Pilot Flight and Duty Time: The All-Cargo Facts
Oppose S.1612

On Thursday, June 18, 2015 Senator Boxer introduced the Safe Skies Act of 2015 (S. 1612) requiring the Federal Aviation Administration to apply the requirements of its new Flight Crew Rest Requirements to all-cargo, as well as passenger, airline pilots.

Over the past few years, a debate has raged over whether cargo pilots should be regulated under traditional Part 121 rules or whether they should be subject to new, Part 117, rules. The Federal Aviation Administration has reviewed this issue three separate times and each time correctly found that the cargo pilots should be regulated under Part 121.

The bases of these findings fall into two separate categories. First, the safety record of all-cargo pilots in the fatigue area under Part 121 is impeccable and second, largely because of the safety record of the all-cargo industry segment, the costs of forcing all-cargo pilots to comply with the new Part 117 far outweigh their extremely minimal safety benefits.

Looking objectively at the safety side of the issue, operating under existing Part 121 regulations, the all-cargo industry:

- Has reduced all accidents significantly over the past two decades and, since 2003, has operated over ten (10) million flight operations with absolutely no fatigue-related accidents;
- NTSA statistics disclose that, from 1983 to 2013, there have been only two cargo accidents where fatigue was listed as the cause or a contributing factor. Neither of these accidents would have been prevented by the new rules;
- Provides more and longer flight crew member rest opportunities than its passenger counterparts;
- Has spent millions of dollars on sleep facilities, both at cargo hubs and aboard long-range aircraft;
- Operates with no passengers or flight attendants, thereby allowing more restful sleep aboard long-range aircraft; and
- Perhaps most significantly, the all-cargo industry schedules pilots for an average of 34 hours per month (express segment) and 45.5 hours
per month (heavy freight segment) – while passenger carrier pilots fly approximately 60 hours each month.\(^1\)

- The regulatory policy of the United States is set forth clearly in Executive Orders 12866 and 13563 issued by President’s Clinton and Obama. Under both of these Executive Orders, agencies specifically must adopt a regulation “only upon a reasoned determination that its benefits justify its costs.”

  - In deciding not to apply the Final Rule on Flightcrew Member Duty and Rest Requirements to all-cargo operations, the FAA has reasonably and correctly applied the principles enumerated in Executive Orders 12866 and 13563.

- According to the latest FAA analysis released on December 9, 2014, the costs to the all-cargo industry of implementing the final rule would be $452 million. The “high-range” benefits would be $10 million compared to a “base case” of $3 million, resulting in a cost to benefit ratio between 45:1 and 151:1. To a very large extent, this overwhelmingly negative cost to benefit ratio results because of the current safe operations under Part 121 rules and reinforces, from both a legal and policy standpoint, that the FAA reached the right conclusion in excluding cargo pilots from the new rule.

- The FAA decision not to include all-cargo operations in its final rule does not leave the all-cargo industry “unregulated.” The industry still is subject to existing flight and duty time regulations and to the additional requirement of having a Fatigue Risk Management Plan submitted to, and approved by, the FAA.

- By recognizing that the all-cargo segment of the air transportation industry is unique and has significantly different operations than the passenger segment, the Agency has correctly determined, as stated by former Administrator Randy Babbitt at an ALPA Safety Conference, that “In rulemaking, not only does one size not fit all, but it’s unsafe to think that it can.”

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\(^1\) Source: FAA Initial Supplemental Regulatory Analysis, December 7, 2012.