UNITED STATES OF AMERICA
FEDERAL AVIATION AGENCY
WASHINGTON, D. C.

Civil Air Regulations Amendment 42-14
Effective: January 25, 1965
Issued: December 3, 1964

[Reg. Docket No. 4028; Amdt. 42-14]

PART 42—AIRCRAFT CERTIFICATION AND OPERATION RULES FOR SUPPLEMENTAL AIR CARRIERS, COMMERCIAL OPERATORS USING LARGE AIRCRAFT, AND CERTIFICATED ROUTE AIR CARRIERS ENGAGING IN CHARTER FLIGHTS OR OTHER SPECIAL SERVICES

Flight Time Limitations; Flight Crew of Three or More Pilots and Additional Airmen, as Required

The purpose of this amendment to Part 42 of the Civil Air Regulations is to extend the duty-time limitations and ground-rest requirements of § 42.322(c) to certificated route air carriers while operating under the rules of Part 42.

Amendment 42-4 (29 F.R. 2998) added to § 42.322 specific ground-rest periods and duty-time limitations for flight crews of three or more pilots and additional airmen, as required, of supplemental air carriers and commercial operators certificated under Part 42. These requirements include: a duty-time limitation of 30 continuous hours for each flight crewmember (under the rule a flight crewmember is considered as being on continuous duty from the time he reports for duty until such time as he is released from duty for a period of rest of 10 or more consecutive hours on the ground); a 16-hour ground rest period when the flight crewmember has been on continuous duty in excess of 24 hours, whether scheduled or not; and, if a crewmember is required to engage in "deadhead" transportation in excess of 4 hours before commencing flight duty, one-half of the time spent in "deadhead" transportation must be treated as duty time for the purpose of determining compliance with the prescribed duty-time limitations, unless the flight crewmember is given not less than 10 consecutive hours of ground rest before being assigned to flight duty. These requirements are considered by the Agency to be the minimum necessary for safety in the kind of operations for which they are designed, and still to give each operator a reasonable flexibility in the utilization of flight crewmembers. However, they are not applicable to certificated route air carriers in the conduct of off-route charter flights or special services under the operating rules of Part 42. Since the certificated route air carriers are subject to the same problems of crew scheduling and safety in the conduct of those operations, the Agency proposed in Notice 64-13 (29 F.R. 3012) also to make the same ground-rest and duty-time limitations prescribed by Amendment 42-4 applicable to certificated route air carriers when operating under Part 42.

Several comments were received in response to the notice. All but one were in favor of the proposal set forth therein.

The Air Transport Association (ATA) objected to the proposed amendment. ATA asserts that if the sole justification for the proposed duty-time limitations and the associated ground-rest requirements is, as stated in the preamble, "to preclude operations (by certificated route) carriers which could result in flight crewmembers performing their duties in an overly fatigued condition," the airlines feel that the proposed duty-time and ground-rest requirements are unnecessary and have not been justified with regard to them since it is their practice under their labor-management agreements to be at least as restrictive and, in some cases, more restrictive than the proposal. It is to be noted that the Association does not assert that the proposed duty-time limitations and ground-rest requirements are not required in the interests of safety, or that less stringent requirements could be safely permitted, but only that the Agency has not justified the prescription of such requirements for certificated route carriers because the scheduling practices of these carriers already meet or better these requirements. The Agency cannot agree with this position, since it cannot rely on labor-management agreements to effectuate its statutory safety regulations responsibility and, in any event, has no way of enforcing the provisions of these agreements.

ATA also commented on the "deadhead" transportation aspect of the proposed amendment (§ 42.322(c)(3)) stating that it does not take into consideration the fact that, in many cases, flight crewmembers have such ample off-duty time that they engage in business, social, avocational and other activities that are not conducive to rest during required rest periods. To prevent such activities the ATA recommends that the Agency adopt a rule that places the responsibility for off-duty rest on the flight crewmember himself, and that requires him not to engage in activities that prevent him from reporting to duty fully rested. A discussion of the merits of this comment would serve no useful purpose at this time since action thereon would not be within the limited scope of Notice 64-13. However, it will be considered within the framework of Notice 63-34, referred to below.

Finally, the ATA suggests that any changes in the "duty time—flight time limitations" applicable to the operations of scheduled air carriers should await completion of the Agency's overall study of the flight-time limitation regulations now being conducted, and as announced in Notice 63-34 (28 F.R. 9674), stating that interim measures will only cause confusion in the regulations. As stated in Notice 64-13, the adoption of these amendments cannot be delayed and must be accomplished in the interim, prior to the overall review of all flight-time rules announced in Notice 63-34, and completion of any final regulatory action based thereon. The addition of the daily duty-time concept is not alien to Part 42 and is appropriate to the types of operation to which § 42.322(c) will be applicable as a result of this amendment. Moreover, the Agency feels that, if anything, the amendment will minimize confusion since it will eliminate the unjustifiable situation of operations that are identical in all pertinent respects being conducted according to different rules.

The Flight Engineers International Association (FEIA) endorsed the proposed amendment, but raised the question as to why a similar crew operating under Part 41 should not be subject to duty-time limitations and required rest periods. While this comment is relevant, action on it would also be outside the limited scope of Notice 64-13. However, it will be considered in the overall review of the flight-time limitations announced in Notice 63-34.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matters presented.

In consideration of the foregoing, § 42.322(c)(1) of Part 42 of Chapter I, Title 14 of the Code of Federal Regulations is amended, effective January 25, 1965, by deleting the word "certificated" from the first sentence thereof and inserting in lieu thereof the word "operating".

(Secs. 313(a), 601, 604, and 607, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, 1424, and 1427))

Issued in Washington, D.C., on December 3, 1964.

N. E. HALABY,
Administrator.

[F.R. Doc. 64-12676; Filed, Dec. 10, 1964; 8:45 a.m.]

(As published in the Federal Register /29 F.R. 16968/ on December 11, 1964)