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Flight Attendant Duty Period Limitations and Rest Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 125, and 135

[Docket No. 27229; Amendment Nos. 121–241; 125–21; 135–52]

RIN 2120–AE91

Flight Attendant Duty Period Limitations and Rest Requirements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule sets forth regulations that require air carriers, air taxi, and commercial operators to provide duty period scheduling limitations and rest requirements for flight attendants engaged in air transportation and air commerce. This action results from public and congressional interest in regulating flight attendant work hours and from data contained in a Federal Aviation Administration (FAA) study of industry practice relating to flight attendant flight, duty, and rest times. This rule contributes to an improved aviation safety system by providing the opportunity for flight attendants to be rested sufficiently to perform their routine and emergency safety duties.

EFFECTIVE DATE: This regulation is effective September 19, 1994, except §§ 121.683(a)(1), 135.63(a)(3), 135.63(a)(4)(x), 135.63(a)(5), and 135.63(b) which are not effective until the Office of Management and Budget (OMB) has approved the Paperwork Reduction Requirements. FAA will publish a document in the **Federal Register** following OMB approval of the Paperwork Reduction Requirements.

COMPLIANCE DATE: March 1, 1995.

FOR FURTHER INFORMATION CONTACT: Donell Pollard, Air Transportation Division, AFS–203, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3735.

SUPPLEMENTARY INFORMATION:

Availability of the Final Rule

Any person may obtain a copy of this amendment by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the amendment number of this final rule.

Background

Statement of the Problem

Flight attendants are crewmembers who perform essential routine and emergency safety duties. Routine duties include ensuring that carry-on baggage is correctly stowed; verifying that exit seating requirements are met, that passenger seat belts are fastened, and that galley service times are properly stowed; and conducting passenger briefings before takeoff. Emergency duties include conducting land and water evacuations, controlling inflight fires, handling passengers who threaten the safety of other passengers or the flight, managing medical emergencies such as passenger illness or injury, managing inflight emergencies such as smoke or fire in the cabin, and managing turbulent air penetrations, airplane decompression, and hijackings. Additionally, because flight attendants are crewmembers performing safety-related functions, they must satisfactorily complete indoctrination, initial, transition, and recurrent training requirements. In addition, they are subject to the alcohol and drug use regulations and drug testing regulations. Currently, flight attendants are the only safety-sensitive aviation group that has no regulations with respect to flight, duty, or rest periods. Such regulations exist for flight crewmembers, dispatchers, air traffic control tower operators, and aviation maintenance technicians.

This final rule is comparable to flight, duty, and rest requirements for other safety-sensitive aviation groups because it enhances public safety by requiring "rest periods" and limiting duty periods for flight attendants. These requirements protect flight attendants from work related fatigue that interferes with their ability to perform essential safety duties. No accident/incident data currently exists to provide a direct correlation between flight attendant fatigue and passenger survivability. However, the FAA recognizes that a flight attendant who is excessively fatigued is less likely to be capable of performing safety duties than an adequately rested flight attendant. This is an unacceptable safety risk. Therefore, the FAA adopts this final rule in the interest of air transportation and air commerce safety. The justification stated herein includes that which was included in Notice of Proposed Rulemaking No. 93–3, published in the **Federal Register** on March 31, 1993 (58 FR 17024).

Historical Review

In 1985, the FAA received two petitions for rulemaking requesting limits on flight and duty hours for flight attendants. One petition [1] sought to establish flight and duty time regulations similar to current regulations for flight crewmembers. The other petition [2] recommended establishing maximum duty time limits and minimum daily, weekly, and monthly rest periods. Both petitions recommended certain flight time limitations and rest requirements for flight attendants that were more restrictive than those that existed for flight crewmembers. The FAA denied both petitions in a Denial of Petition issued on January 23, 1989, because the action sought by the petitioners was not warranted by the information, views, and arguments contained in the petitions.

Congressional legislation (H.R. 638 and S. 1170) was introduced in 1989 to establish flight attendant duty time limitations. On May 17, 1989, the Subcommittee on Aviation of the House Committee on Public Works and Transportation held a public hearing on H.R. 638. At the hearing, the FAA stated its intent to initiate further studies of air carrier flight attendant scheduling practices.

The FAA completed its "Report on the Study of Current Industry Practice-Flight Attendant Flight, Duty, and Rest Times" on September 12, 1989 (hereafter referred to as "the Industry Study" [Docket No. 27229]), and submitted a copy of the study to the House Subcommittee on Aviation. The study focused on U.S. air carrier scheduling practices and flight attendant actual work hours and highlighted cases of extended duty periods and minimum rest periods. The study indicated that flight attendant duty hour problems may occur more frequently among certain industry segments because of fundamental operational differences. The study noted that most air carriers had policies to address these problems. The study provided a framework for the FAA to address this issue with appropriate regulatory action, which is provided in this final rule.

The House Subcommittee on Aviation held another hearing on flight attendant duty and rest on March 13, 1991. The FAA did not recommend rulemaking at that hearing. Subsequent legislation on flight attendant duty and rest, H.R. 14, was passed in the House of Representatives. In 1992, the language

[1] This petition was submitted by the Association of Flight Attendants and summarized in the **Federal Register** (50 FR 6185) on February 14, 1985.

[2] This petition was submitted by the Joint Council of Flight Attendant Unions and summarized in the **Federal Register** (50 FR 25252) on June 18, 1985.

of H.R. 14 was incorporated into a provision in the House and Senate versions of the FAA's appropriations bill; however, that provision was deleted later by the conference committee. On January 5, 1993, H.R. 14 was reintroduced in the House of Representatives.

On March 26, 1993, the FAA issued a notice of proposed rulemaking (NPRM), Notice No. 93-3, Flight Attendant Duty Period Limitations and Rest Requirements (58 FR 17024; March 31, 1993) that proposed duty period scheduling limitations and rest requirements for flight attendants engaged in air transportation and air commerce. The FAA has incorporated into this final rule comments on the NPRM received from the public during the comment period, as appropriate.

Discussion of Comments

Fifty-one commenters submitted comments in response to the NPRM. The commenters included trade and professional associations, individual flight attendants, labor organizations, part 121 and 135 operators, public interest groups, a government agency, a Member of Congress, and other individuals. Among the commenters were the Air Line Pilots Association (ALPA); the Air Transport Association (ATA); the Allied Pilots Association (APA); the American Cyanamid Company; AMR Combs; the Coalition of Flight Attendant Unions; Delta Airlines; Great American Airways; the National Air Carrier Association (NACA); the National Transportation Safety Board (NTSB); North American Airlines (NAA); the Regional Airline Association (RAA); Southwest Airlines (SWA); Sun Country Airlines (SCA); Transport Workers Union Local 556 (TWU Local 556)—Southwest Airlines; and flight attendants, some of whom are employed by America West Airlines; Continental Airlines, Delta Airlines, and Sun Country Airlines.

Commenters addressed general and specific issues such as scheduled versus unscheduled operations; the application of flight crewmember flight, duty, and rest requirements to flight attendants; rest period requirements; duty period requirements; augmented crew requirements; reserve and deadhead status for flight attendants; flight attendant responsibility; the costs contained in the initial regulatory evaluation; and the implementation period for this final rule. Commenters also addressed the issues of flight attendant fatigue, the Industry Study, international versus domestic operations, part 125 operations, and flight attendant duty limitations and rest regulations in other nations.

Overview of the General Issues

Thirty-nine comments addressed the concept of regulating flight attendant duty period limitations and minimum "rest period" requirements. Fourteen comments did not support establishing flight attendant duty period limitations and rest requirements while 18 comments did support establishing such limits and requirements based on certain revisions to the proposed rule.

The commenters who supported regulating flight attendant duty period limitations and rest requirements included ALPA, APA, The Coalition of Flight Attendant Unions, NTSB, nine commenters who identified themselves as flight attendants, and a member of Congress who strongly supports the comments of the Coalition of Flight Attendant Unions. The commenters stated that, because a flight attendant's primary duties are safety related, establishing regulations would enhance public safety.

The 14 commenters who did not support the NPRM include Great American Airways, RAA, SCA, and nine commenters who identified themselves as flight attendants. Several of the commenters who identified themselves as flight attendants stated that the provisions in the NPRM would limit a flight attendant's opportunities to work extra trips and that flight attendants are capable of handling safety procedures and emergencies even when working longer duty periods.

Specific Issues

Apply Flight Crewmember Flight, Duty, and Rest Requirements to Flight Attendants

In the NPRM, the FAA invited comments on the possibility of modifying the proposed rule, as presented in the NPRM, to add an option for operators to either follow the proposed duty limitations and rest requirements or apply flight crewmember flight, duty, and rest requirements to flight attendants.

Eleven commenters responded to the FAA's request for comments. Seven of the commenters supported the option to permit operators to either follow the proposed duty limitations and rest requirements or apply flight crewmember requirements to flight attendants. Three commenters opposed the option. Although Delta Air Lines did not oppose the option, it expressed no interest in exercising the option.

ATA, Great American Airways, NACA, RAA, and Southwest Airlines agreed that operators should be permitted to apply flight crewmember requirements to flight attendants. ATA specified that applying flight crewmember requirements should remain an option at the operator's discretion. Great American Airways, Horizon Air, NACA, RAA, and Southwest Airlines noted that there are scheduling and economic advantages to using the same set of rules of flight crewmembers and flight attendants.

The Coalition of Flight Attendant Unions and SCA opposed establishing the option to permit operators to apply flight crewmember flight, duty, and rest requirements to flight attendants. The Coalition of Flight Attendants Unions stated that flight crewmember rules do not provide adequate protection from fatigue. SCA noted that, if this option had been a requirement in 1992, SCA would have had to hire an additional 20 flight attendants. According to SCA, the cost burden of hiring 20 flight attendants would have increased SCA domestic operating costs by $1.75 million.

FAA Response

The FAA recognizes that giving operators the option to apply flight crewmember flight, duty, and rest requirements to flight attendants provides additional scheduling flexibility and eliminates the need for an operator to have two sets of scheduling requirements for its flight crewmembers and flight attendants. This provision also will permit flight attendants on such operations to be scheduled with the same limitations as the flight crewmembers. Therefore, the FAA has adopted this option, which appears in §§ 121.467(c) and 135.273(c) of this final rule.

If an operator chooses to apply flight crewmember flight, duty, and rest requirements to flight attendants, the operator must establish written procedures for applying the requirements and the procedures must be approved by the Administrator and referenced in the certificate holder's operations specifications. The written procedures must apply to all flight attendants used in the certificate holders operation. In addition, written procedures must be applied to the certificate holder's entire operation. Certificate holders may obtain approval by submitting their procedures for preliminary review and approval to the principal operations inspectors assigned to them at the FAA Flight Standards District Offices that are charged with the overall inspection of their operations. This approval process is similar to those used for exit seating and passenger

carry-on baggage requirements. Because flight crewmember regulations were designed specifically for pilots, FAA approval is required to ensure that flight crewmember rules are adequately applied to flight attendants. In addition, the written procedures for domestic, flag, and supplemental air carriers and for commercial operators must apply the flight crewmember limitations contained in subparts Q, R, or S of part 121, except for the provisions for on-board rest facilities, as appropriate to the operation being conducted. Therefore, operators must consider the type of operation being conducted for each flight segment when scheduling flight attendants according to the option.

In addition, the written procedures for establishing duty period limitations and rest requirements for operators certificated under part 135 must include the limitations contained in subpart F, except for provisions for on-board rest facilities, as appropriate to the operation being conducted. Part 121 and 135 certificate holders are required to provide flight attendants on aircraft with certain passenger seating configurations in accordance with §§ 121.391, 135.107, or the certificate holder's operations specifications, as appropriate. The number of flight attendants required on an aircraft to meet the provisions of §§ 121.391, 135.107, or the certificate holder's operations specifications, whichever is greater, is referred to as the minimum flight attendant crew complement.

Any operator that elects the option to apply flight crewmember flight, duty, and rest requirements to flight attendants and has established written procedures for augmenting the minimum flight crewmember complement must establish procedures for augmenting the minimum flight attendant complement. The augmenting procedures must be based on the number of flight crewmembers assigned to the flight that is in addition to the minimum flight crewmember complement as specified in the aircraft type certificate data sheet. For example, if the minimum flight crewmember complement on a Boeing 747–300 is three, as specified in the aircraft type certificate data sheet, an operator that schedules four flight crewmembers for an extended long-range flight will be required to schedule one flight attendant in addition to the minimum flight attendant crew complement that is required by §§ 121.391, 135.107, or the certificate holder's operations specifications. For example, if the operations specifications for a certain airplane requires 8 flight attendants, and if the operator adds 1 flight crewmember, that operator would be required to add 1 additional flight attendant, for a total of 9 flight attendants.

In addition, any operator that elects the option of applying the flight crewmember flight, duty, and rest requirements to flight attendants, must ensure that the definition of "rest period" in this final rule is applied to those flight attendants. (See the detailed discussion on "Rest Period Requirements" and "Reserve Status, Stand-by Status, or Similar Assignments" in this final rule.)

Under the provision for applying flight crewmember flight, duty, and rest requirements to flight attendants, if the Administrator finds that revisions to the written procedures are necessary for the continued adequacy of the procedures for applying flight crewmember flight, duty, and rest requirements to flight attendants, the Administrator will require the operator to make necessary changes within 30 days after being notified by the Administrator. In addition, an operator may petition the Administrator to reconsider the notice to change the procedures.

This procedure for requiring changes is consistent with the current regulatory language for aircraft inspection programs and pilot training programs contained in §§ 91.415 and 121.405, respectively, as well as a number of other regulations.

Any operator that establishes written procedures to apply the flight crewmember flight, duty, and rest requirements to flight attendants and that subsequently wishes to revise this practice and schedule flight attendants according to the duty period limitations and rest requirements in §§ 121.467 or 135.273 must amend their operations specifications in accordance with §§ 121.79(c) and 135.17(b). These sections require a certificate holder to file an application for an amendment of operations specifications at least 15 days before the effective date proposed by the applicant for the amendment, unless a shorter filing period is approved by the Flight Standards District Office charged with the overall inspection of the certificate holder.

Unscheduled Operations

The NPRM proposed duty period limitations and rest requirements for flight attendants in all domestic, flag, supplemental, and commercial operations conducted under part 121 and part 125, and in all operations conducted under part 135. No new requirements for operations conducted under part 91 were proposed. The FAA received comments from part 121 and 135 operators about the applicability of the proposed requirements to certain unscheduled operations. Those commenters included AMR Combs, ATA, American Cyanamid Company, Delta Airlines, Great American Airways, North American Airlines, and Southwest Airlines.

