



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 117 and 121

[Docket No. FAA-2026-6739; Notice No. 26-06]

RIN 2120-AM27

Ensuring Passenger Safety by Preempting Duty and Rest Requirements

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FAA proposes to clarify that FAA regulations governing flightcrew member and flight attendant duty and rest periods preempt all State and local meal and rest break requirements. This proposed rule also explains the agency's view that State meal and rest break requirements are preempted by the Airline Deregulation Act of 1978 (ADA) due to their significant impact on air carrier prices, routes, and services.

DATES: Send comments on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Send comments identified by docket number FAA-2026-6739 using any of the following methods:

- **Federal eRulemaking Portal:** Go to www.regulations.gov and follow the online instructions for sending your comments electronically.
- **Mail:** Send comments to Docket Operations; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, S.E., West Building, 5th Floor (W58-213), Washington, D.C. 20590.
- **Hand Delivery or Courier:** Take comments to Docket Operations in Room W58-213 of the West Building 5th Floor at 1200 New Jersey Avenue, S.E.,

Washington, D.C., 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- Fax: Fax comments to Docket Operations at (202) 493-2251.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W58-213 of the West Building 5th Floor at 1200 New Jersey Avenue, S.E., Washington, D.C., 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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I. Background and Executive Summary

Recent litigation prompted FAA to review regulations relating to duty and rest for flightcrew members and flight attendants. To forestall any confusion relating to the preemptive effect of those regulations, FAA proposes clarifying regulations.

FAA proposes to add § 121.468 to title 14 of the Code of Federal Regulations to clarify and reiterate that FAA's flight attendant duty and rest period regulations preempt State and local laws that are covering the same subject matter.¹ While Federal regulations concerning flightcrew members have consistently preempted State action,² there have been efforts to apply some State laws to flight attendants.³ FAA regulations relating to flightcrew members have consistently preempted State and local labor laws, and FAA proposes new § 117.31 as a conforming amendment to ensure FAA occupies the entire field of flightcrew member regulations to prevent future misapplications of State and local laws or misinterpretations of FAA regulations (as further discussed in section III of this preamble). Further, FAA asserts that the same field and conflict preemption that applies to flightcrew members applies to flight attendants because FAA thoroughly occupies this relevant field and State laws may conflict with FAA safety requirements. FAA proposes these regulations to further assert comprehensive regulation of flight attendant duty and rest to include meal and rest breaks during a duty period.

Like flightcrew members, flight attendants perform critical safety functions. Flight attendants are responsible for taking action during emergencies, including

administering first aid, conducting aircraft evacuations, responding to inflight fires, managing medical emergencies, and handling passengers who threaten the safety of other passengers or might be unruly or disruptive.⁴ FAA's regulations ensure that flight attendants are available to perform these duties as needed while also ensuring that post duty rest periods provide sufficient time to prevent fatigue. Conflicting State or local laws would create a complex patchwork of regulatory requirements that would frustrate the Federal regulatory scheme and inhibit aviation safety.

Therefore, FAA proposes adding §§ 117.31 and 121.468 to ensure the duty and rest requirements of flightcrew members and flight attendants are subject only to Federal aviation regulations.

To address the inconsistency created by judicial rulings and to ensure a cohesive national safety standard, FAA proposes a rule clarifying that a single, uniform set of requirements applies to the duty, rest, and break periods for both flightcrew members and flight attendants.

This proposed rule clarifies that FAA's regulations—including 14 CFR part 117 and 14 CFR 121.467—occupy the entire field of flightcrew member and flight attendant duty and rest, including meal and rest breaks during duty periods. The same principles that support preemption of State meal and rest break laws for pilots should apply with equal force to flight attendants. This proposed rule, moreover, clarifies that air carriers may not permit flightcrew members or flight attendants to take off-duty breaks during a duty period and any State law requiring such breaks conflicts with FAA regulations and is preempted.

