

(3) Reports, data, or other information developed under the Line Operations Safety Audit Program.

(4) Reports, data, or other information produced or collected for purposes of developing and implementing a safety management system acceptable to the Administrator.

(5) Reports, analyses, and directed studies, based in whole or in part on reports, data, or other information described in paragraphs (1) through (4), including those prepared under the Aviation Safety Information Analysis and Sharing Program (or any successor program).

(c) EXCEPTION FOR DE-IDENTIFIED INFORMATION.—

(1) IN GENERAL.—The limitation established by subsection (a) shall not apply to a report, data, or other information if the information contained in the report, data, or other information has been de-identified.

(2) DE-IDENTIFIED DEFINED.—In this subsection, the term “de-identified” means the process by which all information that is likely to establish the identity of the specific persons or entities submitting reports, data, or other information is removed from the reports, data, or other information.

(d) OTHER AGENCIES.—

(1) IN GENERAL.—The limitation established under subsection (a) shall apply to the head of any other Federal agency who receives reports, data, or other information described in such subsection from the Administrator.

(2) RULE OF CONSTRUCTION.—This section shall not be construed to limit the accident or incident investigation authority of the National Transportation Safety Board under chapter 11, including the requirement to not disclose voluntarily provided safety-related information under section 1114.

(Added Pub. L. 112–95, title III, §310(a), Feb. 14, 2012, 126 Stat. 64; amended Pub. L. 116–260, div. V, title I, §102(g), Dec. 27, 2020, 134 Stat. 2311; Pub. L. 118–63, title III, §305, May 16, 2024, 138 Stat. 1071.)

Editorial Notes

REFERENCES IN TEXT

Section 102(e) of the Aircraft Certification, Safety, and Accountability Act, referred to in subsec. (a)(2), is section 102(e) of title I of Pub. L. 116–260, div. V, Dec. 27, 2020, 134 Stat. 2310, which is set out in a note under section 44701 of this title.

AMENDMENTS

2024—Subsec. (a)(3). Pub. L. 118–63, §305(1), added par. (3).

Subsec. (d). Pub. L. 118–63, §305(2), added subsec. (d).

2020—Subsec. (a). Pub. L. 116–260 inserted “—” after “title 5”, designated remaining existing provisions as par. (1), and added par. (2).

§ 44736. Organization designation authorizations

(a) DELEGATIONS OF FUNCTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (3), when overseeing an ODA holder, the Administrator of the FAA shall—

(A) require, based on an application submitted by the ODA holder and approved by the Administrator (or the Administrator’s

designee), a procedures manual that addresses all procedures and limitations regarding the functions to be performed by the ODA holder; and

(B) conduct regular oversight activities by inspecting the ODA holder’s delegated functions and taking action based on validated inspection findings.

(2) DUTIES OF ODA HOLDERS.—An ODA holder shall—

(A) perform each specified function delegated to the ODA holder in accordance with the approved procedures manual for the delegation;

(B) make the procedures manual available to each member of the appropriate ODA unit; and

(C) cooperate fully with oversight activities conducted by the Administrator in connection with the delegation.

(3) EXISTING ODA HOLDERS.—With regard to an ODA holder operating under a procedures manual approved by the Administrator before the date of enactment of the FAA Reauthorization Act of 2018, the Administrator shall conduct regular oversight activities by inspecting the ODA holder’s delegated functions and taking action based on validated inspection findings.

(b) ODA OFFICE.—

(1) ESTABLISHMENT.—The Administrator of the FAA shall identify, within the FAA Office of Aviation Safety, a centralized policy office to be known as the Organization Designation Authorization Office or the ODA Office.

(2) PURPOSE.—The purpose of the ODA Office shall be to provide oversight and ensure the consistency of the FAA’s audit functions under the ODA program across the FAA.

