

February 23, 2021

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RE: Publication of Federal Aviation Administration (FAA) Airman Certification Standards (ACS)

Messrs. Monje, Putnam, Roberts, and Bury:

As industry members of the Aviation Rulemaking Advisory Committee's Airman Certification System Working Group, the undersigned respectfully request that the department reconsider its relatively recent reluctance to publish FAA ACS, the product of a decades-long industry-FAA collaboration that—when published—will provide the framework under which aviators are trained and contribute to the overall safety of the U.S. aviation system.

In 2011 a diverse group of aviation community stakeholders joined the FAA to develop a new approach to airman (e.g., pilot and mechanic) certification. The goal of the industry-agency collaboration was to modernize the existing airman certification system—by providing a clearer understanding of what knowledge and skill was required of successful applicants. Over the last decade, an FAA-chartered ACS working group contributed countless hours to develop an integrated system that clearly defines the knowledge and skill required to hold an FAA airman certificate, and the framework to ensure testing, guidance, and training are in alignment. The foundational document that pulls all these pieces together is the ACS.

Since the first ACS was published in 2016, the agency has released six certification standards under the watchful eye of the FAA-industry working group.¹ The aviation community was quick to adopt the new documents and they have since proven to be an important asset. The ACS will clearly communicate what an applicant needs to know, consider, and do to attain airman certification. In response, the training community has developed programs that focus on competencies in lieu of the traditional rote memorization of commonly-asked questions. The new standard will continue to be a game changer for the advancement of aviation education.

The collaborative process under the ACS Working Group has also provided transparency and fairness in the agency's decision-making and contributed to new-found trust between aviation community stakeholders and the FAA. Published ACS have been available for public comment and review on the agency's website, and industry representatives have communicated the new standards to their respective constituencies throughout the development and revision of these safety-critical documents. This successful endeavor has also resulted in significant improvements to FAA certification handbooks and FAA knowledge exam test questions.

¹ Current ACS are published at https://www.faa.gov/training_testing/testing/acs/

In 2019, the working group's efforts were brought to a halt due to the reinterpretation of the FAA's responsibilities with regard to standards publication. Since then, the queue of unpublished work product has grown to twelve ACS, while industry awaits the promised certification reforms.

The negative impacts of the stalled publication of ACS are vast. In the absence of new certification standards, aviation training and testing providers rely on outdated practical test standards, or no published standard at all. With the rapid proliferation of new entrants (e.g., drones, powered lift, vertical takeoff and landing, and urban air mobility), the ACS framework is needed now, yet the regulator continues to fall further behind industry innovations and opportunities to improve safety.

We understand that the administration's sudden refusal to publish ACS was due in large part to promulgation of the department's administrative rulemaking procedures in December 2019.² We also understand and appreciate that the intent is to ensure that agency rules and guidance do not serve as a "back door" to rulemaking or impose undue burdens on regulated entities. However, if the FAA determines the ACS is rulemaking subject to Administrative Procedures Act (APA) requirements, the designation will greatly reduce the benefit of the ACS: that it become a flexible framework, revised at a regular cadence to ensure FAA airman knowledge and skill requirements evolve alongside industry innovations and safety needs. Even more importantly, deeming the ACS a rule subject to APA requirements would make it difficult to replicate the nature and scope of consultation, collaboration, and trust between the agency and community experts, that we now enjoy.

We submit for your consideration that the ACS is not subject to Title 49 Code of Federal Regulations (CFR) part 5 administrative procedures.³ A common sense approach is that the ACS should not be considered rulemaking or guidance, but instead a framework for internal agency governance of certification processes. Industry will in turn incorporate the ACS knowledge and skill elements in its own training programs because it knows the agency will assess those elements in its FAA-facilitated airman tests.

Whether the agency adopts the suggested approach or not, we ask that all ACS ultimately be published consistent with past practices (for both existing ACS and legacy practical test standards) and free from APA rulemaking and guidance procedures that hamper flexibilities vital to a workable certification framework.⁴

We understand that the need for a nimbler approach to FAA document publication is not limited to the ACS, and that officials are actively working to identify a solution for issues we've raised here. We therefore thank you for considering these comments in your deliberations and respectfully request a meeting with department officials should there be a need to further discuss possible solutions and a path forward for ACS publication.

² [Administrative Rulemaking, Guidance and Enforcement Procedures](#), 84 FR 71714, published Dec. 27, 2019

³ We assert that the ACS is exempt from rulemaking procedures as a "rule addressed solely to internal agency management or personnel matters" under 49 CFR 5.3(d)(3) and exempt from guidance procedures as "rules of agency organization, procedure, or practice" under [49 CFR 5.25\(d\)\(2\)](#).

⁴ We do not suggest that the agency should not invite public comment on ACS. Indeed, the working group would recommend that current practice continue, which includes the opportunity for public comment on the FAA website, and notice of publication on the Federal Register.

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