

HJR

65

Alaska State Legislature

House of Representatives



Transportation Committee

SPONSOR STATEMENT

HJR 65

Relating to proposed Federal Aviation Administration regulations establishing crew member flight time limitations.

The Federal Aviation Administration (FAA) is proposing to implement regulations which would limit the number of hours air taxi pilots would be allowed to fly in a month.

Research indicates that most air taxi operators in Alaska utilize their pilots in excess of this proposed limit on a regular basis. As can be seen in HJR 65, these regulations will have a drastic impact on air taxi operations in Alaska.

These businesses are operating safely and this requirement would be over restrictive and costly. In essence, these regulations will be detrimental to the livelihood of Alaskan pilots and air taxi business owners alike.

scheduled duty period and the commencement of the next subsequent duty period.

(2) The duty period required under this paragraph (f) may be extended to 26 hours when the extension is due to operational delays. In this case the 22 hour rest period may not be reduced.

§ 135.265 Reserve and standby assignments.

(a) *Standby duty.* Standby duty commences when a flight crewmember is placed on standby duty assignment. Standby duty periods must be scheduled in accordance with § 135.263. Standby duty periods end when the duty period associated with a subsequent flight assignment ends or the flight crewmember is relieved from standby duty for a scheduled rest period.

(b) *Reserve time.* A certificate holder may assign a reserve assignment to a flight crewmember and a flight crewmember may accept that assignment only when the applicable provisions of this section are met. Each flight crewmember must be given a 10-hour rest period before being assigned to reserve time. Reserve time may be assigned under either of the following options and the flight crewmember must be notified of which option has been selected before the beginning of the reserve time assignment:

(1) A certificate holder may schedule a flight crewmember assigned to reserve time and a flight crewmember may accept any duty period if the flight crewmember receives at least 10 hours notice and if the duty period is scheduled in accordance with § 135.263. If a flight crewmember does not receive at least 10 hours notice, the following limitations apply:

(i) If at least 8 hours notice is given the scheduled duty period is limited to no more than 12 hours. The duty period required under this paragraph (b)(1) may be extended to 14 hours when the extension is due to operational delays.

(ii) If at least 6 hours notice is given the scheduled duty period is limited to no more than 10 hours. The duty period required under this paragraph (b)(1) may be extended to 12 hours when the extension is due to operational delays.

(iii) If at least 4 hours notice is given the scheduled duty period is limited to no more than 8 hours. The duty period required under this paragraph (b)(1) may be extended to 10 hours when the extension is due to operational delays.

(iv) If fewer than 4 hours notice is given the scheduled duty period is limited to no more than 6 hours. The duty period required under this paragraph (b)(1) may be extended to 8

hours when the extension is due to operational delays.

(2) A certificate holder may assign a flight crewmember to a reserve assignment and a flight crewmember may accept a duty period if, for each 24-hour period, the flight crewmember receives at least a regularly scheduled 6-hour period that is protected from any control by the certificate holder. The hours of the 6-hour protected time period must be assigned before the flight crewmember begins the reserve time assignment and must occur at the same time during each 24-hour period during a reserve time assignment. Any duty period assignment must be scheduled to be completed within the 18-hour reserve period. The length of the duty period and the subsequent rest period must be in accordance with § 135.263.

§ 135.267 Additional flight crewmember duty period and flight time scheduling limitations.

(a) A flight crewmember is not considered to be scheduled for a duty period in excess of the scheduled duty period limitations if the duty periods to which he or she is assigned are scheduled and normally terminate within the limitations, but, due to operational delays, the flights to which he or she is assigned are not at block out time expected to reach their destination within the scheduled duty period. However, no air carrier may schedule a flight crewmember, nor may a flight crewmember accept a flight that at block out time would extend the flight crewmember's scheduled duty period maximum more than two hours, as provided in § 135.263.

(b) A flight crewmember is not considered to be scheduled for flight time in excess of the flight time limitations if the flights to which he or she is assigned are scheduled and normally terminate within the limitations, but due to operational delays are not at block out time expected to reach their destination within the scheduled time.

§ 135.268 Weekly and monthly flight crewmember flight time limitations.