(3) FUNCTIONS.—The ODA Office shall—

(A)(i) require, as appropriate, an ODA holder to establish a corrective action plan to regain authority for any retained limitations;

(ii) require, as appropriate, an ODA holder to notify the ODA Office when all corrective actions have been accomplished; and

(iii) when appropriate, make a reassessment to determine if subsequent performance in carrying out any retained limitation warrants continued retention and, if such reassessment determines performance meets objectives, lift such limitation immediately;

(B) develop a more consistent approach to audit priorities, procedures, and training under the ODA program;

(C) review, in a timely fashion, a random sample of limitations on delegated authorities under the ODA program to determine if the limitations are appropriate;

(D) ensure national consistency in the interpretation and application of the requirements of the ODA program, including any limitations, and in the performance of the ODA program;

(E) at the request of an ODA holder, review and, when appropriate, approve new limitations to ODA functions;

(F) ensure the ODA holders procedures manual contains procedures and policies

based on best practices established by the Administrator; and

(G) convene a forum not less than every 2 years between ODA holders, unit members, and other organizational representatives and relevant experts, in order to—

- (i) share best practices;
- (ii) instill professionalism, ethics, and personal responsibilities in unit members; and
- (iii) foster open and transparent communication between Administration safety specialists, ODA holders, and unit members.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) FAA.—The term “FAA” means the Federal Aviation Administration.

(2) ODA HOLDER.—The term “ODA holder” means an entity authorized to perform functions pursuant to a delegation made by the Administrator of the FAA under section 44702(d).

(3) ODA UNIT.—The term “ODA unit” means a group of 2 or more individuals who perform, under the supervision of an ODA holder, authorized functions under an ODA.

(4) ORGANIZATION.—The term “organization” means a firm, partnership, corporation, company, association, joint-stock association, or governmental entity.

(5) ORGANIZATION DESIGNATION AUTHORIZATION; ODA.—The term “Organization Designation Authorization” or “ODA” means an authorization by the FAA under section 44702(d) for an organization composed of 1 or more ODA units to perform approved functions on behalf of the FAA.

(d) AUDITS.—

(1) IN GENERAL.—The Administrator shall perform a periodic audit of each ODA unit and its procedures.

(2) DURATION.—An audit required under paragraph (1) shall be performed with respect to an ODA holder once every 7 years (or more frequently as determined appropriate by the Administrator).

(3) RECORDS.—The ODA holder shall maintain, for a period to be determined by the Administrator, a record of—

- (A) each audit conducted under this subsection; and
- (B) any corrective actions resulting from each such audit.

(e) FEDERAL AVIATION SAFETY ADVISORS.—

(1) IN GENERAL.—In the case of an ODA holder, the Administrator shall assign FAA aviation safety personnel with appropriate expertise to be advisors to the ODA unit members that are authorized to make findings of compliance on behalf of the Administrator. The advisors shall—

- (A) communicate with assigned unit members on an ongoing basis to ensure that the assigned unit members are knowledgeable of relevant FAA policies and acceptable methods of compliance; and
- (B) monitor the performance of the assigned unit members to ensure consistency with such policies.

(2) APPLICABILITY.—Paragraph (1) shall only apply to an ODA holder that is—

(A) a manufacturer that holds both a type and a production certificate for—

- (i) transport category airplanes with a maximum takeoff gross weight greater than 150,000 pounds; or
- (ii) airplanes produced and delivered to operators operating under part 121 of title 14, Code of Federal Regulations, for air carrier service under such part 121; or

(B) a manufacturer of engines for an airplane described in subparagraph (A).

(f) COMMUNICATION WITH THE FAA.—Neither the Administrator nor an ODA holder may prohibit—

(1) an ODA unit member from communicating with, or seeking the advice of, the Administrator or FAA staff; or

(2) the Administrator or FAA staff from communicating with an ODA unit member.

