

STATEMENT OF THE DEPUTY GENERAL COUNSEL OF THE DEPARTMENT OF TRANSPORTATION, ROSALIND A. KNAPP, BEFORE THE SELECT COMMITTEE ON AGING AND ITS SUBCOMMITTEE ON HEALTH AND LONG TERM CARE, CONCERNING AGE STANDARDS FOR FLIGHT ENGINEERS, November 16, 1983.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE AND SUBCOMMITTEE:

I APPRECIATE HAVING THIS OPPORTUNITY TO APPEAR BEFORE THE COMMITTEE AND ITS HEALTH AND LONG TERM CARE SUBCOMMITTEE TO SET FORTH THE STATUS OF THE POTENTIAL RULEMAKING ON AGE STANDARDS FOR PILOTS AND FLIGHT ENGINEERS UNDER CONSIDERATION WITHIN THE DEPARTMENT OF TRANSPORTATION. FEDERAL AVIATION ADMINISTRATOR LYNN HELMS IS WITH ME TODAY.

AS YOU KNOW, THE FAA CURRENTLY HAS IN FORCE A REGULATION REQUIRING COMMERCIAL AIRLINE PILOTS TO CEASE SERVICE IN THAT POSITION AT AGE 60. IN JULY 1982, THE FAA SOUGHT THE VIEWS OF THE PUBLIC ON THE ADVISABILITY OF EXTENDING THIS SERVICE RESTRICTION TO THE FLIGHT ENGINEER POSITION IN COMMERCIAL AIRLINERS. BECAUSE THE DATA ON THIS QUESTION WAS AT BEST TENTATIVE, THE FAA DID NOT ISSUE A NOTICE OF PROPOSED RULEMAKING TO CHANGE ITS REGULATION. RATHER, IT USED THE SO-CALLED "ADVANCE NOTICE OF PROPOSED RULEMAKING" OR ANPRM TO EXPLORE THE QUESTION OF UNDERTAKING RULEMAKING. IN THE SAME ANPRM, PUBLIC COMMENT AND INFORMATION WERE ALSO SOUGHT ON THE POSSIBILITY OF MODIFYING THE AGE-60 RESTRICTION FOR PILOTS. THE ANPRM WAS NOT INTENDED TO FORECLOSE ANY OPTIONS.

AS A RESULT OF THE COMMENTS RECEIVED AND EXTENSIVE FAA EVALUATION, WE HAVE DETERMINED THAT PROCEEDING WITH ANY MODIFICATION OF THE CURRENT RULES FOR PILOTS WOULD NOT BE JUSTIFIED AT THIS TIME. THE SECRETARY HAS CONCURRED IN ADMINISTRATOR HELMS' RECOMMENDATION TO NOTIFY THE PUBLIC THAT THIS ISSUE THEREFORE WILL NOT BE PURSUED VIA RULEMAKING.

IN THE CASE OF FLIGHT ENGINEERS, CONFLICTING VIEWS AND DATA WERE OFFERED ON THE QUESTION OF TAKING UP A RULEMAKING. SOME COMMENTERS CONCLUDED THAT THE FLIGHT ENGINEER POSITION WAS CRITICAL TO COCKPIT SAFETY AND THAT INCAPACITATION OF THE FLIGHT ENGINEER COULD RESULT IN A LIFE-THREATENING SITUATION. PROPONENTS OF EXTENDING THE RULE ALSO EXPRESSED CONCERN OVER THE POTENTIALLY SERIOUS BUT DIFFICULT TO QUANTIFY EFFECT ON "CHAIN OF COMMAND" DISCIPLINE IN THE COCKPIT WHEN THE PILOT AS SENIOR CREW MEMBER ABRUPTLY ASSUMES THE JUNIOR ROLE OF FLIGHT ENGINEER DUE TO THE AGE-60 RULE.

OTHER COMMENTERS REACHED THE CONCLUSION THAT THE FLIGHT-ENGINEER POSITION IS DISTINCTLY SECONDARY TO THE PILOT AND FIRST OFFICER BECAUSE FLIGHT ENGINEERS DO NOT OPERATE THE PRIMARY CONTROLS OF THE AIRCRAFT. IT WAS FURTHER POINTED OUT THAT FAA REGULATIONS ALREADY REQUIRE THAT, ON AIRCRAFT REQUIRING FLIGHT ENGINEERS, ANOTHER MEMBER OF THE CREW MUST BE QUALIFIED TO PERFORM THE FLIGHT ENGINEER'S FUNCTIONS IN THE EVENT OF INCAPACITATION.

IN VIEW OF THE CONFLICTING VIEWS ON THE QUESTION OF EXTENDING OUR FAA SAFETY REGULATIONS TO THIS NEW POSITION, THE SECRETARY IS CONVINCED THAT FURTHER ANALYSIS SHOULD BE PURSUED BEFORE REACHING A CONCLUSION ON POTENTIAL RULEMAKING. THIS IS NEITHER A FINAL DECISION TO ISSUE A "NOTICE OF PROPOSED RULEMAKING" OR NPRM, NOR IS IT A DECISION TO ABANDON RULEMAKING. RATHER, WE ARE GOING TO TAKE ONE MORE HARD LOOK AT THE WISDOM OF EXTENDING OUR SAFETY REGULATIONS TO THE THIRD MEMBER OF THE COMMERCIAL AIRCRAFT FLIGHT CREW. THE SECRETARY'S VIEW OF HER RESPONSIBILITY AS SECRETARY OF TRANSPORTATION IS TO GIVE SUCH SAFETY QUESTIONS THE HIGHEST PRIORITY.

THIS COMPLETES MY PREPARED STATEMENT. ADMINSTRATOR HELMS AND I WOULD
BE PLEASED TO RESPOND TO ANY QUESTIONS YOU MAY HAVE.