

Aviation Group Client Update

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Contact: Lisa A. Harig, Partner
Washington DC Office
lharg@mklawdc.com
+1 703 247 5487

FAA ISSUES INITIAL SUPPLEMENTAL RIA ON FLIGHTCREW MEMBER DUTY AND REST REQUIREMENTS FINAL RULE

On [December 12, 2012](#), the FAA issued an Initial Supplemental Regulatory Impact Analysis (RIA) of its final rule amending existing flight, duty and rest regulations applicable to certain certificate holders and their flightcrew members. The Initial Supplemental RIA provides more detail on the potential impacts the final rule would have on cargo-only operations.

On [January 4, 2012](#), the FAA published the Flight Crew Member Duty and Rest Requirements final rule. The regulations, which are limited to passenger operations conducted under 14 CFR part 121, become effective on January 4, 2014. On December 21, 2011, the FAA issued the original Regulatory Impact Analysis (FAA–2009–1093–2477) supporting the final rule. The original RIA provides the basis for the FAA’s decision to (1) promulgate the final rule establishing new flight, duty and rest requirements for flight crews in passenger operations; and (2) exclude flight crews in cargo-only operations from the new mandatory requirements. While cargo-only operations are not required to meet the new regulations, the rule permits these operators to opt in to the rule if they so choose.

On December 22, 2011, the Independent Pilots Association (IPA) filed a timely petition for review. During the course of reviewing the administrative record for the purpose of preparing the government’s brief, the FAA discovered errors in the original RIA that supports the final rule. The errors were associated with the scope of costs related to the implementation of the regulations for cargo-only operations. These errors appeared to be of a sufficient amount that the FAA concluded it was prudent to review the portion of the cost-benefit analysis related to cargo-only operations and allow interested parties an opportunity to comment on the corrected analysis. This Initial Supplemental RIA is the product of that review.

While this Initial Supplemental RIA largely mirrors the original RIA in both content and organizational structure, it does not re-evaluate the policy decisions behind the FAA’s decision to issue a final rule implementing new flight, duty and rest requirements for part 121 carriers engaged in passenger operations. Rather, the Initial Supplemental RIA provides expanded discussion of the methodology and information sources used in the rulemaking analysis, corrects reporting and calculation errors identified in the original RIA, and presents sensitivity analysis on key assumptions used in the analysis.

The Initial Supplemental RIA results in data that provides greater justification for the exclusion of cargo operations from the final rule, and continues to provide justification for the final rule on passenger operations. As a result, the FAA has determined that no revisions to the final rule on either cargo or passenger operations is warranted.

Comments on the Initial Supplemental RIA are **due on or before February 11, 2013**. The FAA may change the Final Supplemental RIA in light of the comments received. Please contact our office for additional information or assistance with the preparation and submission of comments.

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