



## Flight Time/Duty Time NPRM

### Executive Summary

- Recently, misleading information has been circulated among our pilots concerning the proposed flight time/duty time (FT/DT) rule changes.
- ALPA has been involved in the Notice of Proposed Rulemaking (NPRM) process on FT/DT from the beginning.
- ALPA's demonstrated experience in this field led to the selection of Delta Captain Don Wykoff as the co-chairman of the Aviation Rulemaking Committee that provided recommendations to the FAA.
- In several instances, our contract contains more stringent protections than the FAA limitations and those protections do *not* go away due to a rule change.

### Introduction

It seems that almost weekly we hear rumors or read webboard postings about issues at Delta that are both inflammatory and inaccurate. One of the most recent of these concerns the flight time/duty time (FT/DT) changes that have been proposed by the FAA. It is important that the Delta pilots have accurate information in order to make their own evaluations regarding this important NPRM. ALPA has been involved in this process from the very beginning. Delta Captain Don Wykoff was the co-chairman of the Aviation Rulemaking Committee (ARC) and worked tirelessly to protect the interests of all pilots. If you read the entire [NPRM](#),<sup>i</sup> you will find that in many cases the FAA either accepted the ALPA proposals in whole or used them as the framework for the proposed rule. It is true that in some cases, the FAA expanded its proposals beyond those recommended by ALPA, but our efforts were crucial to avoid having the process hijacked by elements of the Air Transport Association.

### Contractual Provisions Rule

One of the most important points, and one that can't be overemphasized, is that our contract already provides a

number of more robust protections than those contained in the *current* FAA regulations, and those protections that are more restrictive than the *new* rules would still govern. If, on the other hand, the new regulations provide more protections than our contract, then the new rules will prevail.

For example, *Section 12 D. 1.* of our contract contains a table for maximum duty day depending upon your report time. The limit for a scheduled duty day is 13 hours for a pilot reporting between 0700 and 1259. The maximum goes down to 8.5 hours for flights reporting between 0100 and 0259. The *current* FAA limits allow 16 hours of duty regardless of when you report for duty. If you examine the *new* proposals, you will see they closely mirror the protections provided in our contract.

*Section 12 E. 1.* of our contract specifies when we require augmented operations. Any trans-oceanic operation over 8 hours requires one additional pilot and any trans-oceanic operation over 12 hours requires an additional crew. The FAA can alter requirements for augmentation, but if less restrictive than our contract, it does not affect our contractual requirements. An excellent explanation including examples can be found in an article entitled "[One Step Closer to Modern Regulations to Mitigate Pilot Fatigue](#)"<sup>ii</sup> by Captain Wykoff.

As another example, *Sections 12 G. 2–3.* of our contract mandate the minimum rest requirements for layovers. In some cases, the FAA's NRPM will provide even more stringent provisions for rest than those in our contract. In those cases, the provisions of the new rules will prevail. In short, anyone trying to evaluate the impact of the FAA NPRM on Delta pilots must remember that our contractual protections will not disappear just because the FAA rules change.

### What Is in the NPRM?

The NPRM is a dense 39-page document that is based on numerous real-world studies and scientific research in the

field of fatigue risk management. In order to fully understand the proposal, one needs to read the entire document, but a summary of some of the highlights is shown below:

- The current fixed duty day of 16 hours maximum is proposed to be replaced with a table that takes into account report time (based on a pilot's home domicile time) and the number of legs scheduled for the day. Maximum scheduled duty days vary from 13 hours down to 9 hours. The table is quite similar to the table we use in **Section 12 D. 1.** of our current contract.
- The fixed maximum unaugmented flight-time limit of 8 hours per day is proposed to be replaced with a table that varies from 8 to 10 hours based on report time at the **home domicile time**, not local time. Also, all flying still has to be scheduled in the new, narrower *duty* day window. The FAA has also proposed that this limit be an actual, hard number vice a scheduling parameter as it is today. ALPA, in its comments on the NPRM, proposed a range of 7 to 9 hours, which is consistent with current ALPA policy. The ATA, on the other hand, proposed a range from 7 to 11 hours.
- The proposal now calls for more defined rest rules for pilots on reserve. Short call reserve is now considered duty time for both international and domestic operations; no more 24-hour international short calls.
- The proposed new standard for crew overnight rest is 9 hours behind the hotel door and is based on the scientific principle of the need for an 8-hour sleep opportunity instead of a fixed period of time off duty.
- The NPRM contains proposals for new cumulative limits based on both duty day and flight hours. These limits have been changed substantially and details are beyond the scope of this *Touch & Gos* (read the NPRM for details). There are proposed new definitions of acceptable inflight rest facilities and new limits on augmented operations based on the quality of the rest facility.

### Why the Call to Action?

The FAA, ATA, ALPA, and every other industry interested party that has analyzed the proposed regulations

have concluded that they will likely require carriers to hire additional pilots. This is the opposite of recent comments among some elements of the ATA who claim that these rules will cost pilot jobs. There are some segments of the industry where managements are claiming that they will not be able to operate under the cost structure that will be mandated by the new rules.

The White House Office of Management and Budget (OMB) has taken over review of the regulations to analyze the proposal from a cost perspective. The FAA has already reviewed the costs, and this attempt is just a tactic by some elements of the ATA to attempt to gut the improvements in safety and fatigue risk management that the proposed regulations would mandate. That is why ALPA is calling on pilots to make their voices heard in Washington. Flight safety should not be held hostage to political maneuvering, all professional pilots deserve the same fatigue protections, and our passengers deserve "One Level of Safety."

### Conclusion

The Delta pilots already have contractual provisions that mandate FT/DT rules above and beyond FAA minimums. No change to the FAA regulations will remove those contractual protections. The new FAA regulations will impose on the rest of the industry many of the same safety standards that we have now. This will provide a more even playing field for all carriers, including start-up carriers and small-jet operators. Bringing these other carriers up to a single scheduling standard reduces the labor cost advantage that many of these carriers enjoy today. In essence, the proposed provisions would remove the ability for some to compete based on marginal safety measures.

There are also some provisions in the new regulation that would improve upon our current contractual protections. Both ALPA and Delta management predict that full implementation of these regulations may produce *more* Delta pilot jobs. It is difficult to understand how anyone who conducts even a cursory examination of the NPRM as a whole could conclude that it could have a detrimental impact on Delta pilots.

Again, we urge you to read the entire NPRM and ALPA's submitted [comments](#)<sup>iii</sup> to the NPRM. You will see that these regulations will improve safety margins throughout the industry and are an overall improvement for Delta pilots.

<sup>i</sup> [www.alpa.org/portals/alpa/committees/FTDT/NPRMonFTDT\\_9-14-10.pdf](http://www.alpa.org/portals/alpa/committees/FTDT/NPRMonFTDT_9-14-10.pdf)

<sup>ii</sup> [www.alpa.org/portals/alpa/fastread/2011/docs/MitigatePilotFatigue\\_ALPNov2010.pdf](http://www.alpa.org/portals/alpa/fastread/2011/docs/MitigatePilotFatigue_ALPNov2010.pdf)

<sup>iii</sup> [www.alpa.org/portals/alpa/committees/FTDT/NPRM\\_11-15-10.pdf](http://www.alpa.org/portals/alpa/committees/FTDT/NPRM_11-15-10.pdf)