



AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

7950 Jones Branch Drive, Suite 400S | McLean, VA 22102 | 703-689-2270 | 888-FLY-ALPA

THE WORLD'S LARGEST PILOTS UNION | WWW.ALPA.ORG

September 30, 2022

Docket Operations, M-30
U.S. Department of Transportation (DOT)
1200 New Jersey Avenue SE, Room W12-140
West Building Ground Floor
Washington, DC 20590-0001

Subject: Docket No.: FAA-2022-0772 - Installation and Operation of Flightdeck Installed Physical Secondary Barriers on Transport Category Airplanes in Part 121 Service

In Support With Comments

The Air Line Pilots Association, International (ALPA), representing the safety and security interests of over 66,000 professional airline pilots flying for 41 airlines in the United States and Canada, has been waiting on the FAA to act and issue a final rule requiring the installation of secondary barriers on newly manufactured aircraft since Congress passed and the President signed into law the Saracini Aviation Safety Act ("the Saracini Act," or "the Act") as Section 336 of the FAA Reauthorization Act on October 5, 2018. While we believe that the FAA should have issued a final rule with a request for comment as intended by Congress, we are pleased that FAA finally initiated rulemaking by taking this first step. ALPA has long advocated for the requirement, implementation, and use of secondary barriers in airliners.

Twenty-one years ago this month, terrorists who were intent on destroying our way of life in the United States of America (U.S.) used passenger airline aircraft as weapons of war, killing nearly 3,000 of our fellow Americans and shattering our sense of safety and security. Our nation responded to these heinous attacks and numerous security measures were put in place to prevent a tragedy like that from ever happening again, except for an obvious security gap, not having secondary barriers installed to secure the flightdeck.

The Saracini Act carries the name and memory of Captain Victor J. Saracini, the pilot in command of United Airlines Flight 175, who lost his life when terrorists breached the cockpit, took control of the aircraft, and intentionally flew it into the South Tower of the World Trade Center in New York City. While time has passed since 9/11, ALPA has never forgotten. ALPA has consistently remained committed and has worked tirelessly to ensure that airline aircraft are never again used as weapons of mass destruction against the U.S. government or public. Requiring the installation of secondary barriers in all passenger airline aircraft is an available, simple, prudent, and proportionately markedly inexpensive step demonstrably effective in ensuring the safety of

airline passengers, crews, and persons and property on the ground. Compared to the costs and consequences of another single 9/11-style attack, the regulatory burden imposed by a secondary barrier installation requirement is arguably negligible.¹ ALPA challenges the FAA to proceed from this point forward with all due speed and require the installation of secondary barriers in all Part 121 and Part 129 passenger airline aircraft.

While ALPA supports the NPRM and knows that it is necessary due to the ever-evolving security threats our industry faces, ALPA offers the following comments to ensure the highest levels of safety and security are met.

- 1. COMPLIANCE TIME:** The FAA has proposed a compliance time of two years, after which any transport category airplane manufactured and used in passenger-carrying operations under part 121 would be required to have an Installed Physical Secondary Barriers (IPSB) meeting the requirements of proposed § 25.795(a)(4).

ALPA recommends that the FAA reduce the proposed regulatory timeline for implementation of secondary barriers on newly manufactured aircraft from twenty-four to twelve months, measured from the date of publication of the final rule.

Voluntary industry movement toward designing, installing, and deploying secondary barriers and flightdeck access procedures began in 2003 at one legacy airline that equipped a number of its aircraft with these devices. Since 2003, two major airlines have voluntarily installed lightweight flightdeck secondary barriers on more than a hundred of their aircraft, permanently mounted between the flightdeck door and the cabin. In addition, two aircraft manufacturers, Boeing, and Airbus, previously offered secondary barriers as standard equipment on newly manufactured aircraft. A consensus-based secondary barrier technical standard exists from RTCA, as does a report from the Aviation Rulemaking Advisory Committee (ARAC) that defines a consensus-based path forward.