ATA, Delta Airlines, North American Airlines, and Southwest Airlines said that the proposed duty period limitations and rest requirements should not apply to military flights, e.g., Civil Reserve Air Fleet (CRAF) and Military Airlift Command (MAC). ATA and Southwest Airlines also said that special charters for sports teams should be excluded from duty period limitations and rest requirements. Commenters stated that because of the short notification associated with military and special charters it would not be possible to obtain a waiver from the regulation to conduct them. North American Airlines stated that the proposed requirements should not apply to flights flown to remote destinations on a weekly or ad hoc basis.

AMR Combs and American Cyanamid Company believe that the proposed requirements should not apply to operations that do not require a flight attendant. AMR Combs stated that many unscheduled operators do not employ full-time flight attendants and that a flight attendant may serve more than one certificate holder.

FAA Response

In response to commenters who stated that the proposed duty period limitations and rest requirements should not apply to military flights and special charters, this final rule does not except military or special charter operations from duty period limitations and rest requirements. If a certificate holder chooses to apply the flight crewmember flight, duty, and rest time limitations option to flight attendants when conducting military and special charter flights to retain operational flexibility by scheduling the flight attendants with the flight crewmembers, §§ 121.467(c) and 135.272(c) require that the flight crewmember flight, duty, and rest requirements option be applied to all flight operations conducted by the certificate holder.

In response to AMR Combs and American Cyanamid Company, the FAA agrees with these commenters. The final rule will not apply to those operations where flight attendants are not required. However, all flight attendants who are assigned to duties in an aircraft for operations that require a flight

attendant, including flight attendants in excess of the minimum flight attendant crew complement, are subject to duty limitations and rest requirements.

For example, an operator conducting operations on an aircraft with 19 passenger seats or less, which does not require a flight attendant under § 135.107, will not be required to meet flight attendant duty period limitations and rest requirements for flights conducted on that aircraft. However, if the operator's operations specifications state that the operator will provide a flight attendant for flights on that aircraft, then the operation does require a flight attendant. Therefore, for any flight attendant assigned to flight duties on that aircraft the certificate holder is required to meet the duty period limitations and rest requirements of § 135.273.

Duty Period Limitations

The NPRM proposed limiting flight attendant duty periods. Proposed §§ 121.466(a) and 135.273(a) defined a duty period as the period of elapsed time between reporting for an assignment involving flight time and release from that assignment by the certificate holder. The NPRM proposed that the time be calculated using either Coordinated Universal Time or the local time of the flight attendant's home base.

Eleven commenters submitted comments supporting or recommending revisions to this proposed definition.

Delta Air Lines, Southwest Air Lines, and TWU Local 556 agreed with the FAA's proposed definition.

ALPA, APA, and the Coalition of Flight Attendant Unions stated that duty periods should include non-flight duties. ALPA noted that ground duties can be as fatiguing as flight duties. The Coalition of Flight Attendant Unions recommended that the definition of a duty period be replaced with: "Any continuous period during which a flight attendant is required to carry out any task associated with the business of an aircraft operator."

To ensure that the definition of duty period explicitly excludes reserve status, ATA recommended that the following phrase be added to the definition of duty period: " 'Duty period' does not include time when a flight attendant is on reserve status assignment, free of any specifically assigned duties other than to report for a flight assignment within a specified period of time, pursuant to a collective bargaining agreement or company work rules."

In addition to receiving comments on the definition of a duty period, the FAA also received comments on the duty period limitations proposed in the NPRM. The NPRM proposed to limit flight attendant duty periods based on the length of the duty period, the number of flight attendants assigned to a crew, and the amount of rest following the duty period. The proposed rule contained provisions (proposed §§ 121.466(b) and 135.273(b)) to prohibit an operator from assigning a flight attendant to a scheduled duty period of more than 14 hours unless certain conditions are met. An operator would be allowed to assign a flight attendant to a scheduled duty period up to 20 hours, if the operator: (1) Assigns flight attendants in addition to the minimum flight attendant complement; and (2) schedules an extended rest period following the duty period.

Thirteen commenters submitted comments on issues pertaining to flight attendant duty period limits. The comments addressed the use of "scheduled" versus "actual" duty periods, addressed the effect of the proposed duty limits on unscheduled operators, made recommendations to the proposals, and provided proposed duty period limits.

The Coalition of Flight Attendant Unions, Southwest Airlines, and TWU Local 556 addressed the use of "scheduled" duty periods as opposed to "actual" duty periods. Southwest Airlines and TWU Local 556 agreed that the proposed duty period limitations should be "scheduled," not "actual." TWU Local 556 stated that, if this flexibility is not retained, the following would occur: (1) Flight attendants would be replaced after 14 hours of actual duty, which inconveniences passengers and causes delays because of the need to locate crew replacements; (2) reserves would be placed at out stations; (3) crews would be rerouted to cover flights that the original crews cannot perform; (4) flight attendants would lose days off and have their schedules disrupted; (5) additional costs for crews and stranded passengers would be incurred; and (6) aircraft repositioning would be required. However, the Coalition stated that there is no justification for having no limit on actual hours and added that the actual number of flight attendant duty hours per day needs to be limited.

AMR Combs stated that scheduled duty period limitations should apply only to scheduled operations with more than 19 passenger seats.

Four commenters, including NAA, recommended revisions to the proposed duty period limitations. NAA recommended that a layover of 4 to 5 hours during which a hotel room is provided should not count as duty time. Other comments recommended limiting duty to: (1) 16 hours in 24 hours with 11 hours of flight time in domestic operations; (2) 30 hours in 5 days; (3) 16 hours with no more than 10 hours of flight time; or (4) 12 hours for flights with multiple stops.

The Coalition of Flight Attendant Unions submitted an alternative proposal to the NPRM that included duty period limitations. This alternative divided duty period limitations according to domestic, international, and long-range flights. The Coalition's alternative proposed to limit: (1) Scheduled duty periods on domestic flights to no more than 14 hours and actual duty periods to 15 hours; (2) scheduled duty periods on international flights to no more than 16 hours and actual duty periods to 17 hours; and (3) actual duty periods on long-range flights to no more than 4 hours greater than the scheduled duty time, not to exceed 20 hours. The Coalition distinguished between domestic and international duty periods and stated that it reluctantly includes a 20-hour duty period for long range international flights to accommodate new generation aircraft, but only if additional rest is provided.

FAA Response

In establishing duty period limitations, the FAA has considered a variety of alternatives submitted by commenters, including the proposals to set different limits for different types of operations. In an effort to establish requirements that are conducive to safety and compatible with air carrier operations, the FAA also has reviewed current industry practices used to schedule flight attendants. To provide the least complicated method of establishing effective limitations for scheduling duty periods for flight attendants, the FAA has decided to adopt the scheduled duty period limitations as proposed, with a slight modification that distinguishes cosmetic and international scheduled duty periods.

The FAA has revised the definition of a duty period in this final rule to state that the time is calculated using Coordinated Universal Time or local time to reflect the total elapsed time. The phrase "or the local time of the flight attendants's home base" was replaced with "or local time" to be consistent with the definition of a calendar day. The FAA has determined that any time zone can be used, as long as the operator is consistent.

Duty period limitations are established to enhance the safety of the flying public by ensuring that flight

attendants do not become overly fatigued during flight assignments. In addition, the duty period limitations are designed to suit all operations that require flight attendants without imposing a significant burden on operators.

In response to the Coalition of Flight Attendant Unions, the final rule does not provide actual duty period limitations because such provisions may unreasonably reduce operational flexibility. However, the final rule requires that a flight attendant "be given" a scheduled rest period between scheduled duty periods, i.e., rest periods must be provided. Because duty periods are scheduled in combination with actual rest periods, the objective of ensuring the flight attendants are provided an opportunity to be rested will be met.

After further review of the Coalition comments and an analysis of flight schedules, the FAA finds that scheduled duty periods of operations wholly within the 48 contiguous states and the District of Columbia should not be allowed to exceed 18 hours. The FAA is not aware of any scheduled duty periods for these operations that currently do exceed 18 hours. However, duty periods that contain one or more flights that land or take off outside the contiguous 48 states and the District of Columbia may extend up to 20 hours, provided that an extended rest period is scheduled following the duty period and that additional flight attendants are assigned to each flight segment in the duty period. This provision will allow air carriers to conduct extended long-range operations with new generation aircraft. Moreover, sections 121.467(b)(14) and 135.273(b)(14) will allow a flight attendant for a domestic air carrier to continue on duty beyond the time when duty would normally terminate, if circumstances exist that are unanticipated and beyond the control of the air carrier such as adverse whether conditions). This same exception will apply to flag and supplemental operations.

A duty period as defined in this final rule means the period of elapsed time between reporting for an assignment involving flight time and release from that assignment. In response to ATA's recommendation that the definition of a duty period should state that a duty period does not include the time when a flight attendant is assigned to reserve status, the FAA refers to the definition of a duty period in §§ 121.467(a) and 135.273(a) of the final rule, which indicates that a duty period does not begin until a flight attendant reports for an assignment involving flight time. Reserve status is discussed in further detail under the heading "Reserve Status, Stand-by Status, or Similar Assignments."

In response to NAA, all duty period assignments, including those assignments with a 4- to 5-hour break in duty at a hotel, must be assigned within duty period limitations and must meet minimum rest requirements. The FAA would not consider this to be a break in, or cessation of, the duty period.

In response to AMR Combs, this final rule applies to operations, both scheduled and unscheduled, that require flight attendants. Therefore, operators are not required to meet duty period limitations and rest requirements of this final rule for operations that do not require a flight attendant.

Duty Period Following Reduced Rest

Sections 121.466(i) and 135.273(i) of the NPRM proposed that an operator be permitted to reduce a 12-hour rest period to 10 hours following a duty period of more than 14 hours. In conjunction with this proposed provision, the FAA also proposed §§ 121.466(j) and 135.273(j), which would limit the scheduled duty period following a 10-hour reduced rest period to less than 14 hours.

ATA, Delta Air Lines, and NACA submitted comments on limiting duty periods following reduced rest. The commenters recommended that the FAA permit an operator to schedule a 16-hour duty period following a reduced rest period of 10 hours. ATA noted that this flexibility is needed for international operations.

Delta Air Lines also recommended that the phrase "14 or more hours" appearing in proposed §§ 121.466(j) and 135.273(j) be replaced with "no more than 14 hours." Delta noted that the proposal would limit the duty period following reduced rest to 13 hours 59 minutes.

FAA Response

Sections 121.467(b)(9) and 135.273(b)(9) of the final rule adopt the provisions as proposed in §§ 121.466(j) and 135.273(j) of the NPRM, except that the provisions are revised, in response to Delta Airlines' comment, so that an operator may not schedule a flight attendant for a duty period of more than 14 hours following reduced rest. This revision permits an operator to assign a flight attendant to a duty period of up to and including 14 hours following a reduced rest period of 10 hours.

The FAA does not agree with those commenters that state that an operator should be allowed to schedule a 16-hour duty period following a reduced rest period of 10 hours. This was not proposed in the notice as it might promote problems of cumulative fatigue.

Duty Time That Exceeds Scheduled Duty Time When Beyond the Certificate Holder's Control

Sections 121.466(o) and 135.273(o) proposed that a flight attendant would not be considered scheduled for duty in excess of duty time limitations if the flights to which the flight attendant is assigned are scheduled and normally terminate within the limitations but, because of circumstances beyond the control of the domestic, flag, or supplemental air carrier or commercial operator (such as adverse weather conditions), are not at the time of departure expected to reach their destination within the scheduled time.

ALPA, APA, the Coalition of Flight Attendant Unions, Southwest Airlines, and TWU Local 556 commented on this provision.

ALPA and APA stated that the maximum duty period limit should not be exceeded by more than 2 additional hours regardless of circumstances beyond the control of the operator.

The Coalition of Flight Attendant Unions stated that this provision is unacceptable. The Coalition further stated that operators consider all delays outside their control.

Southwest Airlines and TWU Local 556 stated that this provision should apply to a flight attendant who is reassigned after reporting for work and the reassignment is beyond the operator's control.

FAA Response

The FAA has adopted this provision as proposed so that air carriers will not be penalized for operational delays such as those due to weather and air traffic control. The FAA recognizes that delays are costly and that operators avoid delays whenever possible. Sections 121.467(b)(14) and 135.273(b)(14) of this final rule apply to flights that are assigned and scheduled and that normally terminate within allowable duty limitations. However, this provision does not apply to operational delays relating to flight attendant staffing problems. A flight attendant's duty period begins when the flight attendant reports for a flight assignment and ends when the flight attendant is released by the air carrier. Changes to a flight attendant's schedule after a duty period begins must be made in accordance with the duty period limitations and rest requirements set forth in this final rule. In addition, if a flight attendant reports for duty and is later reassigned, the scheduled duty

time before reassignment must be counted as part of the total duty period.

Example: A flight attendant is scheduled for a 13-hour duty period on flight staffed with the minimum cabin crew complement. The duty period consists of two flight segments—a flight from New York to Frankfurt followed by a flight from Frankfurt to Rome. Because of adverse weather conditions, the flight leaving New York is delayed 2 hours, causing the flight attendant's duty period to exceed the scheduled 14-hour duty period limitation. Although it is apparent at the time of departure that the flight attendant's duty period will exceed 14 hours, completion of the assignment will still comply with duty period limitations, because the flight attendant was scheduled and assigned to flights that normally terminate within the allowable duty period limitations.

However, if, for example, the flight attendant is reassigned in Frankfurt to a flight to Athens, the flight attendant's revised scheduled duty period cannot exceed a total of 14 scheduled hours, unless the flight attendant crew is augmented in accordance with §§ 121.467 (b)(4), (b)(5), or (b)(6), as appropriate, and each flight attendant is given the minimum required rest. The flight attendant's duty period did not start over in Frankfurt because of the reassignment.

Rest Period Requirements

The FAA received numerous comments on issues related to the rest requirements proposed in the NPRM. Commenters addressed issues including the definition of a rest period, scheduled rest versus actual rest, minimum rest, reduced rest, subsequent rest, relief from duty in air transportation and air commerce for 24 consecutive hours of rest in any 7 consecutive calendar days, and on-board rest requirements.

The NPRM defined a rest period as the period when a flight attendant is free of all restraint or duty for a domestic, flag, or supplemental air carrier or commercial operator and is free of all responsibility for work or duty should the occasion arise. ATA, the Coalition of Flight Attendant Unions, and Southwest Airlines recommended revisions to the definition of rest period. The comments submitted by ATA and the Coalition of Flight Attendant Unions addressed reserve status in their recommended definitions of rest. Southwest Airlines stated that the definition of rest period should be defined as actual hours of rest, not scheduled hours of rest. Two commenters, including Delta Airlines, agreed with the definition of rest period as proposed in the NPRM.

