

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 121 and 135****Flight Crewmember Flight Time Limitations and Rest Requirements**

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of enforcement policy.

SUMMARY: This notice of enforcement policy announces to the public the Federal Aviation Administration's intent to rigorously enforce the regulations concerning flight time limitations and rest requirements. These regulations have been under review for some time, and the FAA has stated with respect to reserve time assignments that if new rules were not adopted, the FAA intended to ensure that the current rules, as interpreted, are being correctly implemented. No new rules with regard to reserve time have been adopted. Therefore, the FAA is reiterating its longstanding interpretation of its regulations on this issue and is giving affected certificate holders and flight crewmembers notice of its intent to enforce its rules in accordance with this interpretation. This notice is being given so that those affected will have an opportunity to review their practices and, if necessary, come into full regulatory compliance.

DATES: This notice of enforcement policy is effective on June 15, 1999.

FOR FURTHER INFORMATION CONTACT: Alberta Brown, Air Transportation Division, AFS-200, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267-8321.

SUPPLEMENTARY INFORMATION:**The Regulation**

The Civil Aeronautics Act of 1938 (52 Stat. 1007; as amended by 62 Stat. 1216, 49 U.S.C. 551) and subsequently, the Federal Aviation Act of 1958 (now codified at 49 U.S.C. § 40101 *et seq.*) addressed the issue of regulating flight crewmember hours of service. The Federal Aviation Act, as amended, empowers and directs the Secretary of Transportation to establish "regulations in the interest of safety for the maximum hours or period of service of airmen and other employees of air carriers." 49 U.S.C. § 44701(a)(4). Moreover, the Act also provides the FAA with the authority to prescribe "regulations and minimum standards for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce and

national security." 49 U.S.C. § 44701(a)(5).

The current rules specify flight time limitations and rest requirements for air carriers certificated to operate under part 121 (domestic: subpart Q; flag: subpart R; and supplemental: subpart S) and part 135 (subpart F). The FAA has consistently interpreted the term rest to mean that a flight crewmember is free from actual work for the air carrier or from the present responsibility for work should the occasion arise. Thus, the FAA previously has determined that a flight crewmember on reserve was not at rest if the flight crewmember had a present responsibility for work in that the flight crewmember had to be available for the carrier to notify of a flight assignment.

The FAA's current rules at 14 CFR § 121.471 set forth flight time limitations and rest requirements for domestic operations. Subsections (b) and (c) of this section have generated numerous interpretation requests from industry. These sections provide that:

Section 121.471 Flight time limitations and rest requirements: All flight crewmembers.

(b) Except as provided in paragraph (c) of this section, no certificate holder conducting domestic operations may schedule a flight crewmember and no flight crewmember may accept an assignment for flight time during the 24 consecutive hours preceding the scheduled completion of any flight segment without a scheduled rest period during that 24 hours of at least the following:

(1) 9 consecutive hours of rest for less than 8 hours of scheduled flight time.

(2) 10 consecutive hours of rest for 8 or more but less than 9 hours of scheduled flight time.

(3) 11 consecutive hours of rest for 9 or more hours of scheduled flight time.

(c) A certificate holder may schedule a flight crewmember for less than the rest required in paragraph (b) of this section or may reduce a scheduled rest under the following conditions:

(1) A rest required under paragraph (b)(1) of this section may be scheduled for or reduced to a minimum of 8 hours if the flight crewmember is given a rest period of at least 10 hours that must begin no later than 24 hours after the commencement of the reduced rest period.

(2) A rest required under paragraph (b)(2) of this section may be scheduled for or reduced to a minimum of 8 hours if the flight crewmember is given a rest period of at least 11 hours that must begin no later than 24 hours after the commencement of the reduced rest period.

(3) A rest required under paragraph (b)(3) of this section may be scheduled for or reduced to a minimum of 9 hours if the flight crewmember is given a rest period of at least 12 hours that must begin no later than 24 hours after the commencement of the reduced rest period.

Similar language is contained in Sections 135.265 (b) and (c). Also note the "look back" requirement in 135.267(d).

The FAA has consistently interpreted § 121.471(b) and the corresponding § 135.265(b) to mean that the certificate holder and the flight crewmembers must be able to look back over the 24 consecutive hours preceding the scheduled completion of the flight segment and find the required scheduled rest period. This interpretation of rest also has been applied to pilots on "reserve time." Reserve time while not defined in 14 CFR is generally understood to be a period of time when a flight crewmember is not on duty but must be available to report upon notice for a duty period. Thus, a flight crewmembers on reserve could not take a flight assignment, and the certificate holder could not schedule that crewmember for a flight assignment, unless the flight crewmember had a scheduled rest period such that at the end of the flight segment one could look back 24 hours and find the requirement amount of rest.

Compliance and Enforcement Plan

Flight crewmembers and their unions have raised concerns that scheduling processes used by some certificate holders may not ensure compliance with flight time restrictions and rest requirements when a flight crewmember is on reserve duty. Any noncompliance should be corrected without delay.

The FAA recognizes, however, that current processes for scheduling flight crewmembers have been in place for some time and that full compliance might not be able to be achieved immediately. The FAA therefore intends to take into consideration this fact and the certificate holder's good faith efforts to come into compliance in determining what, if any, enforcement action is appropriate if noncompliance is discovered. With regard to violations by individual flight crewmembers, the FAA will consider the circumstances of each case, including such factors as the employing certificate holder's effort to come into compliance and the culpability of the individual.

If any certificate holder needs to make changes to its scheduling system, the FAA believes that full compliance can be achieved by all certificate holders within 180 calendar days. Until that time the FAA does not intend to target its inspection resources on this compliance issue. However, on December 12, 1999, the FAA intends to begin a comprehensive review of certificate holders' flight scheduling

practices and expects to deal stringently with any violations discovered.

Issued in Washington, DC on June 10, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

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