II. Authority for this Rulemaking

FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code (U.S.C.). Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the

agency's authority. Section 44701(a)(4) requires the Administrator to promulgate regulations in the interest of safety for the "maximum hours or periods of service of airmen and other employees of air carriers." Section 44701(a)(5) requires the Administrator to promulgate "regulations and minimum standards for cybersecurity and other practices, methods, and procedures that the Administrator finds necessary for safety in air commerce and national security." In addition, 49 U.S.C. 44701(d)(1)(A) specifically states that the Administrator, when prescribing safety regulations, must consider the duty of an air carrier to provide service with the highest possible degree of safety in the public interest. Such authority applies to the oversight FAA exercises to ensure safety of air carrier operations, including crewmember flight, duty, and rest requirements.

III. Discussion of the Proposal

A. The Need for FAA to Clarify the Scope of Preemption

Recent litigation—most notably *Bernstein v. Virgin America, Inc.* and *Wilson v. SkyWest Airlines, Inc.*⁵—over the applicability of State meal and rest break laws to flight attendants has underscored the need to propose regulations to remove confusion over which laws prevail in this field. Specifically, some State laws⁶ that have been applied to flight attendants pertain to when he or she is on duty or permitted to take time off during their duty period to have a meal or rest break; however, for the reasons discussed below, FAA regulations supersede these State laws and this proposed rule seeks to make that clarification. FAA proposes including paragraphs (b) of §§ 117.31 and 121.468 to clarify and reiterate that FAA's flightcrew member and flight attendant duty and rest period regulations preempt State and local laws related to flightcrew member and flight attendant duty and rest periods, including meal and rest breaks.

B. Field Preemption

Under principles of field preemption, “State law is pre-empted if federal law so thoroughly occupies a legislative field as to make reasonable the inference that Congress left no room for the States to supplement it.”⁷ When “Congress has entrusted an agency with the task of promulgating regulations to carry out the purposes of a statute, as part of the preemption analysis [courts] must consider whether the regulations evidence a desire to occupy a field completely.”⁸ Further, “if the pervasiveness of the regulations indicate that the agency sought to occupy the field, the question is whether that action was within the scope of the agency’s delegated authority.”⁹

Congress has given FAA comprehensive authority to ensure the safety of air travel and the efficient use of the airspace.¹⁰ This includes a specific statutory mandate to regulate “the maximum hours or periods of service of airmen and other employees of air carriers....”¹¹ FAA has issued regulations that cover every aspect of aviation safety. Consistent with FAA’s statutory mandate, these regulations include duty and rest regulations for flightcrew members and flight attendants. FAA regulations require airlines to provide flight attendants on each flight and contemplate that those flight attendants will be available to ensure passenger safety.¹² FAA imposes specific requirements related to flight attendant number and activities during boarding, takeoff, landing, taxi, deplaning, and when passengers are on board a stationary aircraft on the ground.¹³ FAA has also issued detailed regulations setting the maximum length of flight attendant duty periods and minimum length of flight attendant rest periods.¹⁴ Through these regulations, FAA has not only occupied the field of aviation safety generally, but has specifically occupied the field of flight attendant duty regulations, consistent with the statutory requirement that it regulate “the maximum hours or periods of service of airmen and other employees of air carriers.”¹⁵ Therefore, State and local laws pertaining to flight attendant duty or rest periods, including rest and meal breaks, are preempted by FAA’s

regulations because FAA thoroughly occupies this relevant field and issues these kinds of regulations in accordance with its statutory authority.

Despite this Federal regulatory framework, FAA is aware of efforts to apply State meal and rest break laws to flight attendants, including when those flight attendants are on board an aircraft in flight. This proposed rule clarifies that such State requirements are preempted. This proposed rule also intends to fill any potential gap in the field of FAA's regulation of flight attendant duty and rest, including meal and rest breaks, with provisions requiring air carriers to ensure flight attendants are available to perform safety-related responsibilities during a flight duty period, while also providing allowance for meeting physiological needs. Air carriers already incorporate meal and rest breaks for flight attendants in their operations as necessary and these provisions are not intended to alter the Federal regulatory status quo. FAA invites comments on any unintended effect of these provisions on air carrier operations.

C. Conflict with Federal Safety Regulations

State laws, including the California law at issue in *Bernstein*, are preempted when they conflict with Federal law. FAA regulations define duty periods for flightcrew members and flight attendants and are designed to ensure that flightcrew members and flight attendants are available to perform critical safety duties.¹⁶ To the extent that a State law purports to restrict the availability of a flightcrew member or a flight attendant to perform their safety-related duties during a duty period, such a law conflicts with the Federal regulatory framework and is preempted.

