

Pilot Flight and Duty Time NPRM Summary of UPS Concerns

The FAA's proposed rule on pilot flight and duty time imposes great costs on UPS and other air cargo carriers and provides virtually no safety benefits, if any.

UPS has never had a single accident or incident where pilot fatigue was even cited as a factor in the NTSB report

- UPS has a proven track record in the safe conduct of flight operations, including nighttime operations. This is the result of collectively-bargained limitations, scheduling practices and measures taken by UPS to mitigate fatigue, such as providing sleep facilities at major hubs
- UPS pilots fly significantly fewer hours than passenger pilots

The experience of the entire all-cargo industry is similar

- The recent National Academy of Sciences study on crewmember commuting practices determined that of the 863 aviation accidents investigated by the NTSB since 1982, fatigue was a cause or contributing factor in only 9. Of those, only 2 involved all-cargo carriers and neither one of those accidents would have been prevented by the proposed rule on pilot flight and duty time.

UPS Supports Significant Changes in Existing Rules

- Cargo Airline Association proposal to the Aviation Rulemaking Committee (ARC) in 2009:
 - Increases minimum rest from 8 to 10 hours (25% increase) for domestic flights and to 12 hours (50% increase) on international flights.
 - Reduces maximum flight duty period from 16 to 9-13 hours (depending on time of day and flight segments) for domestic flights (19-44% reduction)

FAA failed to determine and address causes of fatigue

- NPRM deals with only one element of fatigue: pilot flight and duty time limits.
- FAA neither asked nor answered the basic question: what factors cause pilot fatigue?
- FAA does not attempt to address the behavioral factors that cause pilot fatigue.

FAA inappropriately adopts a "one-size-fits-all" approach

- FAA Administrator Randy Babbitt said at the ALPA Air Safety Forum in August 2009: "In rulemaking, not only does one size not fit all, but it's unsafe to think that it can." FAA has done exactly what the Administrator said it shouldn't by treating all operations the same under this proposed rule and not taking into account different ways of managing fatigue in different circumstances.

FAA failed to consider alternatives

- FAA did not consider the CAA proposal to ARC
- FAA did not consider performance based regulation (fatigue risk management system), which many sleep scientists believe is a more effective way of dealing with fatigue than prescriptive rules.

FAA Proposed Rule Is not Scientifically Based and Its Methodology is Flawed

- The FAA itself states in the docket for this rule that “sleep science has not been validated in the aviation context”.
- Professor Donald Rubin, twice chair of the Department of Statistics at Harvard University and regarded by many as the world’s leading authority on the application of formal statistics to regulatory interventions, concludes that the FAA’s methodology is “absolutely not” designed to correctly produce a statistically valid prediction of the effectiveness of the regulation.
- According to Rubin’s report, the agency literally has no way of knowing whether the proposed rules would make any difference at all in improving safety.

FAA Rule Imposes Costs far Exceeding any Benefits

- Understates costs for the whole industry by a factor of 20. UPS costs alone would exceed FAA’s estimate for the entire aviation industry.
- Overstates benefits, particularly for cargo carriers
- CAA determined that for the all-cargo industry costs exceeded benefits by a factor of 3800 to 1.
- Review of accidents does not take into account safety advances or regulatory changes now in effect that would have prevented them.
- Assumes same loss of life for a cargo accident as a passenger accident.
- Did not consider alternatives providing an equal or greater benefit at reduced cost.

Unintended Consequences

- Boeing 767: The rule would severely impact UPS’s ability to continue operating the 767 as we have since 1996. We have 39 767s and 20 more on order. We would either have to take the aircraft out of service for many international flights, or take out a container position to build a qualifying rest facility (Boeing to our knowledge has currently no viable solution to this problem).
- Limitation on consecutive nights of operation: The rule would limit pilots to 3 consecutive nights of duty. This would significantly change the way UPS operates its domestic system and would result in pilots flying more frequent rotations, which is counter to science.

The Rule should be returned to the FAA with instructions to ensure than any regulations comply with regulatory guidelines set forth in Executive Orders 13563 and 12866.

- Interested parties must be given the opportunity to comment on any rules that differ substantially from those initially proposed.

Major provisions Affecting UPS (see attachment)

which are explained in the Declaration of David Parrott, attached as Exhibit 3, are summarized in the following chart:

REGULATION	Est. 10 Yr. Compliance Cost – Low	Est. 10 Yr Compliance Cost – High
Schedule Reliability Costs (117.9)	\$435,425,310	\$535,687,717
Fatigue Training (117.11)	\$17,107,560	\$17,107,560
Flight Duty Period Limitations and FDP Extensions (117.15 and 117.19)	\$401,049,628	\$552,875,559
Reserve Status (117.21)	\$151,825,931	\$295,057,941
Cumulative Duty (117.23)	\$20,911,873	\$25,781,762
Rest Periods (117.25)	\$42,969,603	\$80,209,926
Consecutive nighttime operations (117.27)	\$63,022,084	\$74,480,645
Implementation Crewmember Carrying Cost	\$22,466,250	\$33,468,000
Information Technology Infrastructure	\$5,000,000	\$8,000,000
Lost Revenue From and Installation Costs for Class 1 Rest Facility (117.3)	\$184,750,000	\$184,750,000
TOTAL	\$1,344,528,240	\$1,807,419,110
NET PRESENT VALUE TOTAL	\$960,840,962	\$1,290,123,595

In the limited time provided⁴² UPS made its best effort to provide the FAA with a realistic quantitative analysis of the costs of this proposed rule.

⁴² UPS will supplement the record as additional data becomes available.