



Air Transport
Association of
America, Inc.

Briefing for
Cass R. Sunstein, Administrator,
Office of Information and Regulatory
Affairs



January 7, 2011

FAA Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers Proposed Rule

- The primary purpose of this rulemaking is to establish new requirements for traditional air carrier training programs to ensure that safety-critical training is included.
- ATA members share the FAA's goal of improving training, but we cannot support the proposal as it was originally written. Commitment to training is seen in current carrier safety records and participation in the Aviation Rulemaking Committee.
- The NPRM contained numerous unworkable restrictive regulations, internal conflicts, miscalculations, and uncertainties that, if adopted, would have significant impacts without increasing safety.
- The FAA's safety analysis and benefit-cost analysis were flawed and did not justify this rule. The agency did not provide specific data directly linking new provisions to areas of concern. This conclusion is supported by former NTSB member Dick Healing.
- OMB should ensure FAA has corrected these mistakes and miscalculations before proceeding, to ensure the agency has made a "reasoned determination;" the new proposal's corrected benefits should outweigh corrected costs.

Concerns with the Original NPRM

OMB and FAA should ensure the following inaccuracies are fixed and explained before moving forward with another NPRM:

- Benefit Analysis – FAA overestimated benefits by claiming cost avoidance credit for irrelevant past accidents
- Costs – FAA underestimated costs by excluding certain cost categories, thereby minimizing the impact
- Examples of Underestimated Costs
 - Pilot Training
 - Airlines using FAA approved “Advanced Qualification Programs” for pilot training
 - FAA “complete crew” training concept is flawed and must be changed
 - Flight Attendants
 - New Check Flight Attendant requirements are unwarranted and should be deleted
 - New Flight Attendant operating experience proposal is unwarranted should and be deleted
 - Many carriers are now training under flight attendant AQP programs

Benefit Analysis

FAA Benefit Methodology analyzed past aviation accidents and concluded in its Draft Regulatory Evaluation (DRE) that the proposal would reduce the number of future accidents.

- FAA identified 169 accidents between 1985 and 2004 that it stated “might have been prevented if the proposed initiatives were in place” (DRE pages 3-4)
- Cost avoidance of past accidents was included in the benefit calculation
- The benefit was reduced to account for:
 - 1) A phased-in training program and
 - 2) The fact that accidents by carriers with AQP pilot training programs were included in the analysis but the DRE assumed that pilot AQP carriers would not be impacted by this proposal
 - The DRE stated “We believe that current AQP training programs already meet the safety improvements contained in this NPRM.” (DRE page ii)
 - This is directly contradicts the NPRM and FAA statements made at a public meeting “You're right. This rule can affect an AQP operator.” (FAA public meeting transcript, page 75, April , 2009)
 - 3) The DRE claimed benefits for significant flight attendant training changes is minimal
- FAA used an estimate of \$535 million as the ultimate benefit/cost avoidance for this rulemaking

Benefit Analysis

Concerns:

- The 169 accident data set is flawed because it included accidents:
 - Operated by current AQP operators (which the DRE assumed will not be impacted by this proposal)
 - From airlines that are no longer in business
 - Not relevant to airline operations, such as corporate or general aviation accidents
 - From 25 years ago with no credit for the safety initiatives of the past 20 years such as Commercial Aviation Safety Team (CAST) projects
- The DRE assumes this proposal would have fully (100%) prevented each accident when training was not a factor in 80% of the accidents
- In the remaining 20% of accidents, training was one factor of many, meaning if the proposal addresses the concern, the benefit claimed should only be the portion attributed to training
- In addition, and most importantly, the **FAA made no attempt to tie new training requirements to particular causes in past accidents**. In other words, just because training is mentioned in an accident report does not necessarily mean this proposal addresses that specific accident cause
- **The FAA should provide and explain how new provisions would specifically mitigate past accident causes and concerns—only accidents that would have been directly mitigated by this proposal should be included in a benefit analysis**

Cost Analysis

Major flaws with FAA's cost analysis include:

- (1) Failure to provide a clear statement that carriers training pilots under AQP would not be impacted by pilot training proposals
- (2) Failure to recognize the differences between pilot and flight attendant training; the two disciplines are different and traditional pilot training requirements should not be forced onto flight attendant programs
- (3) The FAA did not build a comprehensive training syllabus based on the proposal to determine if the proposal was internally consistent and to identify significant departures from current successful training practices
 - Without a syllabus the agency had no way of knowing how many hours it would take a carrier to train a particular task and how the proposal would impact current carrier training programs
 - For example, ATA members found the number of training tasks (listed separately in Table 3A) could not be accomplished in the number of FAA proposed training hours (listed in Table 1A)