The Saracini Act mandated that the FAA issue an order by October 5, 2019, requiring the installation of secondary barriers on aircraft newly manufactured for delivery to FAR Part 121 carriers. That legislation made it clear to all of industry, including aircraft manufacturers, that the FAA would issue an order or regulation requiring the installation of secondary flightdeck barriers on newly manufactured aircraft. The industry has had access to the ARAC recommendation report addressing the Act's implementation for more than two years. An FAA Advisory Circular providing recommended standards and procedures for secondary barriers was published in advance of the passage of the Act.² Two legacy carriers have already had these devices installed on their aircraft, so those manufacturers already possess procedures to implement the installation of these devices into their production processes. The FAA has now published its proposed rule. Based on

¹ The Preliminary Regulatory Impact Analysis quantified the cost of a single 9/11-type attack at \$37.7 billion, largely based on New York City physical capital and short-term earning losses and the statistical value of lives lost. The Preliminary Regulatory Impact Analysis did not attempt to account for or address the broader social and economic losses, governmental expenditures, and non-quantifiable effects (including on the national psyche) that followed and would almost certainly follow another 9/11-style attack.

² FAA AC 120-110 (2015); RTCA DO-329 (2011).

this and other information readily available, aircraft manufacturers should already have preparations substantially underway to facilitate the installation of the required secondary barriers on newly manufactured aircraft.

The technology and procedures required to implement secondary barriers in all newly manufactured passenger aircraft are available. The compliance time should be twelve months rather than the proposed twenty-four months.

- 2. APPLICABILITY OF RULE:** While the proposed rule would specifically apply to newly manufactured passenger aircraft produced after the final rule is issued, it is clear that secondary barriers are critical security devices that should be required on all passenger airline aircraft. As a result, we ask that FAA require IPSB on all aircraft involved in FAR Part 121 passenger airline service as soon as possible. At a minimum, due to the passage of time since Congress passed the Saracini Act in 2018, its one-year regulatory deadline all newly manufactured aircraft that have entered service since October 5, 2019, should and must be retrofitted with the secondary barriers to meet congressional intent. The regulatory delay in this instance has allowed thousands of aircraft to be delivered without these essential security devices contrary to congressional intent, and a retrofit requirement should be included in the final rule.

Additionally, the FAA should consider the risks posed by not requiring secondary barriers required in existing Part 121 passenger aircraft; the FAA should establish a requirement for the installation of secondary barriers aboard all Part 121 aircraft in service. Such a measure will close a known security gap to ensure the safety of our crews, passengers, and other persons. While the Administrator is bound by the minimum requirements of the Saracini Act in publishing a secondary barrier rule, the Administrator is not constrained by the Saracini Act when exercising existing general Title 49 statutory powers to regulate aviation safety in the public interest by establishing additional secondary barrier requirements beyond those expressly required by Congress. Our industry and this country must remember 9/11, as we did earlier this month, and take every step possible to ensure that a similar tragedy never happens again. That is only possible if ALL Part 121 passenger aircraft in active service are equipped with secondary flightdeck barriers.

- 3. AIRCRAFT SIZE AND RANGE:** ALPA applauds the FAA for including all Part 121 newly manufactured passenger aircraft in the proposed rule, which is consistent with the 2018 Act. However, ALPA is concerned that others in the industry will comment that Part 121 aircraft of a certain size or range should be exempted from or not included in the final rule.

There are many factors that can lead to a need to open a hardened flightdeck door at any time during a flight, no matter the duration of a flight or the size and capacity of an aircraft. In fact, a smaller airline aircraft may be at greater risk of a flightdeck breach during the opening/closing of the flightdeck door due to many reasons. As one example, a shorter “rush” distance in smaller aircraft could provide less time for a single flight attendant or the pilots to react. Any aircraft used for Part 121 passenger operations has

the capability to fly at various stage lengths during its service life. The operational needs of an airline fluctuate, and an aircraft may be used for a short duration flight one day and for a significantly longer duration flight the next day or at another time during its service life. We are not aware of any information demonstrating that adversaries or persons with ill will or malicious intent can reliably be expected to discriminate based on airline aircraft type or flight duration. If some airline aircraft are left without IPSBs, it is possible that adversaries could deem those aircraft as a more attractive and vulnerable target.

