

FAA Issues Final Rule Increasing Mandatory Flight Attendant Rest Periods



Rachel Welford

Member

rwelford@cozen.com
Phone: (202) 912-4825
Fax: (202) 304-1451

Related Practice Areas

- Aviation Litigation
- Aviation Regulatory
- Transportation & Trade

Industry Sectors

- Aviation

The Federal Aviation Administration (FAA) has issued a final rule requiring that flight attendants at large U.S. airlines receive a rest period of at least 10 consecutive hours between periods of duty lasting 14 hours or less and prohibiting a reduction in the mandatory rest period under any circumstances.

Under prior FAA regulations (dating from 1994), a flight attendant who is scheduled for a duty period of 14 hours or less must be given a scheduled rest period of at least nine consecutive hours, which could be reduced to eight hours in some circumstances. In 2018, Congress passed Section 335(a) the FAA Reauthorization Act of 2018, requiring that the FAA implement regulations to increase the minimum rest period following a duty period.

Under FAA regulations, a duty period is defined as “a period of elapsed time between reporting for an assignment involving flight time and release from that assignment...,” while rest period is defined as “a period free off all restraint or duty...and free of all responsibility for work or duty should the occasion arise.” Thus, once a flight attendant is released from duty, he or she must not be given any responsibilities until the rest period is complete. Further, under the final rule, the FAA states in no uncertain terms that “there are no exceptions given permitting flight attendants to waive the minimum rest period requirement and accept a reduced rest period that is less than ten consecutive hours.” (emphasis added).

The new rule presents complexities regarding implementation, including its potential to reduce scheduling flexibility and increase irregular operations. This concern is particularly acute in light of staffing issues that have challenged some airlines in recent months, and such airlines may need to hire additional flight attendants to accommodate longer rest periods while maintaining existing flight schedules. The FAA acknowledged this concern when it made one of the few changes in the final rule relative to the notice of proposed rulemaking (NPRM).

The FAA initially proposed an effective date and compliance date of 30 days after the date of publication in the Federal Register. Upon finalizing the rule, however, FAA retained a 30-day effective date but adopted a 90-day compliance date “to ensure [airlines] have at least two full calendar months to implement schedule changes and...initiate those changes on the date that is most efficient for their operation.”

The rulemaking has been closely watched since 2019, when the FAA issued an advance notice of proposed rulemaking (ANPRM) to examine and quantify the proposed rule change’s costs and benefits. The FAA asserted that it was obligated to issue an ANPRM because the rule was considered economically significant, though this was disputed by interested stakeholders, including the Association of Flight Attendants (AFA). The Department of Transportation (DOT) revealed in a press release that during the ANPRM and NPRM comment periods – which totaled more than 105 days – it reviewed more than 1,000 comments from flight attendants, airlines, and the public in response.