



FAA REAUTHORIZATION: OPPORTUNITY TO ENHANCE AVIATION SAFETY AND PROTECT U.S. WORKERS

The U.S. aviation system is a cornerstone of the global transportation network. It provides over 11 million jobs in the U.S. and fuels economic development in almost every sector of our economy. Our aviation system is one of the safest and most efficient in the world and, despite significant economic losses in recent years due to the September 11 terrorist attacks, the SARS epidemic, record fuel prices and a decline in business travel, airports and airlines are operating at or near capacity and demand for commercial airline travel is only expected to increase.

With that as a backdrop, this year Congress faces the reauthorization of the Federal Aviation Administration (FAA) and specifically how to fund operations, infrastructure investment and safety programs of the Agency. With our air traffic control system bedeviled with a staffing crisis and in critical need of modernization and our airports and air carriers facing a significant capacity crunch, U.S. aviation is at a critical juncture.

Financing

Enhanced federal investment is critical to maintaining the safety of our system, growing capacity and expanding the capability of our aviation network. To meet these growing needs, the general treasury contribution for aviation programs should be increased and funded on a consistent basis. While users of the system pay for a significant portion of the costs associated with the aviation system, the nation benefits from a robust aviation program and annual federal funding levels should reflect this reality. We also understand that some, including the FAA, want to alter the way the aviation system is funded. At a minimum, any new financing mechanism must generate more revenue into the aviation trust fund and other FAA accounts than the current funding structure. Congress should consider and review all financing mechanisms to support and fund the increasing demands of the aviation system. Furthermore, we will oppose any new regime that will lead to the privatization or outsourcing of vital air traffic services. Finally, long-standing federal standards including worker protections such as Davis-Bacon have served airports, the aviation community and American workers well and any reauthorization bill must adhere to these standards.

Safety

Fatigue is creating a precarious situation in the airline industry much like it is in other sectors of transportation. For pilots and flight attendants adequate rest, while critical, is becoming more and more uncertain and harder and harder to come by. Carriers, in an insatiable drive to increase

“productivity” and reduce workforce costs, push crew members to the limit. Current federal rules governing duty-time and minimum rest requirements are not adequate and subjecting rest time to the collective bargaining process does not reflect the serious safety implications inherent in adequate sleep. Fatigue is not an issue that can or should be “traded” at the negotiating table – it is an issue that deserves federal attention and enforcement.

As air traffic increases, the potential for runway incursions increases as well. Airports and runways built decades ago have been difficult to upgrade or redesign to accommodate larger turbojet aircraft. Additional automatic warning systems, enhanced signage and surface markings, improved airfield lighting systems and additional coordinated air traffic procedures with control towers are needed to counter the growing potential for runway accidents.

Improved procedures and methods for stopping aircraft on runways are also crucial. Runway safety areas help to stop an aircraft in the event of runway overruns due to mechanical, weather or other operational problems. Specifically, the reauthorization bill should include new standards to require the creation of adequate runway safety areas where feasible and/or install Engineered Materials Arresting Systems (EMAS) which are frangible concrete and air barriers that bring an aircraft to a quick but controlled stop, much like runaway truck ramps.

The reauthorization bill should also include provisions to develop and employ standards to improve and monitor runway conditions. Notably, the FAA should enforce its snow and ice removal regulations at all airports. Additionally, the FAA should develop a standard method of describing and reporting runway friction, a timely method for providing that information to flight crews, and an accurate, consistent way for pilots to use this information in their landing decisions and calculations. Moreover, the reauthorization bill should encourage manufacturers to develop stopping performance data for airplanes on both wet and dry surfaces (current regulations are based on runway stopping performance data determined during test flights on dry surfaces only).

