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FAA Moves to Overhaul Commercial Pilot Duty and Rest Requirements

New rules would impact all operations by Part 121 air carriers

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The Federal Aviation Administration (“FAA”) has issued a long-anticipated notice of proposed rulemaking (“NPRM”) that would significantly revise flight duty and rest requirements applicable to Part 121 certificate holders (“covered airlines”) and their flightcrew members (*i.e.* pilots and flight engineers). 75 Fed. Reg. 55852 (Sep. 14, 2010). The NPRM follows extensive debate surrounding the issue of pilot rest and a number of high profile accidents in which fatigue may have played a role. Significantly, the NPRM draws upon several recommendations developed by the National Transportation Safety Board, the National Aeronautics and Space Administration, and an FAA chartered aviation rulemaking committee, as well as international regulatory standards and recent scientific research on fatigue. Public comments on the NPRM are due by November 15, 2010. Several key provisions of the NPRM are summarized below, organized by subject area:

- **Training**—Covered airlines would be required to provide special fatigue training to all personnel involved with scheduling aircraft and crews, flightcrew members, and pilot management personnel.
- **New Duty Periods**—The maximum flight duty period would be revised to between nine and 13 hours, based on the time of day when the flightcrew member begins duty and the number of flight segments within that duty period, while the maximum flight time limit would be revised to between eight hours to 10 hours. Moreover, covered airlines would be required to regularly submit periodic reports to the FAA demonstrating that they meet system-wide and crew-specific compliance targets. Furthermore, where a flightcrew member crosses more than four time zones, the time at the local home base would be used in calculating the maximum applicable flight duty period—unless the flightcrew member has been acclimated to the local theater of operations. Finally, for so-called

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“ultra long haul” operations, the FAA would allow greater extensions of duty time limits based on higher quality crew rest facilities.

- Cumulative Limits—The FAA would cap cumulative flight time limits at 100 hours in any 28-day consecutive period. Cumulative flight duty periods would be capped at 60 hours in any 168-hour (7-day) consecutive period and 190 hours in any 672-hour (28-day) consecutive period. Additionally, total duty periods generally could not exceed 65 hours in any 168-hour (7-day) consecutive period and 200 hours in any 672-hour (28-day) consecutive period.
- Rest Requirements—Flightcrew members would typically have to be provided with a minimum of nine hours of rest prior to commencing a flight duty period. The proposed rules would also impose a 30-hour continuous rest requirement for each rolling 168-hour (7-day) period.
- Reserve Status—The proposed rule would, for the first time, codify existing and new requirements for flightcrew members serving in “reserve status” and create a number of new requirements. The proposal entails three categories of reserve: (a) airport/standby reserve; (b) short-call reserve; and (c) long-term reserve; each with its own duty and rest requirements. Importantly, covered airlines would be limited in their ability to “shift” the availability of flightcrew members in long-term reserve.
- Fatigue Risk Management System—Covered airlines would be permitted to adopt a Fatigue Risk Management System (“FRMS”) that, subject to FAA approval, would allow them to exceed established duty limits under very narrow circumstances.
- Part 135 Air Carriers—Finally, although the NPRM only applies to Part 121 certificate holders and their flightcrew members, the FAA has stated that “the part 135 community should expect to see an NPRM addressing its operations that looks very similar to, if not exactly like, the final rule the agency anticipates issuing as part of this rulemaking initiative.” 75 Fed. Reg. at 55857.

Clearly, the NPRM has significant consequences for the manner in which airlines: (i) schedule and train their crews; (ii) plan their existing crew resources; and (iii) project future hiring needs. For questions regarding the new proposed rules and FAA duty and rest requirements in general, please contact Malcolm L. Benge via e-mail at mlbenge@zsrlaw.com, or Jonathon H. Foglia via e-mail at jhfoglia@zsrlaw.com, or by phone at (202) 298-8660.