Cost Analysis

Advanced Qualification Programs

- AQP is a method of “training to proficiency” adopted by the FAA in 1990 through “SFAR 58”
- FAA must approve a carrier created training program
- Adopting AQP is a lengthy and time consuming process for the FAA and carriers but well worth it
- Nineteen carriers currently train pilots under AQP (and several train flight attendants under AQP)
- The goal of AQP is to train more efficiently by focusing on areas applicable to a particular carrier
- This is accomplished by using aircraft and simulator data on an ongoing basis to determine where there is need for improvement and incorporating training changes to emphasize those areas
- Using **data** to identify focus areas is the future and FAA and foreign regulatory bodies continue to rely on data trends to improve safety
- The proposal would pull current, effective, AQP programs back to rigid hourly requirements and force carriers to justify their training programs that were built and updated based on data from actual experience
- The FAA did not provide specific data that could support the training changes in the proposal
- FAA should not apply this proposal to carriers training pilots under an AQP because these programs use the most up-to-date and focused data
- **If carriers training pilots under AQP are not clearly excluded in the SNPRM the cost/benefit analysis will have to be rewritten to capture costs for AQP carriers. Without specific exclusion language, history has shown that individual POIs will likely use the “equivalent level of safety” provision of 121.909(e) to force detailed compliance with the final rule resulting from the SNPRM.**

Cost Analysis

Pilot Complete Crew Training

- Current pilot simulator training requires utilizing a “complete crew” as much as practical— one pilot in command and one first officer
- For 20 years the FAA has recognized forcing carriers to always train with one pilot in command (PIC) and one first officer (FO) is not practical
- For airlines that offer long haul service, PIC’s can constitute 33% of an airline’s pilots
- The NPRM changed FAA’s longstanding view and would require a pairing of one PIC and one FO
- In a public meeting the FAA confirmed a complete crew would be required but no specific data was used to support this change
- In response to a question from the public concerning the justification or data used to support the “complete crew” concept:

“If we had it available, I would say absolutely, but that data was just reviewed and conclusions were reached. There was not any filing of the data. There wasn’t any justification tables or comparison tables made. We were just looking at the data to see if the decisions that we were contemplating had some merit and some support. And apparently, they did, but I’m not able to give you any data that we used that would confirm that.

My guess is that if you were to look at the data, you would be able to determine the same kind of thing that we determined.” [FAA Public Meeting Transcript pages 81, 82]

- The FAA should allow the same flexibility it has permitted for the past 20 years or explain what data supports this change
- Carrier analysis of this proposal indicates that there would not be enough existing simulator time in the U.S. to accommodate this requirement. Under current rules, carriers can maximize simulator time by pairing FO’s. This proposal would eliminate that efficiency and triple the amount of simulator time.

Cost Analysis

Check Flight Attendants

The proposal would require carriers to create a new category of employee, a “check” flight attendant:

- Currently, some carriers use fully qualified flight attendants to fill the role envisioned for “check flight attendants” under the proposed rule.
- This system provides sufficient peer review and has been very effective in developing flight attendant proficiency.
- There is no apparent value to safety or performance that would result from the addition of “check flight attendants,” but the program will add significant cost to carriers.
- Limits carrier’s ability to use supervisors, subject matter experts, instructors, evaluators or other qualified personnel not part of the operation as Check Flight Attendants.

Cost Analysis

Flight Attendant Operating Experience

- Operational experience does not equate to flight attendant proficiency with emergency tasks
- Although a recency requirement for pilots may be critical to the safe operation of an aircraft, applying a similar requirement for flight attendants is difficult to justify.
- Although it may seem logical to create a parallel requirement since they perform duties in a similar environment – on-board an aircraft – it does not follow that a flight attendant would garner the same benefit from their operational experience.
- To illustrate, serving as a flight attendant every six months will not increase proficiency in responding to abnormal or emergency situations since, by definition, those situations do not normally occur. It is far more important that a flight attendant is abreast of the most current training developments.

Summary

- ATA outside experts showed the original proposal was not B-C effective:

Comparison of FAA and CAC/TSC Adjusted Benefit-Cost Ratios

	FAA Estimate	CAC/TSC Estimate	Percent Change
Benefits (million \$)	\$535.0	\$25.4	-95%
Costs (million \$)	\$229.7	\$3,308.6	1340%
Benefit-Cost Ratio	2.33 to 1.00	0.01 to 1.00	

- Before proceeding the FAA should correct the cost analysis by creating a training syllabus and compare to current FAA approved pilot and flight attendant training programs (both for traditional Part 121 programs and the AQP programs) to reveal the true costs of this proposal
- The benefit analysis should also be updated to exclude irrelevant accidents and provide an explanation of how each new provision is linked to a prior accident