The NPRM proposed requirements for scheduling rest and reduced rest periods. Sections 121.466 (c) and (h) and 135.273 (c) and (h) of the NPRM proposed requiring that a flight attendant scheduled for 14 hours or less of duty be given 9 consecutive hours of rest, and that a flight attendant scheduled for more than 14 hours but less than 20 hours be given 12 consecutive hours of rest. Proposed §§ 121.466 (d) and (i) and 135.273 (d) and (i) proposed permitting an air carrier or commercial operator to reduce these rest periods to 8 and 10 consecutive hours, respectively. Three commenters (Southwest Airlines, TWU Local 556, and TWU of America) supported the minimum rest requirements proposed in the NPRM and also indicated that the rest requirements should not be increased.

The RAA expressed concern that the requirement to provide 9 hours of rest for duty periods of more than 14 hours implies that a flight attendant who reports for a flight that is canceled is required to receive 9 hours of rest before the next duty period begins.

Commenters, including APA and individual flight attendants, indicated that the actual time available for rest during a rest period is often less than the scheduled rest period and may be as much as 2 to 3½ hours less than the number of hours scheduled in the rest period. The commenters stated that this often occurs because of time lost due to assisting passengers in deplaning, travel to and from a rest facility, and other activities such as eating. One commenter stated that it may take 35 minutes to 1 hour for passengers to deplane, for the crew to gather its belongings, and for travel to the hotel; 1 hour to eat; and 1 to 1½ hours to prepare for duty again and travel back to the airport.

The FAA received several alternatives to the proposed rest requirements. APA recommended that a flight attendant scheduled for a duty period of 14 hours or less be given a scheduled rest period of at least 10 consecutive hours. The rest period could be reduced but not scheduled as a reduced rest period as long as the rest period is reasonably calculated to provide 8 consecutive hours at a suitable rest facility and the flight attendant is provided a subsequent rest period of at least 11 consecutive hours. Under the APA proposal, scheduled rest periods and reduced rest periods would have to occur during the 24-hour period preceding the scheduled end of a duty period. APA recommended that a flight attendant scheduled for a duty period of more than 14 hours but no more than 18 hours be given a scheduled rest period of at least 12 consecutive hours. This rest period could not be reduced and must occur after the completion of the scheduled duty period and immediately prior to the commencement of the subsequent duty period. The Coalition of Flight Attendant Unions proposed rest requirements based on domestic and international operations (see the discussion of Domestic and International Operations). The Coalition of Flight Attendant Unions' proposal recommended a minimum of 10 hours of rest following domestic flights, 12 hours of rest following international flights, and a rest period equal to twice the scheduled flight time for long-range international flights. The Coalition of Flight Attendant Unions' proposal did not include a provision for reduced rest RAA requested that minimum rest requirements for flight attendants be aligned with flight crewmember requirements. One commenter suggested that a rest period should be at least 9½ hours at a hotel or 12 hours from the time of release to the beginning of the next report. Another commenter stated that the proposed minimum subsequent rest is satisfactory for domestic flights but not realistic for international flights The commenter suggested that the rest period following international flights should be 24 hours.

Several commenters recommended that the FAA establish provisions for on-board rest. APA recommended that a domestic, flag, or supplemental air carrier or commercial operator be permitted to assign a flight attendant to a scheduled duty period of more than 14 hours, but no more than 16 hours, if the inflight duties assigned to flight attendants by the air carrier or commercial operator were such that each of the cabin crew could be free of all duty for "25 percent of the scheduled block time less 1 hour." APA stated that reclining seats suitable for rest reserved for 25 percent of the assigned attendant complement would have to be available throughout the flight. APA also recommended that a domestic, flag, or supplemental air carrier or commercial operator be permitted to assign a flight attendant to a scheduled duty period of more than 16 hours, but no more than 18 hours, if the inflight duties assigned to flight attendants by the air carrier or commercial operator were such that each of the cabin crew could be free of all duty for "33 percent of the scheduled block time less 1 hour." APA added that reclining seats suitable for rest reserved for 33 percent of the assigned attendant

complement would have to be available throughout the flight. The Coalition of Flight Attendant Unions recommended that a flight attendant be provided at least 1 hour of continuous rest for any flight segment scheduled for 8 or more hours of flight time, and that a passenger seat or bunk be assigned for crew rest.

FAA Response

This final rule adopts the definition of rest period and the minimum rest requirements as proposed in the NPRM. The FAA has considered the various rest requirement alternatives proposed by commenters and has determined that the rest requirements proposed in the NPRM and adopted in this final rule are adequate to ensure that flight attendants are provided the opportunity to be sufficiently rested to perform their routine and emergency safety duties without imposing a significant burden on operators. A discussion of the comments recommending that reserve status be addressed in the definition of rest is contained under the heading, "Reserve Status, Stand-by Status, or Similar Assignments."

In response to Southwest Airlines' comment that rest should be "actual" hours of rest and not "scheduled," the FAA considers that the opportunity to rest, as provided by the rest period, to be "actual" rest. As proposed in the NPRM, this final rule requires that a flight attendant "be given" a scheduled rest period. This provision makes the operator responsible for ensuring that a flight attendant is scheduled for and receives the scheduled rest period. The FAA recognizes that how the flight attendant utilizes this rest period cannot be regulated. Requiring operators to schedule rest periods ensures that flight attendants know in advance when rest periods will occur and that they will be of a specified duration.

A minimum rest period of 9 consecutive hours is required for all duty period assignments of 14 hours or less, unless the rest period is reduced in accordance with § 121.467(b)(3) or § 135.273(b)(3). A flight attendant who reports for duty to find that the flight has been canceled would have begun a duty period and would require minimum rest. However, in response to RAA's concern, a carrier could either keep the flight attendant on duty for reassignment or release the flight attendant for a complete rest period.

Rest periods are required to occur between the completion of a scheduled duty period and the commencement of a subsequent duty period. Consequently, this final rule does not require that a required rest period be given immediately prior to a flight assignment. Because duty periods are defined as assignments involving flight time, a rest period is not required following assignments that do not involve flight time, such as training or ground duty assignments.

In response to commenters who indicated that the actual time available to rest is typically less than scheduled rest, the FAA considers a flight attendant to be free of all restraint or duty upon release from an assignment involving flight time. The FAA understands that the time available for sleep during a rest period may vary depending on the amount of time a flight attendant spends in other activities during the rest period. The FAA also recognizes that it cannot compel a flight attendant to use rest periods for actual rest.

Additionally, this final rule regulates the frequency and duration of required rest periods. This final rule does not regulate the quality of rest facilities nor does it require certificate holders to provide on-board rest for flight attendants.

Reduced Rest

Sections 121.466 (d) and (i) and 135.273 (d) and (i) of the NPRM included provisions for operators to schedule 8-hour and 10-hour reduced rest periods in conjunction with certain scheduled duty period limitations. ALPA stated that a rest period should never be scheduled for less than 10 consecutive hours. However, ALPA believes that it may be permissible for an operator to reduce a rest period to less than 10 hours because of circumstances beyond the control of the certificate holder. APA opposed the concept of reduced rest and stated that an air carrier or commercial operator should not be permitted to schedule a reduced rest period.

FAA Response

The FAA has adopted the reduced rest provisions as proposed. This final rule permits an air carrier or commercial operator to schedule a flight attendant for reduced rest. However, no flight attendant will receive a rest period of less than 8 hours. This provision enables operators to retain a certain degree of scheduling flexibility. The reduced rest provision is adopted in conjunction with the requirement to schedule a longer rest period subsequent to an 8- or 10-hour reduced rest period. Together, these provisions prevent a flight attendant from being assigned two consecutive reduced minimum rest periods and are designed to protect flight attendants by minimizing the effects of cumulative fatigue.

24-Consecutive-Hour Rest Period During Any 7 Consecutive Calendar Days

Sections 121.466(n) and 135.273(n) of the NPRM proposed that a certificate holder be required to relieve a flight attendant engaged in air transportation or air commerce from all further duty for at least 24 consecutive hours during any 7 consecutive calendar days. For convenience, hereafter, this requirement will be referred to as the 24-hour-in-7-day rest requirement. Proposed §§ 121.466(a) and 135.273(a) of the NPRM defined a calendar day as the period of elapsed time, using Coordinated Universal Time or local time, that begins at midnight and ends 24 hours later. Labor organizations, operators, and an association commented on the proposed 24-hour-in-7-day rest requirement.

Several of the comments submitted included discussion of the term "calendar day." ATA stated that the term "calendar day" is confusing because it is unclear on which day an assignment begins or ends. APA stated that the term calendar day should specify that the local time used is that of the flight attendant's home base. In the Coalition of Flight Attendant Unions' alternative to the NPRM, the Coalition deleted the definition of the term "calendar day" but retained the provision for 24 consecutive hours of rest in 7 consecutive calendar days.

ATA and Delta Air Lines recommended that the FAA revise the proposed 24-hour-in-7-day rest requirement by replacing the phrase "every 7 consecutive calendar days" with the phrase "every 168-consecutive-hour period."

Southwest Airlines and TWU Local 556 requested that the final rule permit a flight attendant to voluntarily waive the 24-hour-in-7-day rest requirement in order to be able to work extra hours. Southwest Airlines states that, if flight attendants cannot waive this provision, Southwest would be required to hire an additional 100 flight attendants at an initial cost of $710,000 and an annual recurring cost of $660,000. TWU Local 556 stated that they applied this provision to a sample of 13 flight attendant schedules for February 1993. According to TWU Local 556, if the 13 flight attendants were not permitted to fly their schedule, which had been altered to include extra flights, each flight attendant would have lost $11,063 in extra annual income. The total lost income for 2,200 flight attendants would be $24 million.

ATA and Delta Air Lines recommended that the FAA include a provision in the final rule similar to a statement included in the preamble to the NPRM that indicated that the requirement for a 24-consecutive-hour rest period in any 7 consecutive calendar days could be postponed under certain circumstances.

AMR Combs and American Cyanamid Company noted that current §§ 135.267(f) and 135.269(d) require unscheduled operators to provide flight crewmembers with at least 13 rest periods of at least 24 consecutive hours in each calendar quarter. AMR Combs stated that the 24-hour-in-7-day rest requirement proposed in the NPRM only should apply to scheduled operations. American Cyanamid Company suggested that flight attendants could be required to meet pilot weekly rest requirements as an alternative.

Other comments submitted included: (1) A recommendation by TWU Local 556 that the FAA could require four 24-hour breaks in 30 days or require a 12-hour rest preceding the seventh duty day; and (2) a Carnival Airlines flight service schedule indicating that a flight attendant had been scheduled for 11 consecutive days of duty without receiving a 24-consecutive-hour rest period.

FAA Response

The 24-hour-in-7-day rest requirement is designed to supplement daily rest requirements and to ensure that flight attendants receive the opportunity to obtain adequate rest. The FAA proposed the definition of a calendar day to provide a unit of measure that could be used to determine whether the 24-hour-in-7-day rest requirement is met. In response to ATA's concern that the term "calendar day" causes confusion, the FAA refers to the definition of "calendar day" in §§ 121.467(a) and 135.273(a) of the final rule, which indicates that a calendar day begins at midnight and ends 24 hours later at the next midnight. "Seven consecutive calendar days" as used in §§ 121.467 and 135.273 of this final rule means a period of 7 consecutive days beginning at midnight on the first day and ending at midnight 7 days later. In response to APA's recommendation that the definition of calendar day specify that the local time be that of the flight attendant's home base, the FAA has determined that any time zone can be used to determine whether the 24-hour-in-7-day rest requirement is met, as long as the carrier is consistent. In other words, a certificate holder may not manipulate the use of time zones when calculating 7 consecutive calendar days so as to vary the number of hours that comprise any 7 consecutive calendar days.

The FAA has considered the commenters' request to replace the proposed 7 consecutive calendar days with a 168-consecutive-hour period. The FAA notes that the NPRM used language consistent with the language contained in the current flight crewmember flight time limitations rule. The FAA has decided that it should not introduce at this final rule stage an inconsistency between the flight crewmember flight time limitations rule language and the flight attendant duty period limitations and rest requirements rule language. The FAA will consider whether rulemaking should be initiated to replace 7 consecutive calendar days with 168-consecutive-hours.

The FAA has reviewed requests to permit flight attendants to voluntarily waive the 24-hour-in-7-day rest requirement. The FAA has not included that alternative in this final rule because the purpose of requiring 24 consecutive hours free from duty in any 7 consecutive calendar days is to ensure that flight attendants receive the opportunity to obtain adequate rest. As with rest requirements following reduced rest, the requirement for 24 consecutive hours of rest in any 7 consecutive calendar days is designed to protect flight attendants by minimizing the effects of cumulative fatigue.

In response to comments received from ATA and Delta Airlines, the FAA has determined that it is not necessary to include in this final rule provisions for permitting the 24-hour-in-7-day rest requirement to be delayed. This final rule imposes restrictions for flight attendants that parallel the restrictions that currently exist for flight crewmembers. The absence of provisions to permit the 24-hour-in-7-day rest requirement to be delayed does not preclude a flight attendant from completing a duty period assignment that has extended into the seventh calendar day because of a delay that is beyond the control of the operator. In addition, the 24-hour-in-7-day rest requirement may be delayed for reasons such as deadheading, assignment to training, and others. However, if the requirement is delayed, the flight attendant must be given the 24-consecutive-hour rest period before beginning any subsequent duty period assignment.

In response to unscheduled operators, the FAA notes that unscheduled part 135 operators conducting operations that require flight attendants have the option to apply the flight crewmember flight time limitations to flight attendants instead of using the duty period limitations and rest requirements contained in this final rule. Sections 135.267(f) and 135.269(d) require certificate holders to provide each flight crewmember with at least 13 rest periods of at least 24 consecutive hours each in each calendar quarter. Among other requirements, operators that choose to apply flight crewmember requirements to flight attendants would be required to provide flight attendants with at least 13 rest periods of at least 24 consecutive hours in each calendar quarter instead of relief from duty for 24 consecutive hours every 7 consecutive calendar days.

Comments on the costs associated with the 24-hour-in-7-day rest requirement are addressed in the Regulatory Evaluation Summary.

Compensatory Rest Periods

Although there was no specific proposal in the notice, the FAA requested comments on the feasibility of establishing compensatory rest periods for flight attendants when scheduled duty periods are exceeded. ATA, the Coalition of Flight Attendant Unions, and Delta Air Lines opposed the establishment of compensatory rest periods.

FAA Response

In response to the comments submitted, the FAA will not mandate compensatory rest periods in this final rule. The FAA has determined that compensatory rest is not necessary, because the duty period limitations and rest requirements contained in this final rule ensure that flight attendants receive the opportunity to be adequately rested to perform safety duties.

Reserve Status, Stand-by Status, or Similar Assignments

The FAA recognizes that current industry practice varies with regard to the use of these terms and their relationship to duty or rest. In the NPRM, the FAA requested comments on the most appropriate way to address reserve status, stand-by status, or a similar assignment. The FAA received 13 comments, primarily from air carrier associations and labor organizations. Commenters described different types of reserve status and suggested situations when reserve should be considered duty or rest.

