TESTIMONY OF

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BEFORE

THE SUBCOMMITTEE ON AVIATION OF THE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE

U.S. HOUSE OF REPRESENTATIVES

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Thank you, Chairman Costello for giving us the opportunity to testify today. My name is Patricia A. Friend and I am the International President of the Association of Flight Attendants – CWA (AFA-CWA), AFL-CIO. AFA-CWA represents over 55,000 flight attendants at 20 different airlines throughout the United States and is the world's largest flight attendant union. Flight attendants, as the first responders in the aircraft cabin, have a unique perspective on a number of the safety programs of the Federal Aviation Administration (FAA) and we are pleased to have a seat here today to discuss many of the issues which remain for the FAA to address.

Unfortunately, I'm here to tell you that the FAA has repeatedly failed to take action on several fronts to improve the overall safety and health of the employees that work under its jurisdiction. We firmly believe that the FAA's mentality of denial and delay towards these serious health and safety issues only threaten the overall safety of the aviation system for the traveling public as well. That is why the continued vigilance and oversight of the FAA by the members of this Committee is necessary and vital. We look forward to working with this Committee in the coming months as you draft an FAA Reauthorization bill to address a number of the matters we will highlight today.

FLIGHT ATTENDANT FATIGUE

We all know that the FAA's failure to address the growing problem of fatigue for numerous aviation industry workers – not just flight attendants, but pilots and air traffic controllers as well – could lead to an incident resulting in the loss of many lives. I know that you will hear from our brothers and sisters at ALPA and NATCA about their ongoing concerns with the FAA and its inability to address fatigue amongst their members. I am here to tell you that fatigue is a very real and serious concern for the flight attendant workforce in this country as well. As the deep concessions demanded of flight attendants during the recent and ongoing financial turmoil of the airline industry have taken hold it has become clear that airline management hopes to keep our members working for as long as possible with greatly reduced time off between duty. Some air carriers are routinely taking advantage of a "reduced rest" provision in the Federal Aviation Administration's Flight Attendant Duty Time and Rest Regulations which

allows the minimum rest of nine hours to be reduced to eight. The exception has become the rule and flight attendants are so exhausted that they have informed us that they have in some cases forgotten to perform critical safety functions, including the arming of doors and even fallen asleep on the jumpseats. Even more troubling is that the FAA continues to allow the carriers to schedule reduced rest periods, making them more routine, and has failed to recognize or show any concern for the impact that flight attendant fatigue has on the overall safety of the aviation system.

Multiple studies have shown that reaction time and performance diminishes with extreme fatigue – an unacceptable situation for safety and security sensitive employees. Flight attendants are required to be on board to assist in case an aircraft emergency evacuation is necessary. In addition, they are inflight first responders who are trained to handle inflight fires, medical emergencies including CPR and emergency births. Furthermore, since 9-11 the security responsibilities of flight attendants have greatly increased. It has become even more important for flight attendants to be constantly vigilant of the situation in the aircraft cabin and aware of their surroundings at all times. An inability to function due to fatigue jeopardizes the traveling public and other crewmembers.

According to the Federal Aviation Regulations (FAR's), flight attendants must have a minimum rest period of at least nine hours following any duty period of less than 14 hours. The nine-hour period can be reduced to as little as eight hours, if the employer schedules a 10-hour rest period following the next duty period. I'd like to make a further clarification at this point. Using the term "rest period" can be misleading because much more must be done during this period of time other than simply sleeping. The "rest period" can begin as soon as fifteen minutes after an aircraft pulls into the gate and continues until one hour prior to their next departure. This "rest period" must also include travel through an airport, waiting time for a shuttle to the layover hotel, travel to the hotel, checking-in, possibly finding time to eat a meal since many of our carriers in an effort to cut costs have removed flight attendant crew meals from the flights, getting prepared for bed, getting dressed and prepared for work the next morning, travel back to the airport and last, but certainly not least is sleep time. Our members are continually

reporting that the actual sleep time this schedule allows is in many cases between only 3-5 hours of actual sleep before beginning another full duty day.

The airline industry practice has been to schedule as little as nine hours of rest for flight attendants. It is our understanding that the reduced rest period provision was originally meant to accommodate "day of" scheduling when carriers encounter delays out of the carriers' control such as bad weather or air traffic control delays. The FAA has chosen to ignore the routine implementation of this provision by airline management and the further erosion of meaningful rest periods for flight attendants. To further highlight the FAA's turning of a blind eye to this practice, an FAA spokesperson, in response to a question from the media on this issue stated, "The FAA rules on flight time and rest for both pilots and flight attendants are fundamentally sound. They serve aviation safety very well." We fundamentally disagree.

Congress also has expressed concerns. The Omnibus Appropriations for FY '05 contained an appropriation for $200,000 directing the FAA to conduct a study of flight attendant fatigue. The FAA was to report back to Congress by June 1, 2005 with their findings. The report language stated: "The Committee is concerned about evidence that FAA minimum crew rest regulations may not allow adequate rest time for flight attendants. Especially since the terrorist attacks of September 11, 2001, the nation's flight attendants have been asked to assume a greater role in protecting the safety of air travelers during flight. Current flight attendant duty and rest rules state that flight attendants should have a minimum of nine hours off duty, that may be reduced to eight hours, if the following rest period is ten hours. Although these rules have been in place for several years, they do not reflect the increased security responsibilities since 2001, and only recently have carriers begun scheduling attendants for less than nine hours off. There is evidence that what was once occasional use of the 'reduced rest' flexibility is now becoming common practice at some carriers."

