

Aviation Group Client Update

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FAA PILOT FATIGUE RULE DOES NOT APPLY TO CARGO AIRLINES

Today, the FAA published the Final Rule on pilot fatigue. The final rule does not apply to all-cargo operations, although those carriers have the ability to fly under the new rules if they so choose. Applicable to all passenger operations conducted under 14 CFR Part 121, the Final Rule ensures pilots rest longer before entering the cockpit and becomes effective January 14, 2014. The Final Rule uses the latest fatigue science to set pilot flight time, duty period, and rest based on start time, number of scheduled flight segments, and number of time zones crossed.

In response, the Independent Pilots Association, which represents 2,700 pilots at United Parcel Service Inc., challenged the Final Rule in the U.S. Court of Appeals for the D.C. Circuit. The union argues that the Final Rule should cover cargo carriers as well as passenger airlines.

The FAA excluded cargo carriers because the projected costs of inclusion significantly exceeded measurable societal benefits. The legal challenge alleges the FAA failed to “articulate how it arrived at either the projected costs or benefits.” The leadership of the Air Line Pilots Association at FedEx supports the union at UPS, but the FedEx union has not joined the legal challenge filed by the UPS union.

According to FAA calculations, exempting cargo carriers reduces projected compliance costs by more than \$200 million over 10 years. This may be attributed to the fact that cargo pilots tend to fly at night when the FAA placed the most restrictive conditions on flying. Additional filings are expected later this month, and we will continue to monitor the developments.

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