United States House of Representatives

Transportation and Infrastructure

Hearing of the Subcommittee on Aviation

The Honorable Rick Larsen (D-WA) Chairing

A Work in Progress:

Implementation of the FAA Reauthorization Act of 2018

Thursday, September 26, 2019

Testimony of

Sara Nelson

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Chairman Peter DeFazio, Chairman Rick Larsen, Ranking Member Sam Graves, Ranking Member Garret Graves and Members of the Committee:

My name is Sara Nelson, International President of the Association of Flight Attendants-CWA, AFL-CIO (AFA), representing 50,000 Flight Attendants at 20 airlines. Thank you for the opportunity to testify today on the status of implementation of the FAA Reauthorization Act of 2018 ("Act"). This committee deserves tremendous credit for ushering the bill to overwhelming bipartisan support. It is nearly a year ago, on October 5, 2018, that this comprehensive legislation with long-term funding containing dozens of important safety provisions and initiatives for U.S. aviation became law. Our union counts eighteen key items in the bill specific to the work of Flight Attendants and safety in the aircraft cabin. Chief among these items and included in my testimony today are efforts to combat Flight Attendant fatigue with improved rest, a study of evacuation certification standards in the reality of today's aircraft cabin, installation of flight deck secondary barriers, and addressing the troubling rise of assaults against customer service agents.

Fighting Flight Attendant Fatigue with Increased Minimum Rest

Flight Attendant rest is a safety issue. It also affects Flight Attendant health. Further, it is an issue of equality. As a refresher for lawmakers and regulators we will include the details that determined the need to close this safety loophole in the Act, while first addressing the status of implementation and need to act quickly on implementing the law.

The Act provided specific instruction on implementing increased minimum rest for Flight Attendants.

> SEC. 335. FLIGHT ATTENDANT DUTY PERIOD LIMITATIONS AND REST REQUIREMENTS.
> (a) MODIFICATION OF FINAL RULE.—
> (1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall modify the final rule of the Federal Aviation Administration published in the Federal Register on August 19, 1994 (59 Fed. Reg. 42974; relating to flight attendant duty period limitations and rest

requirements) in accordance with the requirements of this subsection.

(2) CONTENTS.—The final rule, as modified under paragraph (1), shall ensure that—

(A) a flight attendant scheduled to a duty period of 14 hours or less is given a scheduled rest period of at least 10 consecutive hours; and
(B) the rest period is not reduced under any circumstances.

The intent of this language was to implement the rest without a rulemaking process in order to close the safety loophole of Flight Attendant fatigue as quickly as possible. The change to the duty and rest rules is singular, only increasing minimum domestic rest from 8 hours to 10 hours. There is no change to duty limitations or extensive rules such as the FAR 117 that provided comprehensive duty, rest, and flight time limitations for pilots. It was understood that FAA would allow a normal implementation period for airlines and direct carriers to comply with the new rest provision by a date certain, typically allowing a six-month implementation. Flight Attendants therefore expected the 10 hour minimum rest to be reflected in schedules and the operation by approximately May of 2019. That did not happen.

We have heard that a few airlines mounted significant opposition to the implementation and argued to the FAA that the minimum rest would be too costly and difficult to implement. These arguments were, in our view and experience, without merit. Further complicating efforts to press for implementation of the rest provision was the 35-day Government Shutdown that halted all progress, as well as the grounding of the Boeing 737 MAX.

In the interim, AFA pressed airlines to comply with the law's intent. Where we were involved in contract negotiations, we locked in the provision as defined by the law. This was relatively simple to achieve as airlines recognized that this would become the required standard across the industry once the FAA implemented the law and enforced the regulation. Specifically, Frontier Airlines, PSA Airlines, and Miami Air International have ratified agreements with rest that mirrors the Act since the October 5, 2018 signing. Other airlines where negotiations are on-going have also already agreed to mirror the rest provided by the Act.

Frontier Airlines, an ultra low cost carrier with nearly 2500 Flight Attendants, agreed to include the 10 hours irreducible rest in a contract that was ratified on May 15, 2019. The airline was able to implement the new rest rule by the July schedule month, less than six weeks later. The company did not mention a specific cost for this as it was rolled into the overall cost of the contract.

PSA Airlines, a regional airline with 1300 Flight Attendants, also agreed to 10 hour minimum rest language that mirrors the Act. The contract was ratified July 15, 2019 and the new rest rules were fully implemented in schedule and operation on September 1, 2019. PSA management did not give this improvement any incremental cost during negotiations.

Miami Air, a charter airline with approximately 100 Flight Attendants, agreed to language that mirrors the Act also. This contract was ratified on October 12, 2018 and the rest provision was implemented within a month. The airline did not assign a cost to this change during negotiations.

Horizon Air, a regional airline with approximately 500 Flight Attendants, agreed outside of contract negotiations to implement the rest as defined by the Act.

