

[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: Notice of Procedures for Submission of Clarifying Questions.

SUMMARY: The FAA published a proposed rule 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 requests from stakeholders to provide a forum during the comment period where they can pose clarifying questions and receive answers to them. In response to these requests, the FAA is issuing this notice, which includes the procedures for handling clarifying questions to the proposed rule.

DATES: You must submit your clarifying questions in writing using the procedures outlined below by October 15, 2010. The FAA anticipates responding to these submissions by October 22, 2010. Comments on the proposed rule must be received on or before November 15, 2010.

ADDRESSES: See the “Procedures for Filing Clarifying Requests” section of this notice.

FOR FURTHER INFORMATION CONTACT: See the “Procedures for Filing Clarifying Requests” section of this notice.

SUPPLEMENTARY INFORMATION:

Background

On September 14, 2010, the FAA published a notice of proposed rulemaking (NPRM) entitled “Flightcrew Member Duty and Rest Requirements” (75 FR 55852). 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 comment period closes November 15, 2010.

Since the docket opened, the FAA has received numerous requests for technical clarification of the proposed rulemaking. The FAA believes that it makes sense to provide additional clarity where commenters believe the draft regulatory text is unclear or omits pertinent information. For example, one commenter noted that there is a cross-reference to the existing flight crewmember regulations in the regulations governing flight and duty time for flight attendants. By dropping all of the part 121 flight crewmember flight and duty regulations, that cross-reference would no longer make sense, and it would be unclear whether the provision still had any validity.

To the extent possible, the FAA believes there is value in providing greater technical clarity while the comment period is still open. This clarity will allow interested parties to focus on the policy implications of the proposal without spending undue amounts of time trying to figure out how the rule, if implemented, would be implemented or interact with other regulatory requirements. The FAA also believes that there should be a cut-off for consideration of these

technical issues so that commenters know with certainty how these issues are resolved before they finalize their comments.

Accordingly, the FAA requests that all requests for clarification be submitted to the docket no later than October 15, 2010. The FAA anticipates responding to requests that are truly clarifying in nature by October 22, 2010, a full three weeks before the close of the comment period. To the extent a request raises policy considerations that are more appropriately resolved after the public has been given a full opportunity to comment, the FAA anticipates addressing those comments in a final rule.

Procedures for Filing Clarifying Requests

The below procedures are not a substitute for filing substantive questions and comments to the proposed rule. The procedures for submitting those types of comments are discussed in the NPRM. Commenters should follow those procedures to file their substantive questions and comments by November 15, 2010.

If you wish to submit a request to the FAA for clarification of the NPRM (Docket Number FAA-2009-1093) before the comment period closes, you must send your request using the below method by October 15, 2010.

1. Post your request on the Federal eRulemaking Portal. To access this electronic docket, go to <http://www.regulations.gov>, enter Docket Number FAA 2009-1093, and follow the online instructions for sending your request electronically.
2. In addition to sending your request to the electronic docket, send a copy via email to the subject matter expert as noted below.
 - Technical Clarifications: Dale E. Roberts, Air Transportation Division, Flight Standards Service, Federal Aviation Administration; e-mail dale.e.roberts@faa.gov.

- Legal clarifications: Rebecca MacPherson, Office of the Chief Counsel, Regulations Division, Federal Aviation Administration; e-mail rebecca.macpherson@faa.gov.
- Cost/benefit Clarifications: Peter Ivory, Office of Aviation Policy & Plans, Federal Aviation Administration; e-mail peter.ivory@faa.gov.

The FAA will reply to requests for clarification to the NPRM if submitted by October 15, 2010. We will respond directly to you and post the response in the docket established for this rulemaking. We anticipate providing our response by October 22, 2010.

Issued in Washington, DC on October 6, 2010.

Pamela Hamilton-Powell
Director, Office of Rulemaking