(g) ETHICS TRAINING REQUIREMENT FOR ODA HOLDERS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Administrator of the Federal Aviation Administration shall review and ensure each ODA holder authorized by the Administrator under section 44702(d) has in effect a recurrent training program for all ODA unit members that covers—

(A) unit member professional obligations and responsibilities;

(B) the ODA holder’s code of ethics as required to be established under section 102(f) of the Aircraft Certification, Safety, and Accountability Act (49 U.S.C. 44701 note);

(C) procedures for reporting safety concerns, as described in the respective approved procedures manual for the delegation;

(D) the prohibition against and reporting procedures for interference from a supervisor or other ODA member described in section 44742; and

(E) any additional information the Administrator considers relevant to maintaining ethical and professional standards across all ODA holders and unit members.

(2) FAA REVIEW.—

(A) REVIEW OF TRAINING PROGRAM.—The Organization Designation Authorization Office of the Administration established under subsection (b) shall review each ODA holders’ recurrent training program to ensure such program includes—

(i) all elements described in paragraph (1); and

(ii) training to instill professionalism and clear understanding among ODA unit members about the purpose of and procedures associated with safety management systems, including the provisions of the third edition of the Safety Management Manual issued by the International Civil Aviation Organization (Doc 9859) (or any successor edition).

(B) CHANGES TO PROGRAM.—Such Office may require changes to the training pro-

gram considered necessary to maintain ethical and professional standards across all ODA holders and unit members.

(3) TRAINING.—As part of the recurrent training program required under paragraph (1), not later than 60 business days after being designated as an ODA unit member, and annually thereafter, each ODA unit member shall complete the ethics training required by the ODA holder of the respective ODA unit member in order to exercise the functions delegated under the ODA.

(4) ACCOUNTABILITY.—The Administrator shall establish such processes or requirements as are necessary to ensure compliance with paragraph (3).

(Added Pub. L. 115–254, div. B, title II, §212(a), Oct. 5, 2018, 132 Stat. 3247; amended Pub. L. 116–260, div. V, title I, §§107(b)(1), (c), 125(b), Dec. 27, 2020, 134 Stat. 2324, 2325, 2347; Pub. L. 118–63, title III, §§303, 304(a), May 16, 2024, 138 Stat. 1069, 1070.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the FAA Reauthorization Act of 2018 and the date of enactment of this section, referred to in subsecs. (a)(3) and (b)(1), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

The date of enactment of this subsection, referred to in subsec. (g)(1), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

Section 102(f) of the Aircraft Certification, Safety, and Accountability Act, referred to in subsec. (g)(1)(B), is section 102(f) of title I of div. V of Pub. L. 116–260, which is set out in a note under section 44701 of this title.

AMENDMENTS

2024—Subsec. (b)(1). Pub. L. 118–63, §303(1), substituted “The” for “Not later than 120 days after the date of enactment of this section, the”.

Subsec. (b)(3)(G). Pub. L. 118–63, §303(2), added subpar. (G).

Subsec. (g). Pub. L. 118–63, §304(a), added subsec. (g).
2020—Subsec. (a)(1). Pub. L. 116–260, §107(c)(1)(A), redesignated subpar. (C) as (B) and struck out former subpars. (B) and (D) which read as follows:

“(B) delegate fully to the ODA holder each of the functions to be performed as specified in the procedures manual, unless the Administrator determines, after the date of the delegation and as a result of an inspection or other investigation, that the public interest and safety of air commerce requires a limitation with respect to 1 or more of the functions;

“(D) for each function that is limited under subparagraph (B), work with the ODA holder to develop the ODA holder’s capability to execute that function safely and effectively and return to full authority status.”

Subsec. (a)(3). Pub. L. 116–260, §107(c)(1)(B), substituted “shall conduct regular oversight activities by inspecting the ODA holder’s delegated functions and taking action based on validated inspection findings.” for “shall—” and subpars. (A) to (D) which read as follows:

“(A) at the request of the ODA holder and in an expeditious manner, approve revisions to the ODA holder’s procedures manual;

“(B) delegate fully to the ODA holder each of the functions to be performed as specified in the procedures manual, unless the Administrator determines, after the date of the delegation and as a result of an inspection or other investigation, that the public interest and

safety of air commerce requires a limitation with respect to one or more of the functions;

“(C) conduct regular oversight activities by inspecting the ODA holder’s delegated functions and taking action based on validated inspection findings; and

“(D) for each function that is limited under subparagraph (B), work with the ODA holder to develop the ODA holder’s capability to execute that function safely and effectively and return to full authority status.”

