rating	Deadline	Individual Action Status	Status
110	Appeals of Certification Decisions	FAA shall issue an Order establishing a resolution process for type certification activities and an appeal process for an individual involved with certification activities.	●	February 25, 2021.	●	Met/Missed Deadline: FAA published an Order in January 2023 defining the issue resolution and appeal processes.
		FAA shall submit a report summarizing each resolved appeal to congressional committees.		December 31, 2021, and each calendar year (CY) through CY 2025.	●	Ongoing: Given that FAA recently published the Order, no appeals have been submitted or resolved. FAA will render an annual report by the end of each year through 2025.
116	Flight Crew Alerting	FAA shall implement National Transportation Safety Board (NTSB) recommendations A-19-11 and A-19-12 stemming from the two Boeing 737 MAX accidents.	●	December 27, 2021.	●	Ongoing/Missed Deadline: NTSB considers A-19-11 open. A-19-12 was closed in January 2023 following acceptable actions from FAA.
		FAA may not issue a type certificate for a transport category aircraft unless the airplane incorporates a flight crew alerting system.		December 27, 2022.	●	Met: FAA issued a policy memorandum in May 2022 that prohibits FAA from issuing new type certificates or amendments to a type certificate without a flight crew alerting system.

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Phase 2 Review (Sections 102 and 105)

Section	Initiative	Description	Overall Progress Rating	Deadline	Individual Action Status	Status
102	Safety Management Systems	FAA shall require that manufacturers with both a type and production certificate have a Safety Management System (SMS) consistent with International Civil Aviation Organization (ICAO) standards.	●	January 26, 2021.	●	Met: To start the rulemaking process, in January 2020, FAA issued Regulation Identifier Number 2120-AL60 on SMS for Parts 21, 91, 135, and 145. In January 2023, FAA published a Notice of Proposed Rulemaking (NPRM) on SMS as required.
		After initiating the rulemaking, FAA shall issue a final rule establishing: a process for operators and pilots to provide operational feedback; a risk-based, continuous FAA surveillance process; a code of ethics for all employees of a certificate holder; and a confidential reporting system for employees to report hazards, issues, concerns, and incidents.		January 2025.	●	Ongoing: FAA anticipates a final rule in 2024.
		FAA shall engage with ICAO and foreign civil aviation authorities to help encourage the global adoption of SMS.		None.	●	Met: FAA has been engaging with ICAO on SMS since February 2020.
105	Disclosure of Safety Critical Information	FAA shall revise procedures for applicants seeking an amendment to a type certificate for a transport category aircraft. Revised procedures will require an applicant to disclose to FAA all new systems and intended changes to existing systems at the beginning of the amendment process.	●	June 25, 2021.	●	Ongoing/Missed Deadline: FAA expects to issue three policy documents in 2023 addressing these requirements: <ul style="list-style-type: none"> – Policy statement that excludes FAA from approving minor design or analysis changes that alter safety critical information. – Notice for applicants of transport category airplane type certificates on submitting/disclosing safety critical information. – Policy statement that requires applicants to submit an outline of new and changed systems at the beginning of the amendment process.
		FAA shall finalize the revisions to these procedures.		December 25, 2022.		Ongoing/Missed Deadline: FAA initiated a new rulemaking project to require the submittal and subsequent disclosure of safety critical information. As of June 2023, the NPRM has not been published.

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Phase 2 Review (Sections 115 and 117)

Section	Initiative	Description	Overall Progress Rating	Deadline	Individual Action Status	Status
115	System Safety Assessments and Other Requirements	FAA shall issue regulations to amend the Code of Federal Regulations and any associated advisory circular, guidance, or policy in accordance with system safety assessment requirements.	●	December 27, 2022.	●	Ongoing/Missed Deadline: FAA issued a NPRM in December 2022. However, action will not be complete until FAA issues a final rule.
117	Changed Product Rule (CPR)	FAA shall exercise leadership in creating international policies and standards related to issuing amended type certificates within the Certification Management Team (CMT).	●	December 27, 2021, and annually thereafter through fiscal year 2023.	●	Ongoing: FAA established the CPR International Authority Working Group (IAWG) in June 2021 and initiated recurring meetings in September 2021. The Agency updated Congress in 2021 and 2022. The final update is due by the end of fiscal year 2023.
		FAA shall encourage CMT members to examine and address any relevant covered recommendations relating to issuing amended type certificates. FAA shall initiate and finalize actions to revise and improve the process for issuing amended type certificates.		Initiate process by December 27, 2022.	●	Ongoing: FAA initiated a rulemaking for issuing amended type certificates in December 2022. As of May 2023, the NPRM has not been published.
		FAA shall develop and disseminate training materials for establishing the certification basis of changed aeronautical products.		Initiate process by December 27, 2022.	●	Ongoing: FAA is expected to develop policy and training in 2023 and implement it in 2024.
		FAA shall exercise leadership within the ICAO and among other civil aviation regulators to advocate for adopting an amended changed product rule consistent with ICAO standards.		Finalize process by December 27, 2023.	●	Met: FAA and international authority leadership received recommendations from the CPR IAWG in September 2022.

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Phase 2 Review (Sections 121 and 122)

Section	Initiative	Description	Overall Progress Rating	Deadline	Individual Action Status	Status
121	Implementation of Recommendations	FAA shall submit a report to congressional committees on the status of FAA's implementation of recommendations.	●	December 27, 2021.	●	Met: FAA provided a briefing in lieu* of a report to Congress on January 19, 2022. *Congressional staff approved a briefing in lieu of a report.
122	Oversight of FAA Compliance Program	FAA shall establish an Executive Council to oversee the use and effectiveness of the Administration's Compliance Program. The Executive Council shall terminate on October 1, 2023.	●	June 25, 2021.	●	Met: FAA revised Order 8000.373 in April 2021 with requirements for the Executive Council and Steering Committee. FAA signed a memorandum establishing the FAA Compliance Program Executive Council in June 2021, which met for the first time in August 2021.
		The Executive Council shall provide a briefing to congressional committees on the effectiveness of the Administration's Compliance Program.		Each calendar year through 2023.	●	Ongoing: FAA completed reports for calendar years 2021 and 2022 and provided the results via quarterly briefings. FAA will complete the report for calendar year 2023 at end of this year.