

A SHORT HISTORY OF FLIGHT-TIME/DUTY-TIME

By James Johnson, Managing Attorney, ALPA Legal Department

The need for reasonable limits on flight time and duty time (FT/DT) plus the need for regulations to ensure adequate rest between duty periods have been concerns for ALPA since the Association was created in 1931.

More than half a century after ALPA's inception and its advocacy on this issue, in July 1985 F/O Bruce Woodruff (Delta), then chairman of ALPA's Flight Time/Duty Time Committee, wrote to ALPA's Board of Directors regarding a final rule that the FAA had issued earlier that month, amending flight-time limits and minimum rest requirements for airline pilots.

"For decades," Woodruff wrote, "ALPA has struggled with interpretation of flight and duty regulations, coupled with noncompliance by the majority of air carriers. In addition, during that period the FAA issued numerous notices of proposed rule-making (NPRMs) which would have been disastrous to ALPA had they gone into effect. Since 1980 alone, ALPA has successfully engineered the withdrawal of three such NPRMs.

"While NPRM 84-3 was basically favorable to ALPA, three proposed changes contained therein were not... [However,] in this final rule all areas of concern outlined by ALPA have been addressed and are favorable to air safety."

Fast-forward 25 years: Since Woodruff wrote the letter quoted

above, ALPA has participated in several major efforts to bring FT/DT limits and minimum rest requirements into alignment with a growing body of scientific knowledge on fatigue.

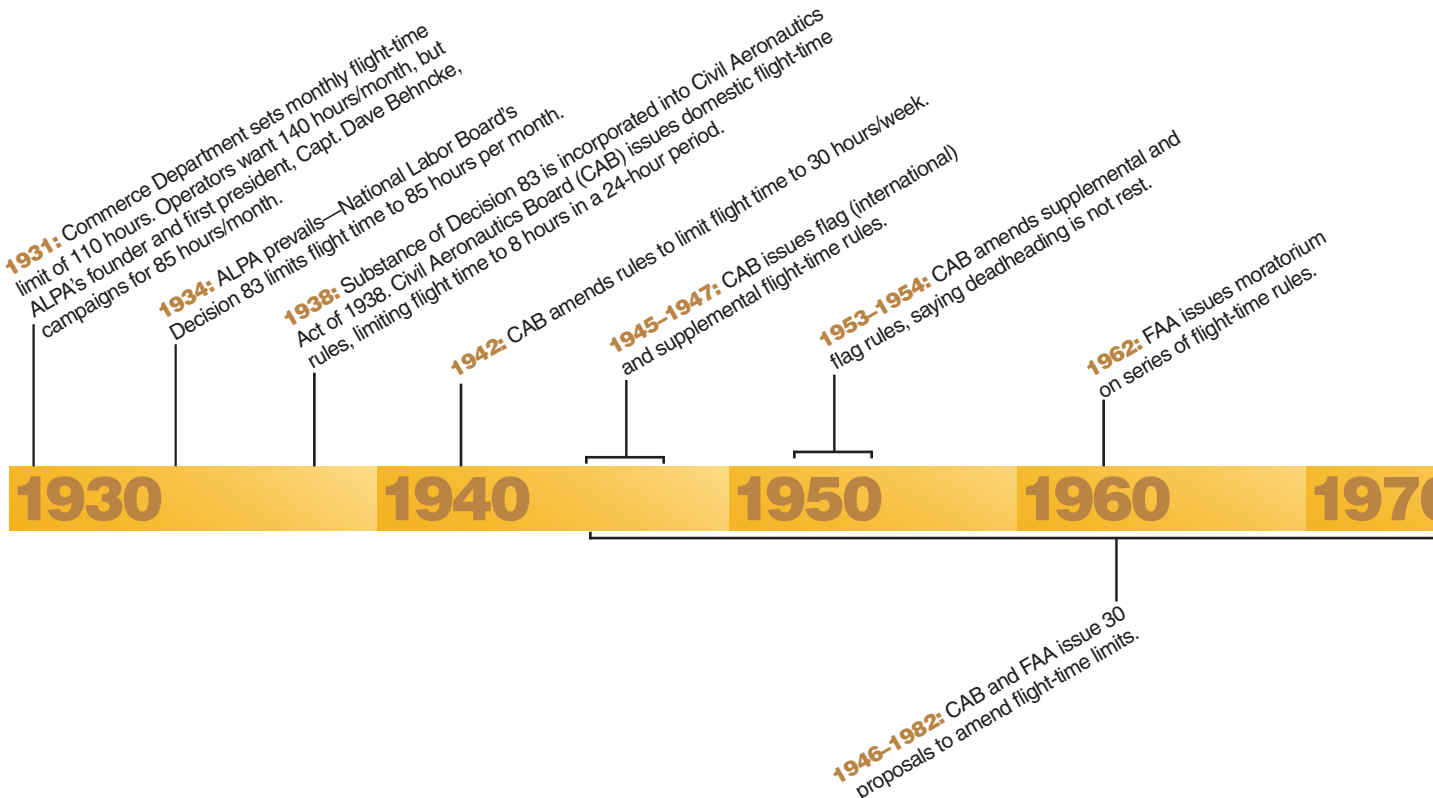
Below are some highlights from recent years.