Subsec. (b)(3)(A). Pub. L. 116–260, §107(c)(2)(A), redesignated cls. (ii) to (iv) as (i) to (iii), respectively, in cls. (i) and (ii), inserted “, as appropriate,” after “require”, in cl. (iii), inserted “when appropriate,” before “make a reassessment”, and struck out former cl. (i) which read as follows: “at the request of an ODA holder, eliminate all limitations specified in a procedures manual in place on the day before the date of enactment of the FAA Reauthorization Act of 2018 that are low and medium risk as determined by a risk analysis using criteria established by the ODA Office and disclosed to the ODA holder, except where an ODA holder’s performance warrants the retention of a specific limitation due to documented concerns about inadequate current performance in carrying out that authorized function;”.

Subsec. (b)(3)(B) to (E). Pub. L. 116–260, §107(c)(2)(B), (D), redesignated subpars. (C) to (F) as (B) to (E), respectively, and struck out former subpar. (B) which read as follows: “improve FAA and ODA holder performance and ensure full utilization of the authorities delegated under the ODA program;”.

Subsec. (b)(3)(F). Pub. L. 116–260, §125(b), added subpar. (F). Former subpar. (F) redesignated (E).

Pub. L. 116–260, §107(c)(2)(C), (D), inserted “, when appropriate,” before “approve” and then redesignated subpar. (F) as (E).

Subsecs. (d), (e). Pub. L. 116–260, §107(b)(1), added subsecs. (d) and (e).

Statutory Notes and Related Subsidiaries

ODA UNIT MEMBER ANNUAL ETHICS TRAINING DEADLINE

Pub. L. 118–63, title III, §304(b), May 16, 2024, 138 Stat. 1071, provided that: “An ODA unit member authorized to perform delegated functions under an ODA prior to the date of completion of an ethics training required under section 44736(g) of title 49, United States Code, shall complete such training not later than 60 days after the training program is approved by the Administrator [of the Federal Aviation Administration] pursuant to such section.”

EXPERT REVIEW OF ORGANIZATION DESIGNATION AUTHORIZATIONS FOR TRANSPORT AIRPLANES

Pub. L. 116–260, div. V, title I, §103, Dec. 27, 2020, 134 Stat. 2311, provided that:

“(a) EXPERT REVIEW.—

“(1) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this title [Dec. 27, 2020], the Administrator shall convene an expert panel (in this section referred to as the ‘review panel’) to review and make findings and recommendations on the matters listed in paragraph (2).

“(2) CONTENTS OF REVIEW.—With respect to each holder of an organization designation authorization for the design and production of transport airplanes, the review panel shall review the following:

“(A) The extent to which the holder’s safety management processes promote or foster a safety culture consistent with the principles of the International Civil Aviation Organization Safety Management Manual, Fourth Edition (International Civil Aviation Organization Doc. No. 9859) or any similar successor document.

“(B) The effectiveness of measures instituted by the holder to instill, among employees and contractors of such holder that support organization designation authorization functions, a commitment to safety above all other priorities.

“(C) The holder’s capability, based on the holder’s organizational structures, requirements applicable to officers and employees of such holder, and safety culture, of making reasonable and appropriate decisions regarding functions delegated to the holder pursuant to the organization designation authorization.

“(D) Any other matter determined by the Administrator for which inclusion in the review would be consistent with the public interest in aviation safety.

