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Mark R. Baker
President & CEO

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The Honorable Michael P. Huerta
Administrator, Federal Aviation Administration
800 Independence Ave., SW
Washington, DC 20591

RE: FAA New Obstructive Sleep Apnea Policy

Dear Administrator Huerta,

I am writing on behalf of the members of the Aircraft Owners and Pilots Association to raise serious concerns about the Office of Aerospace Medicine's new obstructive sleep apnea (OSA) policy and ask that the FAA either withdraw the policy completely or go through the rulemaking process. We believe this policy inappropriately bypasses the rulemaking process; overlooks potentially more effective and efficient solutions; provides no clear safety benefit; and imposes unjustified costs on the user community.

The policy, which was published in the Federal Air Surgeon's Medical Bulletin, Vol. 51, No. 4, states "airman applicants with a BMI of 40 or more will have to be evaluated by a physician who is a board certified sleep specialist, and anyone who is diagnosed with OSA will have to be treated before they can be medically certificated." It also notes that the standard will eventually be expanded to include pilots with a lower BMI.

While we believe that pilots who experience sleep apnea should seek proper treatment, we also believe that this surprise policy announcement is an inappropriate and ineffective way to ensure that they do.

Just last month, a similar attempt to bypass the rulemaking process failed when Congress intervened after the Department of Transportation attempted to require sleep apnea testing for commercial truck drivers. Public Law 113-45 now requires the Federal Motor Carrier Safety Administration to use a formal rulemaking process if it wishes to require such testing.

The rulemaking process exists for a reason. It provides transparency and the opportunity for all interested parties to comment, leading to better, more thoughtful policy decisions. In many cases, the process itself can identify less-intrusive, more cost-effective methods for addressing the issues.

One such method has already been identified in the Third-Class Medical Petition filed by AOPA and EAA almost two years ago and still awaiting your response. The petition would help address sleep apnea and other medical concerns by teaching pilots how to properly assess their fitness to fly. This is an assessment pilots make every day, as compared to examinations by an aviation medical examiner, which occur as little as every five years. We urge the FAA to implement our petition in order to address medical concerns like this one, rather than precipitously implement overly prescriptive and costly new policies.

Even without such training, there is no evidence that the new OSA policy would provide any safety benefit for general aviation. Sleep apnea was not identified as either a causal or contributing factor in *any* fatal general aviation accidents in an extensive analysis of ten years of accidents conducted by the FAA/Industry General Aviation Joint Steering Committee (GAJSC). In fact, this policy seems to be the result of an NTSB recommendation made in 2009 after a single incident in which an airline crew overflew the destination airport before waking and making a safe landing. Any effort to improve general aviation safety must be data driven, and the available data simply do not support the need for this new OSA policy for general aviation.

While the safety benefits of the policy are dubious at best, the potential costs are enormous.

In 2011 the FAA identified 124,973 airmen who are considered obese, making them potential candidates for testing under an expanded policy. The Wall Street Journal estimated the cost of an overnight visit in a sleep lab to be between $800 and $3,000. Using these figures, the potential cost to pilots is between $99 million and $374 million for testing alone. That does not include the time and costs associated with seeking a special issuance medical certificate. In this regard, it should also be noted that FAA currently has a backlog of 55,000 cases for special issuance medical certificates.

For all of these reasons, we ask that the FAA take immediate action to either withdraw completely the new policy or go through the established rulemaking process.

Sincerely,

Mark Baker
President and CEO
AOPA