The FAA delayed release of the report for over one year, even though the study itself was completed. The FAA repeatedly ignored requests from AFA-CWA and members of

Congress to release the report and explain the delay in reviewing the study by the Administrator's office. Finally, after AFA-CWA staged an all night "sleep-in" by flight attendants in front of the FAA headquarters in order to draw attention to the issue, the FAA released the report.

In order to complete the required study, representatives of the FAA from the Civil Aerospace Medical Institute (CAMI) initiated an agreement with NASA Ames Research Center to perform an evaluation of the flight attendant fatigue issue. Due to the short internal deadline for conducting the report, the researchers were unable to conduct a thorough and comprehensive study of flight attendant fatigue. It primarily consisted of a review of existing literature on the issue, an evaluation of flight attendant duty schedules and a comparison of those schedules to the current regulations regarding rest. Based just on this limited research, the report concluded that flight attendants are "experiencing fatigue and tiredness and as such, is a salient issue warranting further evaluation." They also stated that "not all the information needed could be acquired to gain a complete understanding of the phenomenon/problem of flight attendant fatigue."

The report listed a number of recommendations for further study. They were:

1) A scientifically based, randomly selected survey of flight attendants as they work. Such a study would assess the frequency with which fatigue is experienced, the situations in which it appears, and the consequences that follow.
2) A focused study of aviation incident reports in order to determine what role fatigue played in already reported safety incidents.
3) The need for research on the effects of fatigue. This research would explore the impact that rest schedules, circadian factors and sleep loss have on flight attendants' ability to perform their duties.
4) The determination and validation of fatigue models for assessing how fatigued a flight attendant will become. Developing a reliable fatigue modeling system would be an important tool for the aviation industry in helping to determine when rest periods should be scheduled.

5) A study of International policies and practices to see how other countries address these issues.
6) Development of training material to reduce the level of fatigue that may be experienced by flight crews and to avoid factors that may increase fatigue levels.

Based on this limited report and its recommendations, AFA-CWA and other unions representing flight attendants have requested that the FAA be directed to continue research on this important aviation safety issue which would cover the recommendations from CAMI. Furthermore, it's crucial that such a study receive adequate funding to be completed. Most importantly, we feel that based on the FAA's clearly stated belief that "...rules on flight time and rest for both pilots and flight attendants are fundamentally sound." and their demonstrated efforts to stonewall and delay release of the initial report, that Congress must provide firm and strong guidance to the FAA to address this growing problem to aviation safety.

WORKPLACE SAFETY AND HEALTH PROTECTIONS

For well over 30 years AFA-CWA has been fighting for even the most basic workplace safety and health protections for flight attendants. Those pleas have continued to fall on deaf ears at the FAA. Flight attendants encounter numerous occupational hazards while working aboard commercial flights, including but not limited to turbulence, severe air pressure changes, unwieldy service carts, broken luggage bins, balky exit doors and door handles, exposure to toxic chemicals mixed with the engine air that is bled into the passenger cabin, unruly passengers, communicable diseases and emergency evacuations. These hazards cause flight attendants to suffer occupational injuries and illnesses at rates far in excess of those experienced by workers in almost every other sector of private industry, as is evident from an analysis of survey data available from the U.S. Bureau of Labor Statistics (BLS). For example, occupational injury and illness rates among flight attendants and all scheduled air transport workers are historically several times greater than the rates for all private industry workers; and even significantly greater than the rates experienced by construction workers.

With respect to specific characteristics of injuries and illnesses experienced by flight attendants, detailed in data from the BLS surveys reveal that:

- Overexertion, contact with objects/equipment, exposure to harmful substances/environments, and falls are the most significant exposure events;
- Approximately 90% of injuries are traumatic in nature, and include sprains/strains/tears, effects of air pressure, and bruises and contusions;
- All body parts are affected, but injuries/illnesses to the trunk, head and extremities predominate.

1975 FAA Assertion of Jurisdiction over Crewmember Health and Safety

The reason that flight attendants continue to experience such high rates of injuries, is that flight attendants are not covered under the Occupational Safety and Health Act (OSHA) nor has the FAA made any effort to regulate the safety and health of flight attendants in the aircraft cabin. On July 10, 1975, the FAA published a statement in the Federal Register (40 Fed. Reg. 29114, 1975) asserting complete and exclusive jurisdiction over crewmember health and safety on "civil aircraft in operation...from the time it is first boarded by a crewmember, preparatory to a flight, to the time the last crewmember leaves the aircraft after completion of that flight,...even if the engines are shut down." In asserting such jurisdiction over crewmember health and safety, the FAA claimed that "with respect to civil aircraft in operation, the overall FAA regulatory program...fully occupies and exhausts the field of aircraft crewmember occupational safety and health."

Since 1975, the FAA has continued to assert complete and exclusive jurisdiction over crewmember health and safety aboard a civil aircraft; unfortunately, at all relevant times since 1975, the FAA has **declined** to exercise its asserted statutory authority to prescribe or enforce standards or regulations affecting the occupational safety and health of crewmembers. Significant areas of regulatory neglect include but are not limited to, recording and reporting of occupational injuries and illnesses; blood borne pathogens; noise; sanitation; hazard communications; access to employee exposure and medical records, and anti-discrimination protections for reporting safety and health violations.