“(3) COMPOSITION OF REVIEW PANEL.—The review panel shall consist of—

“(A) 2 representatives of the National Aeronautics and Space Administration;

“(B) 2 employees of the Administration’s Aircraft Certification Service with experience conducting oversight of persons not involved in the design or production of transport airplanes;

“(C) 1 employee of the Administration’s Aircraft Certification Service with experience conducting oversight of persons involved in the design or production of transport airplanes;

“(D) 2 employees of the Administration’s Flight Standards Service with experience in oversight of safety management systems;

“(E) 1 appropriately qualified representative, designated by the applicable represented organization, of each of—

“(i) a labor union representing airline pilots involved in both passenger and all-cargo operations;

“(ii) a labor union, not selected under clause (i), representing airline pilots with expertise in the matters described in paragraph (2);

“(iii) a labor union representing employees engaged in the assembly of transport airplanes;

“(iv) the certified bargaining representative under section 7111 of title 5, United States Code, for field engineers engaged in the audit or oversight of an organization designation authorization within the Aircraft Certification Service of the Administration;

“(v) the certified bargaining representative for safety inspectors of the Administration; and

“(vi) a labor union representing employees engaged in the design of transport airplanes;

“(F) 2 independent experts who have not served as a political appointee in the Administration and—

“(i) who hold either a baccalaureate or postgraduate degree in the field of aerospace engineering or a related discipline; and

“(ii) who have a minimum of 20 years of relevant applied experience;

“(G) 4 air carrier employees whose job responsibilities include administration of a safety management system;

“(H) 4 individuals representing 4 different holders of organization designation authorizations, with preference given to individuals representing holders of organization designation authorizations for the design or production of aircraft other than transport airplanes or for the design or production of aircraft engines, propellers, or appliances; and

“(I) 1 individual holding a law degree and who has expertise in the legal duties of a holder of an organization designation authorization and the interaction with the FAA, except that such individual may not, within the 10-year period preceding the individual’s appointment, have been employed by, or provided legal services to, the holder of an organization designation authorization referenced in paragraph (2).

“(4) RECOMMENDATIONS.—The review panel shall make recommendations to the Administrator regarding suggested actions to address any deficiencies found after review of the matters listed in paragraph (2).

“(5) REPORT.—

“(A) SUBMISSION.—Not later than 270 days after the date of the first meeting of the review panel,

the review panel shall transmit to the Administrator and the congressional committees of jurisdiction a report containing the findings and recommendations of the review panel regarding the matters listed in paragraph (2), except that such report shall include—

“(i) only such findings endorsed by 10 or more individual members of the review panel; and

“(ii) only such recommendations described in paragraph (4) endorsed by 18 or more of the individual members of the review panel.

“(B) DISSENTING VIEWS.—In submitting the report required under this paragraph, the review panel shall append to such report the dissenting views of any individual member or group of members of the review panel regarding the findings or recommendations of the review panel.

“(C) PUBLICATION.—Not later than 5 days after receiving the report under subparagraph (A), the Administrator shall publish such report, including any dissenting views appended to the report, on the website of the Administration.

“(D) TERMINATION.—The review panel shall terminate upon submission of the report under subparagraph (A).

“(6) ADMINISTRATIVE PROVISIONS.—

“(A) ACCESS TO INFORMATION.—The review panel shall have authority to perform the following actions if a majority of the total number of review panel members consider each action necessary and appropriate:

“(i) Entering onto the premises of a holder of an organization designation authorization referenced in paragraph (2) for access to and inspection of records or other purposes.

“(ii) Notwithstanding any other provision of law, accessing and inspecting unredacted records directly necessary for the completion of the panel’s work under this section that are in the possession of such holder of an organization designation authorization or the Administration.

“(iii) Interviewing employees of such holder of an organization designation authorization or the Administration as necessary for the panel to complete its work.

“(B) DISCLOSURE OF FINANCIAL INTERESTS.—Each individual serving on the review panel shall disclose to the Administrator any financial interest held by such individual, or a spouse or dependent of such individual, in a business enterprise engaged in the design or production of transport airplanes, aircraft engines designed for transport airplanes, or major systems, components, or parts thereof.

“(C) PROTECTION OF PROPRIETARY INFORMATION; TRADE SECRETS.—

“(i) MARKING.—The custodian of a record accessed under subparagraph (A) may mark such record as proprietary or containing a trade secret. A marking under this subparagraph shall not be dispositive with respect to whether such record contains any information subject to legal protections from public disclosure.