Under 14 CFR 121.467(a), the "duty period" for a flight attendant is defined as the elapsed time from reporting for an assignment until the final release. Under 14 CFR 117.3, the "flight duty period" for a flightcrew member is defined as "a period when a flightcrew member is required to report for duty with the intention of conducting a flight * * * and ends when the aircraft is parked for the last flight and there is no

intention for further aircraft movement.” For both flightcrew members and flight attendants, this duty period can include times before, between, and after flights. FAA regulations require that flightcrews remain on-duty and on-call throughout this entire period to respond to safety needs. Various State laws require employees on break to be relieved of all duty or employer control and free to come and go.¹⁷ Applying this requirement to a flight in progress is physically impossible, as a flight attendant or flightcrew member cannot be free to come and go while mid-flight. These laws would also present clear and significant safety risks.

The primary mission of flight attendants is to ensure safety, a role that is undermined if a flight attendant is legally “off-duty” during an emergency. Flight attendants need to be ready to manage land and water evacuations, control inflight fires, manage medical emergencies, and handle unruly passengers among other tasks. In the event an emergency evacuation is necessary, flight attendants must need to be available immediately to assist when mere seconds can make a difference in the number of fatalities involved.¹⁸

In addition, safety response relies on highly coordinated teamwork among flight attendants and flightcrew members. FAA regulations require airlines to provide FAA-approved crew resource management training to flightcrew members and flight attendants.¹⁹ This FAA-required training as part of an FAA-approved air carrier training program serves to ensure appropriate interaction between flightcrew members and flight attendants, especially during emergency situations. This training contemplates flightcrew members and flight attendants who are not only available, but are required to perform safety functions. State laws mandating that flightcrew members or flight attendants be “off-duty” and free from responsibility during any portion of a duty period would conflict with this FAA-required crew resource management training, which is not designed to manage crew unavailability due to State laws.

In contrast to these State laws that present safety risk, FAA's regulations are intended to increase safety through fatigue mitigation, which FAA addresses by regulating rest periods between shifts rather than during them. Most recently, at Congress's direction,²⁰ FAA issued the 2022 Final Rule increasing the mandatory rest period for flight attendants to 10 consecutive hours to ensure they receive adequate rest and are fully recovered before starting a new duty period.²¹

Flightcrews function as highly coordinated safety teams. Rotating "on-duty" and "off-duty" members during a single flight segment increases the risk of confusion and undermines safety protocols. This is especially true since FAA regulations apply to all flight attendants on board a flight, not just a minimum required number. There is no Federal provision that allows a "surplus" attendant to be entirely off-duty and unresponsive while the aircraft is in operation.

There are also economic impacts that increased flight attendant coverage would impose. Forcing airlines to block passenger seats for "relief" crew members reduces available capacity, increases ticket prices, and may make low-margin regional routes economically unviable. Finally, even with extra staff, the requirement for a crew member to be "free of all restraint" cannot be met while they are confined to an aircraft in flight.

In contrast to general-purpose State meal and rest break laws, FAA believes that the existing status quo under FAA regulations, which is a result of both FAA's rules about duty periods, collective bargaining agreements (CBA) reached between air carriers and labor unions, and other industry standards and specific air carrier crew resource management procedures, provides the appropriate policy balance. These provide a specialized, industry-specific balance between flight attendant health and aviation safety and utilize tailored provisions concerning meals and other rest breaks²² that do not conflict with FAA regulations or otherwise trigger the dangerous safety and operational conflicts inherent in rigid, "off-duty" State mandates. Although at this time FAA is not

proposing to codify the approach taken in any specific CBA or crew resource management procedure, FAA is requesting comment on whether to do so in the final rule. In particular, if FAA proceeds to a final rule FAA seeks comments on what specific terms should be included in a regulation to ensure that safety is maintained without unnecessarily constricting any future agreements between air carriers and labor unions or air carrier procedures. FAA also seeks comments on if additional guidance material would be desirable on FAA regulations relating to flight attendant rest and duty periods or preemption.

