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UPS Pilots File Court of Appeals Challenge to FAA Final Flight & Duty Time Rule

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WASHINGTON, Dec. 22, 2011 /PRNewswire-USNewswire/ -- Today the Independent Pilots Association (UPS pilots) filed a Petition for Review in the U.S. Court of Appeals for the D.C. Circuit in order to challenge FAA's exclusion of cargo operations from the final flight and duty time rule issued yesterday.

"The IPA seeks to have cargo operations included within the scope of the rule because of the safety benefits provided by the rule. IPA does not seek to delay implementation of these important safety benefits to passenger operations," said IPA General Counsel William Trent. He stated that the Association, representing the 2,700 pilots flying for UPS, would challenge the rule on multiple substantive and procedural grounds.

"The internal inconsistency of the final rule is remarkable. For example, the FAA states that current regulations do not adequately address the risk of fatigue (Rule p.19,) and that the maintenance of the status quo presents an 'unacceptably high aviation accident risk' (Rule p. 259.) Yet two of the very factors that the FAA cites as exacerbating the risk of pilot fatigue-operating at night and crossing multiple time zones (Rule p.5) are more present in cargo operations than in passenger operations," said Trent.

"The FAA's only basis for excluding cargo rests on a cost benefit analysis," said Trent. "Yet, the Agency does not articulate how it arrived at either the projected costs or benefits of applying the final rule to cargo operators. The rule is wholly and utterly opaque when it comes to providing any factual support for the cost benefit conclusions reached," he added.

"Procedural irregularities are present as well," said Trent. "Cargo operators were allowed to supplement the record after the public NPRM comment period was officially closed. Accepted into the closed record was unsupported costing data provided by carriers. This data has not been subject to public scrutiny or review," Trent added.

In January, IPA will file additional court papers including a preliminary statement of issues it expects to raise in the case.