NPRM 95-18

A decade after the FAA issued its 1985 rule on FT/DT limits and rest requirements, the agency proposed another rule change. Highlights of the 1995 proposal included

- The duty-time limit would be reduced from the current 16 hours to 14 hours for two-pilot flight crews. The proposal would have allowed increasing flight time to 10 hours in the 14 duty hours.
- Additional duty hours would be per-

MINI-CHRONOLOGY: REGULATORY HISTORY



THE RULEMAKING

FAA ISSUES FT/DT NPRM

On September 10, the FAA issued its long-awaited notice of proposed rulemaking (NPRM) to update the flight- and duty-time limits and minimum rest requirements for all FAR Part 121 airline pilots. ALPA is analyzing the lengthy NPRM and will submit a comprehensive and detailed response to the FAA. On September 16, Capt. Prater testified before Congress on the NPRM (go to www.alpa.org/testimony). ALPA's FT/DT Committee welcomes input from ALPA members to consider when analyzing the NPRM and developing the Association's position. E-mail your comments or questions to fatigue@alpa.org.

mitted only for unexpected operational problems, such as flight delays. In no event could such delays add more than 2 hours to a pilot's duty day.

- Airlines could no longer schedule pilots in advance in a way that would exceed the duty-time limit.
- Minimum rest would be increased from 8 hours to 10 hours.
- Pilots would have to be given at least one 36-hour off-duty period every 7 days (current rules call for a 24-hour minimum rest).

