

FAR 117 and the "Cargo Carve Out"

In 2010, there were several major airline safety issues that required federal legislation to safeguard passengers and crew. Congress was abundantly clear in all its legislative efforts that there was to be **"One Level of Safety"** – meaning there must NOT be separate standards for regional, major, passenger, or cargo carriers.

In the wake of the Colgan Air crash that killed 50 people in 2009, Congress overwhelmingly passed the Airline Safety and Federal Aviation Administration Extension Act of 2010, which required the FAA to develop science-based rest and duty regulations to address problems relating to pilot fatigue.

FAR Part 117, enacted in January 2014, was the first major revision to pilots' rest and duty limits in more than 60 years. The regulations are based on scientific knowledge of the effects of fatigue, sleep, and circadian rhythms on the human body. Cargo pilots were included when the regulations were originally proposed by the FAA, but unfortunately the White House ordered the agency to remove them.

The idea of an "exemption" providing all-cargo carriers to "opt in or out" of this new rule fails to meet the mandate of "One Level of Safety".

Fatigue, in part, is a function of circadian rhythms. All factors being equal, fatigue is most likely – and, when present, most severe – between the hours of 2 and 6 a.m. Cargo pilots routinely operate aircraft under the most fatigue-inducing conditions and are not afforded the protection of science-based rest and duty regulations. Simply put, the pilots who need the most protection from fatigue have been excluded from FAR Part 117.

Eight months after the implementation of FAR Part 117, which excluded cargo operations, the National Transportation Safety Board reported the findings of its investigation into the 2013 crash of a cargo plane in Birmingham, Alabama, that killed two crew members. The crash was blamed, in part, on pilot fatigue. The cockpit voice recorder captured the crew discussing how tired they were just before the doomed flight took off.

While FAR Part 117 is a significant improvement for passenger airlines, the exclusion of cargo operations creates two standards for commercial aviation. This double standard degrades overall safety and increases risk for air travel. There must be industry-standard rules that provide safe transportation services regardless of the cargo in the rear of the aircraft. All commercial aircraft share the same taxiways, runways, air corridors, and approaches; the system is fully integrated. A cargo aircraft accident will not be self-contained; it will impact other aircraft, property, and people.

Pending legislation: In June of 2023, Rep. Salud Carbajal of California introduced the Safe Skies Act of 2023 (HR 4014), which would require pilots in all-cargo operations to follow the same duty and rest requirements as pilots working for passenger carriers. This bill is gathering co-sponsors and is awaiting review by the House Aviation Sub Committee.

For questions or additional information please email GAC-Chairman@alliedpilots.org