



FLIGHT TIME AND DUTY TIME (FT/DT) NPRM

BACKGROUND: In the summer of 2009, an Aviation Rulemaking Committee (ARC) was convened to assist the FAA in creating new Flight Time and Duty Time regulations for CFR-14, Part 121 operations. The ARC was tasked with writing new regulations that were based on the best scientific research available, and utilizing the expertise of the ARC member's experience where science was unavailable or inconclusive. In August of 2010, HR 5900 instituted a Congressional mandate requiring the FAA to modernize Flight Time and Duty Time regulations. This mandate required the FAA to publish new regulations by August 1, 2011. September 14, 2009 the FAA published Flightcrew Member Duty and Rest Requirements; proposed rule in the Federal Register.

MANDATE: The publication and implementation of new Flight Time and Duty Time regulations, as mandated by HR 5900 by August 1, 2011.

GOAL: To enhance aviation safety, by mitigating pilot fatigue through scientifically based regulations. These regulations should apply to all commercial flight operations so "One Level of Safety" exists. The NPRM represents significant progress for the aviation industry and introduces an increased level of safety for the public. The NPRM utilizes known scientific principals and includes provisions which include:

- Recognition that fatigue impacts all pilots in the same manner removing the need for different rules or "carve-outs"
- Flight duty periods are predicated on circadian cycles, consistent with science
- Established mandatory rest periods between flight duty periods
- Mandates fatigue education and training for all pilots and operations personnel
- Provides flexibility of increasing flight duty periods if operators provide appropriate rest facilities for pilots
- Defines and standardizes on-board rest facilities and provides carriers flexibility of extended flight duty periods based on the quality of rest facility
- Provides weekly cumulative duty limits for fatigue protection
- Establishes FRMS process so carriers can operate outside prescriptive regulations for unique circumstances while providing a level of safety equal or greater than the prescriptive rule

NARRATIVE: The Independent Pilots Association applauds the Congressional efforts of HR 5900 to require the FAA to modernize the outdated Federal Aviation Regulations governing the nation's commercial pilots. The current regulations were written in the 1950's. While the regulations have changed very little in the past 60 years, the aviation industry has undergone dramatic changes. Additionally, numerous scientific studies have examined the impact of fatigue and its relationship to aviation safety. Many industrialized nations have already acknowledged that fatigue poses a serious threat to aviation safety and have updated their regulations. In 2004, the United Kingdom adopted rules predicated on the science of circadian rhythms called CAP 371. Additionally, the EU updated their rules, Sub part Q, in 2004 and more recently have an amended proposal out for comment. The United States is woefully lagging in addressing pilot fatigue even though it remains on the National Transportation's "Most Wanted" list since 1990.

In 1995 there was a similar attempt to rewrite the Flight Time and Duty Time regulations. This effort was strongly challenged by industry citing costs as a primary factor. It appears as if history is repeating itself. Industry trade associations such as Air Transport Association (ATA), Cargo Airline Association (CAA), National Air Carriers Association (NACA) in conjunction with individual air carriers allege the costing methods used by the FAA in formulating the NPRM were flawed. While industry's NPRM comments criticize the FAA, the ATA, CAA, FedEx and UPS all utilize different costing methods in their attempts to halt the NPRM from becoming a rule. Similar costing tactics were utilized when industry responded to the FAA's 2001 "Whitlow Interpretation" with a lawsuit alleging financial devastation. Industry also responded in a similar way with the Passenger's Bill of Rights Legislation. To date, none of the predicted financial devastation to the airlines has been realized.

Industry and labor were equally represented on the FT/DT ARC in summer 2009. When the NPRM was published in the Federal Register labor groups responded favorably to the FAA. Industry, on the other hand, submitted multiple objections to the NPRM, which contradicted their submission to the ARC in 2009. For example, both industry and labor agreed on flight hour limits during the ARC, yet industry's NPRM comments dictate abolishing all flight hour limitations. It makes no sense that increasing someone's workday 50% improves safety.

Finally, the Independent Pilots Association opposes any amendment to the FAA Reauthorization Bill that would exempt any operator from complying with the rules proposed in the NPRM. There is no scientific foundation for establishing a separate set of pilot duty and rest rules. The NPRM already has a provision (§117.31 Operations into unsafe areas), which would permit operations under unique circumstances that could not otherwise normally be conducted. Allowing some operators to conduct business within a separate set of standards creates an unfair economic advantage that also is not grounded in science.

CONCLUSIONS: The Independent Pilots Association applauds Congress and the FAA's efforts to revise the outdated Flight Time and Duty Time regulations. We support "One Level of Safety" and rules based on existing science. Pilot fatigue has been identified as a contributing factor in aviation accidents and has been on the National Transportation Safety Board's "Most Wanted" list of regulatory changes for two decades. We urge policymakers to oppose any amendments predicated on creative costing measures or "carve-outs" for certain types of operations. With your support, final implementation of the NPRM establishes the United States as world leaders in aviation safety.

The Independent Pilots Association represents the 2,800 men and women who fly for United Parcel Service.