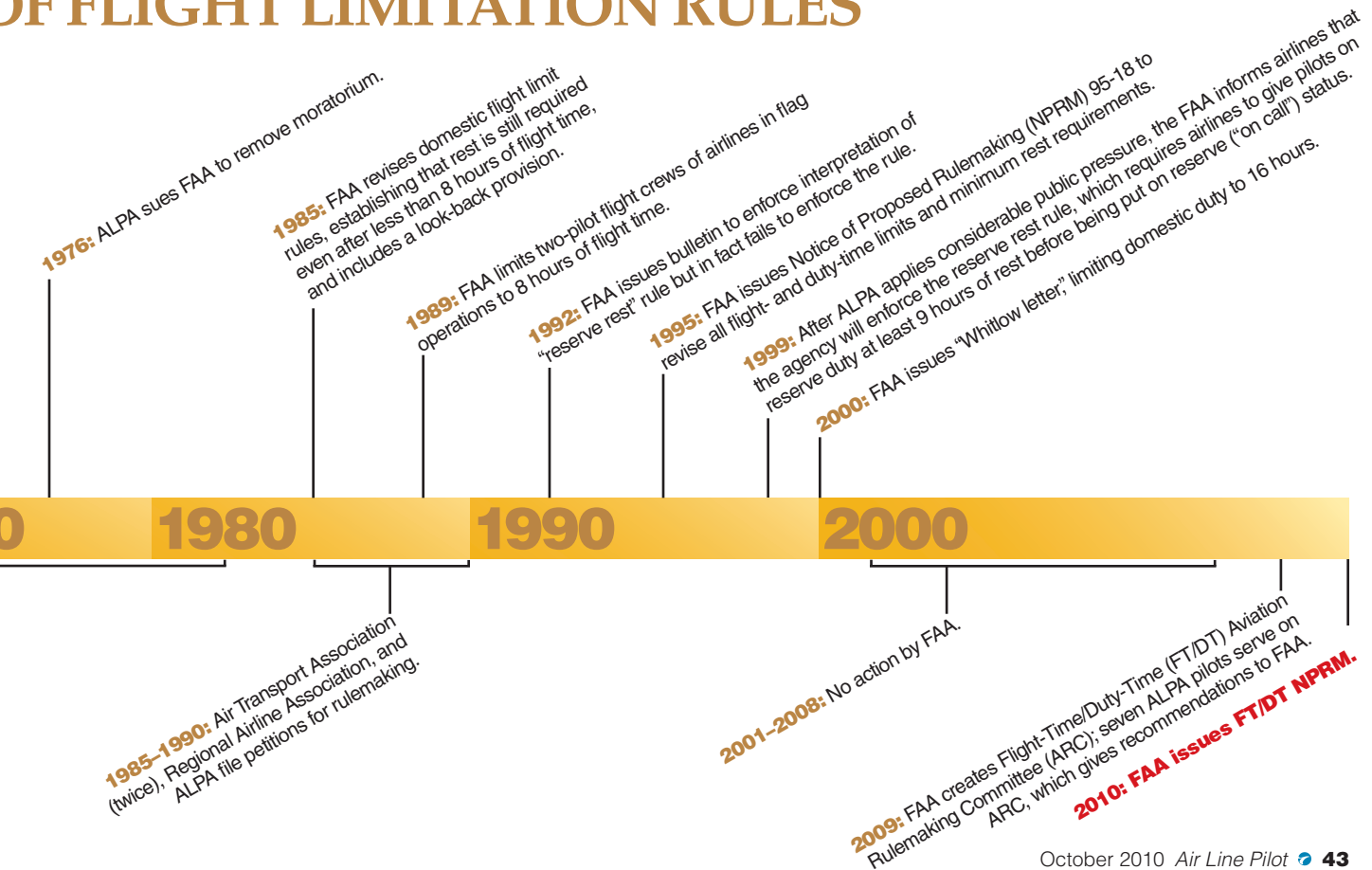
The FAA received more than 2,000 comments on

NPRM 95-18, most of which did not favor the rule as proposed. No clear consensus emerged on what the final rule should say. The result: The agency issued no final rule.

1998 ARAC

In 1998, FAA Administrator Jane Garvey asked the Aviation Rulemaking Advisory Committee (ARAC) to work with the airline industry to reach consensus on a revised reserve rest requirement and said that, if no consensus could be reached (and it wasn't), the FAA would subsequently enforce the current regulations. That current regulation required airlines to give pilots on reserve duty at least 9 hours of rest before being put on reserve ("on call") status but was ineffectively enforced. Airlines had been interpreting

OF FLIGHT LIMITATION RULES



CONGRESS PASSED H.R. 5900, THE AIRLINE SAFETY AND FAA EXTENSION ACT OF 2010, AND PRESIDENT OBAMA SIGNED IT INTO LAW AUGUST 1. H.R. 5900, WHICH ALPA HELPED CRAFT, DIRECTS THE FAA TO ISSUE A FT/DT NPRM WITHIN 180 DAYS, AND A FINAL RULE WITHIN ONE YEAR, SETTING FT/DT LIMITS AND MINIMUM REST REQUIREMENTS BASED ON SCIENTIFIC EVIDENCE THAT ADDRESSES PILOT FATIGUE.

the rule to say that no specified rest was required before a pilot could be called to fly. ALPA was a major player in the ARAC.

