STATEMENT OF

CAPTAIN JOHN PRATER, PRESIDENT

AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

BEFORE

THE SUBCOMMITTEE ON AVIATION

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

UNITED STATES HOUSE OF REPRESENTATIVES

WASHINGTON, D.C.

SEPTEMBER 16, 2010

PILOT FLIGHT AND DUTY TIME RULE

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Good morning Mr. Chairman and members of the Subcommittee. I am Captain John Prater, President of the Air Line Pilots Association, International (ALPA). ALPA is the world's largest pilot union, representing nearly 53,000 pilots who fly for 38 airlines in the U.S. and Canada. ALPA was founded in 1931 and our motto since its beginning is "Schedule with Safety." For more than 79 years, ALPA has had a tremendous impact on improving aviation safety. ALPA is a founding member of the International Federation of Air Line Pilots' Associations (IFALPA) and the U.S. and Canada representative to the Federation which joins the pilots of over 100 nations in safety and security harmonization efforts. Today, ALPA is the world's largest non-governmental aviation safety advocate, protecting the safety and security interests of our passengers, fellow crewmembers, cargo, and aircraft everywhere around the world.

We owe a debt of gratitude to Transportation and Infrastructure Committee Chairman Jim Oberstar, to you, Chairman Costello, Ranking Members Mica and Petri and all of the members of this committee. You steadfastly championed much needed improvements to today's outdated and ineffective flight and duty time regulations, and your labors were rewarded when the President signed your bill, H.R. 5900, into law on August 1st of this year. That law now requires the FAA to publish new pilot flight and duty rules not later than July 31, 2011. We know that you will be watching the agency closely to ensure that it meets that deadline, as will we.

ALPA appreciates this opportunity to discuss the just-released Notice of Proposed Rulemaking (NPRM) on pilot flight and duty time because it is a long-standing flight safety issue. The rules that govern pilot flight and duty time have a significant impact on pilot fatigue, which is as important to aviation safety as the proper functioning of any mechanical component of the aircraft or the aviation system. Pilot fatigue has been a major issue for ALPA since it was founded in 1931 and it has been particularly onerous during the difficult years since 9/11. ALPA has stated many times over the past two decades that we are sorely in need of up-to-date regulations based on science. The regulations that we currently operate under have been in place almost 60 years and are not science-based.

The National Transportation Safety Board issued three recommendations to the Department of Transportation in 1989 following several accidents involving operator fatigue:

1. Expedite a coordinated research program on the effects of fatigue, sleepiness, sleep disorders, and circadian factors on transportation system safety.

2. Develop and disseminate educational material for transportation industry personnel and management regarding shift work, work and rest schedules, and proper regimes of health, diet, and rest.

3. Review and upgrade regulations governing hours of service for all transportation modes to assure that they are consistent and that they incorporate the results of the latest research on fatigue and sleep issues.

The Board did not make a distinction between reforms needed for the rules applicable to passenger and all-cargo operations in its reports and recommendations to the FAA; rather, the Board has recognized that the effect of fatigue is the same whether a pilot is carrying cargo or passengers, or operating a scheduled or non-scheduled flight. Fatigue is an equal opportunity killer.

Pilot fatigue has been on the Safety Board's list of Most Wanted Transportation Safety Improvements since the list's inception in 1990. Other, more specific, recommendations have followed. The Board's current Most Wanted List, published in February 2010, specifies the following objective to reduce accidents and incidents caused by human fatigue in the aviation industry: set working hour limits for flight crews based on fatigue research, circadian rhythms, and sleep and rest requirements.

ALPA's long-standing campaign to change these rules moved forward last year when FAA Administrator Randy Babbitt appointed members of labor, industry, and government to the FAA's Flight and Duty Time Limitations and Rest Requirements Aviation Rulemaking Committee (ARC) and directed the committee to comprehensively review current flight time and duty time regulations and recommend changes to reduce pilot fatigue and improve safety. Administrator Babbitt recognized ALPA's expertise in fatigue and its important role as a key stakeholder in the aviation safety process by appointing seven ALPA pilots to the ARC, representing every sector of Part 121 flying: regional, domestic, international, and cargo airlines.

The ARC completed its review and made its recommendations to the FAA privately on September 1, 2009 in accordance with its charter. The FAA began reviewing the ARC report with an eye toward releasing a notice of proposed rulemaking by the end of 2009. The NPRM was actually published on September 10, 2010, less than one week ago. Our Flight Time/Duty Time (FTDT) Committee is in the process of conducting a thorough review of the rule to see if it meets the criteria mentioned previously, of being scientific-based and addressing the needs of all airline pilots operating in the 21st Century.

ALPA's FTDT Committee has been working for years to promote changes to today's antiquated flight and duty rules and to bring scientific principles to bear. ALPA believes there are three basic principles for any revision to the rule.

First, it must be based on science. There is a large body of sleep science available and there are several recent aviation fatigue studies. Over the past 60 years, scientific knowledge about sleep, sleep disorders, circadian physiology, fatigue, sleepiness/alertness, and performance decrements

has grown significantly. Some of this scientific knowledge, gained through field and simulator studies, confirms that aviators experience performance-impairing fatigue from sleep loss resulting from current flight and duty practices.

The International Civil Aviation Organization (ICAO), a United Nations organization which has 190 member countries including the United States, has mandated that flight limitation rules be based on science and it has recently implemented a new standard for flight time rules which states in part:

> "For the purpose of managing fatigue, the State of the Operator shall establish regulations specifying the limitations applicable to the flight time, flight duty periods, duty periods and rest periods for flight crew members. These regulations shall be based upon scientific principles and knowledge, where available, with the aim of ensuring that flight crew members are performing at an adequate level of alertness."