Alaska Airlines, jetBlue, Omni Air, Silver Airways, Southwest, and United Airlines all schedule at or over the 10 hours minimum rest, but based on either the Flight Attendant or company discretion the rest can be reduced in the operation.

Most regional airlines that do not have contractual 10 hour minimum rest are already bidding schedules with 10 hour rest because the airline schedules the Flight Attendants with the pilots to avoid operational issues. Examples of this are Piedmont Airlines, Mesa Airlines, and Envoy Airlines.

However, language in an airline contract can be negotiated away or worse. We know through experience that when an airline faces serious financial challenges, management uses bankruptcy as a business model, to ask a judge to abrogated contracts. If the DOT and FAA do not change minimum rest standards as written in the Act, Flight Attendants will never be

assured 10 hours rest.

Recently confirmed FAA Administrator Steve Dickson assured AFA and lawmakers he would make implementation of 10 hours rest a priority. On September 6, 2019, under his leadership the FAA took a public step forward announcing an Advance Notice of Proposed Rulemaking (ANPRM) for implementing the 10 hours minimum rest. Within hours, Delta Air Lines announced (see Appendix 1) they would implement the rest as defined by the Act with the February 2020 bid month - demonstrating the truth that all airlines can do this within a few months' time.

The Office of Management and Budget (OMB) has cleared the ANPRM. While we do not believe that a rulemaking process is necessary or consistent with the Act, we do want to acknowledge the effort on the part of Administrator Dickson and FAA staff to take definitive steps to move forward with implementation of the 10 hours irreducible minimum rest. We urge the FAA to move with urgency through this process to conduct fact finding expeditiously through the ANPRM in order to issue the final rule as soon as possible.

AFA will continue to work with FAA to provide all necessary data to expedite the final rule. **While we are heartened by the efforts of Administrator Dickson, we urge Congress to do everything in its power to support expediting the process. The reality is that rulemaking can be a lengthy process and critical safety issues should be on a different track for implementation.**

Flight Attendants are daily experiencing reduced rest and the difficulty of performing our safety and security sensitive duties while fatigued. In a May 2019 AFA survey that included nearly 20,000 responses from Flight Attendants at 30 airlines, implementation of the 10 hour irreducible minimum rest continues to be the overwhelming regulatory priority for Flight Attendants. We continue to receive reports of rest reduced to the 8 hour FAA minimum between extremely long duty days. This is a critical issue of safety that needs to be fixed now.

Background on Flight Attendant Fatigue, Health, and 10 Hour Rest Equal to Pilots

In 1994, the FAA promulgated the first rule for Flight Attendants setting minimum duty period limitations and rest requirements. The FAA stated the action was necessary to ensure Flight

Attendants would be rested sufficiently to perform their routine and emergency safety duties. Until that time, unlike pilots, dispatchers, air traffic control operators and maintenance technicians, Flight Attendants were the only safety-sensitive aviation group that had no regulations with respect to flight or duty limitations and rest requirements.

In 2005 and 2007 Congress directed the FAA's Civil Aerospace Medical Institute (CAMI) to conduct a series of fatigue studies for Flight Attendants.

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.[1]

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 9 hours off duty, that may be reduced to 8 hours, if the following rest period is 10 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 9 hours off. There is evidence that what was once an occasional use of the 'reduced rest' flexibility is now becoming common practice at some carriers.*"

Given these increased responsibilities, an inability to function due to fatigue could seriously jeopardize the health, safety and security of the traveling public and other crewmembers.

We have received reports from Flight Attendants admitting that due to fatigue they had forgotten to arm their evacuation slides, or due to fatigue had forgotten they had unaccompanied minors onboard and allowed them to leave the aircraft by themselves. There are examples of Flight Attendants falling asleep or nearly falling asleep on their jumpseats during landing. These are

[1] United States, Congress, House, Committee on Appropriations, *Department of Transportation and Treasury and Independent Agencies Appropriations Bill, 2005.* 108th Congress, 2nd session, House Report 671. Page 18

the same jumpseats that are located next to the emergency exit doors which would need to be used in the event of an emergency evacuation[2].

We also have examples from Flight Attendants that have said they are too fatigued to operate their car, for fear of getting into an accident. We even have reports of members being stopped by law enforcement when driving due to the fact that police believed they were driving under the influence of alcohol because of their erratic driving. Just prior to that they would have, by the FAA's account, been okay to operate the emergency equipment onboard an aircraft in a fatigued fashion. However, as a fatigued driver on the road they are a hazard to others.

In 2007, an interim 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 concluded that Flight Attendants are "experiencing fatigue and tiredness and as such, is a salient issue warranting further evaluation." They also stated, "not all the information needed could be acquired to gain a complete understanding of the phenomenon/problem of Flight Attendant fatigue." The report recognizes fatigue as a problem, acknowledges that the very limited 6 - 8 month time frame the researchers were given by the FAA to conduct the study was not adequate, and clearly stated that a more meaningful, detailed study needed to be conducted, including surveys and research. Follow-on research began in 2007 and resulted in six additional reports.

