



Background

Last year, the Federal Aviation Administration (FAA) issued a notice of proposed rulemaking (NPRM) to amend flight, duty and rest requirements for Part 121 commercial air carriers. This NPRM was of concern to the Part 135 on-demand air charter industry because the FAA stated in the proposal that it sees Part 135 as “substantially similar” to Part 121 and that a similar, if not identical, rule would be published for Part 135. A new proposed rule is not the issue. What is concerning is the FAA’s intention to propose a similar rule to the one applicable to Part 121 commercial air carriers for a completely different segment of the aviation industry.

Issue

In 2005, specific recommendations for pilot flight, duty and rest regulations for Part 135 were submitted by the FAA Part 125/135 Aviation Rulemaking Committee (ARC). The ARC recommendations would dramatically improve upon current regulations while still permitting the operational flexibility necessary for the continued ability to conduct on-demand air charter operations. **Key elements of the Part 125/135 ARC proposal include:**

- **Science-based fatigue principles were applied to all areas.** The Window of Circadian Low is accounted for by requiring operators to establish pilots on a regularly planned, predictable sleep/wake cycle. Changing a particular pilot’s cycle requires provision of ample transition time.
- **Rest is defined and protected.** When a rest period is assigned, it will be at least 10 hours. There is no provision for reducing rest under any circumstances. In addition, even when a pilot is not called for a duty period, his or her assigned protected time (required to be an assigned time period) is perpetual and the pilot may not be contacted or assigned to duty during that time. Pilots are provided more days off than current rules require, and days off must be provided on a monthly, rather than quarterly, basis.
- **Duty periods include hard limits.** A duty period including a flight assignment is limited to 14 hours (for a 2-pilot crew). Duty may be extended one hour if specific circumstances occur during taxi (e.g., a temporary ground hold). Continuing a flight once airborne if a delay is encountered is left to the pilot’s discretion. *Any* duty extension requires compensatory rest to mitigate potential the effects of cumulative fatigue.

- **Tail-end/ferry flights.** All flights assigned to the crewmember by the certificate holder are considered duty, and are subject to the flight hour and duty limits.
- **Commuting.** The airline issue of “commuting” long distances, often via aircraft, is not an issue in Part 135. Operators typically require crew to be based with the aircraft.

NATA Position

Applying the Part 121 NPRM to Part 135 is unfeasible because most Part 135 certificate holders are small businesses. A significant majority have fewer than 10 aircraft, 25 or fewer employees and less than \$5 million in annual revenue. At least one-third of all Part 135 operators have only one aircraft. For those with one aircraft, requiring the hiring of even one pilot to meet new requirements can easily present a 50% staffing increase. Operations may not justify the additional employment costs, resulting in operators instead turning business away.

Many aircraft operated in Part 135 can be flown by a single pilot. These are predominantly small, piston-powered airplanes (over 4,500) and helicopters (about 2,000). Neither piston-engine airplanes nor helicopters are eligible to operate in a Part 121 environment. No Part 121 operations are single pilot. Nearly all Part 121 aircraft are larger-cabin, multi-engine turbojet airplanes.

NATA urges the FAA to move forward with new regulations for Part 135 based upon the Part 125/135 ARC rather than attempt to implement one-size-fits-all rules.