The safety of the aircraft cabin is critical for both flight attendants and the traveling public. For flight attendants, the aircraft cabin is their workplace. Unfortunately, these workers are not afforded common workplace safety standards as are most other U.S. workers. The Occupational Safety and Health Act was passed in 1970 to assure safe working conditions for U.S. workers and, in 1975, the FAA claimed jurisdiction over workplace safety for flight attendants. Unfortunately, in the more than 30 years since, the FAA has failed miserably in its protection of an entire workforce. In 2000, the FAA and OSHA signed a Memorandum of Understanding to establish a cooperative arrangement to extend workplace protections to the aircraft cabin. However, no movement has been made in subsequent years to establish or enforce basic workplace protections on board aircraft. Flight attendants, without recourse, regularly encounter dangerous situations and unsanitary conditions performing their duties. The FAA reauthorization bill should clearly establish that the jurisdiction of occupational safety and health for flight attendants resides with OSHA.

Furthermore, improvements must be made in cabin air quality onboard aircraft. Flight attendants who routinely work in cabins with poor air quality disproportionately suffer from respiratory problems and a range of health difficulties. Any reauthorization bill should direct the FAA to publish or enforce the most basic regulations to protect and provide recourse to those who work in this environment.

FAA standards for Airport Rescue and Fire Fighting (ARFF) are gravely deficient and woefully out of date. Airport fire departments are not even required to be capable of performing passenger rescue in the event of a crash or on-board fire. All other standards-making bodies that address airport fire fighting — including the National Fire Protection Association, the International Civil Aviation Organization (ICAO), OSHA, and the Department of Defense — have standards for safe and effective airport rescue and fire fighting that far exceeds FAA standards. In order to adequately protect air passengers, airline crews, airport fire fighters and the public, FAA's ARFF standards must be updated and brought into conformity with other nationally-recognized standards. Furthermore, ARFF standards should apply to all-cargo airports as well.

The safety of helicopter pilots who fly to and from oil platforms in the Gulf of Mexico must likewise be improved. Last year, the FAA entered into an agreement with the helicopter industry to enhance communications, weather and surveillance capabilities in the Gulf. Since that time, the FAA has moved forward and is now in the initial stages of installation and implementation of Automatic Dependent Surveillance Broadcast (ADS-B) technology and equipment on offshore platforms. This technology will greatly enhance the ability of helicopter pilots to receive accurate and timely weather information and provide better communication and surveillance capabilities between pilots and air traffic control. We urge Congress to provide oversight to ensure that implementation of ADS-B in the Gulf remains a priority for the FAA.

FAA Personnel Issues

An efficient, safe and forward-looking aviation system simply cannot exist if the heavy-handed labor tactics employed by the FAA are allowed to continue. Congress must step in now to reverse this trend, to address the looming staffing crisis and ensure that collective bargaining disputes are settled in a fair and impartial manner. Last year, despite loud protests from Capitol Hill, the FAA unilaterally imposed terms and conditions on its air traffic controller workforce without the consent or ratification of its employees. The FAA has misused and taken advantage of a poorly constructed law and has consistently refused to negotiate in good faith with its unions. AFSCME employees, for example, are currently working without the benefit of an agreement that was negotiated and ratified in 2001 because of the FAA's refusal to implement the agreement. The FAA has also refused to return to the bargaining table with PASS' Technical Operations unit after the FAA's proposed agreement was rejected by 98 percent of the employees. Furthermore, four out of five PASS bargaining units have been at impasse for more than four years.

The FAA's unilateral imposition of terms and conditions and its refusal to bargain in good faith has created a level of distrust that permeates through the Agency; morale is low and retirements are skyrocketing. This problem needs to be fixed both for future disputes and for "contracts" imposed by the FAA using this misinterpretation of the law. Third-party binding arbitration (under the direction of the Federal Services Impasses Panel), like that used for other federal agencies such as the U.S. Postal Service would provide a fair means of resolving bargaining disputes.

At the same time the FAA's personnel practices are encouraging retirements, the Agency is badly mismanaging a severe staffing crisis. According to the FAA, it will need to hire nearly 12,000 controllers through FY 2015 to address retirements. It takes several years to complete air traffic control training and, as the FAA replaces retirees, 20 percent of the workforce could be less experienced trainees. Knowing controller retirements have vastly exceeded FAA's predictions in recent years, we have concerns about its Controller Workforce Plan and urge Congress to provide appropriate oversight and adequate funding to ensure a safe level of highly skilled and trained controllers.