The October 2011 report, *Flight Attendant Fatigue: A Quantitative Review of Flight Attendant Comments,* concluded that long duty days, consecutive duty days, length of layovers, long delays, breaks, and nutrition were issues of concern.

Summary: 10 Hours Minimum Rest for Flight Attendants is a Science-Confirmed Safety Issue

Confirmed Safety Risk - Fatigue studies commissioned by Congress and conducted by the

[2] Speech "**Fatigue: The Flight Attendant Perspective**" given by Candace Kolander, AFA-CWA Air Safety, Health and Security Coordinator at the 26th Annual International Aircraft Cabin Safety Symposium, February 2009.

Civil Aeromedical Institute (CAMI) confirm Flight Attendant **fatigue exists and the best way to combat this fatigue is to increase rest.** This is an aviation safety loophole that must be closed, but it is also a Flight Attendant health issue and an issue of equality. Pilot minimum rest is 10 hours and cannot be reduced. Flight Attendants need the same minimum rest rule.

Currently the minimum rest requirement for Flight Attendants is a short 8 hours between 14 hour duty periods. This "rest period" often includes deplaning passengers, exiting the airport, securing local transportation to a rest facility (hotel), getting a meal, preparation for bed at night, waking in time to board transportation back to the airport, transiting the airport and preparing to start the workday. This means 4-5 hours sleep, if all goes well, between 14 hour scheduled duty periods.

Equal Minimum Rest Decades in the Making- In 1994, the FAA issued guidance that Flight Attendants should have the same rest as pilots. When pilot minimum rest was increased in 2013, Flight Attendants were left behind with an 8-hour minimum rest requirement. Section 335 of the Act finally accomplishes the 1994 guidance, with 10 hours minimum rest and a Fatigue Risk Management Plan (FRMP) for Flight Attendants.

Minimum Rest Doesn't Restrict Scheduling of Duty Days or Flight Time - While the pilot rules (FAR 117) included a complete overhaul of duty and rest requirements, Flight Attendants are only seeking an equal minimum rest period of 10 hours. Don't confuse this issue with the rules in place for pilot scheduling. Those suggesting 10 Hours minimum rest will up-end Flight Attendant scheduling are purposely attempting to mislead the public. The language to address Flight Attendant fatigue is only changing the minimum rest – the top recommendation identified by the fatigue studies that confirm Flight Attendant fatigue exists. Rest does not change duty days, maximum flight hours or other scheduling functions. But the Act does provide equal minimum rest with the flight deck for Flight Attendants who hold a physical, front-facing, demanding job that surely requires, at minimum, equal rest with our flight deck counterparts.

The United States lags behind other countries in equalizing rest regulations for both pilots and Flight Attendants. In 2009, the International Civil Aviation Organization (ICAO) made recommendations introducing new definitions and amendments with respect to the limits for

flight time, flight duty periods and rest periods for fatigue management.[3] The ICAO recommendations help ensure an equal rest and safety from nose to tail.

Safety is at risk as long as fatigue exists. Flight Attendants, aviation's first responders, must be adequately rested and free from fatigue to respond to in-flight emergencies such as firefighting, decompression, medical emergencies, security threats, sexual assault, and passenger conflicts. In the event of an emergency landing, fatigue must not interfere with a successful evacuation.

Implementing the 10 hour irreducible minimum rest is about safety, health and equality.

Secondary Barriers

Another bipartisan provision that needs to be properly implemented is the requirement for secondary cockpit barriers. Section 336 of the bill requires the FAA to issue an order within one year to ensure that all newly manufactured aircraft delivered to passenger air carriers include these important security barriers. Already, efforts are underway to water down this mandate by claiming the provision should only apply to new models of aircraft that require a new type certificate. A "new type" standard would only cover aircraft that are **not currently in production** and require wholesale redesigns. This would delay application of this post-9/11 security requirement for decades. For this reason, Congress' language is specific to exclude any mention of new type certificates or models and instead deliberately chose secondary barriers to apply to all newly manufactured passenger aircraft off the production line after the specified date in the law. Any FAA action that does not mandate secondary barriers on all newly manufactured aircraft within one year will undermine the purpose of the provision and jeopardize a key aviation security protocol.

In response to the slow response to installation of secondary barriers, a new bicameral, bipartisan legislation, S. 911 (Casey - PA) and HR. 911 (Fitzpatrick-PA), has been introduced calling for installation of secondary cockpit barriers on all Part 121 commercial aircraft.

