

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 121**

[Docket No. 20843; Amdt. No. 121-180]

**Number of Flight Attendants Required During Intermediate Stops****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

**SUMMARY:** This amendment allows an air carrier certificate holder to reduce by one-half (rounded to the next lower number in the case of a fraction) the number of flight attendants required to remain on board an aircraft during intermediate stops when passengers remain on board. This amendment allows added operational flexibility while still maintaining a high level of safety in air transportation. In addition, it reduces burdens on air carrier certificate holders and, therefore, is consistent with Executive Order 12291 and the Regulatory Flexibility Act.

**EFFECTIVE DATE:** January 16, 1983.

**FOR FURTHER INFORMATION CONTACT:** Roger E. Riviere, Project Development Branch, (AFO-240), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8096.

**SUPPLEMENTARY INFORMATION:****Background**

On October 9, 1980, the Air Transport Association of America (ATA) submitted a petition for rulemaking in accordance with the provisions of § 11.25 of the Federal Aviation Regulations (FAR). A summary of this petition was published in the *Federal Register* on February 19, 1981 (46 FR 12981). No comments were received. This petition requested clarification of Section 121.391(a) in regard to the number of flight attendants required to be on board airline passenger-carrying aircraft other than during flight. The current regulation states that each certificate holder shall provide at least the following flight attendants on each passenger-carrying aircraft used:

1. For airplanes having a seating capacity of more than 9 but fewer than 51 passengers—1 flight attendant.
2. For airplanes having a seating capacity of more than 50 but fewer than 101 passengers—2 flight attendants.
3. For airplanes having a seating capacity of more than 100 passengers—2 flight attendants plus 1 additional flight attendant for each unit (or part of a unit)

of 50 passenger seats above a seating capacity of 100 passengers.

ATA stated in its petition that by memorandum of June 2, 1980, from the FAA's Acting Chief, Air Transportation Division, FAA regions were advised of a new interpretation from the Office of the Chief Counsel in regard to section 121.391. This interpretation stated that the minimum complement of flight attendants required by section 121.391 must be on board the aircraft whenever passengers are on the aircraft. This includes the periods of time during the boarding process and during intermediate stops. The interpretation also stated that if an individual (e.g., a gate agent) replaced a flight attendant and that flight attendant was part of the minimum crew complement, then the individual replacing the flight attendant would have to have received crewmember emergency training on that aircraft in accordance with section 121.417.

ATA further stated in its petition that its member airlines strongly disagreed with this interpretation and difficulties associated with the application of the June 2, 1980, FAA interpretation would adversely affect the airlines operationally and economically and could well create unnecessary hardship on the traveling public.

After review and analysis of the ATA petition, the FAA concurred with the ATA that the current regulation as interpreted by FAA contains unnecessary requirements. As already noted, the current regulation provides that all required flight attendants not only must be on board the aircraft during flight time but also must remain on board during intermediate stops. Analysis of the safety issues involved reveals that this is not necessary and precludes such personnel from performing other related duties. Such duties include aiding elderly or handicapped passengers, accompanying minors, and coordinating with ground personnel.

Section 25.803 and Appendix D to Part 121 of the FAR require that during a demonstration of emergency evacuation procedures, not more than 50 percent of the emergency exits in the sides of the fuselage of an airplane may be used for the demonstration. The 50 percent figure accounts for the possibility that some of the emergency exits may be rendered inoperative in a crash situation due to fuselage damage or fire. At an intermediate stop, however, at least one floor-level exit will remain open, and time will not be lost in preparing that exit for evacuation during an emergency situation. In addition, most other exits should normally be operable.