“(ii) NONDISCLOSURE FOR NON-FEDERAL GOVERNMENT PARTICIPANTS.—

“(I) NON-FEDERAL GOVERNMENT PARTICIPANTS.—Prior to participating on the review panel, each individual serving on the review panel representing a non-Federal entity, including a labor union, shall execute an agreement with the Administrator in which the individual shall be prohibited from disclosing at any time, except as required by law, to any person, foreign or domestic, any non-public information made accessible to the panel under subparagraph (A).

“(II) FEDERAL EMPLOYEE PARTICIPANTS.—Federal employees serving on the review panel as representatives of the Federal Government and who are required to protect proprietary information and trade secrets under section 1905 of

title 18, United States Code, shall not be required to execute agreements under this subparagraph.

“(iii) PROTECTION OF VOLUNTARILY SUBMITTED SAFETY INFORMATION.—Information subject to protection from disclosure by the Administration in accordance with sections 40123 and 44735 of title 49, United States Code, is deemed voluntarily submitted to the Administration under such sections when shared with the review panel and retains its protection from disclosure (including protection under section 552(b)(3) of title 5, United States Code). The custodian of a record subject to such protection may mark such record as subject to statutory protections. A marking under this subparagraph shall not be dispositive with respect to whether such record contains any information subject to legal protections from public disclosure. Members of the review panel will protect voluntarily submitted safety information and other otherwise exempt information to the extent permitted under applicable law.

“(iv) PROTECTION OF PROPRIETARY INFORMATION AND TRADE SECRETS.—Members of the review panel will protect proprietary information, trade secrets, and other otherwise exempt information to the extent permitted under applicable law.

“(v) RESOLVING CLASSIFICATION OF INFORMATION.—If the review panel and a holder of an organization designation authorization subject to review under this section disagree as to the proper classification of information described in this subparagraph, then an employee of the Administration who is not a political appointee shall determine the proper classification of such information and whether such information will be withheld, in part or in full, from release to the public.

“(D) APPLICABLE LAW.—Public Law 92-463 [Federal Advisory Committee Act, see 5 U.S.C. 1001 et seq.] shall not apply to the panel established under this subsection.

“(E) FINANCIAL INTEREST DEFINED.—In this paragraph, the term ‘financial interest’—

“(i) excludes securities held in an index fund; and

“(ii) includes—

“(I) any current or contingent ownership, equity, or security interest;

“(II) an indebtedness or compensated employment relationship; or

“(III) any right to purchase or acquire any such interest, including a stock option or commodity future.

“(b) FAA AUTHORITY.—

“(1) IN GENERAL.—After reviewing the findings of the review panel submitted under subsection (a)(5), the Administrator may limit, suspend, or terminate an organization designation authorization subject to review under this section.

“(2) REINSTATEMENT.—The Administrator may condition reinstatement of a limited, suspended, or terminated organization designation authorization on the holder’s implementation of any corrective actions determined necessary by the Administrator.

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the Administrator’s authority to take any action with respect to an organization designation authorization, including limitation, suspension, or termination of such authorization.

“(c) ORGANIZATION DESIGNATION AUTHORIZATION PROCESS IMPROVEMENTS.—Not later than 1 year after receipt of the recommendations submitted under subsection (a)(5), the Administrator shall report to the congressional committees of jurisdiction on—

“(1) whether the Administrator has concluded that such holder is able to safely and reliably perform all delegated functions in accordance with all applicable provisions of chapter 447 of title 49, United States Code, title 14, Code of Federal Regulations, and other

orders or requirements of the Administrator, and, if not, the Administrator shall outline—

“(A) the risk mitigations or other corrective actions, including the implementation timelines of such mitigations or actions, the Administrator has established for or required of such holder as prerequisites for a conclusion by the Administrator under this paragraph; or

“(B) the status of any ongoing investigatory actions;

