

FAA FLIGHT CREW MEMBER  
DUTY AND REST  
REQUIREMENTS -  
DOCKET NO. FAA-2009-1093

Presentation of the  
Cargo Airline Association  
September 3, 2014



# CASE HISTORY

- ▣ 12/22/11 - FAA issues Final Rule that excluded all-cargo operations (all-cargo operations continue under existing duty and rest requirement rules)
- ▣ Independent Pilots Association (UPs) appeals FAA decision to Federal Court
- ▣ FAA discovers errors in original Regulatory Impact Analysis and hires Volpe Center to recalculate costs and benefits



# CASE HISTORY (Continued)

- ▣ 12/12/12 - FAA issues Initial Supplemental Regulatory Impact Analysis recalculating costs and benefits of applying new Part 117 to all-cargo operations and calls for industry comments.
- ▣ Supplemental Regulatory Impact Analysis found costs to far exceed benefits, with negative ratios of 110:1 (Base Case) and 18:1 (High Case)
- ▣ FAA concludes that “The Initial Supplemental RIA results in data that provides greater justification for the exclusion of cargo operations from the final rule. . .As a result, the FAA has determined that no revisions to the final rule. . .is warranted.”



# Position of the Cargo Airline Association

- ▣ A cost/benefit analysis is totally appropriate, not precluded by statute, and is in compliance with the terms of Executive Order 13563. The FAA agreed finding "FAA does not believe that is is statutorily foreclosed from... considering the costs and benefits of the flight, duty and rest rule."
- ▣ The FAA's Supplemental RIA more accurately reflects the costs and benefits of applying Part 117 to cargo operations
- ▣ The Volpe Center recalculation reveals an increase in costs over the original RIA from \$306 million to \$550 million and a decrease in benefits from \$20.35 million to \$5 million (base case) and from \$32.55 million to \$31 million (high case)



## Position of the Cargo Airline Association (Continued)

- ▣ The new cost/benefit calculations were maximally conservative, understated actual costs and did not address the issue of the cause of any fatigue in the benefits analysis.

### ▣ Costs

The largest understated cost category is for fatigue training under the new rule. The FAA estimated a cost of only \$1.1 million for dispatchers and upper management, totally ignoring the substantial costs of crew training.



# Position of the Cargo Airline Association (Continued)

## ▣ Benefits

The benefits found by the FAA were based solely on one FedEx flight in 2002 wherein the NTSB found fatigue to be a contributing factor. The agency concluded that there would have been a 75% probability of accident avoidance if Part 117 were in effect.

This conclusion flies in the face of the facts. First, FedEx has reviewed the actual rest received by the flight crew and has shown that the crew would have been in compliance with Part 117, if that regulation had been in place. See CAA Comments, pp. 11-12.



## Position of the Cargo Airline Association (Continued)

Second, the FAA itself concluded that,

“...unsure exactly how NPRM would have addressed this case, since rest periods were reasonable (even if not well managed) & accident occurred on visual approach over a black hole with a color-blind pilot trying to use a PAPI.” Initial Supplemental RIA, pp. 110-111.

- ▣ Given these facts, the 2002 crash cannot be used to construct a benefits number.



## Position of the Cargo Airline Association (Continued)

- ▣ Lesson Learned -- The issue of fatigue in the cockpit is not settled if fatigue is found as a cause or contributing factor in accident. The key question that must be asked is WHY a crew might have been fatigued. All fatigue cannot be blamed on crew scheduling; other factors such as lifestyle choices must also be considered.



# Conclusion

- ▣ The FAA's finding in the Initial Supplemental RIA that, based upon a revised cost/benefit analysis, cargo operations should be excluded from the new Part 117 is correct and no revisions to the Final Rule are necessary or appropriate. Indeed, any other result would be arbitrary and capricious and not consistent with the record in this proceeding.



# Contact Information

- ▣ Stephen A. Alterman, President, Cargo Airline Association - [salterman@cargoair.org](mailto:salterman@cargoair.org).
- ▣ Yvette A. Rose, Senior Vice President, Cargo Airline Association - [yrose@cargoair.org](mailto:yrose@cargoair.org).
- ▣ Phone contact - (202) 293-1030