

# PUBLIC SUBMISSION

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**Comment On:** CDC-2010-0002-0001  
Implementation of Section 2695 (42 U.S.C. 300ff-131) of Public Law 111- 87: Infectious Diseases and Circumstances Relevant to Notification Requirements

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## General Comment

See attached file(s)

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## Attachments

**CDC-2010-0002-DRAFT-0022.1:** Comment on FR Doc # N/A



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February 11, 2011

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RE: Docket Number NIOSH-219, Implementation of Section 2695 (42 U.S.C. 300ff-131) of Public Law 111-87: Infectious Diseases and Circumstances Relevant to Notification Requirements

The Association of Flight Attendants - Communications Workers of America, AFL-CIO (AFA), which represents nearly 50,000 flight attendants at 21 airlines, welcomes this opportunity to comment on the Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC), National Institute for Occupational Safety and Health (NIOSH) General Notice and Request for Comments, Implementation of Section 2695 (42 U.S.C. 300ff-131) of Public Law 111-87: Infectious Diseases and Circumstances Relevant to Notification Requirements.<sup>1</sup> Through this Notice, CDC is seeking comments on "a list of potentially life-threatening infectious diseases, including emerging infectious diseases, to which EREs [emergency response employees] may be exposed in responding to emergencies (including a specification of those infectious diseases that are routinely transmitted through airborne or aerosolized means); guidelines describing circumstances in which employees may be exposed to these diseases; and guidelines describing the manner in which medical facilities should make determinations about exposures."<sup>2</sup>

In the comments below, AFA will address the three items requested by CDC from the perspective of the flight attendant profession. First, however, we will make the case that flight attendants, given their training, duties and work experiences, are *first responders* deserving of recognition as key members of the emergency response workforce.

### **Recognition of Flight Attendants as First Responders**

Every workday in America, the equivalent of the entire population of the city of Chicago steps onto an airplane. Whatever happens on the ground that requires the protective response of law enforcement officers, fire-fighters and emergency medical technicians, also happens in the air. On commercial transport airplanes with capacities of 20 or more passengers, flight attendants are generally the first (and in many cases the only) trained responders when health, safety and security threats and incidents occur in flight. In fact, expectations for quality of emergency assistance provided by flight attendants are generally high, given that flight attendants work in a sealed and isolated environment and it may take hours for additional medical or law enforcement

<sup>1</sup> HHS/CDC/NIOSH; 75FR77642; 2010 December 13.

<sup>2</sup> HHS/CDC/NIOSH; p. 77642.



expertise to arrive on the scene after the plane has landed. Moreover, medical emergencies, fire, or disruptive or violent actions that occur in a metal tube flying at high speed thousands of feet above sea level affect not only the airplane's occupants, they could impact citizens on the ground as well, as the horrific events of September 11, 2001 proved all too tragically. For flight attendants the significance and weight of their safety and security duties are substantiated by far more than the events of 9/11, they are experienced before, during and after every departure on every working day, whether an emergency occurs or not.

However, despite their significant contributions as emergency response employees, flight attendants are not generally acknowledged by most government agencies as first responders; this despite the use of definitions for "first responder" by executive branch agencies that appear to encompass the significant safety and security aspects of flight attendant training, duties and experiences:

- The Department of Homeland Security (DHS), the lead federal agency responsible for ensuring that first responders are prepared, equipped and trained for any man-made or natural disaster, states that first responders are "those individuals who in the early stages of an incident are responsible for the protection and preservations of life, property, evidence and the environment, including emergency response providers as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), as well as emergency management, public health, clinical care, public works, and other skilled support personnel (such as equipment operators) that provide immediate support services during prevention, response, and recovery operations."<sup>3</sup>
- The Department of Transportation (DOT), in its 1995 *First Responder National Standard Curriculum*, states that a First Responder "...uses a limited amount of equipment to perform initial assessment and intervention and is trained to assist other EMS providers."<sup>4</sup> According to this definition, first responders include those workgroups whose jobs require them to be trained in basic emergency medical care, usually as the first to arrive at a scene or the first to initiate care.
- According to the Department of Labor (DOL), first responders include the following identified occupational groups: "[p]olice officers, detectives, deputy sheriffs, state troopers, highway patrol officers, investigators, inspectors, correctional officers, parole or probation officers, park rangers, fire fighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers..."<sup>5</sup> Flight attendants are not specifically listed, but may fall under the category "similar employees" tacked on to the end of this list.