“(2) the status of implementation of each of the recommendations of the review panel, if any, with which the Administrator concurs;

“(3) the status of procedures under which the Administrator will conduct focused oversight of such holder’s processes for performing delegated functions with respect to the design of new and derivative transport airplanes and the production of such airplanes; and

“(4) the Administrator’s efforts, to the maximum extent practicable and subject to appropriations, to increase the number of engineers, inspectors, and other qualified technical experts, as necessary to fulfill the requirements of this section, in—

“(A) each office of the Administration responsible for dedicated oversight of such holder; and

“(B) the System Oversight Division, or any successor division, of the Aircraft Certification Service.

“(d) NON-CONCURRENCE WITH RECOMMENDATIONS.—Not later than 6 months after receipt of the recommendations submitted under subsection (a)(5), with respect to each recommendation of the review panel with which the Administrator does not concur, if any, the Administrator shall publish on the website of the Administration and submit to the congressional committees of jurisdiction a detailed explanation as to why, including if the Administrator believes implementation of such recommendation would not improve aviation safety.”

[For definitions of terms used in section 103 of div. V of Pub. L. 116-260, set out above, see section 137 of div. V of Pub. L. 116-260, set out as a note under section 40101 of this title.]

ODA REVIEW

Pub. L. 115-254, div. B, title II, §213, Oct. 5, 2018, 132 Stat. 3249, as amended by Pub. L. 116-260, div. V, title I, §125(a), Dec. 27, 2020, 134 Stat. 2346, provided that:

“(a) ESTABLISHMENT OF EXPERT REVIEW PANEL.—

“(1) EXPERT PANEL.—Not later than 120 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall convene a multidisciplinary expert review panel (in this section referred to as the ‘Panel’).

“(2) COMPOSITION OF PANEL.—

“(A) APPOINTMENT OF MEMBERS.—The Panel shall be composed of not more than 20 members appointed by the Administrator.

“(B) QUALIFICATIONS.—The members appointed to the Panel shall—

“(i) each have a minimum of 5 years of experience in processes and procedures under the ODA program; and

“(ii) represent, at a minimum, ODA holders, aviation manufacturers, safety experts, and FAA labor organizations, including labor representatives of FAA aviation safety inspectors and aviation safety engineers.

“(b) SURVEY.—The Panel shall conduct a survey of ODA holders and ODA program applicants to document and assess FAA certification and oversight activities, including use of the ODA program and the timeliness and efficiency of the certification process. In carrying out this subsection, the Panel shall consult with appropriate survey experts to best design and conduct the survey.

“(c) BEST PRACTICES REVIEW.—In addition to conducting the survey required under subsection (b), the Panel shall conduct a review of a sampling of ODA holders to identify and develop best practices. At a

minimum, the best practices shall address preventing and deterring instances of undue pressure on or by an ODA unit member, within an ODA, or by an ODA holder, or failures to maintain independence between the FAA and an ODA holder or an ODA unit member. In carrying out such review, the Panel shall—

“(1) examine other government regulated industries to gather lessons learned, procedures, or processes that address undue pressure of employees, perceived regulatory coziness, or other failures to maintain independence;

“(2) identify ways to improve communications between an ODA Administrator, ODA unit members, and FAA engineers and inspectors, consistent with section 44736(g) of title 49, United States Code, in order to enable direct communication of technical concerns that arise during a certification project without fear of reprisal to the ODA Administrator or ODA unit member; and

“(3) examine FAA designee programs, including the assignment of FAA advisors to designees, to determine which components of the program may improve the FAA’s oversight of ODA units, ODA unit members, and the ODA program.

“(d) ASSESSMENT AND RECOMMENDATIONS.—The Panel shall assess and make recommendations concerning—

“(1) the FAA’s processes and procedures under the ODA program and whether the processes and procedures function as intended;

“(2) the best practices of and lessons learned by ODA holders and FAA personnel who provide oversight of ODA holders;

“(3) training activities related to the ODA program for FAA personnel and ODA holders;

“(4) the impact, if any, that oversight of the ODA program has on FAA resources and the FAA’s ability to process applications for certifications outside of the ODA program;

“(5) the results of the survey conducted under subsection (b); and

“(6) the results of the review conducted under subsection (c).

