

Fighting The Cargo 'Carveout'

ALPA blows holes in the FAA's flawed analysis that tried to justify the "cargo carveout" in updated fatigue-fighting rules

By ALPA Staff

In the latest salvo in ALPA's continuing campaign to achieve one level of safety and security for all North American airline operations, the union in February submitted formal comments on the FAA's Initial Supplemental Regulatory Impact Analysis (RIA) of its final rule amending existing flight- and duty-time limits and minimum rest requirements for airline pilots. The Association asserted that the FAA has seriously overestimated the cost, and undervalued the benefits, of applying the updated rules to all-cargo pilots.

Capt. Lee Moak, ALPA's president, declared, "When realistic costing is applied and the benefits to pilots' health are considered, an investment far less than what the FAA estimates would be required to bring all airline pilots under one set of fatigue regulations, regardless of whether they fly passengers or cargo in their aircraft."

Multiple errors

In the Association's comments to the RIA, ALPA made clear that the FAA's benefit costing is arbitrary and incomplete. For example:

Strike 1: The FAA's selection of the Boeing 727 is an invalid basis for the analysis. The B-727 is being phased out by U.S. cargo carriers, with less than 3 percent of the U.S. cargo fleet analyzed by ALPA currently consisting of B-727s. As a result, any future cargo airliner accident would likely involve a larger, heavier airplane that can carry much larger cargo loads and fly much greater distances, and the FAA's analysis vastly undervalues the monetary effects of not covering all-cargo pilots. ALPA believes that the MD-11 should be used for determining the base case scenario; for the high-cost case, "a truer indicator within the industry would be the B-777."

Strike 2: The FAA fails to take health benefits to pilots into account. The agency's own analysis concludes that the final rule would reduce fatigue-related flight crew payroll costs by 0.25 percent, resulting in \$4.4 million in annual cost savings for cargo-only operations through reduced fatigue-related sick

calls. In the longer view, a growing body of research across industries indicates that long hours of work and night work are linked to sleep loss, which in turn leads to a variety of negative health effects and has been found to be a predictor of both short- and long-term illness.

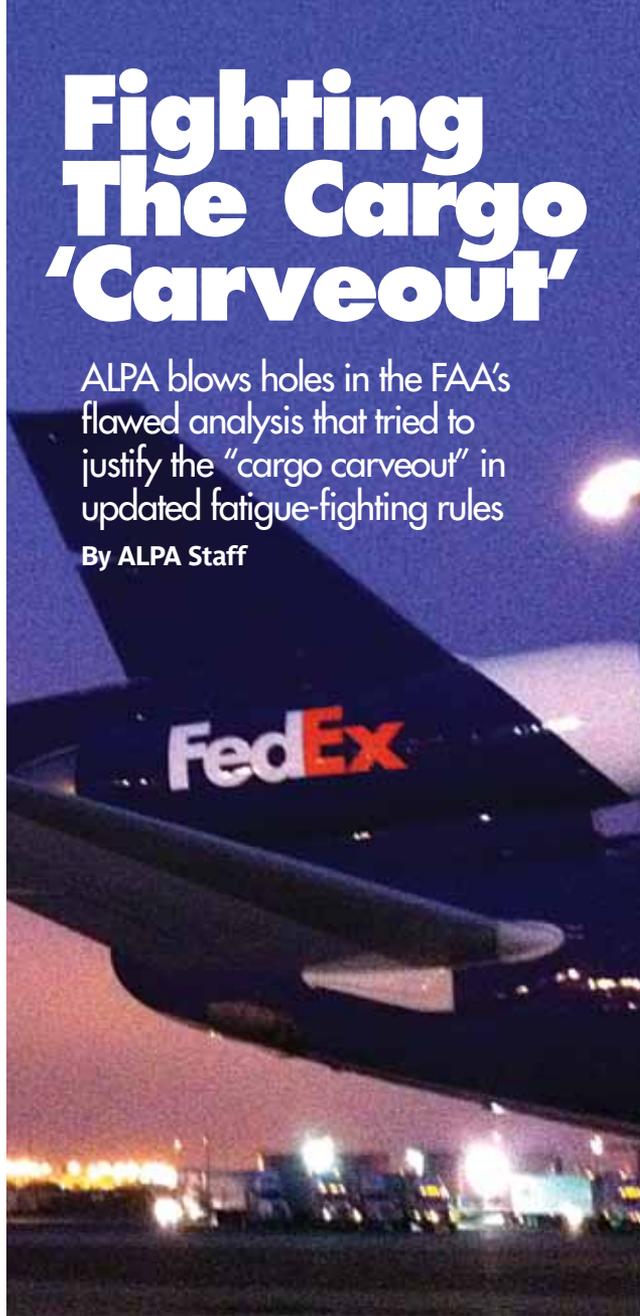
Strike 3: A 10-year accident look-back is insufficient. The U.S. air cargo industry has posted a relatively safe record, but accidents have occurred. The FAA initially included a 20-year look-back in its analysis. Within those 20 years, four fatigue-related air cargo hull loss accidents occurred. By reducing the look-back to 10 years, the FAA reduced the overall fatigue-related cargo accidents to one, even though three had occurred in the previous 10-year span.

ALPA estimates that, given the FAA's total cost of applying FAR Part 117 (the new flight- and duty-time limits and minimum rest requirements that will go into effect for passenger airlines

in January 2014) to cargo airlines, the net annual cost of applying the pilot fatigue regulations to all-cargo pilots would range from \$1.1 million to \$9.0 million, which for the industry as a whole is nominal. The cost of this safety investment will be more than made up by scheduling changes allowed by FAR Part 117; and if two accidents are prevented, the benefit would outweigh the costs.

