

STATEMENT OF  
CAPTAIN DUANE E. WOERTH  
PRESIDENT  
AIR LINE PILOTS ASSOCIATION, INTERNATIONAL  
BEFORE THE SUBCOMMITTEE ON AVIATION  
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION  
UNITED STATES SENATE  
ON  
PILOT SHORTAGES AND THE EFFECTS ON RURAL AIR SERVICE  
JULY 25, 2000

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Good afternoon Mr. Chairman and members of the Subcommittee. I am Duane Woerth, President of the Air Line Pilots Association, International (ALPA). ALPA represents the professional interests of 55,000 pilots who fly for 51 airlines in the United States and Canada. I appreciate the invitation to appear before the Subcommittee today to present ALPA's views on the various issues being addressed in this hearing. These issues are extremely critical to our union and our entire membership, and they are important to the safety and convenience of the air traveling public as well.

It is our understanding that the premise of this hearing is that a "critical" shortage of airline pilots in the United States is having an adverse effect on air service in rural areas such as Alaska and parts of the upper Midwest, and that changes to certain air safety regulations and labor/management contractual provisions might alleviate this shortage. As a general rule, ALPA is opposed to proposals to relax air safety rules for economic purposes, and we are naturally concerned about congressional or regulatory interference in legitimate collective bargaining matters. At the outset, however, I would like to make a few general comments about the premise of this hearing – pilot shortage.

Without directly challenging the notion that there is a "critical" pilot shortage affecting rural air service, I would prefer to characterize the situation as the difficulty that some air carriers serving rural areas are having in the recruitment and retention of qualified pilots. The question is: What is causing this difficulty? The answer is quite simple. Our nation has been experiencing unprecedented economic growth for the past six years, and the airline industry has been a major beneficiary of this prosperity. With the growth in air travel, has come growth in airline employment, including pilots, and qualified pilot applicants are gravitating to those carriers where wages, benefits, and career opportunities are the most attractive. Some of them are leaving jobs in the commuter airline industry and accepting higher-paying positions with the major carriers. This is a natural phenomenon in a robust free market economy.

However, as many airline pilots have personally experienced, the converse is also true. When the economy is stagnant or in a recession, pilots face lay-offs and are forced to seek lower-paying jobs, often non-flying jobs. Just a few years ago, commuter airlines were able to attract pilots even though entry-level wages were so low that they qualified for government financial assistance, and even though new-hires were required to pay thousands of dollars to cover their training costs. Today, these airlines are not able to attract pilots on those terms, but that doesn't translate into a pilot shortage. The bottom line – pilots, like any other employment applicants in the current economic environment, have the luxury of being more selective in choosing a job.

Recently, Aviation Information Resources, Inc. (AIR Inc), an Atlanta firm that studies various trends in the commercial airline industry, projected that there will be over 19,000 pilots hired this year. If, as suggested, carriers are having difficulty finding qualified pilots to meet this hiring demand, and if this is determined to be a long-term problem, I would call your attention to the recommendations contained in the August, 1993, DOT Blue Ribbon Panel Report entitled, "Pilots and Aviation Maintenance Technicians for the Twenty-First Century – An Assessment of Availability and Quality", as a meaningful approach to addressing this concern. As a matter of fact, your full Committee Chairman, Senator John McCain, provided the impetus for this study back in 1989, as a member of the Manpower and Personnel Subcommittee of the Senate Armed Services Committee as well as a member of this Subcommittee on Aviation. I will provide the Subcommittee with a copy of this report for your review.

#### Mandatory Retirement Age – Age 60 Rule

Let me now turn to one specific proposal that has been offered as a remedy for this alleged pilot shortage. S.1855, introduced last fall by Senator Frank Murkowski (R-AK), would increase the mandatory retirement age for air carrier pilots from 60 to 65. The theory of this legislation is that pilots who must now retire at age 60, especially those who fly for regional airlines, would be able to continue flying, thereby relieving the pilot shortage in Alaska and other sparsely populated areas of the country. While the alleged justification for the legislation is to address a perceived regional economic problem, the argument for it challenges the efficacy of the regulation itself as it applies to pilots on a national basis. ALPA is opposed to this legislation for two basic reasons. First, everyone – not just pilots – should be opposed to the relaxation of a safety rule for an economic purpose. And second, the so-called Age 60 Rule is justified on its merits as a sound and effective air safety regulation. The first reason should be self-explanatory and widely accepted; the second has been the subject of considerable debate.

