



June 1, 2023

The Honorable Sam Graves  
Chairman  
Committee on Transportation,  
& Infrastructure  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Rick Larsen  
Ranking Member  
Committee on Transportation,  
& Infrastructure  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Garret Graves  
Chairman  
Subcommittee on Aviation  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Steve Cohen  
Ranking Member  
Subcommittee on Aviation  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Graves, Ranking Member Larsen, Chairman Graves and Ranking Member Cohen:

The National Business Aviation Association (NBAA) would like to express our heartfelt gratitude for your continued efforts to reauthorize the Federal Aviation Administration (FAA). In addition, your staff has been gracious with their time and open to understanding and discussing our submitted FAA priorities.

Founded in 1947, the NBAA is the leading organization for our 11,000 member companies that rely on general aviation aircraft to help make their businesses more efficient, productive, and successful. Safety continues to be our North Star and guides us as we consider ways to ensure the United States remains a global leader in aviation.

To this end, preventing and mitigating fatigue remains a universal area of concern. We would like to bring your attention to the recommendations of the Part 135 Pilot Rest and Duty Aviation Rulemaking Committee (ARC) report presented July 2, 2021. This ARC included Part 135 certificate holders of various sizes, legal experts, industry associations, and others, and the final report had several robust, reasonable recommendations to improve safety through revised rest and duty rules.

Specifically, the ARC unanimously agreed upon the following core principles, which we strongly support.

J. From a safety perspective, eliminate “tail-end ferries” that function like additional duty time beyond allowable limits and reduce sleep opportunities.

...

M. Create hard limits and requirements that are enforceable. Require recordkeeping regarding the scheduling of both duties and prospective rest.

Currently, an operator may assign, and a pilot may accept, a Part 91 flight at the conclusion of a Part 135 duty period that would have otherwise exceeded the allowable duty limits for Part 135 had the Part 91 flight been considered part of the Part 135 duty period. This practice, referred to as “tail-end ferry flights,” among other terms, allows an operator or pilot to claim the flight is outside the scope of the Part 135 duty period, and therefore, the rest and duty regulations for Part 135 would not apply.

The FAA and NTSB recognize that engaging in Part 91 flying after completing a Part 135 duty period of maximum duration poses a substantial safety risk that is deemed unacceptable. NBAA does not believe that the cost of ending “tail-end ferry flights” will be significant, as many Part 135 operators already recognize the risks posed by such operations and voluntarily disallow “tail-end ferries.”

In addition, we support language to address recordkeeping requirements in 135.63. The ARC recommended that the FAA require Certificate Holders to record rest, duty, and flight times in sufficient detail to determine compliance with the rest, duty and flight time limitations of Part 135. Today, operators are only required to record flight time. While monitoring flight time is an important component of preventing fatigue, it is not the only component. Hence, the regulations stipulate flight and duty limits along with rest minimums. However, the regulation only requires recording the flight time, which is insufficient to ensure flight crews receive adequate, prospectively scheduled rest.

Because the recordkeeping requirements are inadequate, the FAA cannot effectively monitor and enforce the flight, rest and duty regulations, creating an environment where operators may fail to assign rest prospectively.

Therefore, we support language to eliminate “tail-end ferries” and provide sufficient information to enforce existing rest and duty rules. For example, a minor tweak to §135.63(a)(4)(vii) would enhance recordkeeping, enable enforcement, and reduce fatigue.

#### § 135.63 Recordkeeping requirements.

(a) Each certificate holder shall keep at its principal business office or at other places approved by the Administrator, and shall make available for inspection by the Administrator the following -...

(4) An individual record of each pilot used in operations under this part, including the following information: ...

(vii) The pilot’s flight, rest and duty time in sufficient detail to determine compliance with the flight, rest and duty time limitations of this part.

(viii) Each certificate holder must report within 10 days:

(1) Any flight duty period that exceeded the maximum flight duty period permitted in this part, by more than 30 minutes;

(2) Any flight time that exceeded the maximum flight time limits permitted in this part; and

- (3) Any flight duty period or flight time that exceeded the cumulative limits permitted in this part.
- (ix) The report required by (a)(4)(viii) must contain the following:
  - (1) A description of the extended flight duty period and flight time limitation, and the circumstances surrounding the need for the extension; and
  - (2) If the circumstances giving rise to the extension(s) were within the certificate holder's control, the corrective action(s) that the certificate holder intends to take to minimize the need for future extensions.

Thank you for your ongoing dedication to reauthorizing the FAA. Eliminating "tail-end ferry flights" and enhancing recordkeeping requirements is a crucial step toward improving safety. By addressing these concerns, we can work together to enforce existing rest and duty rules effectively and minimize the risk of fatigue-related hazards in aviation. We look forward to continued collaboration and progress in these crucial matters. Thank you for your commitment to making aviation safer.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Bolen", with a horizontal line extending to the right.

Ed Bolen  
President & CEO