

FAA PROPOSES FLIGHT, DUTY & REST RULES FOR PART 121 – PUTS 135 ON NOTICE

September 16, 2010

What's at Issue

The Federal Aviation Administration (FAA) has proposed new regulations that significantly modify crewmember flight, duty and rest requirements for Part 121 operators. In the proposal, the FAA states that Part 135 carriers should expect rules similar, if not identical, to the ones being proposed for Part 121 because the agency views Part 135 operations to be “substantially similar” to those under Part 121..

Why It's Important

The current proposal for Part 121 largely, and logically, deals with the scheduling of flight crews for operations and routes that are known far in advance. The application of a scheduled pilot regime in a substantially ad-hoc system, such as Part 135, is a great concern to the industry.

Furthermore, for Part 135 operators the economic impacts and potential for business closure from cumbersome and costly proposals is far more likely than it is for the Part 121 operators because Part 135 certificate holders are nearly all small businesses,.

Major Provisions

The Notice of Proposed Rulemaking (NPRM) creates a new Part 117 that contains all flight, duty and rest regulations. The NPRM includes provisions to limit pilot duty time and increase rest periods. These new limitations would apply to all flights, including positioning/ferry flights, that are operated by the certificate holder even if the flights are conducted under Part 91.

Limitations on Duty

- Duty periods are defined and limited and the length of a Flight Duty Period (FDP) is variable depending on the time of day the flight occurs and the number of flight segments. Maximum FDP varies from 9 to 13 hours for un-augmented crews.
- Weekly and 28-day duty limits are imposed.
- Duty limits of 65 hours per week and 200 hours per 28-day period would seem to apply even if no flights are conducted. For example, a pilot spending time during the week in training, or performing office work, would need to subtract that time from the 65 duty hours limit.
- Pilots are also limited in the number of consecutive nighttime FDPs to which they may be assigned unless an opportunity to rest is provided during the FDP (*see “Extensions” below*)

OVER...

(Major Provisions Continued)

Rest Periods

- A minimum nine-hour rest period is established.
- Time to and from the crewmember's rest location (i.e. hotel) to the duty location is NOT considered part of the rest period.
- Pilots must be given 30 consecutive duty-free hours every week.
- Additional rest is required under certain conditions such as crossing more than four time zones.

Flight Time Limitations

- Maximum flight time, for un-augmented flight crew, varies between eight and ten hours for a two-pilot crew depending on the time of day the flights occur. Single-pilot operations are not contemplated.

Reserve Pilots

- As in prior rulemaking efforts, the FAA distinguishes between so-called "line-holder pilots" and "reserve" pilots.
- The FAA proposes a Reserve Availability Period (RAP) wherein reserve pilots are assigned to a recurring duty period during which they must be available for a flight assignment if called by the carrier. The possible total duty period (including the time on call) is no more than 16 hours for un-augmented crew.
- The duty hours in reserve count against cumulative duty limits even if no flight actually occurs.
- Should the pilot be called to a flight assignment, that duty period is also limited depending on the number of flight segments and time of day.

Extensions

- Augmented Crews. The FAA is expanding the concept of augmentation to encourage carriers to place additional crew on aircraft because in-flight rest opportunities are effective in combating fatigue. FDPs may be extended depending on the type of rest accommodations provided on the aircraft. Minimally, the aircraft must have a seat that reclines at least 40 degrees and provides leg and foot support. The greater the ability to lay flat and be isolated, the greater the increase allowed.
- Split duty. If an FDP provides for a scheduled duty break wherein the crew can (and does) rest, then some extension to the FDP is provided. This is structured to be only of benefit when the duty break occurs overnight.

Fatigue Programs and Training

- Requires carriers to create a fatigue education and training program
- Carriers are permitted to develop a Fatigue Risk Management System that may allow them to exceed the limits prescribed in the rule if approved by the FAA.

NATA Position

NATA is very concerned that the FAA, while acknowledging in the NPRM that most Part 135 certificate holders are small businesses and, therefore, more likely to be impacted by the high economic costs of this proposal, seems to have pre-determined that these proposed regulations are appropriate for this industry.

MORE...

(NATA Position Continued)

NATA and other industry stakeholders invested considerable effort to provide a comprehensive flight, duty and rest rulemaking proposal during the Part 125/135 Aviation Rulemaking Committee that was convened by the FAA several years ago. The FAA has not provided any feedback on that proposal or indicated in what way those recommendations, if adopted, would be ineffective in combating fatigue.

The association will continue to advocate for the FAA to give proper weight to the ARC proposal if rulemaking is initiated and work to ensure the FAA gives appropriate consideration to the implications of mandates on the continued viability of the industry.

Part 135 operators are strongly encouraged to review the NPRM thoroughly.

Status

The Part 121 NPRM appeared in the *Federal Register* on September 14, 2010. Comments will be accepted by the FAA through November 15, 2010.

[Download a copy of the NPRM.](#)

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