Therefore, the FAA issued Notice of Proposed Rulemaking No. 82-1, which was published in the *Federal Register* on January 21, 1982 (47 FR 3068). In the notice, the FAA proposed to reduce the number of required flight attendants who must remain on board during intermediate stops. Intermediate stops are stops where passengers remain on board and proceed on that aircraft to another destination. They are usually of short duration. The FAA proposed that during such stops each certificate holder shall provide and maintain on board the aircraft at least one-half (rounded to the next higher figure) the required number of flight attendants. During such stops, the aircraft is in a static mode, in a level attitude, with the engines stopped. This is in contrast with a crash situation in which the aircraft often comes to rest in an unusual attitude with cabin contents dislodged and with exits blocked or inoperable because of impact damage.

Additionally, the FAA proposed that the certificate holder must ensure that at least one floor-level exit on that aircraft remains open during that stop and that such exit provides for the rapid deplaning of passengers. One or more additional exits may be open for servicing the galleys and lavatories. As part of their emergency evacuation duties, the required flight attendants on board are required to open, if necessary, additional emergency exits to provide for the rapid deplaning of passengers. Also, at most intermediate stops, flight crewmembers, mechanics, baggage handlers, security personnel, and other ground personnel are nearby to assist in the event of an emergency. Furthermore, the aircraft's engines are shut down while the aircraft is at the gate. This factor should mitigate the chances of an emergency arising from engine torching or overheating.

That proposal would also allow the substitution for required flight attendants of other personnel qualified in the emergency evacuation procedures for that aircraft required in § 121.417 of the FAR as long as they are identified to the passengers.

This provision will allow personnel such as passenger agents, customer service representatives, and ticket agents who have been trained in accordance with § 121.417 of the FAR to perform safety-related flight attendant duties in the absence of the required flight attendants at intermediate stops. These normally required flight attendants may be performing other related duties such as aiding unaccompanied children or ill passengers.

Finally, during many intermediate stops only a small number of passengers remain on board the aircraft. In most cases, passengers have the opportunity to proceed to a lounge or to other appropriate places instead of remaining on board the aircraft during any prolonged intermediate stop. Therefore, if the airplane is stationary, the engines are not operating, and one or more exits are open, allowing one-half of those flight attendants required by § 121.391 to remain on board the airplane at an intermediate stop would provide a necessary level of safety for all passengers and crewmembers.

#### Discussion of Comments

Nine persons submitted written views on this proposal. Four of these persons represent various flight attendant unions. Two persons represent airline associations, while another person represents an airline. One person represents an airline pilot union, with the remaining individual commenting as a member of the traveling public.

A majority of the commenters express approval of the intent of the proposal. All parties agree that at least a minimum number of flight attendants must be on board the aircraft at intermediate stops when passengers remain on board to ensure a safe evacuation. A majority of these commenters also agree that there may be a need for flight attendants to deplane to perform ancillary duties. However, several of the commenters suggest changes which would tailor the proposal to specific situations or specific operators. Where practical, these suggestions have been adopted.

Several commenters state that the required complement of flight attendants should be on board the aircraft if fueling occurs during the intermediate stop due to the increased hazard of a ramp fire.

Refueling of aircraft with passengers on board appears to have little impact on the safety of on-board passengers. An examination of accident and incident records of U.S. air carrier worldwide operations for the past 20 years revealed only two incidents resulting in fires associated with jet fueling operations at the gate. One incident occurred when passengers were on board, the other did not. These 2 incidents resulted in injury to 11 persons. Four of the injured were ground service personnel either involved in the fueling operation or injured because of their nearby location. Seven passengers received injuries from the ensuing evacuation. During the same period of time, it is estimated that over 22 million fueling operations (with and without passengers on board) were

accomplished without fuel spill accidents or incidents. The accident history concerning fueling operations does not indicate a need for having the required complement of flight attendants on board the aircraft during aircraft fueling operations when passengers are on board. The most common parking procedure worldwide is nosed-in to the terminal building. The parking ramps slope away from the building. In the event of a fuel spill, the ramp slope would direct the spilled fuel towards the aft portion of the aircraft in most cases. The safer escape avenue could very well be to use the protection of the unruptured aircraft body tube to the forward portion of the aircraft.

Present and future transport aircraft and ground equipment have been and continue to be designed so as virtually to eliminate the potential of significant fuel spills and fires.