1990 AFA Petition of Rulemaking

After years of inaction by the FAA, on May 8, 1990, AFA-CWA filed a petition for rulemaking with the FAA that asked the agency to adopt selected OSHA safety regulations and apply them to the crewmembers working in the airline industry, addressing such areas as the recording and reporting of injuries; access to employee exposure and medical records; right to inspections; safety definitions; the handling of hazardous materials; personal protective equipment; medical and first aid; fire protection, and toxic and hazardous substances. In submitting its petition, AFA-CWA was attempting to fill the void created when the FAA asserted jurisdiction over crewmember health and safety without actually exercising that authority. As AFA-CWA stated in its petition:

> This petition offers one solution to the gaps in crewmember health and safety coverage caused by the FAA's *de facto* industry-wide preemption of OSHA. Although this industry-wide preemption is probably incorrect as a matter of law, it is the rule currently followed by OSHA and the FAA, with the possible exception of OSHA's recordkeeping requirement. If the FAA is going to claim total jurisdiction over crewmembers, it should *exercise* that jurisdiction by providing protections equal to those provided by OSHA. It is for that reason that this petition asks the FAA to adopt the OSHA regulations and apply them to crewmembers. (Emphasis added).

FAA Rejection of AFA-CWA Petition for Rulemaking

Almost seven (7) years after AFA-CWA filed its petition for rulemaking, the FAA finally responded by letter dated June 6, 1997, in which it stated in part:

> The FAA has determined that the issues identified in your petition may have merit but do not address an immediate safety concern. Because of budgetary contraints, and the need to meet the demands of a changing aviation industry and a complex air transportation system, the FAA finds that it must dedicate its rulemaking resources to the most pressing problems and issues associated with safety. For

these reasons, we are unable to consider your petition for Rulemaking; therefore it is declined.

August 7, 2000 Memorandum of Understanding between FAA and OSHA

On August 7, 2000, after increased pressure from AFA-CWA, the FAA and OSHA entered into an historic Memorandum of Understanding (MOU), the purpose of which was "to enhance safety and health in the aviation industry." In the MOU, FAA and OSHA agreed to establish a joint team (FAA/OSHA Aviation Safety and Health Team or Joint Team) to identify the factors to be considered in determining whether the OSH Act's requirements could be applied to the working conditions of employees on aircraft in operation (other than the flight deck crew) without compromising aviation safety.

The MOU required the Joint Team to produce a first report within 120 days from the date of the MOU's execution that addressed whether and to what extent OSHA's existing standards and regulations with respect to six (6) specific health and safety areas could be applied to employees on aircraft in operation, without compromising aviation safety. In December 2000, the first report of the FAA/OSHA aviation safety and health team concluded that, with the exception of bloodborne pathogens and noise, the other five (5) subject areas under consideration cold be implemented for all employees in the aviation industry without implicating aviation safety concerns. Those five subject areas are recordkeeping, sanitation, hazard communication, anti-discrimination and access to employee exposure/medical records. With respect to bloodborne pathogens and noise, the report found that the "OSHA requirements that necessitate engineering and administrative controls may implicate aviation safety and would need to be subject to FAA approval."

The report also proposed that the team give further consideration to establishing "a procedure for coordinating and supporting enforcement of the OSH Act with respect to working conditions of employees on aircraft in operation (other than the flight deck crew) and for resolving jurisdictional questions." Although the December 2000 report recommended that the Joint Team continue to meet to resolve this and other issues, the

team did not meet again until January, 2002, at which time they could not agree on a timeline for implementation of relevant OSHA regulatory standards for employees on aircraft in operation.

September 2001 Report of the Office of Inspector General of the DOT

In September 2001, the Office of the Inspector General (OIG) for the Department of Transportation (DOT) issued a report titled: "Further Delays in Implementing Occupational Safety and Health Standards for Flight Attendants Are Likely" (the OIG Report). The OIG review was requested by a distinguished member of this Committee, Representative Peter DeFazio, who expressed concerns over the dearth of OSHA standards for airline employees in the areas of bloodeborne pathogens, repetitive motion injuries, noise, and unhealthy cabin air.

The OIG Report found that in the 26 years since the FAA asserted statutory authority for prescribing and enforcing occupational safety and health standards for aircraft crewmembers onboard aircraft;

> ...it has not issued industry standards to address employee safety and health issues associated with working conditions onboard aircraft in operation. Instead, FAA focused its resources on providing and enforcing industry standards for aircraft design and operational problems affecting safety.

Furthermore, the OIG Report concluded that "unless FAA and OSHA resume working together, we have no confidence that industry standards will be issued in the near future to address occupational hazards." Accordingly, the OIG Report recommended that within 90 days of the issuance of its report,

> FAA in conjuction with OSHA should establish milestones for the completion of work begun under the August 2000 MOU, and address the occupational safety and health concerns identified in the December 2000 joint report. Within this timeframe, FAA should also reinstitute its rulemaking procedures on injury and illness recordkeeping and reporting, which FAA can do without OSHA's assistance. This is necessary in order to identify the types and frequency of injuries and illnesses occurring. If FAA implements our recommendations, it will in our opinion, be a clear

> sign of forward progress. We will advise the Secretary of Transportation and the Congress of FAA's actions. ***If these recommendations are not implemented, it will, in our opinion, be apparent that after 25 years of limited progress, an alternative approach will be necessary. One approach would be to revoke FAA's exclusive authority to provide occupational safety and health standards for employees in aircraft, and have this function performed by OSHA. FAA would then intervene in any regulatory proceedings, when in FAA's judgement, a proposed OSHA regulation would negatively affect the safety of air traffic operations.*** (Emphasis added).

