

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

INDEPENDENT PILOTS)	
ASSOCIATION,)	PETITIONER’S PRELIMINARY
Petitioner,)	STATEMENT OF ISSUES TO BE
)	RAISED
v.)	
)	Case No. 11-1483
FEDERAL AVIATION)	
ADMINISTRATION,)	
Respondent)	
_____)	

Pursuant to the Court’s Order of December 22, 2011, Petitioner INDEPENDENT PILOTS ASSOCIATION (“IPA”) submits this preliminary statement of issues to be raised in this matter and reserves the right to raise different and/or additional issues in its Brief:

1. Whether FAA’s decision to discard its well-explained proposal contained in the NPRM to apply new flight crewmember duty and rest requirements to cargo operations, and instead to exclude cargo operations from any such requirements, based only on FAA’s unsupported assertion that compliance costs for cargo operations significantly exceed the related societal benefits, is arbitrary and capricious, lacks substantial evidence in the record or is otherwise not in accordance with law.

2. Whether FAA's (1) assumption that the only societal benefits of applying the Final Rule to cargo operations relate to avoiding one fatal cargo accident instead of including non-fatal accidents and taxiing incidents and accidents, (2) estimate of the lost value of an aircraft hull as *one-eighth* the amount it uses as the estimated market value of an aircraft elsewhere in the rulemaking; and (3) understatement of benefits relating to one fatal accident by failing to include the avoidance of costs, such as, without limitation, (a) the loss to shippers and recipients of the value of the packages and cargo aboard the aircraft, (b) the business loss resulting from delays in obtaining time-sensitive materials, such as critical components for infrastructure systems and manufacturing facilities, (c) potential lives lost from failure to deliver critically needed medical supplies or equipment, as asserted by cargo carriers in the record, render FAA's cost-benefit analysis, and thus, the Final Rule's exclusion of cargo operations, arbitrary and capricious, lacking in substantial evidence in the record or otherwise not in accordance with law.
3. Whether FAA acted arbitrarily and capriciously or otherwise not in accordance with law by failing to provide an opportunity for interested parties to review and comment on FAA's cost-benefit calculations that were FAA's sole basis for reversing its determination to include cargo operations

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23d day of January, 2012, I caused to be served by ECF a true copy of the Petitioner's Preliminary Statement Of Issues To Be Raised on all parties in this matter.

_____/S/_____
W. Eric Pilsk