In February 1999, the ARAC reported its lack of consensus.

1999: Enforcement of reserve rest rule

The failure of the 1998 ARAC to resolve the FAA's lack of enforcement of the reserve rest rule for domestic pilots led ALPA to apply pressure to the FAA. In December, the agency informed airlines that it would enforce the rule.

2008 FAA Fatigue Symposium

In June 2008, the FAA sponsored the "Fatigue Symposium: Partnerships for Solutions" to encourage the aviation community to proactively address aviation fatigue management issues. Participants included several ALPA pilot representatives, the NTSB, and many of the world's leading authorities on sleep and human performance.

The Symposium provided attendees with the most current information on fatigue physiology, management, and mitigation alternatives, including fatigue risk management systems (FRMS), perspectives from aviation industry experts and scientists on fatigue management, and information on the latest fatigue mitigation initiatives and best practices.

2007-present: Renewed ALPA priority on updating rules to end fatigue

Beginning in 2007 with the strategic planning session of ALPA's Executive Council, and continuing right through the present, the Association has put renewed emphasis on, and resources behind, bringing flight-time and duty-time limits and rest requirements into the modern age.

In October 2007, ALPA's president, Capt. John Prater, announced the cre-

ation of ALPA's Blue Ribbon Panel on Fatigue, which built on the work done by the ALPA Pilot Fatigue Task Force created in 2005. Prater charged the five-pilot Blue Ribbon Panel with reviewing the science and economics surrounding pilot fatigue and the regulations regarding flight-time and duty-time limits and minimum rest requirements in both Canada and the U.S. The Panel also developed recommendations on actions for ALPA's leaders to take to address these serious concerns.

During the Association's October 2008 Board of Directors meeting, the union recommitted itself to setting flight- and duty-time reform as a top strategic priority.

Acting on these actions by ALPA's top governing bodies, the Association testified before the U.S. Congress several times during 2007-2009 regarding the need to overhaul the FAA's antiquated rules. As a result of these public activities and the diligent behind-the-scenes work of ALPA's Government Affairs Department, the Association

- obtained language in both the Senate and House versions of the FAA reauthorization bill in 2007/2008 requiring the FAA to address flight- and duty-time issues, and kept that language in the 2009 FAA reauthorization bill, and
- got language included in H.R. 3371, the Airline Safety and Pilot Training Improvement Act of 2009 (which the House passed), directing the FAA to update flight- and duty-time rules to incorporate current scientific knowledge about fatigue.

2009: Flight-time/duty-time ARC

FAA Administrator Randy Babbitt created an Aviation Rulemaking Committee (in which ALPA was a full participant, having seven members from all types of airline flying, including the co-chair) to develop consensus-based recommendations leading to an NPRM by the end of 2009, with a final rule expected by the end of 2010.

2010: Congress mandates FT/DT regulatory overhaul

Congress passed H.R. 5900, the Airline Safety and FAA Extension Act of 2010, and President Obama signed it into law August 1. H.R. 5900, which ALPA helped craft, directs the FAA to issue a FT/DT NPRM within 180 days, and a final rule within one year, setting FT/DT limits and minimum rest requirements based on scientific evidence that addresses pilot fatigue.

Meanwhile, Capt. Dan Adamus (Jazz), president of ALPA's Canada Board, co-chairs the Fatigue Management Working Group of the Canadian Aviation Regulation Advisory Council (CARAC) Technical Committee, with Capt. Martin Gauthier (Air Transat), chairman of the ALPA Flight Time/Duty Time Committee for Canada, serving as ALPA's member on the group. Capt. Percy Wadia (Jazz), his MEC's FT/DT chairman, and ALPA legal and government affairs representative Al Ogilvie serve as technical advisors to ALPA. 🌐