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[3] International Civil Aviation Organization (ICAO), *Annex 6, Operation of Aircraft, Part I: International Commercial Air Transport - Aeroplanes Ch. 9.6, Attachment A,* Ninth Edition (July 2010)

Realistic Seat Pitch and Evacuation Certification in Current Cabin Environment

Seat pitch continues to shrink in the aircraft cabin as airlines try to squeeze as much revenue out of each flight as possible. At the same time, passengers are on average are significantly larger in body mass; electronics can become projectiles and charging cords can obstruct egress; and more passengers are in the cabin than ever before with more baggage. Meanwhile, Flight Attendant staffing is at FAA minimums based on standards set only for aircraft evacuation, not current-day duties and responsibilities of aviation's first responders. Flight Attendants are left to manage the frustrations of passengers jammed into ever-shrinking space. This is not an issue the market will fix. Safety needs to provide a bottom line.

Some problems with shrinking seat pitch and seat size:

- Questions about safe evacuation
- Increase passenger angst leads to air rage and passenger disruptions
- More passengers, more bags and conflict over bag storage
- Difficult to provide safe passage for passengers with disabilities

Flier's Rights, a passenger rights group, filed a petition with the FAA to call for rule making that would set a minimum seat pitch which airlines could not decrease. The FAA refused to move forward with rule making. The response from the FAA (see Appendix 2), in summary, was that seat pitch has no impact on passenger evacuation and that seats are designed for safe collapse with seat pitch as low as 27 inches. Without a science-based approach and stakeholder involvement, it is clear that this FAA is not prepared to provide minimum seat pitch standards that will help conditions in the cabin and may in fact further harm conditions.

In 2017 legislation was introduced in both the House (H.R. 1467) and Senate (S. 596) to address cabin seat pitch. The legislation is referred to as the SEAT Act of 2017. There were three key components in the bill:

1. "establishing minimum standards for space for passengers on passenger aircraft, including the size, width, and pitch of seats, the amount of legroom, and the width of aisles on such aircraft for the safety and health of passengers"
2. "requiring each air carrier to prominently display on the website of the air carrier" the seat size, pitch, amount of leg room, and width of aisles.
3. Stakeholder involvement and science-based approach – "the Administrator shall consult with the Occupational Safety and Health Administration, the Centers for Disease Control

and Prevention, passenger advocacy organizations, physicians, and ergonomic engineers."

This SEAT Act language was included in the Act. However, in the conference process, however, items 2 and 3 of the SEAT Act were removed. The final Act stripped-down seat pitch language is in Section 577 of the Act.

The good news is that the FAA Reauthorization Bill also contains a provision in Section 337 to require the FAA conduct "a study on evacuation certification of transport-category aircraft used in air transportation" and to report back to Congress within one year. This provision includes consultation with the NTSB and all stakeholders including our unions. The FAA convened the first teleconference for this issue just last week, with an in-person meeting yet to be scheduled.

Congressman DeFazio said in a floor speech before the Act was passed that the FAA should not move forward with Section 577 until completing Section 337 on evacuation certification standards. Congressman Steve Cohen (one of the original lawmakers to introduce the SEAT Act) also encouraged the evacuation study to be used as the basis for setting seat pitch.

T&I Committee Ranking Member Peter DeFazio stated, "We have to see whether or not we can actually meet the standard of evacuating a plane in 90 seconds as budget carriers and others cram more and more seats in that are narrower and narrower, less and less pitch. Can we still meet those standards? We are going to find out whether we can or not. A provision later in the bill inserted by another of my colleagues, Steve Cohen, will require the FAA, particularly if instructed by this study, to set minimum pitch width and length requirements for passenger seats."[4]

Congressman Steve Cohen stated, "Americans have become larger. Seats have become smaller. They have become more dangerous. There needs to be a study on the width and the pitch of seats to make sure that they are safe to be evacuated within the approximate 90 seconds they are supposed to be able to evacuate a plane."[5]

[4] Representative DeFazio, Congressional Record September 26, 2018, pg. H9034
[5] Representative Cohen, Congressional Record September 26, 2018, pg. H9037

AFA continues to urge the FAA to conduct the Evac Certification standards study. We also referenced the very real need to do this in our testimony on June 19, 2019 at the House Committee on Transportation & Infrastructure Subcommittee on Aviation hearing on the "Status of the Boeing 737 MAX: Stakeholder Perspectives."[6]

Customer Service Assault

Our passenger service brothers and sisters represented by the Communications Workers of America (CWA) have worked hard to address the decades' long problem of assault on the job from passengers which was partially addressed in the FAA Reauthorization. This is not a new issue. In fact, because of the problem, Congress made assault of passenger service agents a felony in 2001. In 2017, the Department of Justice and the Department of Transportation reiterated that the statute making assault a felony did indeed apply to passenger service agents. However, passenger service agents continue to experience assault on almost routine basis and have been frustrated by the failure of carriers to prepare for assault situations and especially to develop clear protocols in how to handle assault occurrences.

