January 22, 2013

Gene Kirkendall  
Part 121 Air Carrier Operations Branch (AFS–220)  
Flight Standards Service  
Federal Aviation Administration  
800 Independence Avenue SW.  
Washington, DC 20591  

Re: Policy Statement on Occupational Safety and Health Standards for Aircraft Cabin Crewmembers [Docket No.: FAA–2012–0953]

Mr. Kirkendall:

The Association of Flight Attendants-CWA, AFL-CIO (AFA), the world’s largest flight attendant union with nearly 60,000 members, is pleased to submit comments in support of the Federal Aviation Administration (FAA) proposed policy statement1 “regarding the regulation of some occupational safety and health conditions affecting cabin crewmembers on aircraft by the Occupational Safety and Health Administration (OSHA).”2 Since the FAA claimed exclusive jurisdiction over the safety and health of crewmembers working on aircraft in operation using a Federal Register notice published in 1975 (a brief review of this history is provided in the background section of the proposed policy statement,) AFA has been a tireless advocate for regulatory, as opposed to voluntary, flight attendant occupational protections. In fact, following the first fifteen years of relative inaction by the FAA to promulgate occupational safety and health regulations, AFA filed a petition for rulemaking on May 8, 1990 that asked the agency to adopt selected OSHA regulations and apply them to crewmembers. Nearly seven years later, the FAA denied the petition in a one page letter dated June 6, 1997, which stated, “[t]he FAA has determined that the issues identified in your petition may have merit but do not address an immediate safety concern.”

This letter of rejection for the first time (to our knowledge) expressly implied in writing that existing FAA regulations are not comprehensive and are therefore no substitute for the comprehensive regulatory protections afforded to workers by OSHA standards. Finally, with its December 2012 publication of the proposed policy statement, the FAA acknowledges clearly (in the implementation section)3 that its regulations “do not completely encompass the safety and health aspects of the work environments of aircraft crewmembers while the aircraft is in operation, and that there are working conditions for which it has not promulgated occupational safety or health standards.” In our opinion this statement irrevocably commits OSHA and FAA

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3 FAA, p. 2.
to share authority for flight attendant health and safety in the aircraft cabin, and effectively terminates the 1975 FAA claim of exclusive jurisdiction.

The comprehensive processes outlined in the proposed policy statement, which give OSHA authority to enforce certain OSHA standards in conjunction with reasonable safeguards to ensure that aviation safety is not adversely affected, appear to be the simplest, most efficient means to achieve these long-sought protections. As an aside, it should be noted that airline operators already have long experience complying with OSHA standards, which protect other airline employee groups, as well as flight attendants during certain activities outside of the airplane cabin (i.e., airport shuttles and hotel vans, in the airport, on the boarding ramp, etc.) Three OSHA standards that already protect cabin crewmembers because they do not affect working conditions are listed: recordkeeping, access to employee exposure and medical records, and anti-discrimination. While AFA has always believed that these three standards apply to flight attendants at all times, their explicit mention in the policy statement resolves any lingering uncertainty among employers, employees and even OSHA staff regarding their applicability. In addition, the proposed policy states that the OSHA sanitation standard is duplicative of existing FAA regulations and will not apply. While AFA concurs that there is no foreseeable need for applying the OSHA sanitation standard on board aircraft in operation, we do so noting that the FDA interstate conveyance sanitation standard (21 CFR Part 1250) plays a key role in regulating aircraft cabin hygiene, while the Environmental Protection Agency aircraft drinking water rule (40 CFR Part 141 Subpart X) regulates the quality of onboard potable water, and both agencies coordinate their respective authorities with each other and FAA through various existing and developing Memoranda of Understanding (MOU).

The proposed policy identifies three OSHA standards that will be applied in the near term to flight attendants while working on aircraft in operation: bloodborne pathogens, hazard communications, and hearing conservation. Given the nature of flight attendant work and the hazards encountered in the cabin environment, the protections afforded by these regulations will be significant. To highlight the need for rapid implementation of the bloodborne pathogens and hazard communications standards, AFA obtained several recent in-flight incident reports from the NASA ASRS voluntary reporting system;4 they are summarized in the table below. These reports highlight the lack of proper equipment to allow hazard isolation, cleanup/disposal and personal protection, as well as the need for comprehensive training for flight attendants, who too often resolve serious workplace incidents involving passenger illnesses/injuries or chemical exposures despite being under-protected and ill-informed.

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4 http://asrs.arc.nasa.gov/search/database.html
Table: Representative flight attendant reports, obtained from the NASA ASRS system, which highlight the need for application of the OSHA Bloodborne Pathogens and Hazard Communications standards.