To date, although the FAA/OSHA Aviation Safety and Health Team met on several occasions since the September 2001 publication of the OIG Report, the FAA and OSHA have taken no steps to implement the recommendations of the OIG Report, or in any other way regulate the workplace health and safety of flight attendants.

Aviation Safety and Health Partnership Program

The FAA took one final step towards complete abandonment of its August 2000 MOU with OSHA when it announced on March 4, 2003 that it was creating the "Aviation Safety and Health Partnership Program" (ASHPP). In an announcement in the Federal Register (68 Fed. REg. 10145, 2003), the FAA claimed that the ASHPP was being created to provide "empirical data concerning injury and illness hazards on aircraft in operation" to allow air carriers to "voluntarily" provide "selective" safety and health protections for "employees not covered by OSHA." In addition, the FAA announced that the ASHPP

> would preserve the FAA's preeminent authority over aviation safety issues by reserving to the FAA complete and exclusive responsibility for determining whether proposed abatements of safety and health hazards would compromise or negatively affect aviation safety. The ASHPP would include electronic web based procedures for air carriers to report employees' injury and illness information, thereby enabling FAA to obtain the required data. This data will be used to determine if FAA should take additional measures, including rulemaking activities, to address safety and health issues in air carrier operations.

On March 31, 2003, AFA-CWA, along with many of the other affiliated unions of the Transportation Trades Department (TTD) of the AFL-CIO, wrote to the FAA Flight Standards Service informing them that the TTD unions were "disappointed with and

angered by the FAA's decision to create a voluntary program that will halt the progress we have made over the years towards providing the nation's flight attendants with the federal safety and health protections they need and deserve." Furthermore, the TTD wrote that it was troubled by the "fact that the ASHPP proposal relies solely on voluntary measures, with no underlying regulatory requirements or enforcement provisions."

Since its inception, the ASHPP has failed to propose or institute procedures, rules or guidelines for carriers to follow to improve airline employee health and safety protections. As a result of the voluntary nature of the ASHPP, air carriers have instituted no improvements to reduce or mitigate flight attendant injuries. As a direct result of the FAA's failure to exercise its asserted statutory authority, flight attendants are substantially more likely to be injured on the job then employees in other industries.

AFA-CWA Lawsuit Filed in US District Court

On September 19, 2005, AFA-CWA filed a complaint in the United States District Court for the District of Columbia against the Secretary of Labor and the FAA Administrator. The AFA-CWA complaint asked the court to issue an order declaring that the FAA has failed to exercise its asserted jurisdiction to establish occupational health and safety standards for flight attendants and crewmembers, and, as a result, the Secretary of Labor failed to fulfill her statutory duty under the OSH Act to ensure healthy and safe working conditions for flight attendants. On May 22, 2006, the District Court dismissed AFA-CWA's complaint for lack of subject matter jurisdiction; On January 10, 2007, AFA-CWA filed an appeal brief; on February 9, 2007, the FAA filed an appeal brief; on February 23, 2007, AFA-CWA filed a reply brief; and on March 26, 2007 oral arguments will be heard before the District of Columbia Circuit Court of Appeals.

In light of the continued stonewalling on the part of the FAA to act on behalf of the safety and health of flight attendants and its obvious attempts to totally disavow the 2000 MOU, we believe that it is time for Congress to act in order to force the FAA to relinquish the exclusive jurisdiction that it has claimed, without any subsequent action, for over 30 years.

AIRCRAFT CABIN AIR QUALITY

The issue of poor aircraft cabin air quality and in many cases the contamination of the air supply by potentially toxic chemicals continues to pose a threat to those that work onboard the aircraft as well as those that travel onboard the aircraft. At the heart of the failure of the US Federal Aviation Administration (FAA), the manufacturers, and the airlines to *resolve* problems with aircraft air quality is their failure to *acknowledge* problems with aircraft air quality. There are no standards for protective measures or access to information necessary to prove individuals' cases; there is effectively no government oversight, allowing the steady flow of "anecdotal" reports to be dismissed as unreliable, and therefore irrelevant.

It is no small task to describe and document problems with air quality on aircraft; hence, the length of this submission. The problems are varied, but the lack of oversight and protective measures is common to all and is in desperate need of remedy. Here, seven problems with aircraft air quality are described in detail. The highlights are described here:

Inadequate ventilation: In buildings, owners must meet minimum ventilation standards intended to protect occupant health and comfort. On aircraft, there is no ventilation standard, despite the fact that aircraft are the most densely occupied of any environment. In buildings, workers can request an OSHA investigation of indoor air quality. On aircraft, there is no government body assigned to investigate related illness reports. Further, there are no protections in place for flight attendants assigned to fly to areas affected by Severe Acute Respiratory Syndrome (SARS), even though crewmembers do not have the option of "postponing non-essential travel." The World Health Organization recognizes flight attendants as potential "close contacts"; the Centers for Disease Control and Prevention does not.