The Age 60 Rule is based on two fundamental principles of medical science that are indisputable. First, the risks of incapacitation and unacceptable decrements in performance increase with age. Second, medical science has not developed a regimen of reliable tests that can be administered effectively to identify those aging pilots who are, or will become, incapacitated, or whose performance will decline to an unacceptable level. The issues surrounding the regulation have been studied as thoroughly as any

aeromedical matter affecting pilots, and after two decades of comprehensive studies and exhaustive review, these two principles are still valid as the underlying basis for the Rule.

In late 1979, the House of Representatives rejected a proposal to relax the Rule, and directed the National Institutes of Health to conduct a study to determine if there was sufficient medical evidence to support it. In August of 1981, the National Institute of Aging Review Panel on the Experienced Pilots Study that was responsible for reviewing the study and submitting a report to Congress concluded: "The Panel attaches no special medical significance to age 60 as a mandatory age for retirement of airline pilots. It finds, however, that age-related changes in health and performance influence adversely the ability of increasing numbers of individuals to perform as pilots with the highest level of safety and, consequently, endanger the safety of the aviation system as a whole. Moreover, the Panel could not identify the existence of a medical or performance appraisal system that can single out those pilots who would pose the greatest hazard because of early or impending deterioration in health or performance."

Following completion of the NIA review, the Rule was contested in Federal Court and reconsidered by the FAA. In 1989, in response to a directive by the U. S. Court of Appeals for the 7<sup>th</sup> Circuit, the FAA reviewed the evidence and reaffirmed its support of the Rule. In the decision, the FAA's Director of Flight Standards stated: "Based upon all of the studies discussed, we conclude that an older pilot's edge in experience does not offset the undetected physical infirmities associated with the aging process. Notwithstanding that most pilots who are approaching or have passed age 60 report that their health is excellent and they do not experience any physical or cognitive limitations which would prevent them from continuing their flying career, the research of aging indicates that there is often a sharp decline in physical and cognitive performance after age 60. . . . There is substantial scientific evidence which indicates that the greater experience of the pilots who have reached or passed age 60 does not outweigh the increased risk of incapacitation or skill deterioration which accompanies seniority."

Since 1994, the FAA itself has sponsored at least five studies on issues related to the Rule (see Appendix). The most comprehensive consideration of the Rule by the FAA occurred between 1993 and 1995. In late 1990, the FAA initiated a statistical study on the relationship between pilot age and accident rates. Following the release of the so-called Hilton Study in March 1993, the FAA convened a public meeting in September to solicit comments on the study and the Age 60 Rule in general. Two years later, in December of 1995, the FAA concluded an exhaustive rulemaking proceeding, commonly known as the "one level of safety" review, in which the safety regulations governing the commuter airlines (Part 135) were harmonized with the major carrier regulations (Part 121). One component of that review and subsequent order was a reaffirmation of the Age 60 Rule and the application of it to the commuter airlines. Recognizing that this change might pose a hardship for some commuter pilots and operators, the FAA granted a four-year phase-in of the new rule. At the time of the order, the FAA estimated that there were approximately 8,000 pilots in the commuter category, and of those, approximately 200 were over 60 years of age. The grace period expired on December 20, 1999, at which time those pilots who were over 60 years of age were required to retire. During this same

time frame (1993-1995), the FAA considered and denied a petition for rulemaking to repeal the Rule that was filed by a group of pilots, both active and retired, who have been fighting it for years.