No certificate holder may schedule any flight crewmember and no flight crewmember may accept an assignment for flight time under this part if that flight crewmember's total flight time for a certificate holder under parts 91, 121, and 135 of this chapter will exceed—

- (a) 32 hours in any 7 consecutive calendar days.
- (b) 100 hours in any calendar month.

§ 135.271 Additional flight crewmember rest requirements.

(a) No certificate holder may assign any flight crewmember and no flight crewmember may accept any duty period or flight time with the certificate holder unless the flight crewmember has had at least the minimum rest required under this subpart.

(b) No certificate holder may assign any flight crewmember and no flight crewmember may accept any duty with the certificate holder during any required rest period. For example the flight crewmember may not be required to contact the certificate holder, answer the telephone, carry a beeper, remain at a specific location or in any other way be responsible to the air carrier during a rest period.

(c) Rest periods that are required under this subpart can occur concurrently with any other rest period.

(d) The reduced rest periods allowed under § 135.263 may only be used due to operational delays and may not be scheduled in advance.

(e) Each certificate holder shall provide each flight crewmember who is assigned to one or more duty periods, standby duty, or reserve time a rest period of at least 36 consecutive hours during any 7 consecutive calendar days.

(f) Each certificate holder must provide each flight crewmember assigned to assigned time, when the assigned time is not part of a duty period, a rest period of at least 10 hours before the commencement of a subsequent duty period.

(g) Each certificate holder must provide each flight crewmember at least 48 consecutive hours of rest upon return to the flight crewmember's home base after completion of one or more duty periods that terminate in a time zone or zones that differ from the time zone of the flight crewmember's home base by 6 or more hours and the flight crewmember remains in that time zone or zones for at least 48 consecutive hours. The flight crewmember must receive this rest before beginning a subsequent duty period. The home base is determined by the certificate holder and is where that crewmember is based and receives schedules.

§ 135.273 Deadhead transportation.

Time spent in transportation, not local in character, that a certificate holder requires of a flight crewmember and provides to transport the crewmember to an airport at which he or she is to serve on a flight as a crewmember, or from an airport at which he or she was relieved from duty to return to his or her home station is not considered part of a rest period. For

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Ketchum



AIR SERVICE, INC.

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Representative Con Bunde
Juneau, Alaska

2-5-96

Ref: FAA Proposed Rule, Flight
Time and Duty (Docket No. 28081 Notice 95-18)

Dear Con,

The proposed FAR Part 135.269 and 135.271 will have a devastating effect on our flight operations here in Alaska. It will not allow our operations to be financially viable requiring us to either double our pilot force or downsize and drastically reduce our job force. It will reduce the scheduling of our experienced pilots and replace them with low time and inexperienced pilots. It will not serve the traveling public safety interests.

Ketchum Air Service, Inc. is largely a seasonal floatplane operation. Our busy months (June- September) see the pilots flying 150-200 hours monthly and the rest of the year the pilots are furloughed. This is their sole source of income. Currently the pilots are paid an hourly rate to fly and to reduce their flight time to the proposed 100 hours per month will slash their pay from 30-50%. The alternative is to pay a higher rate to compensate for the reduced flights hours. An unreasonable added cost. In addition a second pilot will need to be trained and paid to make up the balance of our flight requirements. An added cost.

Safe floatplane piloting requires hard earned experience. It is a specialty that low time inexperienced floatplane pilots strive to attain. They are usually nurtured for years to reach this level and experienced pilots are a rare commodity. We will be forced to incorporate these low time pilots at the cost of higher maintenance rates, higher insurance rates, higher seat fare rates, higher accident rates. An unacceptable human cost.

The alternate to more pilots is downsizing, and cost saving by eliminating improvements in every facet of our business that has taken almost thirty years to build. Fellow operators here in Alaska are just learning about this new proposal, and probably most will miss the comment deadline completely.

We have until March 19, 1996 to make comment to the deaf ear of the FAA. Please help us survive this economic and safety disaster. I look forward to a telecon to highlight further concerns.