ATA recommended adding the following phrase to the definition of rest period: "except that reserve status assignments shall be considered 'rest' for purposes of this rule, provided that the only work-related restriction shall be to report for a flight assignment

within a specified period of time pursuant to a collective bargaining agreement or company work rules." The Coalition of Flight Attendant Unions recommended that the definition of rest period be revised to "the time period free of all restraint or duty from a domestic, flag, or supplemental air carrier or commercial operator and free of all responsibility, or interruption by, work or duty."

In addition, commenters indicated that different types of reserve status including "call-in" reserve and "on-call" reserve are commonly found in the aviation industry. As described by commenters, call-in reserve requires that a flight attendant contact, or be available to be contacted by, the operator at designated times for flight assignments. The commenters added that on-call reserve typically requires that a flight attendant be available for an assignment on short notice (usually within 1 hour) if contacted by the operator.

A majority of the commenters on this issue discussed whether reserve status should be considered rest. ATA, NACA, and Southwest Airlines stated that the time a flight attendant is assigned to reserve status and is not assigned to a duty period should be considered rest for the purpose of meeting the 24-hour-in-7-day rest requirement proposed in § 121.466(n) of the NPRM. RAA stated that the type of reserve in which a person must contact the company for future assignments—rather than being available for an assignment on short notice—should be considered rest because it is free of all duty except for the possibility of communication with the operators. Two individual commenters stated that the time a flight attendant spends on reserve should not be considered rest.

Four of the commenters, including ATA, Delta Air Lines, and RAA, commented on whether reserve status should be considered part of a duty period. ATA and Delta Air Lines stated that the time a flight attendant spends on reserve should not be considered a duty period. ATA noted that, if reserve is considered duty, operators will need to increase staff by 20 to 30 percent. ATA estimates that the annual cost would be $100 to $130 million for salaries, benefits, and associated training and administrative costs. Delta Air Lines expressed concern that if "on-call" reserve is considered duty, flight attendants would request at-home pay. RAA stated that the type of reserve in which a person is expected to report on short notice should be considered duty. TWU Local 556 stated that duty time for a reserve flight attendant should be calculated from actual report time to release time for a flight assignment.

FAA Response

In response to the commenters who stated that reserve status should be considered rest, the FAA notes that the time during which a flight attendant is responsible for contacting a certificate holder or for being available to be contacted by a certificate holder for an assignment (e.g., reserve or stand-by status) does not meet any rest period requirements, because the FAA has defined a rest period as free of all restraint or duty and free of all responsibility for work or duty should the occasion arise.

Specifically in response to ATA's, NACA's, and Southwest Airlines' suggestions that reserve assignments should fulfill the 24-hour-in-7-day rest requirement if no duty period is assigned, the FAA reiterates that rest period requirements are not met when a flight attendant is assigned to reserve status even if the flight attendant is not given a duty period assignment. A duty period, as defined in this final rule, does not begin until a flight attendant reports for an assignment involving flight time. For example, a flight attendant who has been assigned to reserve status for 24 hours but has not reported for a duty period assignment during that time will not have satisfied the 24-hour-in-7-day rest requirement. The rest requirement is not satisfied, because the reserve assignment is a restraint and includes present responsibility for work as a flight attendant if the occasion arises.

Some commenters stated that reserve status should not be restricted by duty period requirements. The FAA refers the commenters to the definition of duty period in §§ 121.467(a) and 135.273(a) of the final rule, the first sentence of which reads: "Duty period means the period of elapsed time between reporting for an assignment involving flight time and release from that assignment. * * *" It should be clear that reserve status alone does not meet the definition of duty period. On the other hand, it also should be clear that reserve status may not be performed during a rest period. The definition of rest period in §§ 121.467(a) and 135.273(a) of the final rule states that "Rest period means the time period free of all restraint or duty for a domestic, flag, or supplemental air carrier or commercial operator and free of all responsibility for work or duty should the occasion arise."

Augmented Cabin Crews

This final rule permits operators to schedule flight attendants for duty periods of more than 14 hours provided an operator: (1) Assigns flight attendants in addition to the minimum flight attendant complement required for the flight or flights in that duty period under the certificate holder's operations specifications; and (2) schedules an extended rest period following the duty period.

Ten commenters submitted comments on the proposed augmented cabin crew requirements addressing: (1) The concept of augmenting cabin crews in proportion to the type of aircraft; (2) the relationship between augmented cabin crews and flight attendant fatigue; and (3) the effect of augmented crew requirements on unscheduled operators.

APA, NAA, and RAA noted that the proposed augmented cabin crew requirements are not based on the size of the aircraft. APA stated that if the FAA intends the provision for augmented cabin crews to be used only for long-range operations, this should be clarified in the final rule. APA noted that, under the proposed provisions, one flight attendant would be added to either a two-person crew or an eight-person crew. NAA noted that, one additional flight attendant on a Boeing 757 is a 20 percent increase in crew; one additional flight attendant on a wide-body airplane is a 7 percent increase in crew. NAA recommended that the FAA distinguish between wide-body and narrow-body airplanes by requiring one additional flight attendant for any duty period between 14 and 20 hours on a narrow-body airplane. RAA stated that operators of airplanes that require one or two flight attendants should not be required to augment cabin crews in order to schedule duty periods longer than 14 hours. RAA added that a passenger seat will be needed for an additional flight attendant. RAA also noted that regional operators schedule some duty periods longer than 14 hours; however, many of these include an intermediate rest period.

APA, the Coalition of Flight Attendant Unions, and RAA addressed the relationship between augmented cabin crews and fatigue. APA and the Coalition stated that a larger crew does not necessarily result in a less fatigued crew and noted that American Airlines, Trans World Airlines, United Air Lines, and USAir currently assign flight attendants in addition to the minimum crew complement. APA and the Coalition of Flight Attendant Unions noted that the proposal does not require an operator to provide a flight attendant with inflight rest. RAA stated that requiring augmented cabin crews for the purpose of reducing fatigue has been inadequately justified.

ATA and Delta Air Lines stated that the rule should permit a flight to operate if an augmented crew is assigned but not present for a flight because of unforeseen circumstances (e.g., illness or injury during a layover). Delta suggested that 1 hour of on-board crew rest for the remaining flight attendant crew could be provided in this circumstance.

AMR Combs noted that a change is needed for on-demand operators. They stated that a "larger" aircraft such as a Gulfstream or a Challenger cannot accommodate up to four flight attendants. AMR Combs stated that these operators would either apply for an exemption or not use a flight attendant.

FAA Response

This final rule provides scheduling flexibility by permitting an operator to schedule a flight attendant for a duty period of more than 14 hours if the flight attendant crew is augmented in accordance with § 121.467 (b)(4), (b)(5), or (b)(6), or § 135.273 (b)(4), (b)(5), or (b)(6). The augmented flight attendant crew provision permits extended duty periods to accommodate certain operational requirements such as those for long-range international flights, but this provision also may be applied to domestic operations.

The provision for augmented cabin crews is designed to reduce fatigue by decreasing flight attendant work load on a flight and by providing an extended rest period following a long duty day. Although the FAA recognizes that the provision will not require flight attendant crews to be augmented proportionally for each aircraft type, it provides the least complicated method for reducing fatigue and accommodating certain operational requirements. Therefore, in this final rule, the FAA adopts the provision for augmenting cabin crews on a flight or flights with a scheduled duty period of more than 14 hours but not more than 18 hours, and scheduled duty periods that do not exceed 20 hours for duty periods that contain one or more flights that land or take off outside the 48 contiguous states and the District of Columbia.

In response to comments from AMR Combs, Delta Airlines, and RAA, this final rule contains no provision to except an operator from meeting minimum augmented cabin crew requirements when a flight attendant duty period is scheduled for more than 14 hours in operations that require a flight attendant. This includes instances in which a required crewmember is not available following a layover, e.g., due to illness or injury. Additionally, the use of an approved passenger seat is required for operators that schedule flight attendants for duty periods of more than 14 hours on aircraft that are not configured with a flight attendant jumpseat for the additional flight attendant(s).

In response to AMR Combs' comment regarding the use of flight attendants in Gulfstream and Challenger aircraft, this final rule applies to operations that require a flight attendant. Typically, Gulfstream and Challenger aircraft are not configured with more than 19 passenger seats and a flight attendant is not required to be on board. Therefore, flight attendants assigned to such operations are not subject to the duty period limitations and rest requirements in this final rule. In addition, operators have the option to apply flight crewmember flight, duty, and rest requirements to flight attendants.

Deadhead Transportation

Proposed §§ 121.466(m) and 135.273(m) described deadhead transportation as time spent in transportation, not local in character, that a certificate holder requires of a flight attendant and provides to transport the flight attendant to an airport at which that flight attendant is to serve on a flight as a crewmember, or from an airport at which the flight attendant was relieved from duty to return to the flight attendant's home base. Under the proposal, time spent in deadhead transportation is not rest.

ATA, Delta Air Lines, and NACA requested that the final rule provide scheduling flexibility for flight attendants in deadhead transportation. ATA requested that the FAA permit: (1) Operators to schedule 2 hours of deadhead transportation to a domicile that is not counted within duty time limitations; (2) flight attendants to waive all duty time limitations when returning to a domicile and count the time as rest; and (3) flight attendants to delay the weekly rest requirement to return to the flight attendant's home base. Delta Air Lines stated that the FAA should permit a flight attendant to alter schedules to exceed the scheduled maximum duty time after the last flight segment to return to the flight attendant's home base. Delta also recommended that an operator be permitted to deadhead a flight attendant for up to 20 hours regardless of the number of assigned flight attendants. NACA suggested that the final rule clarify that the time a flight attendant spends deadheading is not limited by duty periods or the requirement to augment the flight attendant crew because no inflight duties are involved.

ATA and NACA stated that the final rule should clarify that a deadheading flight attendant is not a working member of the cabin crew for the purpose of determining if staffing requirements must be augmented.

The Coalition of Flight Attendant Unions and NACA agreed with the NPRM that the time a flight attendant spends in deadhead transportation is not rest.

FAA Response

Deadhead transportation as adopted in §§ 121.467(b)(12) and 135.273(b)(12) of this final rule is not considered part of a rest period. This use of deadhead transportation in relation to flight attendant duty period limitations and rest requirements is consistent with the application of flight crewmember flight time limitations and rest requirements.

In addition, a flight attendant scheduled for deadhead transportation is not assigned to duty in an aircraft and is not considered a working crewmember. Therefore, for the purpose of determining duty period limitations and rest requirements, deadhead transportation is not considered an assignment involving flight time and is not part of a duty period. In response to the comments submitted, the FAA reiterates that an operator is not required to augment flight attendant crews for flights when a flight attendant is assigned to deadhead transportation because the time spent in deadhead transportation is not part of a duty period. For example, an operator may schedule a flight attendant crew for a flight to Europe with a duty period of 14 hours. Immediately following the flight and before beginning a 9-hour rest period, the operator requires the flight attendant crew to deadhead for 2 hours to position the crew for the next duty period assignment. In this example, the operator is not required to augment the flight attendant crew because the deadheading portion of the assignment is not considered part of the duty period. However, the 2 hours spent positioning the crew for the next assignment are not considered part of the 9-hour rest period.

Flight Attendant Responsibility

Proposed §§ 121.466 and 135.273 state that a flight attendant may not accept a work assignment that does not meet the duty time limitations and rest requirements. Six commenters responded to this provision.

ATA, APA, Delta Air Lines, and RAA opposed this provision. The commenters stated that, if the provision were adopted, flight attendants would be subject to FAA civil penalties. The

commenters also expressed concern that the provision would interfere with labor-management relations. APA noted that a flight attendant could be permitted to complete a flight assignment that the flight attendant believes to be improper and to inform the FAA at the next opportunity.

The Coalition of Flight Attendant Unions included in its alternative the provision for a flight attendant to refuse a work assignment that does not meet the Coalition's proposed duty time limitations and rest requirements. In contrast, TWU Local 556, representing the flight attendants of Southwest Airlines, commented that the provision of flight attendant responsibility could place a flight attendant in the impossible position of risking either a fine from the FAA or discipline for insubordination from the airline if the carrier's scheduling department makes a mistake.

FAA Response

In light of comments received, the FAA has determined that only an operator, not a flight attendant, should be responsible for ensuring that duty limitations and rest requirements are met. The FAA bases its decision on the fact that a flight attendant could be called upon to decide between the violation of a regulation and possible disciplinary action from the company. That misunderstanding and conflict between company scheduling personnel and flight attendants could occur at a time when flight attendants should be giving their full attention to the passengers. In cases in which a flight attendant is aware that an assignment does not meet duty period and rest requirements, the FAA recommends that the flight attendant bring the situation to the air carrier's attention. If the situation is not corrected, the flight attendant should then inform the FAA. However, this recommendation does not preclude a flight attendant from informing the FAA before contacting the air carrier. In addition, flight attendant duty and rest time records are subject to FAA review. Air carriers found to be in noncompliance with the regulation are subject to enforcement action.

Recordkeeping

Sections 121.683(a)(1) and 135.63(a)(5) of the NPRM proposed requiring certificate holders to maintain current records on flight attendant duty and rest time requirements. The Coalition of Flight Attendant Unions, Southwest Airlines, TWU Local 556, and TWU of America agree with the proposed recordkeeping requirements. The Coalition of Flight Attendant Unions does not anticipate that the recordkeeping requirements as proposed in the NPRM would be unduly burdensome.

NAA stated that the cost of tracking crew time for duty and rest could be very expensive. NAA noted that many small carriers do not have expensive computer tracking systems and cannot afford to do manual tracking.

Delta Airlines stated that the one-time cost for computer software changes would be $368,000. NACA noted that one of its members estimates that the proposed recordkeeping requirements would cost $50,000 annually.

FAA Response

The information and recordkeeping requirements of this final rule are currently under review by the Office of Management and Budget. Provided that they are approved by OMB, the FAA adopts the recordkeeping requirements as proposed in the NPRM. These requirements will become effective when they have been approved by OMB. The FAA anticipates that this approval will be given soon.

The FAA recognizes that a concern of the aviation industry has been the potential cost involved in tracking crew time for duty and rest periods. The regulation provides that carriers maintain current records for each flight attendant to verify compliance with flight, duty, and rest time periods. The FAA intends to be as flexible as possible in interpreting this recordkeeping requirement. Records may be maintained by computer, by hand documentation, or by any other method that will permit a carrier to assure compliance with the regulatory requirements.

