



AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

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March 31, 2020

*Via email transmission
and facsimile transmission*

Administrator Steve Dickson
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591

Re: Request for Immediately Effective Order, Directive or Regulatory Requirement Ordering Air Carrier Compliance with CDC Guidance

Dear Administrator Dickson:

I write on behalf of the over 63,000 pilots represented by the Air Line Pilots Association, International at 35 U.S. and Canadian air carriers. This is to request your immediate action to safeguard the health and safety of flight crewmembers, the public at large, and the airline transportation system. An urgent FAA order, directive or regulatory requirement is needed because “guidance” from the Center for Disease Control (CDC) is not mandatory and is not being consistently followed.

The FAA recognized in its Safety Alert For Operators (SAFO), issued on March 12, 2020, the World Health Organization’s (WHO) declaration of COVID-19 as a Public Health Emergency of International Concern (PHEIC), which subsequently was declared a pandemic. It also acknowledged the Secretary of the Department of Health and Human Services’ declaration of COVID-19 as a public health emergency. The situation continues to worsen as over 163,000 people now have the coronavirus in the United States, with cases in every state. “More than 3,000 people with the coronavirus have now died in the United States, according to a New York Times database, a figure that has tripled since Thursday morning and that now exceeds the number of people killed in the terrorist attacks on Sept. 11, 2001.” N.Y. Times, *Coronavirus in the U.S.: Latest Map and Case Count* (updated Mar. 31, 2020 8:05 A.M. E.T.). Friday’s reports of the death from COVID-19 of an American Airlines flight attendant is especially sobering, and highlights the exigency of taking all needed measures to avoid further contagion of airline crewmembers.

The FAA has the statutory authority and responsibility to promote the safe operations of civil aircraft by prescribing regulations, and minimum standards necessary for safety in air commerce and national security. 49 U.S.C. 44701(a). It has exercised its statutory authority “to fully occupy and exhaust the field of flight deck crew occupational safety and healthy while they are in aircraft in operation.” *Memorandum of Understanding Between FAA/DOT and OSHA/DOL* (Aug. 2014), https://www.faa.gov/about/initiatives/ashp/media/FAA_OSHA_MOU_2014.pdf. The FAA can and must exercise this authority to issue a binding order, directive or regulatory requirement,

effective immediately, to assure adherence to stringent standards to prevent the spread of the coronavirus to crewmembers, those aboard aircraft, and the wider public.

An urgent order, directive or regulatory requirement is necessary to obtain unequivocal air carrier compliance with CDC guidance, specifically regarding notification of flight crew and other airline employees exposed to individuals who are confirmed positive for COVID-19.

CDC guidance tells employers: “If an employee is confirmed to have COVID-19 infection, employers should inform fellow employees of their possible exposure to COVID-19 in the workplace but maintain confidentiality as required by the Americans with Disabilities Act (ADA). The fellow employees should then self-monitor for symptoms (i.e., fever, cough, or shortness of breath).” See CDC, *Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19)*, https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html?deliveryName=USCDC_2067-DM23558 (last visited Mar. 30, 2020).

This means notifying crewmembers who have been in direct contact with other individuals subsequently determined to be infected by the coronavirus, whether infection is determined by positive test or other medical confirmation. Such notification *must* include crewmembers exposed to the infected person 48 hours before the infected person became symptomatic. Current scientific research indicates that contagion is possible at least 48 hours before symptom onset. Significantly, ALPA has learned that this life-saving notification process is not being uniformly obeyed.

Of equal concern is the lack of consistent airline adherence to the industry specific CDC guidelines addressing aircraft cleaning and disinfection. See CDC, *Updated Interim Guidance for Airline Crew: Coronavirus Disease 2019 (COVID-19)*(Updated Mar. 4, 2020), <https://www.cdc.gov/quarantine/air/managing-sick-travelers/ncov-airlines.html>.

We are aware of airlines claiming to have cleaned aircraft with alcohol-based disinfectants that fail to comply with the minimum 70% alcohol-based solution. See CDC, *Cleaning and Disinfecting Your Facility*, <https://www.cdc.gov/coronavirus/2019-ncov/prepare/disinfecting-building-facility.html> (last visited Mar. 30, 2020). The FAA should make airlines aware of their obligation to stringently adhere to these standards. We suggest including a list of specific products recognized to disinfect for the virus causing COVID-19. See EPA, List N: Disinfectants for Use Against SARS-CoV-2, <https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2> (last visited Mar. 30, 2020)

Like the CDC guidance, the FAA’s SAFO is merely “recommended action” and does not have the force of law or regulation. Written directives with legal authority and the risk of FAA enforcement action, fine or penalty are necessary to assure full adherence to the CDC standards. Failures to follow these minimum standards risk greater spread of infection and increased loss of life. Accordingly, immediate Administrator action is warranted.

We urge the FAA to require by immediately effective order, directive or regulatory requirement that air carriers must comply with the CDC guidelines. Moreover, such written prescriptive should also specify that air carriers have an affirmative duty to notify airline employees who have been exposed to an individual confirmed to have the COVID-19 infection

(whether that individual is an employee, contractor, vendor, passenger or in another status). It should include notification to crewmembers in contact with infected individuals at least 48 hours before the ill person became symptomatic. It should also mandate rigorous adherence to COVID-19 disinfectant protocols for cleansing aircraft, simulators and other surrounding areas. Gaps in airline procedures in this realm risk far-reaching and life-threatening consequences.

Under these dire circumstances, immediate action with the force of regulation is required. Just as this crisis has led other agencies to issue final rules taking prompt effect with subsequent public comment, so too is such action warranted by the FAA. *See, e.g., Control of Communicable Diseases; Foreign Quarantine*, 85 Fed. Reg. 7874 (Feb. 12, 2020) (CDC interim rule under 42 C.F.R. § 71, effective Feb. 7, 2020, comments due Mar. 13, 2020), <https://www.federalregister.gov/documents/2020/02/12/2020-02731/control-of-communicable-diseases-foreign-quarantine>.

The Nation faces a grave threat with virus infection increasing exponentially, and the death toll rising hourly. We urge you to act at once by order, directive or regulatory requirement to ensure full air carrier compliance with needed health and safety standards to limit further spread of the coronavirus.

Sincerely,



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cc: Daniel K. Elwell, Deputy Administrator
Ali Bahrami, Associate Administrator for Aviation Safety