Respectfully,
Craig L. Ketchum
President



ACVB

Craig

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CORRESPONDENCE



COPY

ALASKA STATE LEGISLATURE
REPRESENTATIVE RICHARD FOSTER

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March 11, 1996

Federal Aviation Administration
Office of the Chief Counsel, Room 915G
800 Independence Avenue, SW
Washington, DC 20591

**RE: Notice of Proposed Rulemaking on Crewmember Flight &
Duty Time Limits (No. 95 - 18) - Docket #28081.**

Dear Sir/Madam:

Please enter this letter into the public record for the above referenced proposed rulemaking docket.

As a lifelong Alaskan, a private pilot, retired Part 135 fixed base operator and a member of the Alaska House of Representatives, I wish to go on record in strong opposition to the proposed rulemaking on crewmember flight & duty time limits. While I understand the agency's concern for public safety, I implore the decision makers to consider the protests raised by the National Air Transportation Association (NATA) and the Alaska Air Carriers Association (AACA).

Plain and simple, Alaska is unique. The seasons here demand variability in rulemaking, not blind adherence to a standard designed for the "Lower 48" states. The distances in Alaska require flights of longer duration. Economics dictate that businesses operate when the weather permits. The geography of Alaska eliminates alternative forms of transportation in many areas of the state, making air transport the sole means of delivering goods and services.



REPRESENTATIVE CON BUNDE
CHAIR HEALTH EDUCATION
& SOCIAL SERVICES
VICE CHAIR RULES

Alaska State Legislature
House of Representatives

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STATE CAPITOL ROOM 108
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T (907) 465-4843

DURING INTERIM
716 WEST 4th AVENUE
ANCHORAGE, ALASKA 99501-2133
T (907) 258-8168

MEMORANDUM

DATE: February 20, 1996

TO: Representative Gary Davis, Chair
Transportation Committee

FROM: Representative Con Bunde

RE: Information For Resolution Supporting Alaska's Air Taxi and
Opposing Proposed FAA Regulations

SPECIAL ALASKA CIRCUMSTANCES

- Need for high level proficiency - familiarity with local weather, terrain and fly conditions - Translates to a need for a high level of local and regional flying experience.
- Reduced safety by limiting pilot experience in the area - Reduced safety by capping income so that more experienced "high time" pilots would be unable to make a living. This would encourage employment of "low time," inexperienced, time builder pilots. Reduced safety by forcing air taxi operators and owners to stop operating large twin engine aircraft and return to the use of smaller single engine aircraft.

Alaska's unique fly conditions and great dependence on aviation for transportation due to lack of roads and other alternatives require that Alaska be allowed an exemption from air taxi regulations proposed for the Lower 48. In the case of Alaskan aviation one size does not fit all.

ROUTE TO:

INITIAL REPORT

File 96-302

FILE IN NATA BINDER

FAA PROPOSES SIGNIFICANT CHANGES IN FLIGHT AND DUTY TIME REQUIREMENTS

January 4, 1996

What's at Issue

The FAA has issued the much anticipated notice of proposed rulemaking (NPRM) proposing sweeping changes to the flight crewmember duty period, flight time and rest requirements.

Why It's Important

On-demand and scheduled Part 135 certificate holders would be regulated under the same requirements as the Part 121 airlines in the NPRM. The proposal also includes new limitations and modifications to the existing regulation of flight and duty time, altering on-demand air charter operations and imposing additional costs to conduct operations.

Major Provisions

Overview

The existing 14 hours duty time, 10 hours flight time and 10 hours rest time for a two pilot crew Part 135 unscheduled operation remain the same. The 14 hours duty time, 8 hours flight time and 10 hours rest time limitation for single pilot also are unchanged. Flight time would be limited to 32 hours weekly and 100 hours monthly. While not specifically stated, the quarterly flight time limit would be 300 hours and the annual limit 1200 hours. All flying, including positioning flights and deadheading as required by the certificate holder, would be included in the flight and duty time limitations.

Operational Extensions

Duty time operational extensions would be limited to two hours (currently there is no specified limit). The NPRM also defines operational delays and requires compensatory time for exceeding duty time.