Several commenters oppose the use of personnel other than flight attendants during intermediate stops. Most of these commenters question whether the airline personnel would be properly trained in emergency procedures in each particular aircraft. These commenters also express concern that a brief training program for other airline employees does not compare with the experience and training continually gained by flight attendants in flight.

At most intermediate stops, flight crewmembers, mechanics, baggage handlers, security personnel, passenger agents, and other personnel are nearby to assist in any emergency. Passenger agents, customer service representatives, and ticket agents may perform the safety duties of a flight attendant on the ground at an intermediate stop if they are properly trained in emergency evacuation procedures for that type of aircraft in accordance with § 121.417 as long as they are identified to the passengers.

Those people who have completed the training in accordance with § 121.417 of the FAR have been trained under the same sections as a new flight attendant and have generally the same level of experience in this area as those flight attendants who are initially assigned duties with the air carrier. Those individuals being utilized as replacements for flight attendants must meet the same initial and recurrent training requirements of § 121.417 just as all flight attendants.

One commenter states that reducing the required number of flight attendants on board is dangerous and can affect the number of lives saved in an emergency. This commenter goes on to point out that all exits during boarding and at intermediate stops are unarmed to

prevent inadvertent activation of the emergency slides, and passengers are not instructed on how to arm/activate the emergency evacuation equipment that could save their lives. This commenter contends that one floor-level exit remaining open at an intermediate stop does not justify reducing the number of flight attendants required to be on board.

The front door of the airplane is already opened and connected with a jetway or stairs, which allows the passengers an egress route without the delay required when opening the exit during an emergency. Most of the passengers will exit through this door which provides the necessary egress in the event of an emergency.

One commenter specifies that the flight attendants should be evenly distributed throughout the cabin in the vicinity of floor-level exits.

During intermediate stops, flight attendants are generally on board and evenly distributed since they are in the process of exercising their respective duties. However, the FAA agrees that the comment regarding an even distribution of flight attendants has merit, and the requirement for the even distribution of flight attendants to deal more effectively with a critical emergency evacuation, should one arise, is added to the rule. If there is only one flight attendant on board the aircraft, that person will be located in accordance with the airline's FAA-approved operating procedures.

Two flight attendant unions suggest that the provisions of § 121.391(a) should not be changed. One union contends that the minimum crew complement represents an adequate number of flight attendants required in an emergency to evacuate a fully boarded aircraft with only half of the available number of exits operable.

The FAA Office of Aviation Safety recently conducted a search of data of air carrier incidents at the gate before engine startup resulting in emergency evacuation. This survey covered 6 years and revealed four evacuations resulting from a bomb threat, smoke in the cabin, auxiliary power unit (APU) torching, and engine torching. This record indicates that there is no significant safety problem connected with reducing the number of flight attendants at the gate during intermediate stops. This reduction is acceptable since the aircraft is parked at the gate in a static mode in a level attitude with engines stopped and no structural damage evident. At least one floor-level exit is already open and available for immediate evacuation use. This exit is usually connected to a

jetway which furnishes additional protection from possible dangers outside the airplane. Crewmembers, mechanics, baggage, security personnel, and other ground personnel are nearby to assist in the event of an emergency.

On most intermediate stops, many passengers deplane the airplane. Therefore, it is reasonable to allow certain reductions in the number of flight attendants. When boarding begins, the full contingent of flight attendants has generally returned to their duties on the airplane.

Another commenter expresses concern that if a passenger on board becomes ill and requires emergency first aid, the number of required flight attendants proposed by the FAA may not be adequate to respond quickly enough to render timely assistance. Furthermore, flight attendants perform many important flight safety duties during passenger boarding and at en route stops.