The recent FAA Reauthorization bill took further action on this ongoing issue by directing carriers to develop and implement assault incident protocol by January of 2019 as well as a study by the GAO. I'm happy to report that the GAO report was finalized and released recently. The report clearly states that assault of passenger service agents both verbally and physically is indeed an ongoing problem[7]. It further reinforced that the recent FAA Reauthorization mandate for carriers to develop and implement assault incident protocols are needed. We are pleased to report that American Airlines, with which CWA passenger service representatives have been working, is close to formally implementing their protocol and we are hopeful that other airlines are doing the same with their passenger service agents.

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[6] Written testimony of Sara Nelson, *"Status of the Boeing 737 MAX: Stakeholder Perspectives.",* U.S. House of Representatives Hearing of the Subcommittee on Aviation, June 19, 2019.
[7] Information on Passenger Assaults against Airline Customer Service Agents at Airports GAO-19-683, Published: Sep 17, 2019. Publicly Released: Sep 17, 2019.

CWA does remain concerned however that proper passenger notification in terms of prominent and visible signage that assaulting a passenger service agent is a felony is not happening. We believe that this is necessary and needs to be part of the protocols that are being developed. We believe that this must be part of any process. In addition, unlike the law enforcement personnel interviewed in the GAO report, we think that coordination between various law enforcement agencies and personnel is lacking. More must be done in this area to ensure that greater collaboration and reporting happens where jurisdiction is shared or in question. We believe it is important for this Committee to exercise its oversight responsibilities and push the FAA to ensure that all airlines are abiding by these requirements.

AIR RAGE: Almost all of the 104 airline customer service agents surveyed for a new GAO report said they had been verbally harassed by passengers, and about 10 percent said they'd been physically assaulted by passengers in the past year.

Conclusion

On September 19, 2019 the U.S. House of Representatives passed a stopgap spending measure to fund the government through the end of November. If passed by the Senate, we will avert another Government Shutdown in September. However, we are once again setting up a cycle of short-term funding measures. This will further slow work on the implementation of the Act. The Senate Homeland Security Committee estimates that the 35-day Government Shutdown cost the DOT 2,413 years in worker productivity[8]. Further, the dedicated work of federal employees deserves our respect and support with long-term funding measures.

In addition, Congress should pass bills like H.R. 1108, the Aviation Funding Stability Act of 2019 - passed out of this committee in March - to ensure the FAA receives funding in the event of a government shutdown.

I would like to again thank the Chairman, the Ranking Member and the Members of this Subcommittee for this opportunity to testify. We are proud of our work as aviation's first

[8] Shutdown cost DOT, DHS thousands of years in lost productivity, POLITICO Pro, https://t.co/O3478qNmFc?amp=1, September 17, 2019

responders and the last line of defense in aviation security. We appreciate your attention and diligent efforts to ensure we have the proper tools to perform our work and keep U.S. aviation safe.

APPENDIX 1

SEPTEMBER 6, 2019

Investing in you

Hi everyone,

Ed announced last week not only a well-deserved raise, but also our commitment to significant investments that we will make to improve your work experience.

Today, I'm excited to announce that we are making significant investments over the next few years to address many of the challenges that you have raised to your leaders and the EIG, and through the employee survey and FASS. While we're just at the beginning of rolling out the work, I'm very pleased about introducing these initiatives, which include:

1. Reducing schedule values by hiring year-round at maximum capacity
2. Introducing a monthly override program
3. Implementing 10-hour rest – release to report – ahead of an FAA requirement
4. Blocking aft seats on three additional fleet types for your safety during turbulence
5. Improving catering performance

REDUCE SCHEDULE VALUES BY HIRING 2,500-3,000 FLIGHT ATTENDANTS
We've heard you—schedule values are too high and the summer rush now stretches from early spring through late fall. In response, we will limit peak system schedule values to 83 hours or less (from 86 hours this year). We believe 83 hours is a good balance between providing flexibility and not allowing your hours to fall low enough in winter months to negatively affect your income.

Move to year-round hiring at maximum levels

* We planned to hire 1,800 flight attendants for the forecasted 2020 network schedule. Now we will hire approximately 2,500-3,000 flight attendants in 2020 in order to reduce schedule values. This also will have positive effects on base growth, A-day holder seniority and schedule flexibility. This will be the largest number of flight attendants hired in a single year in our company's 95-year history.
* This unprecedented hiring will give us the breathing room that is needed in order to bring schedule values down.

This kind of movement cannot be achieved overnight, and we appreciate your patience as we work to accomplish this goal. We're confident this investment will help us move toward a better work-life balance. As we progress on this journey and consistently have system schedule values at or below 83, we can reevaluate this number.
INTRODUCE A MONTHLY OVERRIDE PROGRAM

APPENDIX 1

The EIG has identified a monthly override as a top issue. We support the introduction of a monthly override program and will partner with the EIG on finalizing the specifics and will share those details soon.