Rest Time

The FAA proposes a 36-hour rest period during any seven consecutive days. This is changed from the existing requirement for thirteen 24-hour rest periods each quarter. A reduced rest period of nine hours is permitted under the NPRM, but requires compensatory rest times.

Reserve Time

Under the proposal, reserve time cannot be considered rest time, although it is also not considered duty time. The FAA is also proposing linking notification time for a pilot on reserve to report with duty time. This means if a pilot in reserve is notified more than one hour and less than 10 hours prior to report time, the maximum duty time is decreased to as few as six hours. For pilots notified to report with less than one hour of response time, this is considered as standby time and would count as duty time.

OVER...

NATA

NATIONAL AIR TRANSPORTATION ASSOCIATION • 4225 May Street, Bethesda, Virginia 22802 • (703) 645-4700 • FAX (703) 645-6176

Regulatory Report:

**NATA
Position**

NATA is extremely concerned with the effect of the FAA proposal on the Part 135 industry. It is disappointing that the FAA failed to consider the differences between on-demand air charter and scheduled operations in the NPRM. The Association is shocked and dismayed the FAA was unable to include an estimate of the potential cost of the proposed rule on air taxi operators. NATA's President Jim Coyne has also met with House Aviation Subcommittee Chairman, John Duncan, strongly encouraging him to conduct hearings on the FAA proposal.

Status

The comment period is scheduled to close on March 19, 1996. However, on December 27, 1995, NATA sent an urgent request to the FAA Administrator to extend the comment period by 90 days and hold a series of public meetings to examine the effect and the costs of the NPRM on the on-demand Part 135 segment of the industry. The Association's Air Charter Committee is meeting on January 11 to review the proposal and develop alternatives to make to the FAA. Those recommendations, along with details on submitting comments to the FAA, will be sent to NATA members.

Members interested in receiving a copy of the NPRM along with an analysis of the proposal developed by Professional Aviation, Inc. exclusively for NATA should use the enclosed order form or contact Cindy Aloise at 1 (800) 808-6282.

Staff Contact: Andrew V. Cebala
Vice President, Government and Industry Affairs

JUDGEMENT DAY FOR AVIATION
The end is near...unless you act now!



ALL ALASKA PART 135 OPERATORS:

DO YOU KNOW?
UNLESS YOU ACT NOW, THE FAA COULD PUT YOU OUT OF BUSINESS!

Whether you are a Part 135 on-demand air charter operator or aviation service business, the FAA's proposed crewmember flight and duty time limitations threaten your future. The FAA's action establishes unrealistic, unnecessary and unjustified limits on the flight and duty time of on-demand air charter pilots, increasing labor and operating costs for air charter companies by over 50%, and severely limiting the availability of this vital transportation service. Implementation of the proposed rules would be devastating to Alaska's on-demand air taxi industry because it does not accommodate the seasonal nature of our businesses. Companies providing aircraft fueling and handling, along with maintenance and parts sales, will witness dramatic decreases in their business as the air charter community is unable to continue operating responsible on-demand services.

Orin Seybert of Penair, wrote in an open letter to the public recently, "*The NPRM allows for the 8 hrs. day, but then has limits of 32 hrs. per week and 100 hrs. per month. This will require bush operators to literally double their pilot staffing.Think about it. A pilot in rural Alaska during our busy summer will only be able to fly four days a week for the first three weeks of a month. Then the last week he can only do four hours!*"

YOU MUST JOIN THE FIGHT TO SAVE YOUR INDUSTRY!

The National Air Transportation Association (NATA) in partnership with the Alaska Air Carriers Association (AACCA) is lobbying for aviation business and is leading the effort to fight the FAA's proposal. We can't win alone however--you must act now by taking three simple steps.