Since many carriers already track flight attendant duty periods to ensure that union contract or company guidelines on duty and rest time are met, the FAA expects that recordkeeping systems already in place will be sufficient to meet the recordkeeping requirements of the final rule with minimal modification. Carriers that do not currently track flight attendant duty periods will incur costs in developing recordkeeping systems; however, the flexibility built into the final rule should help to minimize these costs. Further, the FAA intends to assist these carriers by providing information and guidance based on already-implemented recordkeeping systems maintained by other air carriers.

Implementation Time of the Final Rule

ATA and Delta Air Lines requested that the FAA not implement this final rule immediately. They noted that operators will need time to revise their computer programs. ATA requested a 12-month implementation period; Delta requested an 18-month implementation period.

FAA Response

The FAA has considered the implementation periods proposed by ATA and Delta. However, in the interest of public safety, the FAA has determined that the final compliance date of this rule should be no later than March 1, 1995. Because most operators are currently using scheduling guidelines and tracking systems for flight attendants, the FAA has determined that the March 1, 1995, date is reasonable.

Additional Issues

Fatigue

Commenters who addressed flight attendant fatigue include ATA, the Coalition of Flight Attendant Unions, NACA, NTSB, RAA, SCA, and Southwest Airlines.

ATA emphasized that flight attendant fatigue caused by abusive scheduling or duty periods is not a problem in the scheduled airline industry. NACA, RAA, SCA, and Southwest Airlines emphasized that studies have found no correlation between flight attendant fatigue and the ability of a flight attendant to perform safety-sensitive functions. SCA point out that accident data do not specify flight attendant fatigue as a factor in delay of evacuation or in injuries or fatalities that occurred.

The Coalition of Flight Attendant Unions provided a summary of research on circadian dysrhythmia and fatigue with an extensive bibliography. NTSB reiterated Recommendation I–89–1, which stated that the Department of Transportation should "expedite a coordinated research program on the effects of fatigue, sleepiness, sleep disorders, and circadian factors on transportation system safety." Other commenters submitted copies of articles and recommendations related to fatigue.

FAA Response

The FAA has reviewed the extensive amounts of literature provided by commenters on fatigue related to travel and extended work periods as well as to shift work. Although consideration has been given to numerous fatigue studies, no accident/incident data is available to provide a direct correlation between flight attendant fatigue and passenger safety. However, it is evident that fatigue may affect flight attendant performance and that proper scheduling practices may help avoid compromising

flight attendant performance. The FAA recognizes that flight attendants perform essential safety duties and has determined that the requirements contained in this final rule enhance safety by protecting flight attendants from acute and chronic fatigue. This final rule addresses the potential safety problems that could occur if fatigued flight attendants work excessive duty hours or receive inadequate rest.

Industry Study

The principal commenters who addressed the Industry Study include AMR Combs, American Cyanamid Company, the Coalition of Flight Attendant Unions, and SCA.

American Cyanamid Company stated that the Industry Study does not indicate that there is a pattern of air carriers willfully scheduling long duty days or long series of days without a day off. The Coalition of Flight Attendant Unions indicated that the Industry Study has been used as evidence that extreme examples of scheduling abuse are isolated and that the actual occurrences of scheduling abuse were most likely under-reported because the instances provided in the Industry Study were "self-selected." The Coalition further stated that, even though the instances were self-selected, the Industry Study found industry-wide flight attendant duty and rest period problems. SCA stated that the Industry Study does not provide evidence to establish any correlation among flight attendant duty time, flight attendant safety duties, and risk to passengers. AMR Combs and American Cyanamid Company noted that the Industry Study did not consider unscheduled part 135 operators.

FAA Response

The FAA conducted the Industry Study to determine if scheduling extremes exist, and, if so, to determine the nature of the extremes, not to determine the statistical frequency with which they occur or to correlate passenger risk with extreme scheduling. Access to records was gained through the cooperation of air carriers. The air carriers did not choose individual records for examination. Based on the purpose of the study, records were selected for review when flight attendant scheduling extremes were expected to be likely. Therefore, statistical inferences cannot be made. However, the data contained in the Industry Study provides fundamental background information on flight attendant scheduling practices.

The Industry Study included a review of data from major, national, regional, and supplemental carriers. The study did not include a review of unscheduled part 135 operators because relatively few of these operators conduct operations that require a flight attendant. As previously discussed, air carriers and commercial operators conducting operations for which the FAA does not require a flight attendant will not be required to comply with flight attendant duty period limitations and rest requirements even if flight attendants are involved in those operations.

International and Domestic Operations

The proposed amendment did not make a distinction between domestic and international operations in determining flight attendant duty limitations and rest requirements. Five commenters commented on whether there should be a distinction between domestic and international operations for determining flight attendant duty period limitations and rest requirements. Four commenters, including the Coalition of Flight Attendant Unions and the International Association of Machinists and Aerospace Workers (IAM & AW), supported making a distinction. The Coalition provided definitions for a domestic flight, an international flight, and a long-range international flight. One commenter stated that flight attendants assigned to international flight require more rest than flight attendants assigned to domestic flights because flight attendants on international flights are in a state of physical desynchronization. Another commenter stated that duty period limits should be 12 hours for domestic flights and 14 hours for international flights. NAA stated that no distinction should be made between international and domestic flights because some domestic flights are as long as international flights and the work load is the same for the crew.

FAA Response

After a review of the Coalition comments and an analysis of flight schedules, the FAA finds that scheduled duty periods for operations wholly within the 48 contiguous states and the District of Columbia should not be allowed to exceed 18 hours. The FAA is not aware of any scheduled duty periods for these operations that currently do exceed 18 hours. However, for duty periods involving one or more flights that land or take off outside the 48 contiguous states and the District of Columbia, the duty period may not exceed 20 hours. Thus, the final rule makes this distinction between domestic and international operations.

Part 125 Operators

The NPRM proposed that each flight attendant be relieved from all duty for at least 8 consecutive hours during any 24-hour period.

Two commenters, including the Coalition of Flight Attendant Unions, addressed this proposal. The Coalition recommended that the 8-hour period free of duty be replaced with a 10-hour period free of duty.

FAA Responses

Section 125.37, Duty time limitations, currently requires a flight crewmember to be relieved from duty for at least 8 consecutive hours during any 24-hour period. The final rule incorporates flight attendants into the current provision, thus providing parallel duty time limitations for flight attendants and flight crewmembers.

Rules for Flight Attendants in Other Nations

APA, the Coalition of Flight Attendant Unions, and the IAM & AW noted that flight attendants in other nations have regulations that provide flight attendant duty time limitations and minimum rest requirements. APA stated that the proposed Joint Aviation Authorities (JAA) regulations address issues related to fatigue. The Coalition provided a copy of the proposed JAA rules.

FAA Response

During the Industry Study, the FAA conducted a review of the International Civil Aviation Organization's (ICAO) regulations relating to flight attendant flight, duty, and rest times including a review of ICAO Circular Flight Crew Fatigue and Flight Time Limitations (52–AN/47/6). The Industry Study identified 23 countries that have government regulations for flight attendant flight and duty limitations and rest requirements, and 24 countries that do not have such regulations. The FAA notes that the Joint Aviation Regulations currently do not include flight time limitations for flight attendants; however, the JAA have proposed flight time limitations for flight crewmembers and flight attendants that are currently under review by the European Community. Based on this information, the FAA has determined that flight attendant flight and duty limitations and rest requirements of some countries are less stringent than the final rule adopted by the FAA, and the requirements of other countries are more stringent than those

being adopted. Therefore, the FAA considers the final rule to be within the range of worldwide governmental regulations governing flight attendant duty limitations and rest requirements.

Changes to the NPRM

The FAA amended several provisions of the proposed rule in response to comments received from the public. Any changes that significantly altered the requirements of the duty period limitations and rest requirements are discussed previously and are summarized in this section.

The NPRM made no distinction between domestic and international operations. In the final rule domestic operations are limited to up to 18-hour scheduled duty periods. However, scheduled duty periods that involve one or more flights that land or take off outside the 48 contiguous states and the District of Columbia may be scheduled up to 20 hours, providing required augmentation is provided.

The FAA moved flight attendant duty period limitations and rest requirements from proposed § 121.466 in the NPRM to § 121.467 in the final rule to facilitate the incorporation of future amendments. In addition, paragraphs describing duty period and rest period provisions in the NPRM have been revised and renumbered in the final rule to incorporate new and revised requirements. The FAA also revised the NPRM to include minor editorial changes and revised the list of subjects to include additional terms.

Based on comments receive, the FAA removed the proposed requirement that a flight attendant be responsible for ensuring compliance with duty period limitations and rest requirements before accepting any flight assignments. The FAA determined that this is an operator's responsibility and not the responsibility of a flight attendant.

The NPRM included the proposal that an operator may not assign a flight attendant a duty period of 14 or more hours following a 10-hour reduced rest period. In §§ 121.467(b)(9) and 135.273(b)(9), the FAA revised the NPRM to restrict an operator from assigning a flight attendant to a duty period of "more than 14 hours" following a 10-hour reduced rest period. This change permits an operator to assign a flight attendant to a duty period of up to and including 14 hours following the reduced rest period.

The FAA incorporated provisions into the final rule to give operators the option to apply the flight crewmember flight, duty, and rest requirements to flight attendants. The FAA permits this option provided that the operator establishes written procedures that are referenced in the certificate holder's operations specifications for applying the appropriate flight crewmember flight, duty, and rest requirements to flight attendants.

The following chart depicts the scheduled duty period, rest period, and augmented flight attendant crew requirements for this final rule.

Scheduled duty period	Minimum rest period	Reduced rest period	Rest period following reduced rest	No. of flight attendants
14 hrs or less	9 hrs	8 hrs	10 hrs	Minimum.
14–16 hrs	12 hrs	10 hrs	14 hrs	Minimum + 1.
16–18 hrs	12 hrs	10 hrs	14 hrs	Minimum + 2.
*18–20 hrs	12 hrs	10 hrs	14 hrs	Minimum + 3.

*Applies only to duty periods with one or more flights that land or take off outside the 48 contiguous States and the District of Columbia.

Costs

In the NPRM, the FAA requested additional information on the costs of the proposed rule. The FAA received comments from associations, labor organizations, and part 121 operators.

ATA, which primarily represents part 121 scheduled operators, stated that the proposal would cost its members at least $8 million annually to revise current computer crew scheduling programs, hire additional personnel, extend layovers, and schedule reserves. ATA believes that the costs were understated in the NPRM and noted that they did not include an inflation factor. ATA indicated that the 15-year cost of the proposed rule would be $88,947,099 using a 7-percent discount rate and a 3-percent inflation rate. RAA stated that the costs associated with the proposed rule are significantly understated. In addition, RAA believes that the economic effect of the proposed rule should reflect the cost burden of other recent rulemakings. NACA stated that the proposal would cost one of its members an estimated $372,000 annually for additional staffing and $50,000 annually to meet recordkeeping requirements.

The Coalition of Flight Attendant Unions stated that the median flight attendant salary, based on the average salary for supplemental air carrier flight attendants represented by the Association of Flight Attendants (AFA), is $18,461. According to the Coalition, if 6,000 flight attendants are hired by supplemental operators, the cost in salaries will be $1,107,660 [sic]. The Coalition noted that this is one tenth the cost of random drug testing.

Delta Airlines, a scheduled part 121 operator, indicated that the initial cost to comply with the proposed rule would be $2,863,416. This cost includes the cost of hiring 36 additional flight attendants, estimated at $1,348,000; paying flight attendants during deplaning, estimated at $749,000; providing additional meals, estimated at $400,000; and modifying computer software, estimated to be a one-time cost of $367,000. Delta estimates that the annual cost to comply with the proposed rule would be $2.5 million.

Sun Country Airlines, an unscheduled part 121 operator, stated that it would be required to augment cabin crews on domestic flights more often than it now does. Sun Country Airlines also stated that, if the NPRM had been effective in 1992, the carrier would have hired an additional 34 flight attendants and the cost to domestic operations would have been $2.6 million in salaries, benefits, training, hotels, meals, deadhead travel, and administrative burden. Sun Country Airlines pointed out that the NPRM estimated that supplemental operators would absorb 60 percent of the proposal's costs while supplemental operators employ only 1 percent of all flight attendants.

Great American Airways, an unscheduled part 121 operator, stated that the proposed rule would impose substantially greater costs on supplemental air carriers. Positioning flight attendants would become a major expense for supplemental operators. Unanticipated schedule and routing changes could severely curtail current flexibility. However, Great American Airways stated that the disruptions mentioned above would be minimized if supplemental air carriers had the option to apply the same work rules to both flight attendants and pilots. Great American Airways estimates that the total cost savings that would be derived

from implementing a single set of duty limitations for its cabin and flight crewmembers, as opposed to adopting the requirements proposed in the NPRM, would be more than $100,000 annually.

FAA Response

The comments that address the costs associated with this final rule are addressed in the Regulatory Evaluation Summary.

Paperwork Reduction Act

Information collection requirements for parts 121, 125, and 135 have been previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Numbers as follows: For part 121, OMB Control Number 2120–0008; for part 125, OMB Control Number 2120–0085; and for part 135, OMB Control Number 2120–0039. The FAA has prepared changes to these control numbers to reflect the additional paperwork requirements of this final rule and has submitted these changes to OMB.

In completing this rulemaking, the FAA has been mindful that it is the policy of the agency and the Administration to avoid imposing unnecessary paperwork burdens on industry. To that end, the FAA has carefully considered all comments on recordkeeping and has made every attempt to minimize the paperwork burden for carriers. For example, allowing carriers to employ a single scheduling system for entire crews—pilots and flight attendants—will enable them to avoid maintaining two separate duty schedules. Indeed, for many carriers, the FAA believes the final rule will create little or no net additional paperwork.

Regulatory Evaluation Summary

The FAA has determined that this rule: (1) Is a significant regulatory action as defined in the Executive Order; (2) is significant as defined in Department of Transportation's Regulatory Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; and (4) would not constitute a barrier to international trade. These analyses, summarized below, are available in the docket.

Cost-Benefit Analysis

Benefits

The FAA expects the final rule to help ensure that flight attendants are rested and alert when performing emergency and routine safety related duties and thereby reduce injuries and fatalities in air carrier accidents. However, as in the NPRM, the FAA has not quantified the benefits associated with this rulemaking because there is a lack of accident/incident data that can be used to directly correlate flight attendant fatigue with passenger fatalities and injuries. Instead, the FAA has examined the potential benefits of this rulemaking from a qualitative perspective.

Increased Safety

The FAA received comments both supporting and opposing the correlation between flight attendant duty period limitations and rest requirements and passenger safety. One commenter stated that fatigue increases during the work period, and duty times that exceed 12 hours for domestic flights and 14 hours for international flights can be expected to potentially derogate safety performance. Another commenter stated that the FAA has provided no sufficient foundation for concluding that the absence of the proposed regulations constitutes a derogation of aviation safety, and that the absence of any experience in which a flight safety problem was attributable to undue flight attendant fatigue is a strong argument that no such problem exists.