PROACTIVELY IMPLEMENTING 10-HOUR REST ON JAN. 31
Layover rest has been on our radar since the EIG elevated the issue in 2017 shortly before the passage of the 2018 FAA Reauthorization Act. So while the FAA and DOT have yet to set a deadline for airline implementation, we are listening to your feedback and enacting this new policy ahead of any requirement or deadline. This rule requires a guaranteed minimum 10 hours of rest from release to report, that cannot be reduced under any circumstances.

Implementing the 10-hour rest rule will affect trip construction as we have previously communicated. As we work to finalize the plan, we'll share more details with you about our approach to implement this rest on a regular basis.

EXPANDING SEAT BLOCKING FOR IMPROVED SAFETY
As part of our continued investment in your personal safety, we are expanding the current 767 seat block policy to other fleet types, including the A321, A332 and A350. We look forward to sharing the implementation timeline in the coming weeks.

We appreciate the EIG and EIG HSS committee for pushing this change forward on your behalf and thank all of you who have reported turbulence events. Turbulence injuries are our fastest growing injury category and your reports provide us with the important data we need to be able to drive changes to keep you safe.

EVOLUTION OF CATERING PERFORMANCE
We continue working hard to address catering issues such as missing items, broken carts and catering quality to set a new standard for how everything gets done right. I want to outline some of the initiatives we're working on to create the Delta catering standard as well as to improve your everyday experience as quickly as possible:

Standardizing processes to improve station performance

* We're working with each of our caterers to improve performance tracking by introducing consistent metrics and holding all of our partners accountable for reporting out on their station's performance. We also want to standardize the layout and processes in each kitchen so when you walk in you know it's a Delta kitchen with a Delta way of running that kitchen.

Tracking our carts to improve your safety and increase the accuracy of provisioning

* We have worked to improve the overall condition of our cart fleet by identifying and removing damage-prone carts from our aircraft so they're no longer a hazard or inconvenience to you. The next step is electronic cart tracking, which will give us full transparency to all of our carts –

where they are and if they are broken. We plan to introduce this technology next year, and it will also eventually enable us to know what's on the carts and if you have everything you need, where you need it.

Introducing airside commissaries

* In an effort to provide faster, more consistent catering for you we're moving provisions closer to you and the aircraft. We'll start by testing this concept in ATL on beverage only flights in September and hope to expand to more hubs in 2020.

Using IMCR to launch a new catering handoff

* The handoff between catering and flight attendants is a common source of frustration. Unclear paperwork and rushed loading, at a very busy time in the aircraft, are key contributing factors to missing items. This November we will pilot a new visual map of the galley showing the location of provisions and providing a clear handoff process with catering.

All of the above represent significant and necessary investments, but we're not stopping there. We continue working hard, in partnership with the EIG, to enhance IFS tools and technology; improve the reliability of our wheelchair program by overhauling technology and processes; refresh flight attendant lounges and more. And with EIG prioritization coming up later this month, there are additional improvements to look forward to.

My goal is to make sure that our flight attendants are inspired to have a fulfilling career at Delta as well as to lead the world in safety and on-board service.

Thank you again for your engagement and ideas. Your commitment and care for our customers and one another inspires me every day.

APPENDIX 2

U.S. Department
of Transportation
**Federal Aviation
Administration**

Aviation Safety

800 Independence Ave., S.W.
Washington, DC 20591

JUL - 2 2018

VIA FEDERAL EXPRESS

Mr. Paul Hudson
President
FlyersRights.org
1440 G Street NW
Washington, DC 20005

Dear Mr. Hudson:

This letter is in response to the July 28, 2017 decision of the United States Court of Appeals for the District of Columbia Circuit and supplements our responses dated February 1, 2016 and March 14, 2016. The court remanded your petition for a "properly reasoned disposition of [your] safety concerns about the adverse impact of decreased seat dimensions and increased passenger size on aircraft emergency egress."

In accordance with 14 CFR § 11.73, the FAA considers the following criteria when making a decision about whether to amend current regulations based on a petition for rulemaking:

1. The immediacy of the safety or security concerns you raise;
2. The priority of other issues the FAA must deal with; and
3. The resources we have available to address these issues.

After reconsidering your request in accordance with the Court's instructions to address the first of these criteria, we have again determined that your request does not merit rulemaking at this time.

Immediacy of Safety or Security Concerns.

While your petition asserts that seat width and pitch, in conjunction with passenger size, raise a safety concern, the FAA has no evidence that there is an immediate safety issue necessitating rulemaking at this time. The FAA has no evidence, and nothing in your petition, or the letter you submitted on April 2, 2018, or the "Post-Remand Submission" you submitted on June 1, 2018, demonstrates that current seat dimensions (width and pitch) hamper the speed of passenger evacuation, or that increasing passenger size creates an evacuation issue.

