

category. Requiring future 10- to 19-passenger seat airplanes to be type certificated under part 25 would complete this effort to ensure that these airplanes used in air carrier service meet the same aircraft certification standards as the larger airplanes.

In response to comments that part 23 airplanes could not be type certificated using part 25 standards, the FAA notes that it did not propose in Notice No. 95-5 that part 23 normal or commuter category airplanes presently in operation would have to comply with part 25 standards for type certification. Instead, it proposed that part 23 airplanes that will be required to be operated under part 121 will have to comply with certain part 121 equipment and performance requirements.

In response to the individual comment on a unique propulsion system, although the commenter's request is beyond the scope of this rulemaking, it will be considered during the review of part 25 discussed above.

V.D. Flight Time Limits and Rest Requirements

The FAA proposed that the part 121 domestic flight time limits and rest requirements would apply to affected commuter operators when conducting operations within the United States. Under the proposal affected commuter operators, when conducting operations to or from the United States, would comply with the flag flight time limitations and rest requirements of subpart R. Additionally, if these certificate holders use these same airplanes for nonscheduled operations, those certificate holders would be required to comply with supplemental flight time limitations and rest requirements of subpart S of part 121.

As stated in Notice 95-5, since the flight time limitations and rest requirements for flag and supplemental operations were not updated in 1985 when domestic limits were, the FAA has developed an NPRM that is being issued concurrently with this final rule. (See elsewhere in this issue of the Federal Register.)

Comments: Atlantic Southeast Airlines (ASA), Regional Airlines Association (RAA), and Big Sky Airlines comment that the FAA should provide specific and scientifically-based data to support this significant change. Fairchild Aircraft adds that the additional time off duty provided by the proposal will not necessarily be used for rest. NATA comments that there are differences in part 135 operations that justify a different set of flight time limitations and rest requirements: part 135 operations are generally confined to

a particular area, pilots of smaller certificate holders rarely commute a long distance to and from work, and pilots have fewer overnight stays as part of their schedules. Air Vegas comments that unless an exception is provided, seasonal operators would have to hire additional crews in order not to exceed the 7-day limit of 30 hours or the monthly limit of 120 hours. This commenter notes that short-term employment of such pilots is next to impossible. Morton Beyer and Associates comments that the cost of hiring additional pilots is expected to add another \$250 million to airline costs. Twin Otter International comments that the 1,200 yearly limit in part 135 is based on the part 121 100-hour-per-month concept, and that the regulations really are similar.

Several individuals strongly urge the FAA to adopt the part 121 standards for the upgrading commuter pilots. American Eagle comments that it applies part 121 domestic rules to its part 135 operations and believes that all air carriers providing commercial passenger service should use either the domestic or flag rules of part 121.

One individual notes that the reduced rest provision in part 135 allows for only 8 hours of rest between scheduled flights. Another individual comments that commuter pilots have a high frequency of takeoffs and landings, fly in the busier low-altitude airspace, deal with more controllers per flight mile, and deal with more weather than their part 121 counterparts. One person comments that certificate holders routinely schedule 3-4 hour breaks to preclude violations of the 8 hours of flight in 24 hours rule; however, the effect of this is to stretch out the duty day. The result is a higher duty time to flight time ratio which is not accounted for in the current rules. IAPA supports the proposal but also expresses concern that the current regulations fail to count, as part of duty time, the time period when flightcrews are on reserve duty, standby duty, or carrying a pager or other telephonic device. IAPA urges the FAA to treat reserve or standby duty as duty time.

ALPA comments that while the upgrade to part 121 will result in an improvement in flight time limits and rest requirements, part 121 will continue to be deficient in this area until additional rulemaking action is taken, as promised by the FAA.

Alaska commenters argue for maintaining the current regulations. ERA Aviation estimates that if the proposed rule is adopted, it would necessitate at least a 15% increase in the number of pilots it would need,

resulting in a \$500,000+ increase in costs. Penair finds four reasons for excepting Alaska: Operations are conducted in the same time zone, few Alaska pilots commute to their jobs, less than 5% of Alaska operations occur between 9:00 p.m. and 7:00 a.m., and Alaska does not have the congested ATC operations which are found in the lower 48 states. AACA also presents this argument, adding that going from 1,400 hours of duty per year down to 1,000 represents a 29% decrease in productivity. Other Alaska certificate holders, e.g., Wings, Northern Air Cargo, Taquan Air Service, Tanana, endorse the AACA comment.

One individual commenter from Alaska opposes any attempt to create exceptions to the requirements for Alaska. This person supports the assertion that Alaskan operations are basically the same as state-side operations and should be afforded no special exemptions.

This individual, a pilot who flew over 1,300 hours last year, states that there were many consecutively scheduled 14-hour duty days and many canceled days off. Ten hours of rest may sound adequate, but not for days on end. The individual questions the logic that one is more rested in one geographic area than in another. According to the commenter, duty cycles that are unsafe in the lower 48, are also unsafe in Alaska.

Another individual from Alaska states that the FAA has shown no data to indicate any problem with the provisions of § 135.261(b), which allows Alaskan scheduled operators to use § 135.267. The individual states that in 1994, he flew 1320 hours, had 173 days off, slept in his own bed every night, and never had less than 10 continuous hours of rest in any 24-hour period. He believes he probably had more rest and time off than the average long-haul part 121 pilot. The commenter states that the proposed flight/duty time limits would cause scheduling nightmares for operations in rural/remote parts of Alaska.

FAA Response: The FAA is holding in abeyance a final decision on the proposed imposition of current part 121 flight time limitations and rest requirements on affected commuters pending a review and disposition of comments on the separate flight and duty rulemaking in which the FAA proposes to overhaul all the flight and duty rules. The separate rulemaking, if adopted, would harmonize flight and rest requirements for all part 121 and part 135 carriers. The FAA anticipates that the separate rulemaking will result in a net cost savings to the industry as