1. Contact your Members of Congress urging their opposition to the FAA proposal 2. Send your letter of opposition to the FAA, (with a copy to AACCA) and 3. Enlist one other affected person or business to act. Time is running out, don't passively accept the FAA's misguided proposal--act today! Here's how:

1. CONTACT YOUR CONGRESSIONAL DELEGATION

Senators Ted Stevens and Frank Murkowski and Representative Don Young are elected to serve you in Washington D.C. The on-demand industry is in trouble and needs their help. A personal meeting is the best lobbying technique and can be arranged through a call to the local delegation office. If this isn't convenient, call their Washington offices to speak directly with the Senators or Representative (if they are unavailable, talk to the staff member that handles transportation issues) and follow-up with a letter. It is important and they will listen to you. The phone numbers and addresses are provided below.

2. CONTACT THE FAA

The FAA must be contacted in opposition to this proposed rule. The Agency has a special office that receives all comments on rulemaking efforts such as this one. The letter should be on your company's letterhead.

COMMENTS ARE DUE BY MARCH 19, 1996

Mail your comments in triplicate to:

Federal Aviation Administration
Office of the Chief Counsel
Attention: Rules Docket (AGC-200)
Room 915G, Docket No. 28081
800 Independence Avenue, S.W.
Washington, D.C. 20591

3. ENLIST OTHERS

If you get just one other person to contact Congress and the FAA, you double the impact of your efforts. You know others at your airports and

in your communities who will be affected. Give them this information and have them join you in working to stop FAA's action.

THE MESSAGE

The FAA must exclude Part 135 on-demand air charter from its proposed flight and duty time proposal. The following points should be used to support your request:

- The FAA proposal will decimate Alaska's small air carrier businesses operating Part 135. It removes all of the flexibility needed for seasonal and unscheduled operations by requiring them to meet flight, duty and rest rules designed for scheduled airlines. This will result in at least a 50% increase in flightcrew hiring and payroll expenses--needlessly inconveniencing customers with no increase in safety.

- The proposal mandates excessive scheduled rest times and limited flight times without providing any data identifying a fatigue or safety problem that would justify applying the regulations to the Part 135 on-demand industry.

- Emergency Medical Services, organ transport flights and cargo flights will be severely affected by the proposal's restrictions on pilot reserve and scheduling--effectively requiring substantial advance notice for emergency or unplanned flights. This endangers Alaska's health care system and the ability of Alaskan residents to depend on unscheduled air transportation for everyday life.

- The FAA admittedly failed to identify the impact of the proposal on the small businesses providing essential on-demand air charter transportation and the aviation businesses supporting them with aircraft fueling and handling along with maintenance and parts sales to affected Part 135 companies. The Agency also did not estimate the potential operational delays and increased costs of the rule on the Part 135 on-demand industry and their customers.

- The proposal is strongly biased against Part 135 certificate holders, mistakenly requiring Part 91 flying of managed aircraft to be conducted under the flight and duty time restrictions. Likewise, the FAA fails to recognize the diverse nature of many air charter companies with its assigned reserve limits unjustly singling out pilots by severely penalizing them with a reduction in duty time for non-flying responsibilities.

•The FAA proposal is an excellent example of regulatory overkill that uses a Federal regulation to mandate labor union work rules on the small businesses providing on-demand air charter. This virtually eliminates the important transportation link provided by Part 135 operators to many smaller and remote Alaskan communities not served by scheduled operations.

•Explain the impact the proposal will have on your charter business, or other services you provide air charter such as fuel sales, maintenance business, or other sales and service.

YOU MUST TAKE THE TIME TO CONTACT YOUR ALASKA DELEGATION MEMBERS AND THE FAA TO PROTECT YOUR BUSINESS AND ENSURE YOUR FUTURE!

Honorable Ted Stevens
United States Senate
522 Hart Building
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(202) 224-3004 phone
(202) 224-2354 fax

Honorable Frank Murkowski
United States Senate
706 Hart Building
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(202) 224-6665 phone
(202) 224-5301 fax

Honorable Don Young
House of Representatives
2332 Rayburn House Office Building
Washington, D.C. 20515-0201
(202) 225-5765 phone
(202) 225-0425 fax

"The AACA Convention & Trade Show, March 3-6, includes a more indepth discussion on this topic. I strongly recommended that you attend the program, determine to what extent the rule affects your operations, and take immediate action to protect your business". Kim Daniels Ross, Executive Director, AACA

For more information contact:

AACA
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(907) 277-0071
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