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<sup>3</sup> United States Department of Homeland Security; *Homeland Security Directive 8: National Preparedness*; 2003 December 17. <[http://www.dhs.gov/xabout/laws/gc\\_1215444247124.shtm](http://www.dhs.gov/xabout/laws/gc_1215444247124.shtm)>, accessed February 9, 2011.

<sup>4</sup> United States Department of Transportation, National Highway Traffic Safety Administration; *First Responder: National Standard Curriculum*; 1995; p. xiv. <<http://www.nhtsa.gov/people/injury/ems/pub/frnsc.pdf>>, accessed February 10, 2011.

<sup>5</sup> United States Department of Labor, Wage and Hour Division; *Fact Sheet #17J: First Responders and the Part 541 Exemptions Under the Fair Labor Standards Act (FLSA)*. <[http://www.dol.gov/whd/regs/compliance/fairpay/fs17j\\_first\\_responders.htm](http://www.dol.gov/whd/regs/compliance/fairpay/fs17j_first_responders.htm)>, accessed February 10, 2011.

In the fall of 2003, the U.S. Congress incorporated a flight attendant certification requirement under the Vision 100 Century of Aviation Reauthorization Act (P.L. 108-176, December 12, 2003). Although flight attendants perform safety-sensitive functions and are therefore required by DOT to participate in testing programs for drug<sup>6</sup> and alcohol<sup>7</sup> use, they previously had never been certified by the Federal Aviation Administration (FAA), unlike pilots, mechanics, and aircraft dispatchers. By requiring flight attendant certification, Congress acknowledged the vital emergency response functions flight attendants provide onboard aircraft, including aircraft evacuations, firefighting, first aid, and response to security threats, among others. More recently, the DOL's Bureau of Labor Statistics (BLS) also recognized that flight attendants are key safety personnel: "... Flight Attendants were classified in the 2000 SOC [Standard Occupational Classification] with Personal Care and Service Occupations. But their code change in the 2010 SOC, to Transportation and Material Moving Occupations, reflects that their work aligns more closely with that performed by other air transportation workers."<sup>8</sup> FAA certification and BLS occupational reclassification are significant steps because they are clear indications that the federal government finally acknowledges the important role of flight attendants as first responders, key components of the Nation's emergency response system and deserving of the respect, training and resources consistent with this recognition.

The remaining comments below specifically address the three items noted by CDC in the December 13, 2010 Federal Register Notice: (1) A list of potentially life threatening infectious diseases, including emerging infectious diseases, to which EREs may be exposed in responding to emergencies (including a specification of those infectious diseases on the list that are routinely transmitted through airborne or aerosolized means); (2) Guidelines describing the circumstances in which such employees may be exposed to such diseases, taking into account the conditions under which emergency response is provided; and (3) Guidelines describing the manner in which medical facilities should make determinations for purposes of section 2695B(d) [42 U.S.C. 300ff-133(d)].

### **Part I. List of Potentially Life-threatening Infectious Diseases to Which Emergency Response Employees May Be Exposed**

The AFA Employee Assistance Program (AFA/EAP), a "confidential resource available to the members ... to assist with personal [and] work-related concerns,"<sup>9</sup> has collected detailed information from numerous communicable disease exposure incidents based on contacts with concerned member flight attendants. These reports include flight attendant exposures to bloodborne pathogens from passenger and animal bites, spit/saliva, vomitus, urine and feces, as well as infectious diseases including SARS, hepatitis C, HIV, rabies. The list of infectious agents is longer and more diverse than for EREs based in the US because they include whatever public health threat is circulating in the countries where passengers are boarded.

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<sup>6</sup> 14 CFR § 120.105(b).

<sup>7</sup> 14 CFR § 120.215(a)(2).

<sup>8</sup> Emmel, A, Cosca T; *The 2010 SOC: A classification system gets an update*; Occupational Outlook Quarterly, 2010 Summer, Vol. 54, Number 2, pp. 13-19.

