affected commuters in an associated final rule) will also reduce some human factor errors.

It is critically important to impose the bulk of the part 121 regulatory scheme on affected commuters because the absence of any significant portion of that regulatory scheme may lessen the effectiveness of the rest of the safety features in the part 121 regulatory scheme. Even the best trained and well rested pilot is a human being and, therefore, subject to making errors. With a dispatcher system, the chances of pilot miscalculations or oversights could be reduced. Moreover, a dispatcher can assist the flight crew in making enroute plans for an alternate airport (which might be necessary due to weather problems, air traffic control problems, airplane equipment problems, fuel problems, etc.) while the crew focuses on flying the airplane. It is reasonable to conclude that the accident rate for affected commuters can be reduced to a level closer to that of current part 121 domestic operations by eliminating most of the regulatory differences that the two different regulatory schemes allowed.

While major air carriers may require commuter affiliates to follow certain part 121 standards, and in some cases even exceed some part 121 standards, no part 135 commuter operator currently operates under part 121 operations specifications or totally complies with all part 121 standards (e.g., many part 121 requirements are based on the assumption that transport category airplanes are operated). Most importantly, no part 135 commuter is required by current FAA regulation to comply with part 121 requirements.

Recent accidents brought to public attention the differences between part 135 and part 121 and the lack of continuing justification for these differences. As Notice 95–5 pointed out, the distinction between these two types of operations was, in the beginning, an obvious necessity. Major air carriers engaged in public transportation were entirely different from the small on-demand, air taxi operator. But with the development and growth of what has come to be known as commuter service, the line between the two has blurred. Certain segments of the commuter industry have continued to develop commuter category airplanes, holding the line at 19 passenger seats in order to stay within the limits of the less restrictive airworthiness regulations for nontransport category aircraft. This has created the potential for the further development of commuter airplanes specifically designed to stay within the limits of the less restrictive regulations while at the same time becoming as sophisticated or more sophisticated in technology than some transport category airplanes operated by the major carriers. With hindsight, the FAA may not have drawn the line as it currently is but would have attempted from the start to maintain one set of requirements.

Until now the line between the requirements has not created a safety concern, but as the commuter market grows, the disparity between the two sets of requirements is of more concern. There is no longer any justification for maintaining two sets of standards for scheduled operations in airplanes with a passenger-seating configuration of 10 or more seats. When a passenger pays for a ticket on an FAA certificated commuter operation, that passenger must be assured of the highest possible level of safety.

With respect to commenters—concerns that the proposed rules will actually decrease safety because certificate holders will switch to reciprocating-powered airplanes, the FAA has modified the proposal, especially in regard to the schedule for some airplanes to meet part 121 airplane performance criteria, to allow operators sufficient time to build up capital or credit to make changes to the existing fleet or to purchase new airplanes that meet the higher performance standards. The FAA does not want to move so fast as to force operators to use airplanes that have even higher accident rates (i.e., airplanes with 9 or fewer seats).

The FAA finds that safety and the public interest require extending the proposed compliance dates for imposing part 121 performance criteria requirements and some equipment requirements until it is economically feasible for operators of 10- to 19-seat airplanes to acquire or lease replacement aircraft. The FAA has analyzed the situation and has concluded that many operators of 10–15 seat aircraft would replace those aircraft with 9 or fewer seat aircraft to avoid the sudden imposition of large costs on their current fleets. Without the FAA modifying its proposal with regard to airplane performance requirements, many airplanes would be eliminated from scheduled service at the first compliance date (i.e., 15 months after publication of the final rule) and operators of other airplanes would have to offload passenger seats, thereby causing the economic and safety impacts discussed previously. This modification would be consistent with the National Transportation Safety Board's (NTSB) recommendation for airplanes with 10- to 19-seats in scheduled service. For those aircraft, the NTSB recommended that scheduled passenger service be conducted in accordance with part 121 ''* * * or its functional equivalent, wherever possible''.

Clearly the NTSB used the phrase ''wherever possible'' because it knew that it was not possible for a substantial portion of the 10- to 19-seat airplane fleet to meet all of the requirements of part 121. The NTSB carefully chose its words when it made its recommendations for 10–19 seat airplanes used in scheduled service. The NTSB recognized that the FAA necessarily had to exercise judgment about which part 121 regulations to impose, which regulations could be modified to achieve functional equivalency, and which regulations simply might not be possible.

In regard to comments that higher fares resulting from this rulemaking will cause passengers to switch to less safe modes of transportation, it has been the FAA's observation that passengers are usually willing to pay for safety. While some may choose to drive rather than fly, that has not stopped the airlines in the past from raising fares. It should also be noted here that the public tolerates a higher accident rate for automobile travel than for airplane travel. If air transportation accident rates approached that of ground travel, most Americans would stop flying. The air transportation industry is very aware of this; it is the main reason that air transportation is safe. As one commenter points out, the recent commuter accidents caused a 12 percent drop in passengers on commuter airlines. That is a significant cost to industry.

The FAA has carefully considered the economic impact of the proposed regulations and has reviewed and revised its analysis in light of the comments received. (See Section VIII.) The agency has determined that the impact of the final rule should not disrupt air transportation service and that few, if any, certificate holders will discontinue their commuter operations. During the transition period, the FAA will work with certificate holders who are switching to part 121 requirements to make the switch as smooth as possible. It should also be noted that the compliance schedule provides for a gradual updating of equipment and operations and will allow certificate holders the choice of upgrading or phasing out airplanes that cannot be upgraded without significant cost.

Some may argue that there may still be limited circumstances, even with these changes, where the effects of this rule (and related rulemakings on