Polluted air supply on the ground. Exhaust fumes and heated deicing fluids can be ingested into the air supply systems, especially during ground operations.

Exposure to heated oils and hydraulic fluids. Heated oils and hydraulic fluids can leak or spill into the air supply systems during any phase of flight, potentially exposing passengers and crew to carbon monoxide and neurotoxins, such as tricresylphosphates. There are almost no protective measures in place to prevent air supply contamination, and contaminated aircraft can be – and are - dispatched as "airworthy." Chronic or even permanent neurological damage can result, although affected passengers and crew have little recourse without any record of air monitoring or access to maintenance records. Pilot incapacitation is an additional risk. The FAA has shown no signs that it plans to follow the recent National Research Council committee recommendation for requisite carbon monoxide monitoring on all flights.

Reduced oxygen in the ambient air during flight. During flight, the aircraft cabin is maintained at a reduced pressure, generally equivalent to an altitude of 6,000 – 8,000 feet, although sometimes higher. At an effective altitude of 8,000 feet, the supply of oxygen is reduced by 25% relative to sea level. There is evidence that the current "8000 feet standard", first issued in 1957, is based not on health, but on operating costs, and that the reduced oxygen supply may be inappropriately low for a substantial portion of the flying public.

Inadequate attention to the thermal environment. Providing air nozzles ("gaspers") at each occupant seat and work area allows flight attendants and passengers to adjust the temperature of their environment. This is especially important in areas where flight attendants are physically active. In addition, flight attendants regularly report that the galleys and jumpseats located near the aircraft doors can be uncomfortably cold at ankle level, presumably because the doors are poorly insulated. A standard that defines a target temperature range and maximum vertical and horizontal temperature differentials would address this problem. Door heaters have already proven an effective and practical remedy.

Exposure to ozone gas: Symptoms associated with ozone exposure are well documented and include respiratory distress and increased susceptibility to infection. Ozone levels

increase with altitude and latitude, and are highest in the late winter and early spring. The exposure limit for ozone cited in the Federal Aviation Regulations is 2.5 times higher than the workplace limit set by the National Institute for Occupational Safety & Health. Airlines are under no obligation to monitor or record ozone levels in the cabin.

Exposure to potentially high concentrations of pesticides: Some countries require that incoming aircraft are sprayed with pesticides to kill any insects that may be on board and may carry disease. The pesticides are applied in occupied or soon-to-be-occupied aircraft cabin without any measures to inform or protect the health of passengers or crew. Reported symptoms range from sinus problems and rash to anaphylactic shock and nerve damage. Differences in exposure levels and individual susceptibilities are described. The US Department of Transportation's investigation into the feasibility and efficacy of non-chemical methods to keep aircraft cabins insect free must be actively supported.

It is imperative that the members of this Committee keep the FAA focused on addressing this serious issue and supporting vital research that will help clarify and solve this ongoing problem.

FLIGHT ATTENDANT ENGLISH LANGUAGE STANDARDS

AFA-CWA believes that it is long past due for an English language regulatory standard for flight attendants that is similar to the existing standard for pilots, flight engineers and security personnel. The FAA requires flight attendants on board most commercial flights to protect the safety and security of the cabin and the passengers. Effective communication is essential to fulfilling these responsibilities.

Virtually every type of safety, security or health related cabin emergency requires effective communication with other flight attendants, with passengers and with the flight deck crew. For example, if there is a fire in the galley, the flight attendant must clearly, quickly and completely explain the problem to the flight deck so the captain in command can make the appropriate decision(s). In addition, the cabin crew needs to be able to coordinate the emergency response by clearly communicating with each other as well as

to the passengers. In the event of an emergency flight attendants would need to brief able bodied passengers to assist in an evacuation. It is crucial that the passengers completely understand the briefing and actions they would be expected to perform. Clear, distinct, and audible directions and commands are essential in the process of evacuating an aircraft. It is imperative that during an emergency the entire crew work as a team to prepare for or respond to an emergency in the cabin.

The FAA has been working on developing an English language proficiency standard for over a decade, but delays continue. In April of 1994, the FAA issued an Advanced Notice of Proposed Rule Making (ANPRM) on Flight Attendant English Language Docket No. 27694; Notice No. 94-11. "The FAA is considering rulemaking to establish requirements to ensure that flight attendants understand sufficient English language to communicate, coordinate, and perform all required safety related duties. If the FAA actually proposes such a requirement, it would be comparable to regulatory requirements for other crewmembers and dispatchers. Improvements in communication, coordination, and performance of required safety related duties that may result from this regulatory process would benefit crewmembers and passengers."

In February of 1996, the FAA announced the formation of an Aviation Rulemaking Advisory Committee (ARAC) to dispose of the comments made to the 1994 ANPRM No. 94-11 and recommend an appropriate rulemaking action (e.g. NPRM, withdrawal) or if advisory material should be issued. Represented on the group were representatives from various flight attendant unions and airlines. Midstream of the ARAC process the FAA withdrew the ANRPM stating that any possible rulemaking on the subject would be incorporated into the overall context of a crew training rulemaking project currently being developed internally at the FAA. This all, despite the ARAC working group voting 11-2 that an NPRM should be developed and 10-2 that an Advisory Circular should also be developed to provide guidance on implementation of such a rule.