Moak pointed out, "Cargo pilots fly the same aircraft, over the same routes, in the same airspace, and use the same airports as pilots of passenger airliners. When you consider the health benefits and do cost analysis using realistic [assumptions], the cost of protecting all airline pilots from fatigue becomes nominal and is something the U.S. airline industry simply must do.

"While ALPA's all-cargo members are on the front lines of this issue, every ALPA member is dedicated to advancing one level of safety for all who depend on air transportation in this country," Moak concluded. "We urge Congress in the strongest possible terms to pass the Safe Skies Act of 2013 and bring all U.S. airline pilots under the FAA's fatigue rules." ▶▶▶



CAPT. RUDDI KORNHACHNER (FEDEX)

What's A Pilot's Health Worth?

In deciding not to implement FAR Part 117 for all-cargo airlines based on the costs and benefits described in the FAA's Initial Supplemental Regulatory Impact Analysis (RIA), the agency "improperly and arbitrarily avoided congressional intent," ALPA charged in its comments. "Congress directed the FAA to issue regulations based upon the best available scientific information to specify limitations on the hours of flight and duty time allowed for pilots to address problems related to pilot fatigue."

Congress did not intend that the FAA limit its rulemaking activity solely to measures that would be cost-effective in

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reducing the probability of accidents in passenger-carrying airline operations. Instead, Congress listed 12 specific factors that the agency had to consider together with any other

matters the FAA considered appropriate.

Among the factors the FAA was required to consider were "the [effect] of functioning in multiple time zones and on different daily schedules" and "[r]esearch conducted on sleep, fatigue, and circadian rhythms." The FAA's analysis of the scientific evidence clearly demonstrated that cargo pilots are particularly subject to negative consequences from fatigue because of a prevalence of long-haul, back-side-of-the-clock, and irregular operations. The FAA's decision to leave cargo pilots subject to the mercy of admittedly inadequate rules on the basis of the RIA is arbitrary and capricious.

The FAA made no attempt to provide any substantive explanation for ignoring established and uncontroversial scientific findings and avoiding Congress' directive to address the problem of pilot fatigue in air cargo operations.

A growing body of research across industries indicates that long hours of work and night work are linked to sleep loss, which in turn leads to a variety of negative health effects. The Centers for Disease Control and Prevention in 2008 named the following conditions and adverse health behaviors as being associated with insufficient rest: cardiovascular disease,

hypertension, obesity, diabetes, high cholesterol, cigarette smoking, physical inactivity, heavy alcohol use, mental distress, depression, and anxiety.

This isn't supposition: in many cases, scientists have been able to determine the specific biochemical changes associated with sleep deprivation that produce these health effects.

The FAA acknowledged that "chronic fatigue can cause illness and even death" and that "substantial" health benefits are associated with reducing fatigue in pilots, yet the agency arbitrarily ignored the health benefits associated with FAR Part 117. ALPA noted that an aging workforce (the mandatory retirement age for pilots was raised to age 65 in 2007) tends to result in magnified health effects in older demographic groups.

The administrators of ALPA's Loss of License disability plan have seen a marked and steady rise in claims for each year that a pilot is over age 40, with significantly more claims by older pilots. A single long-term disability caused fully or partially by chronic fatigue can result in substantial costs to the individual pilot, the airline industry, and society over the FAA's reference 10-year period, with no associated productivity benefit.

In recently proposing to amend the hours-of-service regulations for the long-haul trucking industry, the Federal Motor Carrier Safety Administration (FMCSA), another agency that, like the FAA, is under the DOT, agreed that health conditions resulting from sleep deprivation and sedentary work are associated with higher health-care costs and risk of loss of license caused by failure to meet medical standards.

FMCSA found that significant quantitative health benefits would result from reducing the maximum hours of service of drivers (thus increasing rest) by one hour per day.

"Frankly," ALPA's comments said, "given Congress' statutory directive and the current level of information and knowledge available about the negative health impacts of fatigue, the FAA should have included such an analysis in its RIA." 

You Can Help! Voice Your Support

The Safe Skies Act of 2013 will correct the failure of the FAA in its final regulations to address pilot fatigue for passenger airlines only. The rules excluded cargo airline operations from mandatory compliance. For decades, ALPA has advocated one level of safety for the simple reason that all pilots and airline operations should be treated equally regardless of payload or flight mission. Contact your representative today to urge him or her to support the Safe Skies Act of 2013 and achieve one level of safety.

To participate in this important ALPA Call to Action and voice your support for achieving one level of safety across the U.S. airline industry, go to ALPA's website, www.ALPA.org, and click on the Call to Action logo in the right-hand column, or scan the QR code. 



Take Action

Call to Action:
The Safe Skies Act of 2013

The Safe Skies Act has been reintroduced! Like its predecessor in the 112th Congress, the Safe Skies Act of 2013 will correct the oversight made by the Federal Aviation Administration (FAA) in its final regulations (FAR 117) to address pilot fatigue for passenger airlines only. The rules excluded cargo airline operations from mandatory compliance. For decades, ALPA has advocated for "One Level of Safety" for the simple reason that all pilots and airline operations should be treated equally regardless of payload or flight mission. Contact your representative today to urge them to support the Safe Skies Act and achieve One Level of Safety.

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