



U.S. Department
of Transportation

**Federal Aviation
Administration**

800 Independence Ave., S.W.
Washington, DC 20591

February 1, 2016

Mr. Paul Hudson
President
FlyersRights.org
218 D St. SE
Washington, DC 20003

Dear Mr. Hudson:

This is in response to your letter dated August 26, 2015, posted to the public docket No. FAA-2015-4011, petitioning the Federal Aviation Administration (FAA) to:

1. Exercise its discretionary rulemaking authority under 49 U.S.C. 106, to impose within 180 days, reasonable regulations setting maintenance standards and limiting the extent of seat size changes in order to ensure consumer safety, health, and comfort.
2. Issue an order within the next 45 days placing a moratorium on any further reductions in seat size, width, pitch, padding, and aisle width until a final rule is issued.
3. Appoint an advisory committee or task force to assist and advise the FAA in proposing seat and passenger space rules and standards; with such committee having broad representation of the various interests involved, and expertise needed, to include this petitioner and representatives from other airline passenger advocacy organizations and individuals.

In accordance with 14 CFR 11.73(a), the FAA uses the following criteria when making a decision as to whether or not to amend current regulations based on a petition for rulemaking:

1. The immediacy of the safety or security concerns you raise,
2. The priority of other issues the FAA must deal with, and
3. The resources we have available to address these issues.

After reviewing your request per § 11.73(a), we have determined the issues you raised do not meet the criteria to pursue rulemaking.

First, the issues you identify relate to passenger health and comfort, and do not raise an immediate safety or security concern.

The chief safety benefit you have proposed is an improvement in emergency evacuation. Your letter discusses perceived shortcomings with the FAA-required tests of airlines' emergency evacuation plans; however, those are not the only evacuation tests required by the FAA. We require full-scale evacuation demonstrations and analysis that set the limit for the maximum number of passengers for any given airplane model. These demonstrations occur prior to FAA certification of the airplane design. These demonstrations have interior configurations that are more critical (less seat pitch and higher number of passengers) than most configurations operated by the airlines. No airline configuration can exceed the number of passengers substantiated for evacuation. You use the Boeing 777-300 as an example, implying the evacuation tests were not conducted with the maximum occupancy of 550 passengers. In 1998, The Boeing Company ran an emergency evacuation test of the 777-300 with 550 occupants, in dark conditions with half the exits randomly blocked and with debris in the aisles, and successfully met the 90-second evacuation limit. The existing standards for evacuation time have been demonstrated to be safe.

Your letter suggests that failed tests for evacuation capability can be repeated without determining the reason for a test failure. This is not the case. Failures must be identified and resolved before a test may be repeated. As this is part of the certification process requiring that applicants submit proprietary data, such reasons are not made public, but they are documented and resolved with the FAA. Your letter also states that tests have not been run with seat pitch below 31 inches. This is also not the case. Full scale evacuation tests on widely used airplanes have been successfully conducted at 28- and 29-inch pitch, when substantiating the maximum occupancy. Seat pitch alone does not determine the amount of space available between seats. The seat design will play an important role. In general, modern, thinner seats at lower seat pitch provide more space than older seats did at higher pitch.

With respect to the potential for deep vein thrombosis, it is medically advisable to periodically move around on a long flight, irrespective of the seat pitch, to prevent the onset of thrombosis, which does occur on rare occasions. This is a health issue that applies to any long-duration seated activity where a person remains immobile, rather than an aviation safety issue. According to the Centers for Disease Control and Prevention, the risk of venous thromboembolism is the same for economy-class and business-class travel. The risk increases with increasing travel duration and with preexisting risk factors.

Each year the FAA prioritizes its rulemaking projects based on issues that are crucial to the safety of the aviation community and the traveling public to ensure we deliver the most value to the aviation system.

In addition to the guidelines in § 11.73, Executive Order 12866 requires all rules to be assessed with regard to their costs and benefits. Mandating specific seat size and spacing would carry significant cost, unless all seats already met the standards. The safety benefits of such a mandate are not apparent.

Although we are not inclined to initiate rulemaking based on your petition, your comments and arguments for the proposed rule change will be placed in a database, which we will examine when we consider future rulemaking. If the FAA does pursue rulemaking in this area in the future, you would be able to find out and track it through one of the two following websites:

- For significant rulemakings, you can find the status on the Department of Transportation's (DOT) website (<http://www.dot.gov/regulations/report-on-significant-rulemakings>).
- For non-significant rulemakings, you can find the status on the DOT's semi-annual regulatory agenda, through the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) Unified Agenda website (<http://www.reginfo.gov/public/do/eAgendaMain>).

For the reasons above, we must dismiss your petition for rulemaking in accordance with 14 CFR 11.73.

Sincerely,


Dorenda D. Baker
Director, Aircraft Certification Service