The United States is bound to comply with this standard. Our current rules are simply not based on science and therefore do not comply with the ICAO standard.

Second, there should be just one level of safety in flight and duty time regulations. Scheduled passenger, all-cargo and charter air carrier operations are no different when it comes to the actual operation of the aircraft. All three types of operations use the same highly qualified pilots, the same aircraft types, the same airspace, and the same airports in the same cities. As such, there is no rational basis for cargo or charter pilots to have different or more liberal fatigue rules than scheduled passenger operations.

As an example of today's regulatory inequities, domestic pilots who carry passengers under FAR Part 121 have a flight time maximum of 30 hours in seven days, while international (Flag) passenger-carrying pilots are allowed up to 32 hours in the same seven days under the current FAA regulations. These current "flight time" limits only account for the time pilots spend actually operating the airplane, not the time pilots spend in pre-flight and post-flight duties, the time spent at airports between flights, the time spent going through security or traveling to and from the airport to hotels, or the time spent in training and other ground-based duties. This additional time, which is not accounted for in the regulations, can lead to significant fatigue on the part of flight crewmembers.

On the other hand, charter and air cargo pilots flying under today's supplemental rules can fly 48 hours in a six-day period or *60 percent more* than domestic passenger-carrying pilots. We believe that these supplemental rules significantly reduce available safety margins and put all-cargo and charter operation crewmembers, passengers and persons on the ground at risk. A uniform modernization of the flight time/duty time rules including harmonized rules for the cargo industry is long overdue, and needed to enhance safety.

Third, any new regulation dealing with pilot fatigue should provide a method for carriers to transition to a Fatigue Risk Management System (FRMS). This is the "gold standard" of pilot fatigue management to ensure that pilots have an adequate level of alertness.

Ideally, it would be a part of a Safety Management System, or SMS. However, FRMS can operate independently of an SMS.

The purpose of an FRMS is to ensure that flight crewmembers are sufficiently alert so that they can operate to a satisfactory level of performance and safety under all circumstances.

An FRMS supplements prescribed flight and duty-time regulations and competent, independent, scientific research-based software scheduling tools by applying safety management principles and processes to proactively and continuously manage fatigue risks through a partnership approach which requires shared responsibility between management and crew members. FRMS can, therefore, only operate in circumstances where all stakeholders — particularly the pilots — support the operation of FRMS. Accordingly, an open reporting system and non-punitive working environment is a prerequisite for FRMS because honest and accurate crew feedback is an essential component of the program. An FRMS must specify the prescriptive regulatory scheme upon which it is based. In the event of suspension, termination or revocation of an FRMS, the carrier's affected operations revert to the baseline prescriptive scheme.

Last month, the FAA published an Advisory Circular (i.e., AC 120-103) entitled Fatigue Risk Management Systems for Aviation Safety. An advisory circular is guidance only and is not mandatory for an operator. Our FTDT Committee is reviewing the AC to determine if it provides adequate guidance and how it can be best applied.

We are very pleased that the FAA has finally published a notice of proposed rulemaking, which is apparently based on scientific principles, to amend our antiquated flight and duty regulations. The proposed rule is long and detailed and asks numerous questions of respondents; a full analysis by ALPA will take some time and we will delineate our comments directly to the FAA. But we would offer some initial observations regarding the apparently favorable aspects of the proposal which:

- Appears to apply scientific principles and recognizes human physiological limitations with increased minimum rest periods, more reasonable duty days, and recognizes the effects of circadian rhythms on fatigue,
- Applies to all FAR Part 121 flying; it would eliminate "carve outs" for supplemental operations,
- Incorporates FAR Part 91 "tag on" or ferry flights within flight and duty time limitations,
- Requires fatigue education and training on a recurring basis at all airlines and provides for implementation of a fatigue risk management program,
- Requires all crewmembers to report rested and fit for duty. Establishes that fitness for duty is a joint responsibility of the crewmember and air carrier,
- Requires airlines to accurately record and set scheduled flight and duty periods based on actual operations. Adjustments must be made if unreliable scheduling is used,
- Makes the decision to extend the duty period a joint responsibility between the pilot in command and the airline and further limits the number of times the duty period may be extended for a flight crew,
- Requires deadhead time (i.e., positioning of crew members) to be counted as duty, and
- Specifically recognizes reserve duty.

After our initial review, we have, however identified a few areas in which the NPRM does not adequately capture the ARC's recommendations:

- Ensuring that the length and quality of rest following a long-range flight across multiple time zones is sufficient before the next flight/duty period.
- Ensuring that the application of augmented flight and duty period tables addresses the circadian disruption that the crewmember may experience in certain types of flying.
- The viability of increasing the amount of block time in a duty period up to 10 hours.

After many fits and starts over many years, and continual advocacy by ALPA and others, the FAA has developed a proposed rule which has the potential to make significant improvements in flight and duty regulations. The ultimate value of the final rule will be dependent upon the application of scientific principles which are tempered by experience gained through use of those rules on the line.

We applaud Administrator Babbitt for his leadership in this regard and we look forward to submitting detailed comments to the FAA in response to the agency's thoughtful and comprehensive notice of proposed rulemaking. We will ensure that this Committee is provided with a copy of our response to the docket.

Thank you for the opportunity to share our views.

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