In 2004, the Crewmember/Dispatcher Qualification Aviation Rulemaking Committee (ARC) was tasked with finishing the training rulemaking project that was started in 1997.

The proposed new regulatory section provides an English Language requirement for all crewmembers, including flight attendants, to help ensure that crewmember communication is in accordance with crew resource management objectives and that flight attendants can communicate with passengers. This rulemaking is still at FAA. The ARC proposed the following language to the FAA:

English language requirement

No certificate holder may use any person nor may any person serve as a pilot, flight engineer, or flight attendant under this part, unless that person has demonstrated to an individual qualitfied to evaluate that person under this part, the ability to do the following:

(a) Read, write, speak and understand the English language.

(b) Have their English language speech and writings understood.

AFA-CWA hopes that Congress will push the FAA to complete work on an English language regulatory standard for flight attendants.

CARRY-ON BAGGAGE LIMITATIONS

AFA-CWA strongly urges legislation which would direct the Transportation Security Administration (TSA) and the Federal Aviation Administration (FAA) to issue regulations that would set a limit on carry-on baggage that may be brought on an airplane. Current guidelines for carry-on bags were established more than two decades ago when air travel was much different than today. Carriers had to have individual programs to control the weight, size and number of carry-on bags. This created a maze of varying carrier programs making it difficult and confusing for passengers. This individual program philosophy is still in force today.

AFA-CWA has filed two petitions for rulemaking requesting the FAA to enhance their carry-on baggage rule, citing incidents involving carry-on bags that range from disruption in the cabin, delays in boarding and deplaning, physical and verbal abuses of flight attendants and passenger, and injuries and impediments to speedy evacuations. Despite these two requests for rulemaking the FAA has failed to establish a specific requirement

regarding size and number of carry-on bags allowed stating the FAA simply provides guidance to carriers on how to establish their programs. According to the FAA, this allows the carriers flexibility to create a program that fits their individual unique operations.

The September 11 terrorist attacks underscored the need for a comprehensive effort to improve security and further supported the need for a tighter limit on carry-on baggage. Reducing the size and number of carry-on bags would ultimately enhance security screening by reducing the number of bags that need to be screened and reducing the volume of the individual bag, both of which would allow for a better, clearer, uncomplicated e-ray image.

The concept of limiting the size, type and amount of carry-on baggage is nothing new and was recommended by an FAA Aviation Security Advisory Committee in 1996. International countries and bodies, such as the European Union (EU) which represents 25 member states, also recognize the security enhancements relative to limiting the number and size and have adopted a new rule effective April 2007 that would limit passengers to one carry-on item with a size limit of 56 cm by 45 cm by 25 cm (22 in by 17.75 in by 9.85 in approx).

FAA and Transportation Security Administration (TSA) recognizing the necessity to limit carry on baggage both issued guidance to carriers that limited passengers to one carry-on bag and one personal bag (such as a purse or briefcase). These restrictions are loosely enforced and neither agency is very explicit in their information to the public regarding the limit. In fact, the TSA website no longer even mentions the limit of one carry-on and one personal bag.

AFA-CWA will continue to fight for clear and concise limits on the number and size of carry-on bags to ensure continued enhancement of security and safety for the traveling public.

HUMAN INTERVENTION MANAGEMENT STUDY (HIMS)

Flight attendants and pilots work under nearly identical and strict regulations of the DOT and FAA regarding drug and alcohol abuse. Both groups are subjected to drug and alcohol testing on a random basis; following a serious aircraft accident or incident; or based on suspicion of co-workers and supervisors.

However, there is one major difference: Pilots who test positive for prohibited substances have access to a rehabilitation and recovery process called Human Intervention Management Study (HIMS) and, if a pilot complies with the recovery program, he/she may return to flying. On the other hand, flight attendants who test positive are terminated quickly and have little to no access to treatment making recovery improbable. It is time for the FAA to institute a HIMS program for the nation's flight attendants.

HIMS was formed and funded in 1992 by Congress, is administered by the FAA, and provides a comprehensive education and training program for alcohol and drug abuse prevention in the airline industry. Congress has appropriated approximately $500,000 to fund HIMS.

The success of HIMS for pilots is well documented and provides a glimpse at the potential assistance this worthy program can provide for flight attendants. Over 3,500 pilots have been returned to the flight deck through their own efforts with the support of the HIMS program. Importantly, over 57,000 pilots and their families at 47 carriers have received preventative educational services from the HIMS program.

Flight attendants earn their wings by first passing a company training program which includes mandatory FAA training requirements. The FAA orders that flight attendants pass proficiency tests during training. Training records and test results are a part of a flight attendants permanent personnel file and can be accessed at any time by management and by the FAA in post-serious aircraft incident and/or accident investigations. Following successful completion of the initial training course, the FAA

issues a certificate to the flight attendant who must attend on-going training courses and pass proficiency tests to remain certified each year throughout her/his career. Flight attendants are also subject to unannounced inspections by FAA Cabin Safety Inspectors and are subject to FAA enforcement action for non-compliance with FAA regulations.

This FAA oversight of flight attendants is nearly identical to the way in which the FAA governs and enforces federal regulations concerning other aviation professionals such as pilots and mechanics. Therefore, an effective HIMS program will provide parity for flight attendants and their aviation industry colleagues.