<sup>9</sup> Association of Flight Attendants-CWA, *AFA Employee Assistance Program*, <<http://www.afacwa.org/eap/>>, accessed February 10, 2011.

The SARS epidemic of 2003, the avian influenza cases that peaked from 2005-6, the 2007 incident involving a traveler infected with multi-drug-resistant tuberculosis, and the 2009-10 H1N1 pandemic have generated intense public and scientific interest in issues related to global transmission of communicable diseases. As a result, the recent medical literature is replete with reports of potentially life-threatening disease exposures involving air travel. A 2005 review article in the journal *Lancet* provides a comprehensive overview;<sup>10</sup> other articles discuss specific disease transmission events involving malaria,<sup>11</sup> H1N1 influenza,<sup>12</sup> tuberculosis,<sup>13</sup> measles,<sup>14</sup> and meningococcal disease.<sup>15</sup>

Based on the job related experiences of our members and our review of the published medical research, AFA agrees that the lists of diseases cited as Potentially Life-threatening Infectious Diseases published in the December 13, 2010 CDC Federal Register Notice are suitably comprehensive. Furthermore, we applaud CDC's continuing efforts to "monitor the scientific literature on infectious diseases [and] amend the list" in the event that a "newly emerged infectious disease fits criteria for inclusion in the list of potentially life-threatening infectious diseases required by the Ryan White HIV/AIDS Treatment Extension Act of 2009."<sup>16</sup> We look forward to working with CDC to ensure that this list remains comprehensive and continues to include all potentially life-threatening diseases to which flight attendants may be exposed in the course of performing their duties.

## **Part II. Guidelines Describing the Circumstances in Which Such Employees May Be Exposed to Such Diseases**

Flight attendants are in continuous contact with the public, and must handle unaccompanied minors as well as disorderly, intoxicated and irate passengers. They respond to and assist ill, injured and incapacitated passengers, administer first aid, and are trained to act in the treatment of injuries, medical events and minor accidents that might occur during flight. They also receive training in the use of the automated external defibrillators and in the performance of cardiopulmonary resuscitation (CPR).<sup>17</sup> In flight, they may operate defibrillators, perform CPR, or assist "Good Samaritan" doctors or nurses with caring for injured, ill or pregnant passengers.<sup>18,19,20,21,22</sup> Furthermore, according to one airline's flight attendant manual: "In the

<sup>10</sup> Mangili A, Gendreau MA; *Transmission of infectious diseases during commercial air travel*; *Lancet*. 2005 Mar 12-18;365(9463):989-96.

<sup>11</sup> Centers for Disease Control and Prevention; *Notes from the field: malaria imported from West Africa by flight crews --- Florida and Pennsylvania, 2010*; *MMWR Morb Mortal Wkly Rep*. 2010 Nov 5;59(43):1412.

<sup>12</sup> Ooi PL, Lai FY, Low CL, Lin R, Wong C, Hibberd M, Tambyah PA; *Clinical and molecular evidence for transmission of novel influenza A(H1N1/2009) on a commercial airplane*; *Arch Intern Med*. 2010 May 24;170(10):913-5.

<sup>13</sup> Kornylo-Duong K, Kim C, Cramer EH, Buff AM, Rodriguez-Howell D, Doyle J, Higashi J, Fruthaler CS, Robertson CL, Marienau KJ; *Three air travel-related contact investigations associated with infectious tuberculosis, 2007-2008*; *Travel Med Infect Dis*. 2010 Mar;8(2):120-8. Epub 2009 Oct 1.

<sup>14</sup> Coleman KP, Markey PG; *Measles transmission in immunized and partially immunized air travelers*; *Epidemiol Infect*. 2010 Jul;138(7):1012-5. Epub 2009 Nov 2.

<sup>15</sup> O'Connor BA, Chant KG, Binotto E, Maidment CA, Maywood P, McNulty JM; *Meningococcal disease--probable transmission during an international flight*; *Commun Dis Intell*. 2005;29(3):312-4.

<sup>16</sup> HHS/CDC/NIOSH; p. 77643.