As stated previously, from a recent search of data of air carrier incidents, there is no significant safety problem connected with reducing the number of flight attendants at the gate during intermediate stops. The very fact that the flight attendants may be allowed to leave the aircraft demonstrates that these flight attendants may aid the ill passenger in deplaning. The fact that the airplane is at the gate and connected to a jetway or stairs with the door open demonstrates that the airplane is prepared for evacuation prior to any emergency arising. The remaining flight attendants may then prepare other exits for evacuation should the need arise.

One commenter suggests that the air carriers should be allowed to tailor their procedures to suit their particular method of operation and to have these procedures approved and enforced by the FAA.

This comment in effect is asking that standards not be established for this type of operation. This amendment will continue the high level of safety that is required of each air carrier in the public interest.

One commenter raises the question of contractual agreements between some airlines and their unions that would preclude substitution of ground personnel for flight attendants.

Substitution of flight attendants by persons trained in accordance with § 121.417 of the FAR is appropriate and may be utilized by those air carriers wishing to avail themselves of this alternative. Those companies that have restrictions or contractual agreements prohibiting such substitution must resolve these differences by any means deemed appropriate by each party

involved. The FAA is merely offering an alternative method by which aircraft at intermediate stops may be manned by appropriate personnel to provide for proper evacuation in case of any emergency that might rise.

Three commenters express concern that the FAA is proposing that all engines must be shut down and at least one floor-level exit must remain open during any stop where passengers remain on board the aircraft, regardless of the number of flight attendants on board the aircraft.

The FAA did not intend to require that all engines be shut down with the one floor-level exit open with passengers on board during intermediate stops when all flight attendants are on board. This provision was only meant for situations where certain flight attendants are away from the airplane when changing flights or where ancillary duties require them to be off the airplane. To clarify this, the rule is changed to provide that these provisions are only applied when the flight attendant complement is fewer than required by § 121.391(a) of the FAR.

Two commenters contend that cold or inclement weather operations would negate the practicality of having at least one floor-level exit remain open during a passenger stop.

In areas where inclement weather may make it impractical for the airplane door to be left open, the flight attendant complement may not be reduced. However, on board flight attendants may be replaced by the same number of other personnel qualified in the emergency evacuation procedures for the airplane as required in § 121.417 and the replacement personnel are identified to the passengers remaining on board at the intermediate stop.

For all the reasons previously mentioned, safety would not be jeopardized by changing the number of flight attendants from one-half of those required in flight rounded to the next higher figure as put forth in NPRM 82-1 to one-half of the number of flight attendants required for flight rounded to the next lower number in the case of a fraction. This change is made in response to the views presented by one commenter who represents numerous large air carriers. This commenter states that its major concern is with aircraft requiring an odd number of flight attendants in flight when that number is halved and rounded to the next higher figure when on the ground during an intermediate stop. The commenter further states that the notice did not provide the operational flexibility the airlines require and would impose substantial economic penalties.

This economic penalty may be illustrated when an airplane has a seating capacity of more than 100 passengers but fewer than 151 passengers which would require 3 flight attendants while in flight. In the notice, it was proposed to allow one-half of the flight attendants (rounded to the next higher number in the case of a fraction) to be on board the aircraft while on the ground during intermediate stops. In this case, it would require two flight attendants to remain on board. In this amendment, the requirement is changed to allow the number of flight attendants on the ground to be reduced to one-half of the flight attendants required in flight, rounded to the next lower number in the case of a fraction. In the previous example, which requires three flight attendants in flight, the number of flight attendants required on the ground at intermediate stops would now be one instead of two. The requirement for at least one flight attendant to be on board the aircraft was added to ensure that an aircraft which normally requires only one flight attendant while in flight is always attended while passengers are on board at intermediate stops. This rule is in concert with the current procedures practiced by most of the carriers at this time. An appropriate level of safety is provided for by this amendment, and there is no reason to penalize the carrier and prevent other flight attendants from performing ancillary duties which may require them to be off the airplane. This rule has been changed accordingly.

Economic comments and responses are considered in the economic analysis which follows.