According to Employee Assistance Program (EAP) experts, flight attendants are at greater risk for developing addiction diseases because they may be exposed to multiple traumatic and near traumatic incidents while on the job. As the first responders in cabin safety and security incidents, flight attendants, like other emergency response professionals who experience traumatic incidents, can become vulnerable to substance abuse.

Company sponsored employee assistance programs are valuable but limited in their scope. They offer intervention with troubled employees by training supervisors to refer workers with observable performance problems for help. Unfortunately, these programs have a narrow capacity to identify "at risk" flight attendants simply because the vast majority of the time, a flight attendant is unsupervised, working in a distant environment at 30,000 feet.

HIMS can provide a safe harbor for flight attendants, as it does for pilots, who want to report fellow crewmembers they suspect of having an abuse problem. In a largely unsupervised work environment, fellow flight attendants are often the first to suspect and/or recognize substance abuse patterns of a co-worker. But currently, the practice of alerting management to a flight attendant that may be struggling with an addiction is the fast track to her/his unemployment with no health benefits to count on for help.

HIMS can prevent a wasteful human toll and can produce cost efficiencies at airlines that effectively promote and utilize the HIMS model. A HIMS model for flight attendants could save substantial training costs for carriers that currently have to hire new flight attendants to fill vacancies that result when management fires flight attendants for a first positive drug or alcohol test. Each time a flight attendant is terminated, the costs of training that flight attendant are a wasted investment.

Because HIMS promotes peer identification and intervention, it increases the chance that a flight attendant will get treatment early and avoid mounting medical bills that often result from a sustained substance abuse. Also, absenteeism and on the job injuries, costly bottom lines for management, may also improve with an effective HIMS program. Countless union and management dollars cold be saved as a result of HIMS. Airline expenses for grievances, system board and arbitration for substance abuse cases are substantial. With management and union endorsement, HIMS can reduce costly legal bills associated with substance abuse termination and/or discipline cases.

It's well past time to institute HIMS programs for flight attendants. It's time to give all flight attendants a chance at rehabilitation and recovery and a return to their careers. Too many of our colleagues have suffered in silence, afraid to speak up about their addiction struggles and management's draconian termination policies silence those who want to extend a helping hand. The warning signs often come too late to save careers. Expanding the HIMS program for flight attendants can usher in a cooperative environment that will work to ensure safety in the air and hope and recovery for those of our colleagues in need.

DEVELOPMENT OF A METHOD FOR ASSESSING EVACUATION CAPABILITY OF AIRCRAFT UNDER ACTUAL EMERGENCY CONDITIONS.

AFA-CWA urges Congress to have the National Academy of Sciences study the issues related to emergency evacuation certification of passenger transport aircraft and begin the process of developing a method for assessing evacuation capability of aircraft under real emergency conditions.

Design standards are used in the design phase of a project, and can be verified while the product, in this case, an airplane, "is still on the drawing board." i.e., before the airplane is built. Performance standards evaluate the performance of the product, often under the influence of factors that cannot be effectively integrated or evaluated during the design. Typically, a performance standard involves a test of the product after it is built. In the case of a full scale evacuation demonstration (a performance standard) of an airplane, the factors that must be evaluated are the performance of the passengers and crew.

The FAA made a change in policy that would allow new airplane designs or any increase in an existing design's capacity to be approved using analysis of data from past tests, rather than conducting a full scale test of the model requiring certification. But there is currently no analytical method that is capable of predicting failure of the crew and passengers to meet the performance standard after the design standard has been met. There have been such failures in the past. Since there are no analytical methods that can properly substitute for the full scale demonstration, the FAA cannot enforce their policy.

The requirement for full-scale emergency evacuation demonstrations was introduced by FAA NPRM 63-42 (28 FR 11507, October 23, 1963). This notice justified this proposal by stating: "Recently, the Agency observed several simulated passenger emergency evacuation demonstrations which were conducted by various air carriers using different types of airplanes. The time required to accomplish each of these demonstrations varied from 131 to 213 seconds using 178 to 189 persons. In all instances, it was evident that a more realistic assignment of functions within the cabin would have resulted in lesser time to evacuate the airplane satisfactorily. From these demonstrations, it has been concluded that a physical demonstration of an air carrier's ability to execute its established emergency evacuation procedures within a specific time period is necessary in the interest of safety and to insure a more realistic assignment of functions which, in turn, will result in satisfactory accomplishment of emergency evacuation procedures."

Clearly, the original intent of the evacuation demonstration was to show the satisfactory accomplishment of emergency evacuation *procedures*. The final rule reinforced this intent (30 FR 3200, March 9, 1965).