The reason that seat width and pitch, even in combination with increasing passenger size, do not hamper the speed of an evacuation is the timeline and sequence of the evacuation. The time it takes passengers to get out of their seats, even if those seats are relatively narrow and close together, is less than the time it takes for the emergency exits to begin functioning and for the line that begins forming in the aisle to clear. This is demonstrated during evacuation tests, several videos of which are now available for public review by being placed in the docket for your petition.

An evacuation begins when ordered by the flight crew or a flight attendant, or on passengers' own initiative, when the aircraft comes to a stop. The flight attendant must then unbuckle his or her seat belt, stand up, move to the exit, look outside to confirm that the area around the exit is safe, open the door, and verify that the escape slide, if applicable, has deployed and is usable. All of these flight-attendant actions take a minimum of about 10 seconds under the ideal conditions of a demonstration test, and are likely to take significantly longer in an actual accident. Declaration of Jeffrey C. Gardlin, attached ("Gardlin Declaration"), at para. 10. If responsibility falls upon a passenger to open an exit, especially an overwing exit that must be discarded, this time can be even longer. A line then develops at each exit, because passengers can get to the exit faster than they can get through the exit. Passengers in an actual accident or incident likely will experience a delay of more than 10 seconds before being able to use an emergency exit. They can use this time to get out of their seats, and then either enter the aisle or wait to enter the aisle. The key is that the time it takes to stand up from one's seat, even if the seat is relatively narrow and installed at a 28-inch pitch, and even if the passenger is relatively large, is less than the time it will take to get the emergency exits opened and functional and for the line that begins forming in the aisle to clear. Id.

This timeline has been repeatedly demonstrated during evacuation tests. Airplane manufacturers typically film these evacuation tests. While the FAA receives and preserves general information about each test, such as whether it was successful and conducted under the required conditions, the FAA does not retain videos of evacuation tests and such data are considered to be proprietary by the manufacturers. However, airplane manufacturers have recently provided the FAA with videos and statements about their evacuation tests and agreed to allow the FAA to make these videos and statements available for review by you and the public. The FAA will place this information in the docket for your petition. These videos of recent tests show that passengers take no more than a second or two to get out of their seats, even from seats as narrow as 16 inches wide and installed as closely as at a 28-inch pitch. Gardlin Declaration at paras. 10, 18, and attachments.

The FAA has no evidence that a typical passenger, even a larger one, will take more than a couple of seconds to get out of his or her seat, or that such time will approach the time necessary to get the emergency exits functional. The FAA also has no evidence that current seat sizes are a factor in evacuation speed, nor that current seat sizes create a safety issue necessitating rulemaking, because the time to stand up from one's seat is less than the time it will take for the exit door to be opened and, for most passengers, for the aisle to clear. Moreover, the FAA does not expect seat pitch to drop so significantly from

current levels that it meaningfully affects evacuation speed. Gardlin Declaration at paras. 21, 22, and 27.

Regarding seat pitch, although some airlines have operated with less than 30-inch average seat pitch for decades, seat pitches below 30 inches are still not common today. Gardlin Declaration at para. 21. Also, seat pitch is unlikely to go below 27 inches under current technology and regulations. FAA regulations (14 CFR § 25.562(c)(8)) require that seats not deform in a crash to the point that they would impede rapid egress. Advisory Circular 25.562-1B, Appendix 2, discusses the FAA's application of this requirement, but it effectively results in a minimum of 9 inches between the front of one seat (the front of the seat cushion) to the nearest point on the back of the next seat. Gardlin Declaration at para. 21. Seat bottoms are typically approximately 18 inches front-to-back, and have been for many years. Id. Thus, seat pitch is unlikely to go below 27 inches (9+18), in order to maintain compliance with § 25.562(c)(8), even if a carrier could persuade passengers to purchase tickets for flights with seat pitches that low.

Turning to your particular safety concerns, the FAA has no evidence that your concerns raise an immediate safety issue. Nothing presented in your petition demonstrates that decreases in seat pitch and increases in passenger girth create an immediate safety issue with regard to passenger evacuation that necessitates rulemaking.

Safety Concern: Evacuation Testing.

The first safety issue alleged by the petition (p. 6) states that evacuation tests have not been run in airplanes with seat pitch of less than 31 inches. This is not true. The comments of the FAA employee that you cited referred to studies that the FAA itself has conducted, not to evacuation tests conducted by airplane manufacturers for certification. Gardlin Declaration at footnote 3.

Safety Concern: Seating Capacity.

The second safety issue alleged by the petition (p. 6) is that the tests are conducted with fewer passengers than can be carried on the aircraft. This is also not true. As noted in the FAA's first response to your petition (p. 2), the number of passengers substantiated for evacuation becomes the certified maximum number of passengers that the airplane can carry in operation. 14 CFR § 25.803.