Adequate staffing of FAA technicians and inspectors is also a critical government function. The reauthorization bill should include studies to determine staffing standards to ensure that the correct number of skilled workers is able to maintain and inspect our aviation system both at home and abroad.

Furthermore, the current practice of delegating safety and security-sensitive responsibilities to private individuals or companies must come under closer scrutiny. Currently, the FAA delegates approximately 90 percent of its safety certification activities through its designee program. In the face of a serious lack of inspector staffing and an aging workforce – 50 percent of inspectors are eligible to retire by 2010 – oversight of the designee program must be addressed. In 2004, the General Accounting Office made numerous recommendations to improve the designee program. To date, these recommendations have not only been ignored, but the FAA has actually expanded the program decreasing oversight even more. The FAA reauthorization bill should include language prohibiting the expansion of the designee program and mandating stricter designee oversight.

Finally, the FAA reauthorization bill must include a technical correction to give the Merit Systems Protection Board (MSPB) remedial authority for FAA employees. The FAA personnel reforms included in the 1996 FAA reauthorization bill and subsequent changes included in the 2000 Wendell Ford Act deny the MSPB legal authority to render decisions regarding back pay for employees who have been improperly terminated, suspended or otherwise subjected to unwarranted personnel actions. These were unintended consequences of personnel reform and should be corrected.

Globalization

Our U.S. aviation system is part of a vast global network that moves people and goods throughout the world. A seamless worldwide transportation network benefits all Americans; however, as corporations and our own government rush to embrace “globalization” we must be mindful of the pitfalls and inherent risks of exporting U.S. jobs or otherwise blurring the lines governing the protection and security of U.S. assets and companies.

The reauthorization bill must be used as an opportunity to revisit the safety and security ramifications of outsourcing aircraft maintenance work. Foreign repair stations are exempt from a number of safeguards required of U.S. repair stations including drug and alcohol testing, unscheduled inspections and oversight of certain repair work. Furthermore, it is well known that the overseas inspector ranks are woefully inadequate so substandard work can go unchecked. Finally, U.S. carriers should be prohibited from outsourcing maintenance work to “non-certificated” repair facilities which are not authorized by the FAA to operate under Federal Aviation Regulation Part 145. This requirement should apply to both foreign and domestic facilities.

Congress must also reject attempts to expand cabotage or allow foreign control of U.S. airlines. The 109th Congress voiced strong bipartisan opposition to the Administration’s proposal to allow foreign interests to exercise “actual control” over U.S. airlines. We are pleased that the Administration has withdrawn this misguided proposal and urge Congress to be vigilant in opposing the weakening of U.S. aviation laws with respect to ownership and control and cabotage.

Industry Consolidation and Protecting Employee Rights

Since 9/11, the state of the airline industry has been tumultuous. For workers, the intervening years have been especially difficult. Nearly 200,000 aviation industry employees lost their jobs as a direct result of the economic fallout from 9/11. Carriers have continued their practice of outsourcing jobs to the lowest bidder and have used the bankruptcy process to gain onerous concessions from their workers and destroy pension plans. As the industry continues to rebound, it appears that consolidation and potentially more bankruptcies will be considered. As airlines contemplate mergers or acquisitions, the interests of workers must be protected.

Finally, as Congress considers its FAA reauthorization proposal, we urge Congress to give all workers the fair opportunity to organize and join unions. Specifically, Fed Ex and similar companies have too often been able to misclassify its ground employees as aviation workers covered by the Railway Labor Act, and not the National Labor Relations Act. This distinction is important since the RLA makes it more difficult for workers to organize a union. It is clear, for example, that delivery truck drivers and mechanics are not airline workers and it is disingenuous for companies to use RLA jurisdiction as a shield against attempts by its workers to form and join unions.

Aviation workers play a fundamental role in our complex aviation system and must be part of any debate over reauthorization. Transportation labor will unify around an FAA reauthorization bill that enhances aviation safety, protects aviation employees, supports good jobs and boosts aviation trust fund and general treasury funding to ensure a sound aviation system.

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