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U.S. Department  
of Transportation

**Federal Aviation  
Administration**

# Memorandum

Subject: Docket # FAA-2000-7554 - 3

Date: September 20, 2000

From: Mark G. Lawyer ARM-107  
Transportation Industry Analyst  
Office of Rulemaking

Reply to Mark Lawyer  
Attn. of: 202-493-4531

To: Cynthia Hatten  
Docket Management System, TASC

Please post the following to docket FAA-2000-7554 in the Docket Management System:

1. Memo for the Record, pertaining to a meeting held July 27, 2000
2. Summary of Meeting for the Record, pertaining to a meeting held August 9, 2000.

Thank you,

A handwritten signature in black ink, appearing to read "M. Lawyer".

Mark Lawyer, ARM-107  
Transportation Industry Analyst  
Office of Rulemaking

## MEMO FOR THE RECORD

On July 27, 2000, the Administrator, the Chief of Staff and the Deputy Associate Administrator for Regulation and Certification met with John O'Brien, representing the Air Line Pilots Association (ALPA), Ed Soliday representing United Airlines (UAL) and the Air Transport Association (ATA), and John Safety, representing the Allied Pilots Association (APA).

It is the position of ALPA, ATA and its member airlines, and APA that the Notice of Proposed Rulemaking (NPRM) entitled Flight Operational Quality Assurance Program (FOQA) does not properly reflect the Congressional direction contained in FAA's reauthorization legislation titled AIR 21. The organizations recommend that the NPRM be withdrawn and that a proposal that more closely aligns with the congressional direction be issued for comment.

All of the organizations strongly endorse FOQA programs as a tool to enhance aviation safety. Many airlines and their unions have entered agreements to establish FOQA programs and significant safety enhancements have already been realized. A key to expanding the current programs and to sharing the data with the FAA is the provision of protection from enforcement action for crewmembers and operators involved in these programs. Toward that end, the organizations worked with Congress to provide direction to FAA to issue a rule to protect air carriers and their employees from enforcement actions for violations of federal regulations, unless the violation is the result of criminal or other deliberate acts.

In the opinion of the organizations, the NPRM does not provide the level of protection that Congress directed. Because of this, it is the concern of all the organizations that the NPRM may undermine those programs that have already been established and may deter the formation of new programs.

Specifically, the organizations are concerned that the NPRM requires that data be maintained that can identify the aircraft and crew involved in a particular operation and that this data can be used by the FAA for enforcement and rulemaking. As currently constructed FOQA programs result in the immediate "deidentification" of the data. In addition, the NPRM allows for remedial enforcement action in the event it is determined that an operator or aircraft lacks qualification to hold a certificate issued by the FAA. This is broader enforcement authority than envisioned by Congress.