FAA Response

The FAA agrees with commenters who stated that inadequate rest or excessive duty periods could derogate safety. However, the commenters did not define acceptable or unacceptable levels of risk, and did not provide any justification for the distinction. Because quantifiable data was not available, the FAA was unable to calculate the quantitative benefits of the rule.

The FAA recognizes that inadequate rest periods for flight attendants could create a potential safety problem. Therefore, the FAA expects that this final rule will ensure that flight attendants receive the opportunity to be rested and alert when performing emergency and routine safety-related duties, thereby reducing passenger and crew injuries and fatalities.

Increased Worker Productivity

The Coalition stated that, in addition to improving the safety of air travel, the regulatory evaluation should take into account the cost savings from improved worker productivity. That commenter also stated that a careful review of various studies would likely reveal that the benefits of more reasonable duty hours and adequate rest include decreased absenteeism and health problems related to fatigue. The Allied Pilot Association stated that "the welfare of regulated employees ought to be one of the concerns of rulemakers."

FAA Response

The FAA has examined the impact of improved worker productivity as it relates to safety and has determined that reduced rest for flight attendants could impede flight attendant performance during emergency evacuations or during routine safety duties requiring a high degree of alertness. Cost savings could result from improved worker productivity; however, no information is available to quantify this benefit.

The change in duty hours coupled with adequate rest could decrease absenteeism and improve health. However, the information needed to quantify this, is not currently available.

In addition, the FAA is concerned with passenger and crewmember safety, and is sensitive to crewmember health and welfare. The FAA recognizes that employee health could improve if employees get more rest.

Costs

Cost estimates contained in this summary are based on 1993 dollars and are discounted at an annual effective rate of 7 percent. The FAA estimates that the cost to the air carrier industry of establishing flight attendant duty period limitations and rest requirements will be $42.7 million over a 15-year period. The FAA expects that operators would incur costs in the areas of recordkeeping and additional staffing.

Cost estimates for supplemental air carriers and scheduled major, national, and regional/commuter operators are separated. The FAA estimates that the nondiscounted cost for all supplemental air carriers for the first year will be approximately $2.5 million, and the annual nondiscounted cost for all supplemental carriers would be approximately $2.23 million. The FAA estimates that the total discounted costs for supplemental air carriers over 15 years will be approximately $20.8 million. The FAA estimates that the first-year nondiscounted cost for scheduled major, national, and regional/commuter operators will be approximately $2.9 million, and the annual nondiscounted cost for these operators would be approximately $1.2 million. The FAA estimates that the total discounted costs for scheduled major, national, and regional/commuter over 15 years will be approximately $21.9 million. Therefore, over 15 years, the discounted cost for the air carrier industry will be $42.7 million.

The above cost estimate is based on the assumption that air carriers must augment their flight attendant crews. In

some situations, augmentation under the flight attendant rule requirements may be avoided if an air carrier adopts and applies to flight attendants, by option, the international, supplemental carrier pilot rules covering flight and duty period.

Twenty-Four Consecutive-Hour Rest Period During any Seven Consecutive Days

Southwest Airlines stated that the requirement for 24 consecutive hours of rest during any 7 consecutive days would make it necessary for the air carrier with which the commenter is affiliated to hire about 100 additional flight attendants at a first-year cost of $710,000 and a subsequent annual cost of $600,000. A commenter representing Transport Workers Union of America on behalf of Southwest Airlines flight attendants indicated that the proposed rule, if adopted, would create a financial burden for flight attendants and their employers and would result in an average annual loss of $11,063 in extra income for each flight attendant. This loss, projected for 2,200 flight attendants for 1 year, would total $24 million in lost income.

FAA Response

The requirement for 24 consecutive hours of rest in any 7 consecutive days is designed to supplement daily rest requirements and to ensure that flight attendants receive the opportunity for adequate rest. The FAA did not verify lost flight attendant income, because the annual loss of extra income to some flight attendants represents a gain to flight attendants who would be hired. This income transfer is not considered a cost of this rulemaking.

Single Set of Duty Time Rules for Cabin and Flight Crew Members

Great American Airways stated that the total cost savings derived from implementing a single set of duty time rules for its cabin and flight crewmembers, as opposed to adopting the rules proposed in the NPRM, would exceed $100,000 per year.

FAA Response

The FAA recognizes that giving operators the option to apply flight crewmember flights, duty, and rest requirements to flight attendants may provide a cost savings to certain operators, particularly supplemental operators. The FAA expects that the operators that choose the option will incur costs that are lower than those estimated in the final regulatory evaluation.

However, the FAA recognizes that operators who choose to apply the flight crewmember regulations for duty limitations and rest requirements must submit an application to the appropriate Flight Standards District Office for approval. This is a minor, one-time cost, and the FAA assumes that operators who choose to incur this cost would do so because it would obviate those operators from designing and establishing a tracking system for flight attendants. Instead, this option would allow them to use whatever system is in place for flight crewmembers. The application process chosen was selected deliberately out of concern that recordkeeping costs be kept to a minimum. That is, the FAA chose an application process that is very familiar to carriers, the commonly-used procedure for changes to operations specifications.

Limiting Scheduled Duty Period to Fourteen Hours

Great American Airways stated that limiting scheduled flight attendant duty periods to 14 hours would force the air carrier and other supplemental air carriers to add flight attendants at intermediate stops. The commenter stated that, because company-required deadhead transportation would be considered part of a duty period under the FAA's proposal, it would be necessary to schedule flight attendants for required rest after they completed a deadhead flight segment and before they began the next duty period.

This commenter also stated that the proposed rules would impose substantially greater costs on supplemental air carriers than other air carriers because supplemental air carriers rarely have travel privileges with scheduled carriers, and, when they do, they are often very restrictive. Finally, this commenter stated that unanticipated schedule and routing changes occur more frequently among charter operators than scheduled carriers and could severely curtail the flexibility of supplemental air carriers.

FAA Response

The FAA agrees that the greatest costs will be incurred by air carriers that schedule flight attendants for the longest duty periods. However, the commenter does not appear to provide any information on the air carrier's ability to augment existing crews. The FAA points out that costs could be minimized by using crew argumentation as a means of compliance. In addition, time spent in deadhead transportation is not considered part of a duty period; therefore, an operator is not required to provide a rest period for flight attendants following time spent in deadhead transportation.

Overall Costs

ATA stated that the FAA has understated costs considerably. This commenter stated that the annual cost of complying with the proposed regulation would be at least $8.0 million. This cost would include programming expenses, additional personnel costs, costs associated with extended layovers, and costs associated with reserve scheduling (assuming that carrier reserve scheduling practices are not modified). Assuming a discount rate of 7.0 percent and an inflation rate of 3.0 percent, the 15-year present value cost for the association's members would be approximately $88.9 million.

FAA Response

The survey of ATA members indicates that the annual cost would be at least $8.0 million. ATA stated that added annual personnel costs for air carrier operators would be $4.0 million, additional meal/hotel expenses would be $1.5 million, and additional reserve staffing would be $2.5 million. Finally, ATA stated that carriers can expect to incur a one-time expense of between $2.0 million and $3.0 million for computer system program modifications. After contracting ATA twice after the comment period closed to obtain clarifying information, the FAA concluded that their estimate could not be used in its entirety because information such as the number of affected carriers, wage rates, additional employees needed, or hours worked was not provided.

In addition, ATA did not provide information on the cost of augmenting the existing crew. The FAA permits longer duty periods with the use of augmented crews. FAA data indicates that many flights are staffed with more than the minimum flight attendant crew complement; therefore, little or no additional cost would be incurred to meet the crew argumentation requirements.

ATA also stated that the 15-year present value cost for its members would be $88.9 million. This estimate assumed a discount rate of 7.0 percent and an inflation rate of 3.0 percent. The basis for the commenter's estimate of the annual cost ($8.0 million) was not detailed enough for the FAA to use it or the 15-year estimate derived from it.

The FAA has nevertheless attempted to develop an industry cost estimate by recalculating the ATA estimate to exclude the ATA inflation factor and by accounting for the fact that ATA

members only represent a portion of the industry that would be affected. As shown in the Regulatory Evaluation, that figure would be $78.8 million. However, the original information provided could not be fully substantiated, which suggests that the ATA estimate may not be representative of the total industry.

Supplemental Carriers

The Coalition stated that the median flight attendant salary at supplemental air carriers is $18,461. The commenter indicated that this estimate may be high because it represents the average salary at supplemental carriers that have a collective bargaining agreement with their flight attendant workforce. The commenter also stated that the FAA assumed that the rule would lead to the hiring of 6,000 flight attendants at supplemental carriers, and that the additional cost for these new hires would be $1,107,600. The FAA received revised salary information from the commenter stating that the average salary of a flight attendant working for a supplemental carrier is $24,552, which includes $6,092 in benefits.

FAA Response

The final regulatory evaluation assumes that, in the case of supplemental operators, each flight attendant works 150 duty periods, and that a carrier's cost per duty period is $163.68. Therefore, the cost of 6,000 additional duty periods would be $982,100. To the extent practicable, this cost estimate for supplemental operations was used in developing the final regulatory evaluation.

Irregular Operations

Delta Air Lines stated that the proposed rule would cause the air carrier to incur costs associated with irregular operations. The air carrier estimated that it would have to hire 36 flight attendants at an annual salary cost of $1.3 million for irregular operations. Other costs associated with hiring additional flight attendants to meet the requirements of the proposed rule, if adopted, would total $2.86 million in the initial year. The recurring annual cost of the proposed rule, if adopted, would be nearly $2.5 million.

This commenter stated that, based on operations in June/July 1992 and January/February 1993, 62 flight attendants working together did not meet the requirements of the NPRM and would require crew replacement. The commenter typically schedules flight attendants for 3-day city pairings with an average flight attendant crew of six. Because most of the replacements that were needed were on domestic flights, the commenter used an average of four flight attendants. These results showed that 744 additional duty days would be required. The commenter calculated that an additional 36 flight attendants would be needed because a reserve flight attendant is available to fly an average of 20.5 days per month. Given an average monthly salary of almost $2,500, plus monthly hotel, meal, and transportation expenses of almost $650 for irregular operations, the cost for a flight attendant would be about $3,100 per month, or $1.3 million annually.

The commenter also stated that they do not have a deplaning period. That is, pay and expenses cease at the block-in time of the last flight in the duty period for the trip. This commenter calculates that the cost of a 15-minute deplaning period would result in the hiring of 20 additional flight attendants. The cost would amount to $749,000 annually.

Finally, the commenter provided information documenting the carrier's one-time cost of computer software changes, including recordkeeping. The only additional information is that the cost of programming and testing per man-hour is $40.

FAA Response

The FAA received clarification from the commenter stating that "An Ad Hoc Computer Program was developed to search through our crew tracking systems to identify irregular operations that had occurred that would have required crew replacement under the NPRM." The commenter also stated that the NPRM "Would require crew replacement." Finally, the commenter stated that they used an average crew of four flight attendants in their calculations, which implies that they were replacing their existing crew. This leads the FAA to assume that the commenter did not consider crew augmentation. However, the FAA did use some of the salary and cost data provided by the commenter.

With regard to hiring additional flight attendants for a 15-minute deplaning period, the FAA notes that there is no new requirement in this rule concerning deplaning; deplaning of the aircraft is a current requirement.

Small Operators

Sun Country Airlines operates a fleet of 10 aircraft with 520 employees, 170 of whom are flight attendants. Based on 1992 operations, the proposed rule would have required the commenter to hire 34 additional flight attendants, which would have increased operating costs (i.e., salaries, benefits, costs of training, hotels, meals, deadhead travel, and general administrative overhead) by $2.6 million in 1992. However, this air carrier stated that, by applying crewmember flight, duty, and rest requirements to flight attendants, the air carrier would need to employ 20 additional flight attendants rather than 34 additional flight attendants, with increased operating costs of $1.75 million rather than $2.6 million. However, these lower costs still exceeded the entire 1992 new profit for this carrier.

The Regional Airline Association stated that the proposed rule would either require an additional jump seat in the cabin for which there is insufficient space or it would require that a passenger seat be set aside for the additional flight attendant. This commenter stated that daily or routine loss of a revenue seat on a fleet of regional aircraft with 20 to 50 seats would be enormous. It also pointed out the added costs associated of layover lodging, meals, and per diem, and the significant incremental weight of an added crewmember.

The National Air Carrier Association stated that the proposed rule would impose costs of approximately $372,000 in additional flight attendant staffing, and approximately $50,000 in recordkeeping.

FAA Response

The FAA received additional clarification from Sun Country indicating that the proposed rule would cost $2.6 million. The annual cost to deadhead flight attendants to their domicile would be $832,000. In addition, hotel accommodations would be $842,000, added per diem cost would be $308,000, initial and recurrent training would be $10,200, and administrative costs would be $58,000. Because this commenter does not have any interline agreements, it would have to pay the added costs for deadhead tickets. This commenter estimated that these costs would be $579,000.

Based upon this cost estimate, the cost per added flight attendant would be about $76,500 per flight attendant ($2.6 million divided by 34 additional flight attendants). If this commenter did not have to incur the costs for deadhead tickets, then the added cost would be $60,300 per flight attendant.

The commenter also provided information stating that the annual cost of applying the part 121 supplemental carrier pilot flight, duty, and rest requirements to flight attendants would be $1.75 million. The added cost of 20 flight attendants would be $489,000. Hotel expenses would be $679,000; per diem costs would be $244,000; training

would cost $6,000; and administrative costs would be $34,000. Finally, the annual cost of deadheading flight attendants back to their place of domicile would be $289,000.

Based upon their total cost estimate, the cost per added flight attendant would be $1.75 million divided by 20 additional flight attendants, or about $87,000 per flight attendant. If this commenter did not have to incur the costs for deadhead tickets, then the added cost would be $72,600 per flight attendant.

The FAA contends that these cost estimates represent the costs associated with replacing the existing crew. The cost estimates do not appear to represent the costs associated with augmenting the existing crew with additional flight attendants. An air carrier whose goal is profit maximization and cost minimization would choose the least costly means of achieving compliance with the proposed rule, and, in most cases, that appears to be the crew augmentation option.

RAA asserted that the final rule would impose costs based on the fact that some aircraft would fly longer than 14 hours and full. The FAA contacted this commenter and asked a clarifying question on the number of times that an aircraft would fly more than 14 hours full. The commenter was unable to provide information to substantiate this assertion, and therefore, while a problem may exist, the FAA is unable to determine the magnitude of it.

The FAA received additional information from a NACA member (American Trans Air) stating that, to calculate annual costs, they multiplied the average number of block hours in the fleet by the percentage of flight hours the NPRM is expected to affect. The product is the total number of affected block hours.

