

**[4910-13]**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 117 and 121**

**Docket No. FAA-2009-1093; Notice No. 10-11**

**RIN 2120-AJ58**

**Flightcrew Member Duty and Rest Requirements**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Response to Requests for a Comment Period Extension.

**SUMMARY:** The FAA published a Notice of Proposed Rulemaking (NPRM) on September 14, 2010, to amend its existing flight, duty and rest regulations applicable to certificate holders and their flightcrew members. The FAA has received several requests from stakeholders to extend the comment period for filing comments to the proposed rule. This notice provides the FAA's response to those requests.

**DATES:** The comment period for the NPRM published on September 14, 2010, at 75 FR 55852, closes on November 15, 2010.

**ADDRESSES:** You may send comments to the NPRM identified by Docket Number FAA-2009-1093, using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- Mail: Send comments to Docket Operations, M-30, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590.

- Fax: Fax comments to Docket Operations at 202-493-2251.
- Hand Delivery: Bring comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

*Privacy:* We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

*Docket:* To read background documents or comments received, go to <http://www.regulations.gov> at any time or to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Shirley Stroman, ARM-104, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; e-mail [shirley.stroman@faa.gov](mailto:shirley.stroman@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

You may refer to the NPRM published in the Federal Register (75 FR 55852) on September 14, 2010 for detailed instructions on filing your comments to the proposed rule and how we will handle them.

### **Availability of Rulemaking Documents**

You can get an electronic copy using the Internet by:

- (1) Searching the Federal eRulemaking Portal at <http://www.regulations.gov>;
- (2) Visiting the Office of Rulemaking's web page at <http://www.faa.gov/avr/arm/index.cfm>; or
- (3) Accessing the Government Printing Office's web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

### **Background**

On September 14, 2010, the FAA published an NPRM (75 FR 55852) entitled "Flightcrew Member Duty and Rest Requirements." The proposed regulation recognizes the growing similarities between the types of operations and the universality of factors that lead to fatigue in most individuals. Fatigue threatens aviation safety because it increases the risk of pilot error that could lead to an accident. The new requirements, if adopted, would eliminate the current distinctions between domestic, flag and supplemental operations. The proposal provides different requirements based on the time of day, whether an individual is acclimated to a new time zone, and the likelihood of

being able to sleep under different circumstances. The NPRM comment period is scheduled to close on November 15, 2010.

Since publication of the NPRM, the FAA has received several petitions to extend the comment period. Requests for extension include those from National Air Carrier Association, Cargo Airline Association (CAA), United Parcel Service (UPS), Atlas Air Worldwide Holdings, Inc., Air Transport Association of America, Inc., (ATA), Air Carrier Association of America, Regional Airline Association, and others. The requests include ones for a 30-day extension, 45-day extension, 60-day extension, and 180-day extension.

In general, the petitioners said the additional time is necessary due to the length and complexity of the NPRM and Regulatory Impact Analysis. Several petitioners, including CAA, UPS, and ATA, also said the recent statutory mandate that requires carriers to submit a Fatigue Risk Management Plan to the FAA by October 30, 2010, will take time and resources away from developing comments to the NPRM.

The FAA has reviewed the requests for an extension of the comment period on the “Flightcrew Member Duty and Rest Requirements” NPRM. While we understand the reasons for these requests, we do not believe an extension is necessary for the reasons stated below.

### **FAA Response to Comment Period Extension Requests**

In 2009, the FAA established the Flight and Duty Time Limitations and Rest Requirements Aviation Rulemaking Committee (ARC). The ARC provided a forum for the aviation industry to give extensive input on revising current flight and duty time limitations regulations. Therefore, the FAA does not believe it is necessary to extend the

comment period for the proposed rule. Consequently, the requests for an extension of the comment period are denied. Also, in the recently passed Airline Safety and Federal Aviation Administration Extension Act of 2010, Congress mandated that the FAA issue a final rule on pilot fatigue by August 1, 2011. To help ensure that we meet this deadline, the FAA must receive comments to its proposed rule by November 15, 2010. However, as stated in Title 14 Code of Federal Regulations § 11.45, we will consider comments filed late if it is possible to do so without incurring expense or delay.

The requests for extension and this Notice will be included in the rulemaking docket.

Issued in Washington, DC on October 12, 2010.

Dennis Pratte  
Acting Deputy Director, Office of Rulemaking

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