“(e) REPORT.—Not later than 180 days after the date the Panel is convened under subsection (a), the Panel shall submit to the Administrator, the Advisory Committee, and the appropriate committees of Congress a report on the findings and recommendations of the Panel.

“(f) DEFINITIONS.—The definitions contained in section 44736 of title 49, United States Code, as added by this Act, apply to this section.

“(g) APPLICABLE LAW.—Public Law 92-463 [Federal Advisory Committee Act, see 5 U.S.C. 1001 et seq.] shall not apply to the Panel.

“(h) BEST PRACTICES ADOPTION.—

“(1) IN GENERAL.—Not later than 180 days after the date on which the Administrator receives the report required under subsection (e), the Administrator shall establish best practices that are generally applicable to all ODA holders and require such practices to be incorporated, as appropriate, into each ODA holder’s approved procedures manual.

“(2) NOTICE AND COMMENT PERIOD.—The Administrator shall publish the established best practices for public notice and comment for not fewer than 60 days prior to requiring the practices, as appropriate, be incorporated into each ODA holder’s approved procedures manual.

“(i) SUNSET.—The Panel shall terminate on the earlier of—

“(1) the date of submission of the report under subsection (e); or

“(2) the date that is 2 years after the date on which the Panel is first convened under subsection (a).”

§ 44737. Helicopter fuel system safety

(a) PROHIBITION.—

(1) IN GENERAL.—A person may not operate a covered helicopter in United States airspace

unless the design of the helicopter is certified by the Administrator of the Federal Aviation Administration to—

(A) comply with the requirements applicable to the category of the helicopter under paragraphs (1), (2), (3), (5), and (6) of section 27.952(a), section 27.952(c), section 27.952(f), section 27.952(g), section 27.963(g) (but allowing for a minimum puncture force of 250 pounds if successfully drop tested in-structure), and section 27.975(b) or paragraphs (1), (2), (3), (5), and (6) of section 29.952(a), section 29.952(c), section 29.952(f), section 29.952(g), section 29.963(b) (but allowing for a minimum puncture force of 250 pounds if successfully drop tested in-structure), and 29.975(a)(7) of title 14, Code of Federal Regulations, as in effect on the date of enactment of this section; or

(B) employ other means acceptable to the Administrator to provide an equivalent level of fuel system crash resistance.

(2) COVERED HELICOPTER DEFINED.—In this subsection, the term “covered helicopter” means a helicopter not otherwise required to comply with section 27.952, section 27.963, and section 27.975, or section 29.952, section 29.963, and section 29.975 of title 14, Code of Federal Regulations as in effect on the date of enactment of this section for which manufacture was completed, as determined by the Administrator, on or after the date that is 18 months after the date of enactment of this section.

(b) ADMINISTRATIVE PROVISIONS.—The Administrator shall—

(1) expedite the certification and validation of United States and foreign type designs and retrofit kits that improve fuel system crashworthiness; and

(2) not later than 180 days after the date of enactment of this section, and periodically thereafter, issue a bulletin to—

(A) inform helicopter owners and operators of available modifications to improve fuel system crashworthiness; and

(B) urge that such modifications be installed as soon as practicable.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect the operation of a helicopter by the Department of Defense.

(d) EXCEPTION.—A helicopter issued an experimental certificate under section 21.191 of title 14, Code of Federal Regulations (or any successor regulations), or operating under a Special Flight Permit issued under section 21.197 of title 14, Code of Federal Regulations (or any successor regulations), is excepted from the requirements of this section.

(Added Pub. L. 115-254, div. B, title III, §317(a), Oct. 5, 2018, 132 Stat. 3268; amended Pub. L. 118-63, title VIII, §825, May 16, 2024, 138 Stat. 1332.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 115-254, which was approved Oct. 5, 2018.