The following year, FAA Notice 66-26 (31 FR 10275, July 29, 1966) proposed to establish comparable requirements for the airplane manufacturers. This notice stated that "...traditionally, it has been considered sufficient to provide the necessary components for emergency evacuation through detailed quantitative requirements prescribed in the airworthiness rules. However, experience has shown that compliance with these requirements does not ensure that the airplane can be evacuated, during an emergency, within an acceptable time interval. Differences in the relationships between elements of the emergency evacuation system introduce a considerable variation in evacuation time, and this variation is expected to be even more marked on larger transport aircraft under development." Thus it was acknowledged that relationships between the various elements of the evacuation system, not just the elements themselves, had a critical influence on evacuation time. In other words, the whole was considerably more complicated than the sum of its parts. Since the manufacturer would be demonstrating the basic capability of a new airplane type without regard to crewmember training, operating procedures and similar items (such demonstration of procedures was still required under Part 121, the operational requirements), this new demonstration was not expected to validate the evacuation procedures of the air carriers or operators. FAA Notice 66-26 also proposed that once a manufacturer had successfully conducted an evacuation demonstration for a particular airplane type, the passenger seating capacity could be increased by no more than five percent if the manufacturer could substantiate, by analysis, that all the passengers could be evacuated within the prescribed time limit. This appears to be the first proposal to suggest the use of "analysis" in lieu of full-scale evacuation testing. However, this analysis was intended to provide comparison with the full scale evacuation actually conducted on the airplane. These proposals were adopted as a final rule (32 FR 13255, September 20, 1967).

The tests conducted by operators to show satisfactory accomplishment of emergency evacuation procedures and by manufacturers to show that the aircraft interior configuration and the relationship between the elements of its emergency evacuation system could be evacuated within a specified time period were allowed to be satisfied under a single test under Amendment 25-46 (43 FR 50578, October 30, 1978). Under this amendment, the FAA also stated that "A combination of analysis and tests may be used to show that the airplane is capable of being evacuated within 90 seconds under the conditions specified in 25.803(c) of this section if the Administrator finds that the combination of analysis and tests will provide data with respect to the emergency evacuation capability of the aircraft equivalent to that which would be obtained by actual demonstration." The FAA recognized the problems with this new provision and in its discussion of it concluded that: "Several commentators objected to the proposed amendment to 25.803(d) which would allow analysis in showing that the airplane is capable of being evacuated within 90 seconds. One commentator stated that analysis alone is an incomplete means of showing compliance and should not be allowed. Another commentator stated that extrapolations based on analytical testing have no practical relation to actual conditions which occur in accidents and evacuation demonstrations. The FAA agrees that the limitations on the use of analytical procedures should be made clear. The requirement that the Administrator find the analysis data acceptable was intended to *preclude approvals which might be based on insufficient test data, such as in the case of a completely new model or a model which has major changes or a considerably larger passenger capacity than a previously approved model"* (Italics ours.)

This intent was reinforced by the FAA Administrator in a 1986 Regulatory Interpretation and FAA Advisory Circular (AC) 25.803.1, Emergency Evacuation Demonstrations, issued November 13, 1989.

In 1985 testimony before the U.S. House of Representatives Subcommittee on Investigations and Oversight of this Committee (formerly named Public Works and Transportation Committee) and its Chairman, James Oberstar, the FAA Administrator

suggested that a reassessment of regulations pertaining to emergency evacuation of transport airplanes was warranted. Consequently, an Emergency Evacuation Task Force, open to the public, for that purpose was established in September, 1985. The continued use of full scale emergency evacuation demonstrations was one of the matters considered by that task force. One of the presentations, by Boeing, suggested that a rudimentary analytical procedure be used in lieu of full scale demonstrations. Basically, the manufacturers favored analysis, while the representatives of people who flew on the airplanes, either as crewmembers or passengers, opposed analysis. The task force was unable to reach consensus on when to accept analysis in lieu of a demonstration. A similar process was undertaken by an advisory committee to the FAA in the 1990s with the same failure to reach consensus.

The procedures used by the flight attendants in a full scale emergency evacuation certification demonstration are intended to become the baseline procedures for the aircraft type and model tested. This was the reason for the promulgation of the 1965 rule requiring operators to conduct full scale emergency evacuation demonstrations. These procedures are found in the Flight Standardization Board Report for each type and model of aircraft. Yet some demonstrations conducted since 1996 have utilized a procedure that makes it easier for the manufacturer to pass the test, but it is not a procedure that is used by U.S. scheduled operators. The intent of the regulation requiring full scale evacuation demonstrations is not being carried out by the FAA.

The analytical method does little more than calculate that, if the design standards are met, the aircraft could be evacuated within the requirements of the performance standard. Since the design requirements were intended to provide an airplane capable of being evacuated within the requirements of the performance standard, use of the analytical method is redundant.

Analysis is not a method that can predict failure of an emergency evacuation system, unlike a full scale demonstration utilizing appropriate evacuation procedures.

The result of the FAA's policy and of the currently inadequate "state of the art" analytical methods accepted under the policy, is that the first full scale evacuation of a new airplane will be performed by the traveling public under emergency conditions rather than by paid test subjects under the controlled test conditions of a demonstration. There is no assurance that the evacuation would be successful. For this reason, the FAA should be required to rescind its policy of allowing the use of analysis in lieu of the full scale demonstration until a scientifically valid method is developed.

The time is past due for development of a method for assessing the evacuation capability of aircraft under real emergency conditions. An independent blue ribbon panel needs to be established within the National Academy of Sciences (NAS) to examine these problems in depth and design a study to develop such a method, if not develop the method itself.

As you can tell from our testimony, AFA-CWA believes that there are a number of areas where improvements could be made by the FAA to improve aviation safety. We look forward to continuing our working relationship with this Committee and the Chairman to make progress on these important issues. Thank you again for the opportunity to testify today.