4. **PART 129 (Foreign Air Carriers):** The NPRM states that there are currently 3,400 aircraft eligible for operation in accordance with Part 129. There is a significant security concern that the flightdecks of foreign aircraft being operated into the United States under Part 129 could quickly become more attractive targets for terrorists or other bad actors if IPSBs are not installed. These security concerns are similar to those considered when the FAA adopted the reinforced flightdeck door requirements in Part 121 operations in 2002, which led to the FAA's adoption of 14 CFR 129.28 requiring hardened flight deck doors for foreign passenger airlines operating within the U.S. ALPA supports and requests that the FAA add Part 129 operators into the requirement to have secondary barriers installed on their aircraft. Again, the Administrator is bound by the minimum requirements of the Saracini Act when publishing a secondary barrier rule, but the Administrator is not constrained by the Saracini Act when exercising existing Title 49 statutory safety authority to establish additional secondary barrier requirements beyond those expressly required by Congress. There is a significant security concern that terrorists or other actors could target Part 129 operators without secondary barriers, as those aircraft could be deemed less secure because they do not possess the same level of flight deck security as Part 121 operators.

5. **SECURITY THREATS:** The NPRM states there has not been a flightdeck breach since the attacks of 9/11. This statement is narrow and, at best, only partially correct. That statement fails to account for the important fact and incidents indicating that the seriousness of security threats to flight decks have not diminished since 9/11. There have been multiple, if not numerous, attempts to breach or attack flightdecks, and even cases where the perpetrators were successful, at a minimum, in partially entering the flightdeck only before being pulled back by flight attendants, sometimes with the assistance of passengers. Aviation security threats evolve every day. While existing security controls are important, and it is thankfully true that no malicious person has gained the controls of an airliner in flight in the U.S. in the past 22 years, it is also true that there have been many flightdeck breach attempts since 9/11, and the threat continues.

On 9/11, we learned the vulnerability of the flightdeck and are reminded almost daily that the threat persists. The Department of Homeland Security's June 2022 National Terrorism Advisory System Bulletin stated that the United States remains in a heightened threat environment, in which aviation has been and continues to be a target of foreign adversary violence. The FAA has also seen a disturbing increase in incidents where airline passengers have disrupted flights with threatening or violent behavior, some of which included unsuccessful attempts to charge toward or breach the flight deck. In 2021, there were

5,981 unruly passenger reports, and in the past few years as, unruly passenger incidents have exponentially increased, including many flightdeck breach attempts.

CONCLUSION:

The reinforced flightdeck door has added a valuable level of protection, but the flightdeck remains vulnerable whenever the door is unlocked and open; therefore, additional methods to mitigate this vulnerability must now be comprehensively adopted, as demonstrated by continued attempted flight deck breaches. An installed physical secondary barrier is the simplest, most dependable, and cost-effective means available for this purpose.

Pilots and flight attendants are the last line of defense while aircraft are inflight. These professionals are subject to evolving security threats every day. The FAA must ensure crewmembers are provided with all reasonably available and necessary resources to deter known and unknown security threats, protect the flight deck from hostile actors, and prevent another 9/11-type tragedy. Secondary barriers are a simple, available, prudent, and economically sensible device that will materially improve aviation safety. Delaying a potential flight deck attacker via an installed physical secondary barrier, coupled with standardized crew procedures for flightdeck door transitions, will add a dramatically higher level of protection to the flightdeck.

ALPA urges the FAA to:

- Reduce the compliance time to 12 months
- Ensure all aircraft used in Part 121 passenger airline operations are included in the final rule, including existing aircraft in Part 121 passenger airline service.
- Ensure Part 129 passenger operations are added to the final rule

ALPA appreciates the opportunity to comment on this NPRM and, as ALPA has for more than 90 years, stands willing and able to assist in advancing aviation safety and security.

Sincerely,

A handwritten signature in blue ink that reads "Joseph G. DePete". The signature is written in a cursive, flowing style.

Captain Joseph G. DePete
President
Air Line Pilots Association, International