Safety Concern: Human Panic.

Your petition states (p. 7) that "a decreased amount of space between seats would likely increase … panic, and cause delays in evacuations during an emergency." Your petition offers no support for why a lower seat pitch would increase human panic. And the evidence is to the contrary, as discussed below.

First, numerous successful passenger evacuation tests have been conducted with 28-inch seat pitch, and the FAA did not observe any indication that seats installed at that pitch

affect passenger behavior. Gardlin Declaration at para. 24. In addition, there have been several actual accidents and incidents in recent years in which the passengers successfully evacuated in the presence of an actual or potential post-crash fire. Gardlin Declaration at para. 25.

The FAA and other civil aviation authorities have conducted research testing to assess the effects of "panic-like" behavior during evacuations. These tests simulate the urgency of panic by offering passengers a financial incentive to be among the first out of the emergency exits. From these, the FAA learned the effects of panic-like behavior on evacuation. The FAA learned that performance by test participants is largely driven by whether they paid attention to evacuation instructions. The FAA has no data supporting speculation that current seat widths or pitches increase human panic or otherwise slow evacuations. Gardlin Declaration at para. 24.

Safety Concern: Passenger Demographics.

Your petition claims that emergency evacuation demonstrations do not consider human factors, such as older passengers, passengers with children, or passengers with disabilities, who may need more time to evacuate. This is true for several reasons, but it does not invalidate those tests.

First, evacuation tests are conducted with volunteers and introduce elements that would increase the safety risk to the test participants. Injuries, even serious ones, occur during emergency evacuation demonstrations. Thus, the FAA has chosen not to require elderly passengers or children in demonstration tests after learning that they are more likely to sustain injury. Gardlin Declaration at para. 13. Second, actual emergency evacuations are subject to a high degree of variability, such as the amount of damage to the airplane, and not every variable can be safely and reliably replicated. Gardlin Declaration at para. 14. Therefore, a key purpose of the 90-second evacuation test is to provide a repeatable comparison of the airplane design to a specific standard, not to simulate every potential variable that may occur in an evacuation such as the amount of airplane damage and the diversity of human ages and abilities. These variables are addressed by several other regulations, including regulations prescribing minimum widths of aisles, cross-aisles, and passageways; minimum sizes of exits; requirements for emergency lighting and exit marking; and the minimum number and location of exits, at 14 CFR §§ 25.815, 25.813, 25.807, 25.812, and 25.811 respectively. While the evacuation tests required by the FAA do not specifically take into account changes in the size of passengers, such tests continue to be conducted with volunteers from the general population who have a variety of sizes and weights. Gardlin Declaration at para. 14.

Safety Concerns Raised by Other Commenters.

In response to your petition, one commenter stated that current seat spacing made it "necessary to climb onto [her] seat to get out." Another commenter asserted that, given current seat spacing, "[i]n an emergency, there is no way we would have been able to get to an exit row in less than three or four minutes." As noted above, the videos of

evacuation tests that the FAA received from airplane manufacturers show that it is not necessary to climb onto one's seat to get out, and that passengers take no more than a second or two to get out of their seats, even from seats as narrow as 16 inches wide and installed as closely as at a 28-inch pitch.

Another commenter said that, given his height, "it is physically impossible for [him] to assume the 'crash position'" in a regular economy-class seat. Decreased seat pitch, however, does not prevent passengers, even taller ones, from assuming a brace position, because an acceptable brace position is leaning forward with your head on the back of the seat in front of you. Gardlin Declaration, footnote 7.

Other Two Criteria.

Neither your petition nor the Court's decision challenged the FAA's decision regarding its two other criteria for rulemaking (the priority of other issues the FAA must deal with, and the availability of rulemaking resources). The FAA continues to regard the issues and requested actions from your petition as having a lower priority than the other issues before the FAA, and, given the FAA's limited rulemaking resources, those resources will be dedicated to higher priorities, as indicated in the Department of Transportation's Regulatory Agenda.

Although we are declining to initiate rulemaking based on your petition, your comments and arguments for the proposed rule change will be placed in a database, which we will examine if we consider future rulemaking in this area. If the FAA does pursue rulemaking in this area in the future, you would be able to track it through one of the two following websites:

- For significant rulemakings, you can find the status on the Department of Transportation's (DOT) website (http://www.dot.gov/regulations/report-on-significant-rulemakings).

- For non-significant rulemakings, you can find the status on the DOT's semi-annual regulatory agenda, through the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs' (OIRA) Unified Agenda website (http://www.reginfo.gov/public/do/eAgendaMain).

For the reasons stated herein, we continue to decline to initiate rulemaking based on your petition.

Sincerely,

Dorenda D. Baker
Aviation Safety
Executive Director
Aircraft Certification Service

Enclosure