<sup>17</sup> 14 CFR 121.417 and 14 CFR 121.805.

<sup>18</sup> Cocks R, Liew M; *Commercial aviation in-flight emergencies and the physician*; *Emerg Med Australas*; 2007 Feb; 19(1):1-8.

absence of a licensed medical professional, a [flight attendant] may be designated the emergency caregiver and may be authorized ... to administer certain limited contents of the [Emergency Medical Kit] (e.g., Nitroglycerin tablet) while under the direction of a ... physician."<sup>23</sup>

The cabin of a commercial transport airplane is a low oxygen environment (cabin pressure altitudes may range from 0 to 8000 ft above sea level)<sup>24</sup> and is typically fully loaded with passengers; these conditions can adversely affect the underlying health of cabin occupants<sup>25,26</sup> and combine with other environmental stressors including immobility, vibration, noise, dryness<sup>27</sup> and turbulence<sup>28</sup> to increase risks for injuries and illnesses among passengers and crew. With the potential on some long haul routes for several hours of travel time to the nearest fully-equipped hospital facility, immediate emergency care including first-aid and cardiopulmonary resuscitation must be available if a high level of occupant safety is to be assured.

To indicate the relative frequency of reported flight attendant exposure events, the table below summarizes the number of incidents involving AFA members that were reported to AFA/EAP by individual airlines during calendar year 2009. To maintain strict privacy, no examples of these reports are shared in this document, but may be provided (in sterilized form) on request and on a case-by-case basis.

Table. AFA/EAP Summary Data: Reported Flight Attendant On-Duty Exposures, CY2009

Description	Number of Affected Flight Attendants	Number of Individual Flights
Defibrillator Use on Passenger	21	8
Intravenous Device Use on Passenger	1	1
CPR Use on Passenger	14	6
Passenger Death	61	17
H1N1/Swine Flu	39	9

<sup>19</sup> Lyznicki JM, Williams MA, Deitchman SD, Howe JP 3rd; *Inflight medical emergencies*; Aviat Space Environ Med; 2000 Aug; 71(8):832-8.

<sup>20</sup> Rayman RB; *Passenger safety, health, and comfort: a review*; Aviat Space Environ Med; 1997 May; 68(5):432-40.

<sup>21</sup> Rodenberg H; *Medical emergencies aboard commercial aircraft*; Ann Emerg Med; 1987 Dec; 16(12):1373-7.

<sup>22</sup> Gårdelöf B; *In-flight medical emergencies. American and European viewpoints on the duties of health care personnel*; Lakartidningen; 2002 Sep 12; 99(37):3596-9.

<sup>23</sup> Quoted from one airline flight attendant manual, portions redacted to de-identify the airline and associated contractor[s].

<sup>24</sup> Rayman p. 432.

<sup>25</sup> Silverman D, Gendreau M; *Medical issues associated with commercial flights*; Lancet; 2009 Jun 13; 373(9680):2067-77.

<sup>26</sup> Brundrett G; *Comfort and health in commercial aircraft: a literature review*; J R Soc Promot Health; 2001 Mar; 121(1):29-37.

<sup>27</sup> Rayman p. 433.

<sup>28</sup> Tvaryanas AP; *Epidemiology of turbulence-related injuries in airline cabin crew, 1992-2001*; Aviat Space Environ Med; 2003 Sep; 74(9):970-6.

Typically, airlines have resisted allowing flight attendants to use personal protective equipment (PPE) routinely recommended for first responders, as such use might convey an “alarming” image to passengers. Airlines may believe that passengers would be reluctant to board a flight with flight attendants who don face shields, masks or respirators. Many airlines even appear resistant to allowing flight attendants the use of gloves when performing trash pick-ups. One more example: For protection when performing CPR that involves mouth-to-mouth breathing, many airlines provide flight attendants face shields instead of more protective masks with one-way valves, probably as a cost-saving measure. According to American Heart Association guidance, a CPR face shield is not appropriate for a first responder: “[p]roximity to the victim’s face and the possibility of contamination if the victim vomits are major disadvantages of face shields...healthcare professionals and rescuers with a duty to respond should use face shields only as a substitute for mouth-to-mouth breathing and should use mouth-to-mask or bag-mask devices at the first opportunity.”<sup>29</sup>