#### Economic Analysis

The economic impact of the amendment is clearly positive. The rule prior to amendment has been interpreted to require that the full complement of flight attendants must be on board at all times when passengers are on board. The amended rule requires only half, rounded to the next lower number in the case of a fraction, of the full complement for intermediate stops in a flight itinerary.

A number of commenters indicate that certain airline practices did not follow the rule as interpreted and argue against the FAA proposal. One commenter expresses concern that the economic and operational penalties of the FAA's proposed rule would overshadow the safety benefits gained. Examples were supplied of the operational and economic penalties that the airlines would incur if the FAA's proposed rule is implemented in its present form.

The proposal was modified with respect to the method used to determine the number of flight attendants required at intermediate stops, and the amendment eliminates the costs to which commenters point. The proposal would have required one-half of the flight attendants, rounded to the next higher number in the case of a fraction. Thus, for example, some makes and models of a B-727, a DC-9, or a B-737, may have between 101 and 150 seats, and would require 2 flight attendants at all times for intermediate stops on a flight itinerary. The amendment as adopted requires only one flight attendant at such points for these aircraft types.

The only other comment of substance received concerning any economic questions relates to the proposal which required that at intermediate stops the engines must be shut down and the doors must remain open. The proposal has been modified to make it clear that this part of the rule only applies when the flight attendant complement is reduced at an intermediate stop.

In view of the clarification in the amendment, this aspect of the rule should not create a cost for air carriers. Also, there is no derogation of safety, and thus no public cost.

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure, among other things, that small entities are not disproportionately affected by Government regulations. The RFA requires agencies to review rules which may have a "significant economic impact on a substantial number of small entities." As discussed above, there is no negative economic impact associated with the amendment as it relates to operators covered by the rule.

**List of Subjects in 14 CFR Part 121**

Aviation safety, Safety, Air carriers, Air transportation, Aircraft pilots, Airplanes, Airports, Children, Handicapped, Hours of work, Infants, Pilots, Smoking, Transportation, Common carriers.

**Adoption of the Amendment**

**PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT**

Accordingly, § 121.391 of the Federal Aviation Regulations (14 CFR 121.391) is amended by adding a new paragraph (e) as follows, effective January 16, 1983.

**§ 121.391 Flight attendants.**

(e) At stops where passengers remain on board the aircraft and proceed on that aircraft to another destination, each certificate holder shall provide and maintain on board the aircraft during that stop at least one-half (rounded to the next lower figure in the case of a fraction) of the flight attendants as provided in paragraph (a) of this section or the same number of other personnel qualified in the emergency evacuation procedures for that aircraft as required in § 121.417 provided those personnel are identified to the passengers, but never fewer than one such person. These persons shall be uniformly distributed throughout the airplane to provide the most effective egress of passengers in the event of an emergency evacuation. Should there be only one flight attendant on board the aircraft, that person will be located in accordance with the airline's FAA-approved operating procedures. During such stops when the flight attendant

complement is fewer than required by § 121.391(a), the certificate holder must ensure that the aircraft engines are shut down and at least one floor-level exit on that aircraft remains open during the stop and that such exit provides for the deplaning of passengers.

(Sec. 313, 314, and 601 through 610, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, 1421 through 1430); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

**Note.**—The FAA has determined that this amendment relaxes requirements and allows more flexibility to affected Part 121 operators as it reduces by one-half the number of flight attendants required to remain on board the aircraft during intermediate stops when passengers remain on board. There are no apparent direct or indirect (nonindustry) costs associated with granting the requested relief, and the benefits far outweigh any direct costs associated with changing the present regulation. Therefore, it has been determined that this is not a major regulation under Executive Order 12291 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

In addition, I certify that under the criteria of the Regulatory Flexibility Act, the amendment will not have a significant economic impact on a substantial number of small entities. This amendment applies to certificated air carriers, few of which are considered to be small entities. It allows all carriers to reduce the number of employees which must be on aircraft during certain parts of the operations, thus reducing overall costs.

Issued in Washington, D.C., on November 17, 1982.

J. Lynn Helms,  
*Administrator.*

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