



June 10, 2016

The Honorable Christopher A. Hart
Chairman
National Transportation Safety Board
490 L'Enfant Plaza, SW
Washington, D.C. 20594

RE: FAA Notice of Proposed Rulemaking, Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes

Dear Chairman Hart,

We are writing in response to the National Transportation Safety Board's (NTSB) comments on the Federal Aviation Administration's (FAA) proposed rulemaking to implement performance-based airworthiness standards for new airplanes certified under 14 CFR Part 23.

On behalf of the Aircraft Electronics Association (AEA), the Aircraft Owners and Pilots Association (AOPA), and the Experimental Aircraft Association (EAA), we are supportive and appreciative of the NTSB's safety expertise and efforts in not just general aviation (GA), but all modes of transportation. We also share the NTSB's goal of ensuring that Part 23 reform increases, not just preserves, the existing level of safety for GA airplanes.

However, although it might not have been the NTSB's intent to question the need for Part 23 reform, we are respectfully concerned with several of the NTSB's comments to the FAA's proposed new method for certifying Part 23 airplanes. We strongly believe Part 23 reform promises many economic and safety benefits for the GA community, including:

- Encouraging the development and installation of innovative and safer product designs in both new and existing GA airplanes
- Allowing certification standards to easily adapt to changing technology and unexpected safety risks arising in the industry

- Streamlining the certification process to reduce the time and costs of certification for manufacturers/industry and the FAA
- Maintaining and improving the level of safety that currently exists under the current Part 23 certification standards
- Harmonizing the certification standards and processes in the United States with those being formulated and implemented abroad

The transition from prescriptive to performance-based regulatory standards, which includes the use of industry-consensus standards, has been widely praised and called for by the GA industry. The underlying philosophy implemented in the Part 23 proposed rulemaking originated in a joint FAA and industry team. Recognizing the potential benefits, the U.S. Congress passed the FAA Modernization and Reform Act of 2012 and the Small Airplane Revitalization Act (SARA) of 2013. The FAA's March 14 proposed rulemaking reflects directives from the industry, the FAA, and the Congress to reform Part 23.

While many of the NTSB's comments were technical in nature and addressed specific design standards, several points raised in your letter—which question a certification process widely called for by the industry—deserve proper context and even support the FAA's efforts to revise Part 23.

First, the NTSB expressed concern over the use of industry-consensus standards, citing its investigation into Zodiac CH-601XL, an aircraft which experienced several in-flight structural breakups—the majority of which were experimental amateur-built aircraft which conformed to no industry-consensus standards. We view industry-consensus standards as the main driver of the economic and safety benefits to come from Part 23 reform, for several reasons:

- Under proposed Part 23, the FAA evaluates and determines whether an applicant's proposed means of compliance (e.g. consensus standard) satisfies a performance-based regulatory safety standard set by the FAA. In contrast, LSA manufacturers self-certify its compliance with FAA-accepted industry-consensus standards—the FAA does not review the standards relative to a regulatory safety standard. Although both utilize consensus standards, these are two fundamentally different certification processes and we caution against drawing similarities.

- With over a decade of experience in the LSA category, the industry, the FAA, and the Congress have all encouraged further implementation of industry-consensus standards in the certification process. In 2013, SARA, unanimously passed by Congress, specifically required the FAA to use consensus standards in conjunction with performance-based regulations when reforming Part 23.
- Industry-consensus standards allow the FAA and industry to more quickly respond to changes in technology and any unexpected safety risks than the current rulemaking process. Standards, unlike regulations, can adapt and be revised in a timely manner—evidenced by ASTM International F37 Committee on Light-Sport Aircraft's response to the NTSB's recommendations. If the NTSB issues a safety recommendation, those recommendations could be implemented faster under proposed Part 23 than the existing process.

Second, AEA, AOPA, and EAA have praised Part 23 reform because the proposed rulemaking strongly reflects the FAA's safety continuum philosophy—the philosophy that one level of safety may not be appropriate for all certification levels. The FAA has explained that the agency is willing to accept higher levels of risk, for instance, when aircraft are used for personal transportation. Unfortunately, the underlying rationale for the NTSB's concerns with the proposed certification process seems to be based upon references to incidents involving transport category airplanes certified under 14 CFR Part 25. We believe these comparisons are misguided because the FAA applies a fundamentally different level of risk between airplanes certified under Part 23 and Part 25.

Finally, the NTSB questioned the ability of the FAA's engineering staff to evaluate and certify new technologies, which may create challenges under proposed Part 23. The NTSB cited its investigation into the Japan Airlines Boeing 787-8 cabin fire at Logan International Airport which reportedly revealed issues with the FAA's certification of lithium-ion batteries. We fundamentally disagree with this comparison. But even if such questions were justified, they are further reason to shift toward industry-consensus standards—leveraging the expertise of the industry to aid in the standards development process. Yes, new technology will bring new challenges but the FAA and industry should collaborate together in addressing those challenges and certifying new technology.

AEA, AOPA, and EAA are dedicated to ensuring that Part 23 reform improves the level of safety in the existing Part 23 certification standards. The FAA has painstakingly worked with our

organizations and industry to ensure safety is paramount in the new certification process. We strongly believe that proposed Part 23—including the use of performance-based regulations and industry-consensus standards—accomplishes this goal and will lay the foundation for the next generation of innovative and safe products for the GA community.

Sincerely,



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Jack Pelton
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