Finally, the CDC Notice cites the Occupational Safety and Health Administration (OSHA) Bloodborne Pathogens Standard (29 CFR 1910.1030) definition of exposure incidents.<sup>30</sup> While flight attendants, as mentioned above, are often exposed to bloodborne pathogens when performing their duties, they are not afforded the comprehensive training and engineering and work practice controls necessary to minimize exposures that are required by the OSHA standard. The reason: a 1975 FAA policy notice published in the Federal Register that asserted complete and exclusive jurisdiction over crewmember health and safety on “civil aircraft in operation ... from the time it is first boarded by a crewmember, preparatory to a flight, to the time the last crewmember leaves the aircraft after completion of that flight...”<sup>31</sup>

To summarize: Flight attendants are EREs who work in an industry in which too many employers are averse to providing their employees appropriately protective PPE, primarily for marketing and cost reasons. They are also prevented from access to the full range of workplace safety and health protections offered by OSHA regulations. When describing the circumstances in which flight attendants may be exposed to potentially life-threatening diseases, these factors must be considered.

### **Part III. Guidelines Describing the Manner in Which Medical Facilities Should Make Determinations for Purposes of Section 2695B(d) [42 U.S.C. 300ff-133(d)]**

The CDC notice refers to four possible determinations involving an ERE’s potential exposure and a victim’s (i.e., an ill passenger’s) medical information; we summarize these as follows: 1) the ERE was exposed; 2) the ERE was not exposed; 3) the victim’s disease status is not initially available, although subsequent acquisition may allow a revised determination; and 4) the incident data are insufficient to determine the ERE’s exposure.<sup>32</sup> Post-incident reactions discussed with AFA/EAP by member flight attendants supply numerous examples of each of these determinations, reflecting the tensions that arise with the desire to respect passenger

<sup>29</sup> American Heart Association; *ECC Guidelines Part 3: Adult Basic Life Support*; Circulation. 2000 Aug 22;102(8 Suppl):I-22 – I-59.

<sup>30</sup> HHS/CDC/NIOSH; p. 77643.

<sup>31</sup> FAA; 75FR29114; 1975 July 10.

<sup>32</sup> HHS/CDC/NIOSH; p. 77644.

medical privacy (following flight attendant exposures to passenger-generated body fluids and/or airborne contaminants) and the need to provide appropriate medical treatment to employees and conduct necessary risk surveillance. There are few clear rights to the medical information of passengers when a flight attendant has been exposed, even among those boarding the flight for the purpose of being transported to a provider of medical treatment for a known or unknown illness. Typically, when information finally does migrate back to the flight attendant, it is usually days later and after she/he has potentially exposed upstream passengers, her/his family and flying partners. Obtaining employer approval for time off from work to engage in medical surveillance is also a problem.

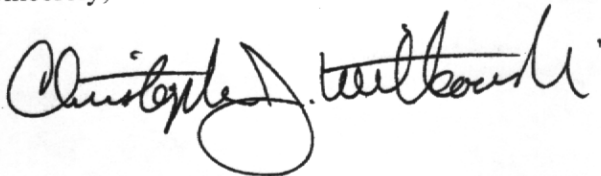
To address these systemic problems, in the context of the Ryan White HIV/AIDS Treatment Extension Act of 2009 and the development of these guidelines, AFA recommends that CDC:

- Recognize and classify flight attendants as members of the emergency response employee workforce, in particular as first responders; and
- Encourage employers of flight attendants to provide paid leave from work, independent of sick leave, until a final determination as to whether or not an exposure has occurred is communicated to the flight attendant/ERE.

### Conclusion

Thank you for considering these comments on behalf of AFA member flight attendants. We look forward to further discussions with CDC regarding the role of flight attendants as commercial aviation first responders, the identification of potentially life-threatening diseases our members may be exposed to in the course of performing their duties, and the guidelines for describing exposure circumstances and the manner in which medical facilities make determinations regarding ERE exposures.

Sincerely,



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Air Safety, Health and Security Department



Heather Healy  
Director  
Employee Assistance Program