ALPA's position is firm – the Age 60 Rule is a well-established safety regulation that has been substantiated by medical science, has been reaffirmed repeatedly by the FAA, and has worked effectively for over 40 years. The justification for the Rule is not now and never has been to enhance the careers of pilots who want to move up the seniority list faster and it should not be changed for the sake of those who want to continue flying longer. Nor should it be used as a regulator of the pilot supply pool for regional economic purposes. The Age 60 Rule is a safety regulation and should not be changed or repealed unless there is sufficient evidence to prove conclusively that such action would not have a negative effect on safety. In ALPA's view, that case has never been made.

### Flight and Duty Time Regulations and Reserve Rest Requirements

The Subcommittee has also raised the issue of the possible effect of flight and duty time regulations, particularly the "reserve rest" requirements, on the availability of pilots on the regional side of the industry. With your permission, I will submit a more comprehensive statement for the record on the topic of pilot fatigue and the critical need for changes in the flight and duty time regulations. I would simply add here that, despite the fact that in 1995 the FAA issued a notice of proposed rulemaking to revise these outdated regulations, it has been almost five years now and we still do not have a final resolution of this important safety issue. Virtually everyone in the industry and in the scientific community, as well as the NTSB and NASA, agrees that new regulations are necessary, and we once again would implore the FAA to take immediate action.

On "reserve rest", the FAA last December, began to enforce its rules requiring that domestic pilots assigned to reserve duty receive appropriate minimum rest before accepting a flight assignment. It is our understanding that, contrary to the dire predictions of the airlines, this rule was implemented without any disruption to flight schedules and at minimal cost. ALPA applauds the FAA for this action, but it needs to do more. We believe that the flight and duty time regulations must be revised to take into consideration modern science and to provide maximum hours of service that will ensure that pilots are not pushed to fly beyond demonstrated levels of safety.

### Pilot Scope Clauses and Regional Jets

Finally, some have alleged that scope clauses in our pilots' collective bargaining agreements are impeding the ability of carriers to deploy so-called "regional jets" in small, underserved markets. We submit that is clearly not the case. In our view, pure economics – not pilot scope clauses – is driving where and with what frequency these jets are being used, and will be used in the future. Frankly, ALPA believes that the term "regional jet" is a misnomer because these airplanes are not being operated exclusively in regional markets. We prefer to call them "small" jets because they are simply smaller gauge, turbine-powered aircraft that are being used by the carriers with greater frequency

in markets of various sizes to attract more high-end business travel, generate profits and benefit the bottom line.

In January, I participated on a panel on labor and employment issues at the annual ABA Forum on Air and Space Law, and presented a paper on the subject of pilot scope clauses and RJ's. With your permission, I will include a copy of this paper with my testimony. I might also mention that the General Accounting Office is currently engaged in a study of the "regional jet" phenomenon, and I would encourage the Subcommittee to look forward to GAO's report as an objective analysis of this subject.

This concludes my statement, and I would be pleased to answer your questions.

#### APPENDIX

Ramon Miller, James Becker, Peter Lambrou, The Effects of Age and Practice on Aviation-Relevant Concurrent Task Performance (1999) (DOT/FAA/AM-99/22); Robert Besco, Satya Sangal, Thomas Nesthus, Stephen Veonneau, A Longevity and Survival Analysis for a Cohort of Retired Airline Pilots (1995) (DOT/FAA/AM-95/5); D.T. Hyland, E.J. Kay, J.D. Deimler, E.B. Gurman, Age 60 Study, Part II: Airline Pilot Age and Performance – A Review of the Scientific Literature (1994) (DOT/FAA/AM-94/21); E.J. Kay, D.J. Hillman, D.T. Hyland, R.S. Voros, R.M. Harris, J.D. Deimler, Age 60 Study, Part III: Consolidated Database Experiments Final Report(1994) (DOT/FAA/AM-94/22); D.T. Hyland, E.J. Kay, J.D. Deimler, Age 60 Study, Part IV: Experimental Evaluation of Pilot Performance (1994) (DOT/FAA/AM-94/23). See also Michael Heil, An Investigation of the Relationship Between Chronological Age and Indicators of Job Performance for Incumbent Air Traffic Control Specialists (1999) (DOT/FAA/AM-99/18).