<table>
<thead>
<tr>
<th>ACN</th>
<th>Date</th>
<th>Narrative or Synopsis</th>
<th>OSHA Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>816927</td>
<td>200812</td>
<td>Inbound Flight Attendants informed us a heroin addict had urinated, vomited, and defecated all in the back galley and aft lavatory. They had deviated to ZZZ enroute to remove passenger. I am not sure how much clean-up was done by Flight Attendants and/or staff in ZZZ. When we got the plane, the cleaners were just finishing up. I don't think they were informed that the bathrooms needed a thorough cleaning and that it was bodily fluid. This is a hazard to their health and our health as well, as it doesn't ensure proper clean-up. We had to call them back to clean floor in galley. We weren't satisfied with clean-up but knew air carrier would do nothing about it. So we were forced to go ahead with the boarding. We personally did not use the facilities in the aft galley. I would like to know if there is a specific procedure for clean-up of feces, vomit, and urine. Shouldn't some sort of Hazmat Crew be dispatched?</td>
<td>Bloodborne Pathogens</td>
</tr>
<tr>
<td>778046</td>
<td>200802</td>
<td>SICK PAX ON INTL FLT SOILS ENTIRE AREA AROUND THEIR SEAT. FLT DIVERTS FOR MEDICAL ATTENTION BUT ACFT IS KEPT IN SERVICE WITHOUT REMOVING AND/OR DECONTAMINATING SOILED SEATS, ETC.</td>
<td>Bloodborne Pathogens</td>
</tr>
<tr>
<td>891973</td>
<td>201006</td>
<td>A B757 Flight Attendant reported that a first class galley chiller freon leak detected initially during taxi, and then through the flight allegedly made three flight attendants ill. They sought medical attention after the flight and were diagnosed with 'inhalation injury.'</td>
<td>Hazard Communications</td>
</tr>
<tr>
<td>902868</td>
<td>201008</td>
<td>An A319 flight crew and flight attendants detected a chemical smell while boarding the aircraft. The entire crew felt ill during descent and flight attendants were taken to the hospital after their next leg was over. A fuel sump leak was found by Maintenance, which allowed fuel fumes to enter the air conditioning system.</td>
<td>Hazard Communications</td>
</tr>
<tr>
<td>949838</td>
<td>201105</td>
<td>B777 Flight Attendant reports a strong chemical odor coming from the sheets used in the bunk room. The incident is repeated on two other flights during the month causing headache and breathing issues.</td>
<td>Hazard Communications</td>
</tr>
</tbody>
</table>
With respect to the hearing conservation standard, AFA participated in a National Institute for Occupational Safety and Health (NIOSH) Health Hazard Evaluation of noise exposures during aircraft operations at Horizon Air on three different aircraft types (two turboprops and one regional jet). While NIOSH did not measure a cumulative noise dose that would trigger OSHA noise and hearing conservation standard protections, NIOSH did acknowledge that these measurements were obtained only with noise suppression systems active on the two turboprop models. Unfortunately, these suppression systems are not always active; in fact, they are often inactive, and during these periods noise doses may exceed the OSHA action levels. NIOSH also recommended that Horizon Air crewmembers wear hearing protection on the tarmac, outside of the aircraft. In fact, flight attendants at many other airlines report complaints to AFA about noise in the aircraft cabin and on the tarmac. Application of the OSHA hearing conservation standard’s exposure monitoring, audiometric testing, noise reduction and hearing protection components will help address these complaints, protect flight attendant health and reduce the risks to aviation safety posed by crewmembers with compromised hearing acuity.

The proposed policy statement also includes three statements that clarify the scope of OSHA regulation and enforcement of cabin occupational safety and health. First, FAA and OSHA have agreed to work together to draft a subsequent MOU to identify other working conditions where OSHA standards may apply, while avoiding adverse effects on aviation safety. AFA has no issue with this provision, and anticipates rapid development and adoption of this subsequent MOU. Second, the proposed policy states that OSHA does not anticipate the need to inspect aircraft in operation. AFA believes that onboard OSHA inspections of operational aircraft would be rare, so has no specific comment relative to this statement. Third, OSHA has agreed that enforcement of its standards will be a federal matter to preclude the possibility that airlines will be confronted by a confusing array of state plan regulations and enforcement. AFA fully supports this aspect of the proposed policy and is pleased that OSHA and its state plan programs appear able to achieve rapid agreement on this point.

In conclusion, flight attendants are pleased and grateful that FAA and OSHA have proposed a rational, effective means to implement long overdue regulatory safety and health protections for the aircraft cabin workplace. We believe that both agencies have developed a framework that proactively addresses the possibility of adverse impacts to aviation safety, and at the same time improves the cabin environment and the training and information available to flight attendants. AFA looks forward to working closely with both agencies and the airline industry going forward to ensure significant improvements to the occupational safety and health of flight attendants.

Sincerely,

Christopher J. Witkowski, Director
Air Safety, Health and Security Dept.

Dinkar R. Mokadam, CIH, OSHA Specialist
Air Safety, Health and Security Dept.

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