The number of affected block hours was then divided by the expected number of flight attendant utilization hours, which varies by aircraft type, and multiplied by the number of flight attendants to compute crew requirements. Based on this calculation, 20 additional flight attendants would be needed to meet the requirements of the proposed rule. This commenter then multiplied the number of additional flight attendants by their annual salary, including fringe benefits and training, to arrive at a cost estimate of $372,000. Administrative costs of $80,000 were added.

The FAA received additional clarification that the percentage of flight hours was based upon the commenter's examination of all flights that exceeded 14 hours. The commenter did not look at flights of 14 to 16 hours, 16 to 18 hours, or 18 to 20 hours.

The commenter divided the number of affected block hours by the expected flight attendant utilization hours (Boeing 727, 60 hours; Boeing 757 and Lockheed L–1011, 56 hours). The commenter did not know how many duty periods this represented. After multiplying this number by the number of flight attendants needed to complete crew requirements, the commenter concluded that 20 additional flight attendants would be needed to augment its flights.

The $13,000 annual salary represents a flight attendant's first-year salary without overtime. The 20 percent benefits estimate represents the company's portion of employee benefits.

To the extent practicable, the cost information provided by commenters was used to revise the cost estimates in the final regulatory evaluation.

Recordkeeping Costs

Several commenters provided the FAA with information on recordkeeping. The Air Transport Association estimated that air carriers would incur a one-time expense for computer system program modifications of $2.0 million to $3.0 million. Delta Air Lines stated that the one-time cost of software computer changes, including recordkeeping, would be $367,200. American Trans Air, a member of the National Air Carrier Association, stated that administrative costs would be $80,000, approximately $54,000 of which would be the cost to program and upgrade software, and $26,000 of which would be the cost of data entry and associated labor.

FAA Response

Because of limited supporting documentation, a wide variation between commenters' estimates, and the difficulty of ascertaining what portion of the recordkeeping costs could be attributed to the implementation of this final rule versus the cost to upgrade current systems, the FAA stands by its original recordkeeping cost estimate.

Summary of Benefits and Costs

The FAA estimates that the cost of compliance with the requirements of this final rule will be $42.7 million, discounted.

Although benefits cannot be quantified, the FAA concludes that the establishment of flight attendant duty period limitations and rest requirements are warranted, because they will contribute to an overall enhancement of transport category airplane safety and utility that will both promote and enhance the U.S. air transportation system.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a proposed rule would have "a significant economic impact on a substantial number of small entities." FAA Order 2100.14A outlines FAA's procedures and criteria for implementing the RFA.

The fleet size for an operator of aircraft for hire to be considered a small entity is nine or fewer aircraft. The threshold annualized cost levels for operators of aircraft for hire in 1993 dollars are $117,800 for scheduled operators whose fleets have aircraft with seating capacities of more than 60, $67,000 for scheduled operators whose fleets have aircraft with seating capacities of 60 or less (other scheduled operators), and $4,570 for unscheduled operators. The proposals in the NPRM would affect air carriers that provide passenger-carrying operations in aircraft for which flight attendants are required. Other types of aviation companies would not be affected. A "substantial number" of small entities is a number that is not less than 11 and that is more than one-third of the small entities subject to this rule.

According to FAA records of small entity air carriers that provide passenger-carrying operations in aircraft that require flight attendants, there are 23 part 125 and 135 operators that could be affected by the final rule. Of these 23 operators, 7 are part 121/135 operators, 12 are part 125 operators, and 4 are part 135 operators. The affected operators are those with nine or fewer aircraft. At least one of the aircraft that they own have a seating configuration of more than 19 as described in either § 125.269 or § 135.107 and therefore would have at least one flight attendant on board. There are also 8 part 121 operators that would be affected by the final rule. In July 1993, there were a total of 25 part 121/135 operators, 39 part 125 operators, and 3,040 part 135 operators. There are also more than 100 part 121 operators. The number of carriers that could be affected by the rule does not exceed one-third of the total number of carriers in any of the four categories of operators (parts 121, 121/125, 125 and 135). The FAA has therefore determined that a regulatory flexibility analysis is not necessary.

International Trade Impact Statement

This final rule would not constitute a barrier to international trade, including the export of American goods and services to foreign countries and the import of foreign goods and services into the United States.

The FAA has determined that the amendments to parts 121 and 135 will not have a significant impact on international trade. The final rule is not expected to have an impact on trade opportunities for U.S. firms doing business overseas or foreign firms doing business in the United States. This finding is based in large part upon the review of foreign civil aviation regulations governing flight attendant flight and duty time practices and minimum rest requirements found in the Industry Study as well as information supplied by commenters to the public docket.

The Industry Study review shows that 23 countries, including Argentina, Belgium, Brazil, Denmark, the Netherlands, France, Norway, Portugal, Sweden, Switzerland, and West Germany, have government regulations on flight attendant flight and duty times and rest periods.

The comment provided by the Flight Attendants states that the European Community, through its Joint Aviation Authority (JAA) "is poised to issue flight attendant duty time and rest provisions which would be based on state of the art research concerning work schedules and fatigue." They state that the JAA rule would base duty time and rest limits on the time of departure and the number of segments flown.

On the other hand, the Industry Study noted that 24 countries, including Australia, Canada, Greece, Ireland, Italy, Japan, and Mexico, do not regulate flight attendant work time.

The FAA concludes that there are many countries with flight attendant flight and duty times and rest periods and many countries without these regulations. Second, many firms in the United States appear to be already in compliance or near compliance with the final regulation. Therefore, the FAA has determined that the amendments to parts 121, 125, and 135, will not have a significant impact on international trade.

Federalism Implications

The regulation herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, the FAA has determined that this regulation is a significant regulatory action under Executive Order 12866. In addition, the rule is considered significant under DOT Regulatory Policies and Procedures. However, the FAA has determined that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities or on international trade. A final regulatory evaluation of the regulation, including a final Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under FOR FURTHER INFORMATION CONTACT.

Paperwork Reduction Act Approval

Sections 121.683(a)(1), 135.63(a)(3), 135.63(a)(4)(x), 135.63(a)(5), and 135.63(b) are not effective until the OMB has approved the Paperwork Reduction Requirements. The FAA will publish a document in the Federal Register following OMB approval of the Paperwork Reduction Requirements.

List of Subjects

14 CFR Part 121

Air carriers, Aircraft, Aircraft pilots, Airmen, Airplanes, Aviation safety, Hours of work, Pilots, Reporting and recordkeeping requirements, Safety.

14 CFR Part 125

Aircraft, Airmen, Airplanes, Aviation safety, Hours of work, Pilots.

14 CFR Part 135

Air carriers, Aircraft, Airmen, Airplanes, Aviation safety, Hours of work, Pilots, Reporting and recordkeeping requirements, Safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends parts 121, 125, and 135 of the Federal Aviation Regulations (14 CFR parts 121, 125, and 135) as follows:

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

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g).

2. The heading for subpart P is revised to read as follows:

Subpart P—Aircraft Dispatcher Qualifications and Duty Time Limitations: Domestic and Flag Air Carriers; Flight Attendant Duty Period Limitations and Rest Requirements: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators

3. Section 121.461 is revised to read as follows:

§ 121.461 Applicability.

This subpart prescribes—

(a) Qualifications and duty time limitations for aircraft dispatchers for domestic and flag air carriers; and

(b) Duty period limitations and rest requirements for flight attendants used in air transportation by domestic, flag, and supplemental air carriers, and in air commerce by commercial operators.

4. Section 121.467 is added to subpart P to read as follows:

§ 121.467 Flight attendant duty period limitations and rest requirements: Domestic, flag, and supplemental air carriers and commercial operators.

(a) For purposes of this section—

Calendar day means the period of elapsed time, using Coordinated Universal Time or local time, that begins at midnight and ends 24 hours later at the next midnight.

Duty period means the period of elapsed time between reporting for an assignment involving flight time and release from that assignment by the domestic, flag, or supplemental air carrier or commercial operator. The time is calculated using either Coordinated Universal Time or local time to reflect the total elapsed time.

Flight attendant means an individual, other than a flight crewmember, who is assigned by a domestic, flag, or supplemental air carrier or commercial operator, in accordance with the required minimum crew complement under the certificate holder's operations specifications or in addition to that minimum complement, to duty in an aircraft during flight time and whose duties include but are not necessarily limited to cabin-safety-related responsibilities.

Rest period means the period free of all restraint or duty for a domestic, flag, or supplemental air carrier or commercial operator and free of all responsibility for work or duty should the occasion arise.

(b) Except as provided in paragraph (c) of this section, a domestic, flag, or

supplemental air carrier or commercial operator may assign a duty period to a flight attendant only when the applicable duty period limitations and rest requirements of this paragraph are met.

(1) Except as provided in paragraphs (b)(4), (b)(5), and (b)(6) of this section, no domestic, flag, or supplemental air carrier or commercial operator may assign a flight attendant to a scheduled duty period of more than 14 hours.

(2) Except as provided in paragraph (b)(3) of this section, a flight attendant scheduled to a duty period of 14 hours or less as provided under paragraph (b)(1) of this section must be given a scheduled rest period of at least 9 consecutive hours. This rest period must occur between the completion of the scheduled duty period and the commencement of the subsequent duty period.

(3) The rest period required under paragraph (b)(2) of this section may be scheduled or reduced to 8 consecutive hours if the flight attendant is provided a subsequent rest period of at least 10 consecutive hours; this subsequent rest period must be scheduled to begin no later than 24 hours after the beginning of the reduced rest period and must occur between the completion of the scheduled duty period and the commencement of the subsequent duty period.

(4) A domestic, flag, or supplemental air carrier or commercial operator may assign a flight attendant to a scheduled duty period of more than 14 hours, but no more than 16 hours, if the air carrier or commercial operator has assigned to the flight or flights in that duty period at least one flight attendant in addition to the minimum flight attendant complement required for the flight or flights in that duty period under the air carrier's or the commercial operator's operations specifications.

(5) A domestic, flag, or supplemental air carrier or commercial operator may assign a flight attendant to a scheduled duty period of more than 16 hours, but no more than 18 hours, if the air carrier or commercial operator has assigned to the flight or flights in that duty period at least two flight attendants in addition to the minimum flight attendant complement required for the flight or flights in that duty period under the air carrier's or the commercial operator's operations specifications.

(6) A domestic, flag, or supplemental air carrier or commercial operator may assign a flight attendant to a scheduled duty period of more than 18 hours, but no more than 20 hours, if the scheduled duty period includes one or more flights that land or take off outside the 48 contiguous states and the District of Columbia, and if the air carrier or commercial operator has assigned to the flight or flights in that duty period at least three flight attendants in addition to the minimum flight attendant complement required for the flight or flights in that duty period under the domestic air carrier's or the commercial operator's operations specifications.

(7) Except as provided in paragraph (b)(8) of this section, a flight attendant scheduled to a duty period of more than 14 hours but no more than 20 hours, as provided in paragraphs (b)(4), (b)(5), and (b)(6) of this section, must be given a scheduled rest period of at least 12 consecutive hours. This rest period must occur between the completion of the scheduled duty period and the commencement of the subsequent duty period.

(8) The rest period required under paragraph (b)(7) of this section may be scheduled or reduced to 10 consecutive hours if the flight attendant is provided a subsequent rest period of at least 14 consecutive hours; this subsequent rest period must be scheduled to begin no later than 24 hours after the beginning of the reduced rest period and must occur between the completion of the scheduled duty period and the commencement of the subsequent duty period.

(9) Notwithstanding paragraphs (b)(4), (b)(5), and (b)(6) of this section, if a domestic, flag, or supplemental air carrier or commercial operator elects to reduce the rest period to 10 hours as authorized by paragraph (b)(8) of this section, the air carrier or commercial operator may not schedule a flight attendant for a duty period of more than 14 hours during the 24-hour period commencing after the beginning of the reduced rest period.

(10) No domestic, flag, or supplemental air carrier or commercial operator may assign a flight attendant any duty period with the air carrier or commercial operator unless the flight attendant has had at least the minimum rest required under this section.

(11) No domestic, flag, or supplemental air carrier or commercial operator may assign a flight attendant to perform any duty with the air carrier or operator during any required rest period.

(12) Time spent in transportation, not local in character, that a domestic, flag, or supplemental air carrier or commercial operator requires of a flight attendant and provides to transport the flight attendant to an airport at which that flight attendant is to serve on a flight as a crewmember, or from an airport at which the flight attendant was relieved from duty to return to the flight attendant's home station, is not considered part of a rest period.

(13) Each domestic, flag, or supplemental air carrier must relieve each flight attendant engaged in air transportation and each commercial operator must relieve each flight attendant engaged in air commerce from all further duty for at least 24 consecutive hours during any 7 consecutive calendar days.

(14) A flight attendant is not considered to be scheduled for duty in excess of duty period limitations if the flights to which the flight attendant is assigned are scheduled and normally terminate within the limitations but due to circumstances beyond the control of the domestic, flag, or supplemental air carrier or commercial operator (such as adverse weather conditions) are not at the time of departure expected to reach their destination within the scheduled time.

(c) Notwithstanding paragraph (b) of this section, a domestic, flag, or supplemental air carrier or commercial operator may apply the flight crewmember flight time and duty limitations and rest requirements of this part to flight attendants for all operations conducted under this part provided that—

(1) The certificate holder establishes written procedures that—

(i) Apply to all flight attendants used in the certificate holder's operation;

(ii) Include the flight crewmember requirements contained in subparts Q, R, or S of this part, as appropriate to the operation being conducted, except that rest facilities on board the aircraft are not required;

(iii) Include provisions to add one flight attendant to the minimum flight attendant complement for each flight crewmember who is in excess of the minimum number required in the aircraft type certificate data sheet and who is assigned to the aircraft under the provisions of subparts Q, R, and S, as applicable, of this part;

(iv) Are approved by the Administrator and are described or referenced in the certificate holder's operations specifications; and

(2) Whenever the Administrator finds that revisions are necessary for the continued adequacy of the written procedures that are required by paragraph (c)(1) of this section and that had been granted final approval, the certificate holder must, after notification by the Administrator, make any changes in the procedures that are found necessary by the Administrator. Within 30 days after the certificate holder receives such notice, it may file a

petition to reconsider the notice with the FAA Flight Standards District Office that is charged with the overall inspection of the certificate holder's operations. The filing of a petition to reconsider stays the notice, pending decision by the Administrator. However, if the Administrator finds that an emergency requires immediate action in the interest of safety, the Administrator may, upon a statement of the reasons, require a change effective without stay.

5. Section 121.683 is amended by revising paragraph (a)(1) to read as follows:

§ 121.683 Crewmember and dispatcher record.

(a) * * *

(1) Maintain current records of each crewmember and each aircraft dispatcher (domestic and flag air carriers only) that show whether the crewmember or aircraft dispatcher complies with the applicable sections of this chapter, including, but not limited to, proficiency and route checks, airplane and route qualifications, training, any required physical examinations, flight, duty, and rest time records; and

* * * * *

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

6. The authority citation for part 125 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 1354, 1421 through 1430, and 1502.