Conclusions

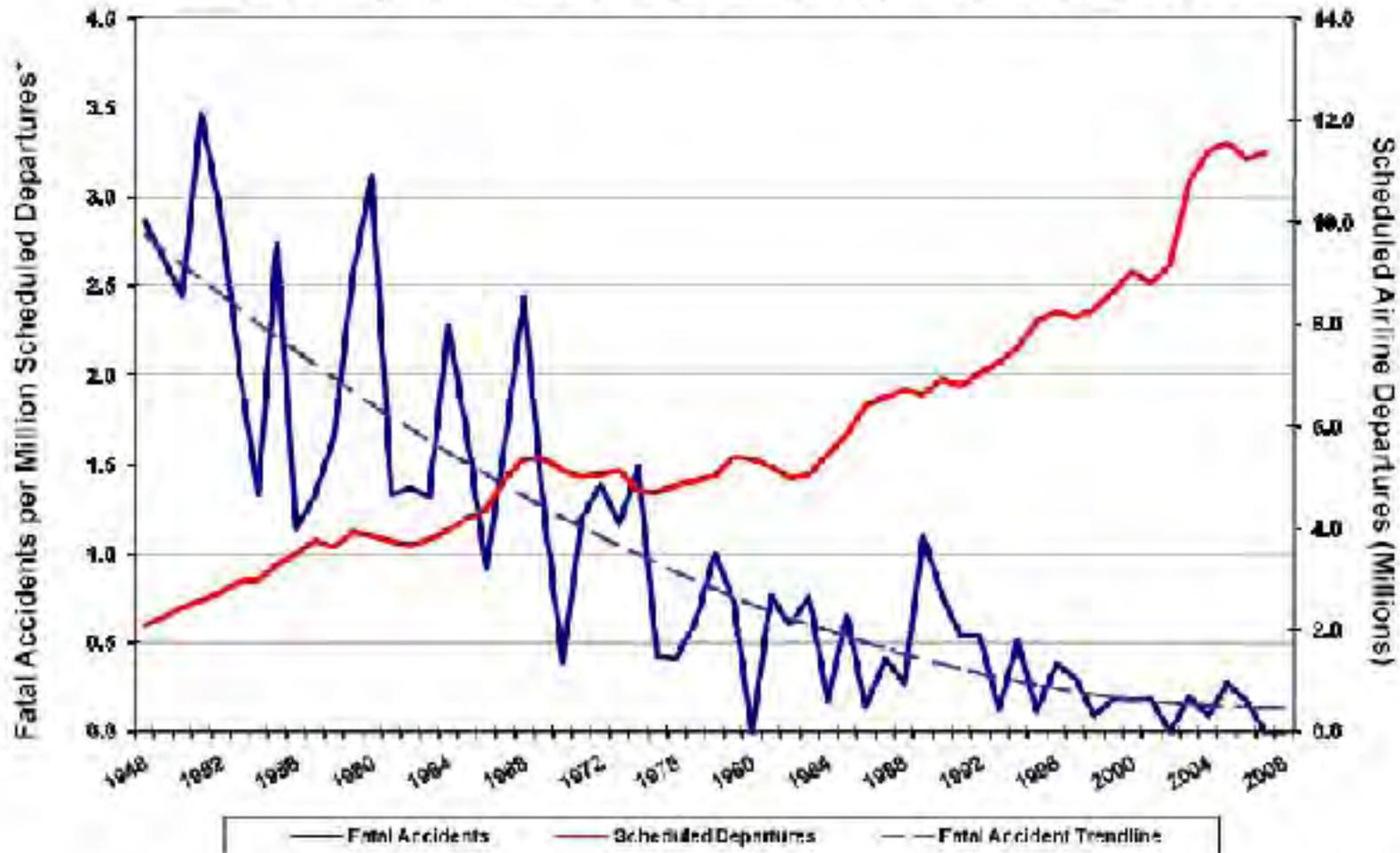
Executive Order (E.O.) 12,866 sets out a number of regulatory principles, to which the FAA has not adhered in this rulemaking.

- **First, “[f]ederal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need....”**
 - **In the DRE, FAA did not demonstrate a compelling public need for this proposal. FAA should explain why new training requirements are necessary, linking them to past accidents.**
- **Second, “[e]ach agency shall assess both the costs and the benefits of the intended regulation and ... propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.”**
 - **The FAA’s assessment of the costs and benefits of the NPRM was flawed, and the NPRM did not represent a “reasoned determination” that the proposal’s benefits outweigh its costs.**
- **Finally, “[e]ach agency shall base its decision on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, the intended regulation.”**

ATA members and outside safety and economics experts agree the FAA’s original Draft Regulatory Evaluation was flawed. For these reasons, the NPRM did not meet E.O. 12886’s standards, and should be corrected before issuing an SNPRM.

With Each Decade, U.S. Airline Safety Has Improved

Since Deregulation, < 0.5 Fatal Accidents per Million Departures



* Scheduled passenger and cargo operations of U.S. air carriers operating under 14 CFR 121; NTSB accident rates exclude incidents resulting from illegal acts

Source: National Transportation Safety Board (NTSB)