7. Section 125.37 is amended by revising the heading and paragraph (a) to read as follows:

§ 125.37 Duty period limitations.

(a) Each flight crewmember and flight attendant must be relieved from all duty for at least 8 consecutive hours during any 24-hour period.

* * * * *

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

8. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) (revised Pub. L. 97-499, January 12, 1983).

9. Section 135.63 is amended by revising paragraphs (a)(3) and (a)(4)(x), adding new paragraph (a)(5), and revising paragraph (b) to read as follows:

§ 135.63 Recordkeeping requirements.

(a) * * *

(3) A current list of the aircraft used or available for use in operations under this part and the operations for which each is equipped;

(4) * * *

(x) The date of the completion of the initial phase and each recurrent phase of the training required by this part; and

(5) An individual record for each flight attendant who is required under this part, maintained in sufficient detail to determine compliance with the applicable portions of § 135.273 of this part.

(b) Each certificate holder must keep each record required by paragraph (a)(3) of this section for at least 6 months, and must keep each record required by paragraphs (a)(4) and (a)(5) of this section for at least 12 months.

* * * * *

10. Subpart F is amended by revising the heading to read as follows:

Subpart F—Crewmember Flight Time and Duty Period Limitations and Rest Requirements

11. Section 135.261 is amended by revising the introductory text of the section and by adding a new paragraph (e) to read as follows:

§ 135.261 Applicability.

Sections 135.263 through 135.273 of this part prescribe flight time limitations, duty period limitations, and rest requirements for operations conducted under this part as follows:

* * * * *

(e) Section 135.273 prescribes duty period limitations and rest requirements for flight attendants in all operations conducted under this part.

12. Section 135.273 is added to Subpart F to read as follows:

§ 135.273 Duty period limitations and rest time requirements.

(a) For purposes of this section—

Calendar day means the period of elapsed time, using Coordinated Universal Time or local time, that begins at midnight and ends 24 hours later at the next midnight.

Duty period means the period of elapsed time between reporting for an assignment involving flight time and release from that assignment by the certificate holder. The time is calculated using either Coordinated Universal Time or local time to reflect the total elapsed time.

Flight attendant means an individual, other than a flight crewmember, who is assigned by the certificate holder, in accordance with the required minimum crew complement under the certificate holder's operations specifications or in addition to that minimum complement, to duty in an aircraft during flight time and whose duties include but are not necessarily limited to cabin-safety-related responsibilities.

Rest period means the period free of all responsibility for work or duty should the occasion arise.

(b) Except as provided in paragraph (c) of this section, a certificate holder may assign a duty period to a flight attendant only when the applicable duty period limitations and rest requirements of this paragraph are met.

(1) Except as provided in paragraphs (b)(4), (b)(5), and (b)(6) of this section, no certificate holder may assign a flight attendant to a scheduled duty period of more than 14 hours.

(2) Except as provided in paragraph (b)(3) of this section, a flight attendant scheduled to a duty period of 14 hours or less as provided under paragraph (b)(1) of this section must be given a scheduled rest period of at least 9 consecutive hours. This rest period must occur between the completion of the scheduled duty period and the commencement of the subsequent duty period.

(3) The rest period required under paragraph (b)(2) of this section may be scheduled or reduced to 8 consecutive hours if the flight attendant is provided a subsequent rest period of at least 10 consecutive hours; this subsequent rest period must be scheduled to begin no later than 24 hours after the beginning of the reduced rest period and must occur between the completion of the scheduled duty period and the commencement of the subsequent duty period.

(4) A certificate holder may assign a flight attendant to a scheduled duty period of more than 14 hours, but no more than 16 hours, if the certificate holder has assigned to the flight or flights in that duty period at least one flight attendant in addition to the minimum flight attendant complement required for the flight or flights in that duty period under the certificate holder's operations specifications.

(5) A certificate holder may assign a flight attendant to a scheduled duty period of more than 16 hours, but no more than 18 hours, if the certificate holder has assigned to the flight or flights in that duty period at least two flight attendants in addition to the minimum flight attendant complement required for the flight or flights in that duty period under the certificate holder's operations specifications.

(6) A certificate holder may assign a flight attendant to a scheduled duty

period of more than 18 hours, but no more than 20 hours, if the scheduled duty period includes one or more flights that land or take off outside the 48 contiguous states and the District of Columbia, and if the certificate holder has assigned to the flight or flights in that duty period at least three flight attendants in addition to the minimum flight attendant complement required for the flight or flights in that duty period under the certificate holder's operations specifications.

(7) Except as provided in paragraph (b)(8) of this section, a flight attendant scheduled to a duty period of more than 14 hours but no more than 20 hours, as provided in paragraphs (b)(4), (b)(5), and (b)(6) of this section, must be given a scheduled rest period of at least 12 consecutive hours. This rest period must occur between the completion of the scheduled duty period and the commencement of the subsequent duty period.

(8) The rest period required under paragraph (b)(7) of this section may be scheduled or reduced to 10 consecutive hours if the flight attendant is provided a subsequent rest period of at least 14 consecutive hours; this subsequent rest period must be scheduled to begin no later than 24 hours after the beginning of the reduced rest period and must occur between the completion of the scheduled duty period and the commencement of the subsequent duty period.

(9) Notwithstanding paragraphs (b)(4), (b)(5), and (b)(6) of this section, if a certificate holder elects to reduce the rest period to 10 hours as authorized by paragraph (b)(8) of this section, the certificate holder may not schedule a flight attendant for a duty period of more than 14 hours during the 24-hour period commencing after the beginning of the reduced rest period.

(10) No certificate holder may assign a flight attendant any duty period with the certificate holder unless the flight attendant has had at least the minimum rest required under this section.

(11) No certificate holder may assign a flight attendant to perform any duty with the certificate holder during any required rest period.

(12) Time spent in transportation, not local in character, that a certificate holder requires of a flight attendant and provides to transport the flight attendant to an airport at which that flight attendant is to serve on a flight as a crewmember, or from an airport at which the flight attendant was relieved from duty to return to the flight attendant's home station, is not considered part of a rest period.

(13) Each certificate holder must relieve each flight attendant engaged in air transportation from all further duty for at least 24 consecutive hours during any 7 consecutive calendar days.

(14) A flight attendant is not considered to be scheduled for duty in excess of duty period limitations if the flights to which the flight attendant is assigned are scheduled and normally terminate within the limitations but due to circumstances beyond the control of the certificate holder (such as adverse weather conditions) are not at the time of departure expected to reach their destination within the scheduled time.

(c) Notwithstanding paragraph (b) of this section, a certificate holder may apply the flight crewmember flight time and duty limitations and rest requirements of this part to flight attendants for all operations conducted under this part provided that—

(1) The certificate holder establishes written procedures that—

(i) Apply to all flight attendants used in the certificate holder's operation;

(ii) Include the flight crewmember requirements contained in subpart F of this part, as appropriate to the operation being conducted, except that rest facilities on board the aircraft are not required; and

(iii) Include provisions to add one flight attendant to the minimum flight attendant complement for each flight crewmember who is in excess of the minimum number required in the aircraft type certificate data sheet and who is assigned to the aircraft under the provisions of subpart F of this part, as applicable.

(iv) Are approved by the Administrator and described or referenced in the certificate holder's operations specifications; and

(2) Whenever the Administrator finds that revisions are necessary for the continued adequacy of duty period limitation and rest requirement procedures that are required by paragraph (c)(1) of this section and that had been granted final approval, the certificate holder must, after notification by the Administrator, make any changes in the procedures that are found necessary by the Administrator. Within 30 days after the certificate holder receives such notice, it may file a petition to reconsider the notice with the FAA Flight Standards District Office that is charged with the overall inspection of the certificate holder's operations. The filing of a petition to reconsider stays the notice, pending decision by the Administrator. However, if the Administrator finds that there is an emergency that requires immediate action in the interest of safety, the Administrator may, upon a statement of the reasons, require a change effective without stay.

Issued in Washington, DC, on August 15, 1994.

David R. Hinson,

Administrator.

[FR Doc. 94-20372 Filed 8-16-94; 12:44 pm]

BILLING CODE 4910-13-M

135-52

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 11, 121, 125, and 135

[Docket No. 27229; Amendment No. 11–37; ref. Amendment Nos. 121–241; 125–21; 135–52]

RIN 2120–AE91

Flight Attendant Duty Period Limitations and Rest Requirements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; notice of effective date.

SUMMARY: The notice announces the effective date for the information collection requirements of the Flight Attendant Duty Period Limitations and Rest Requirements final rule. This notice is needed because at the time of issuance of that final rule the Office of Management and Budget had not approved the burden associated with the recordkeeping requirements. That approval has now been received, and the FAA announces the effective date for the affected sections.

DATES: Effective Date: Sections 121.683(a)(1), 135.63(a)(3), 135.63(a)(4)(x), 135.63(a)(5), and 135.63(b) are effective November 18, 1994.

Compliance Date: March 1, 1995.

FOR FURTHER INFORMATION CONTACT: Donell Pollard, Air Transportation Division, AFS–203, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3735.

SUPPLEMENTARY INFORMATION: On August 15, 1994, the Federal Aviation Administration issued a final rule requiring air carriers, air taxi, and commercial operators to provide duty period scheduling limitations and rest requirements for flight attendants engaged in air transportation and air commerce [59 FR 42974; August 19, 1994]. At the time of issuance, the burden associated with the recordkeeping requirements had not been approved by the Office of Management and Budget (OMB); therefore, those sections of the final rule did not have an effective date. On August 17, 1994, OMB approved the burden associated with the recordkeeping requirements under OMB Control No. 2120–0585 through July 31, 1997. The FAA hereby gives notice of that approval and the effective date for the affected sections of the final rule. A copy of the OMB approval may be examined in Docket No. 27229 in the FAA Rules Docket, room 915G, 800 Independence Ave., SW, Washington, DC 20591.

The Amendment

For the reasons stated above, the effective date of sections 121.683(a)(1), 135.63(a)(3), 135.63(a)(4)(x), 135.63(a)(5), and 135.63(b) is November 18, 1994.

List of Subjects in 14 CFR Part 11

Administrative practice and procedure, Reporting and recordkeeping requirements.

In addition, the FAA amends part 11 of the Federal Aviation Regulations (14 CFR part 11) as follows:

PART 11—GENERAL RULEMAKING PROCEDURES

1. The authority citation for part 11 continues to read as follows:

Authority: 49 app. U.S.C. 1341(a), 1343(d), 1348, 1354(a), 1401 through 1405, 4121 through 1431, 1481, and 1502; 49 U.S.C. 106(g).

2. Section 11.101 is amended by adding new section numbers in numerical order and OMB Control Numbers to the table in paragraph (b) as follows:

§ 11.101 OMB Control numbers assigned pursuant to the Paperwork Reduction Act

* * * * *

(b) Display.

14 CFR part or section identified and described	Current OMB No.
§ 121.683	2120–0585
* * * * *	
§ 135.63	2120–0585

Issued in Washington, DC, on October 7, 1994.

David R. Harrington,

Director, Flight Standards Service.

[FR Doc. 94–25895 Filed 10–18–94; 8:45 am]

BILLING CODE 4910–13–M

135-52

14 CFR Parts 121, 125, and 135

[Docket No. 27229]

Flight Attendant Duty Period Limitations and Rest Requirements

AGENCY: Federal Aviation Administration.

ACTION: Notification of compliance date for final rule.

SUMMARY: This document specifies a date on and after which the Federal Aviation Administration expects full compliance with the duty limitations and rest requirements for flight attendants as required by Amendment Nos. 121–241; 125–21; and 135–52. This action is necessary following court action that stayed the compliance date for this final rule for all affected carriers based on a petition for review of the final rule from Sun Country Airlines, Inc., and the court's subsequent denial of the petition.

DATES: Affected air carriers and commercial operators are notified that the FAA will begin enforcing the flight attendant duty limitations and rest requirements rules published at 59 FR 42974 (August 19, 1994) on February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Donell Pollard, Air Transportation Division, Flight Standards Service, AFS–203, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, (202) 267–3735.

SUPPLEMENTARY INFORMATION:

Availability of the Notice

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–430, 800 Independence Ave., SW., Washington, DC 20591, or by calling (202) 267–3484. Requests must include the subject matter of this notice.

Background

On August 19, 1994, the Federal Aviation Administration (FAA) published in the **Federal Register** at 59 FR 42974, a final rule requiring air carriers, air taxi, and commercial operators to provide duty period limitations and rest requirements for flight attendants engaged in air transportation and air commerce. The FAA found that this action was necessary to ensure that flight attendants would be rested sufficiently to perform their routine and emergency safety duties. As a base level, the rule requires that a flight attendant be given 9 hours of rest following up to 14 hours of scheduled flight duty. However, the scheduled duty period may be extended if the carrier augments the flight attendant crew and provides additional hours of rest. The rule also provides that flight attendants be given 24 consecutive hours of rest during any 7 consecutive days. The rule contains a definition of 'rest period' as being free of all restraint or duty and free of all responsibility for work or duty should the occasion arise. The final rule also allows operators to apply pilot rest and duty requirements to its flight attendants as an alternative to this final rule.

The final rule was effective September 19, 1994, with a compliance date of March 1, 1995, except for certain recording requirements. By publication in the **Federal Register** on October 19, 1994, the recording requirements were made effective on November 18, 1994. The compliance date of March 1, 1995, was restated in that amendment.

Sun Country Airlines challenged this rule, and on February 13, 1995, the United States Court of Appeals for the D.C. Circuit stayed the compliance date of the rule for all air carriers, air taxis and commercial operators. The Court issued its decision denying Sun Country Airlines' petition for review on May 30, 1995. A subsequent petition for rehearing and stay of its mandate were denied on August 24, 1995. The Court issued its mandate, lifting the stay, on August 25, 1995.

Because the original compliance date is now past, the FAA must establish a new date for the flight attendant rest and duty regulations. The FAA recognizes that many operators are already in compliance with the rule. The FAA also realizes that it will take some time for operators, who are not in compliance with the proposed rule, to develop and implement flight attendant schedules needed to comply with the rules. The FAA is also cognizant of the problems associated with developing schedules and adhering to those schedules during the Holiday season. Because of these considerations, the FAA is allowing sufficient time for operators to develop the procedures needed to comply with the rules. Therefore, the FAA expects full compliance with the flight attendant duty limitations and rest requirements final rule by February 1, 1996, and the FAA will take appropriate action against any operator that is not in full compliance by that date.

Issued in Washington, DC on September 28, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

[FR Doc. 95–24803 Filed 10–6–95; 8:45 am]

BILLING CODE 4910–13–M