D. Airline Deregulation Act Express Preemption

FAA believes its occupation of the field in aviation safety and the efficiency of the airspace and conflicts with its existing regulations concerning flight duty and rest are sufficient to show that State meal and rest break requirements are preempted. That said, these laws, if not preempted, would also have a “significant impact” on airline prices, routes, and services and thus are also preempted under the Airline Deregulation Act of 1978 (ADA),²³ which was enacted to ensure that the “maximum reliance on competitive market forces” remains the primary driver of efficiency, innovation, and low prices in the aviation industry.

To protect this Federal interest, the ADA’s express preemption provision prohibits States from enacting or enforcing any law “related to a price, route, or service of an air carrier.” The Supreme Court has made clear that this preemption provision is to be read expansively, first in *Morales v. Trans World Airlines, Inc.*,²⁴ and again in *Rowe v. New Hampshire Motor Transportation Ass’n*.²⁵ The Supreme Court established in *Morales v. Trans World Airlines, Inc.* that State laws are preempted if they have a “significant impact” on airline rates. Complying with State laws would require airlines to hire additional crew members to stagger “off-duty” breaks, which would have direct labor and operational costs. Airlines would be forced to block off passenger seats to accommodate

relief crew members, foregoing the revenue that could have been made through the sale of those seats. On regional aircraft with limited seating, the loss of even one or two seats for additional crew can eliminate the economic viability of the flight and may result in the elimination of low margin routes serving small communities. Applying these changes to the flights across their networks would result in significant costs to the airlines. These increased costs would inevitably be passed to consumers through significantly higher ticket prices.

Finally, a central purpose of the ADA's preemption clause is to prevent a patchwork of varying State requirements that would interfere with interstate commerce. State meal and rest break laws are not uniform and may at times be conflicting. For example, New York's labor laws require meal breaks at specific times of day (*e.g.*, between 11:00 a.m. and 2:00 p.m.), while other States may use different intervals. Airlines providing interstate service are not required to and cannot practically track and comply with disparate laws for every crew member across different States on a single flight. This complexity creates regulatory uncertainty that disrupts standard nationwide scheduling and staffing practices which in turn has a significant effect on airline services, contrary to the prohibitions on State action in the ADA.

Unlike short-haul truck drivers, an inapt parallel drawn in *Bernstein*, airline crews cannot readily interrupt operations to accommodate State-mandated breaks without fundamentally altering and affecting the services and prices Congress intended to deregulate. Such a regime of multiple, conflicting State meal and rest break requirements would frustrate airlines' ability to provide safe, efficient and timely service to the travelling public throughout the United States.

E. Flight Attendant Requirements

In 14 CFR 121.467(a), a flight attendant serving in part 121 operations is defined as an individual, other than a flightcrew member, who is assigned by a certificate holder

to duty in an aircraft during flight time and whose duties include activities related to ensuring cabin safety.²⁶ Section 121.391 specifies the minimum number of flight attendants required on board a flight, based on maximum payload capacity and seating capacity, for certificate holders conducting passenger-carrying operations under part 121.²⁷ Flight attendants are responsible for taking action during emergencies, including administering first aid, conducting aircraft evacuations, responding to inflight fires, managing medical emergencies, and handling passengers who threaten the safety of other passengers or might be unruly or disruptive.²⁸ They also need to be prepared to respond to situations that could threaten the safety of the passengers and the flight, including turbulent air, airplane decompression, and hijackings. Flight attendants need to know the location of emergency exits, fire extinguishers, first aid kits, flotation devices, oxygen masks, and emergency slides, and check emergency equipment before flight. In addition, they need to assess and verify the suitability of passengers that occupy exit seating, brief passengers on safety equipment and evacuation and emergency landing procedures, and ensure compliance with applicable safety and security regulations. A flight attendant needs to be able to perform these responsibilities during their duty period.

Under 14 CFR 121.467, duty period is defined as “the period of elapsed time between reporting for an assignment involving flight time and release from that assignment by the certificate holder conducting domestic, flag or supplemental operations.” FAA establishes duty period limitations to ensure flight attendants do not become overly fatigued during flight assignments to enhance the safety of the flying public.²⁹ In addition, the duty period limitations are designed to suit all operations that require flight attendants without imposing a significant burden on operators.³⁰

A designated “off-duty” meal or rest break during a flight attendant’s duty period when he or she would be unavailable to perform cabin safety-related responsibilities would pose a risk to aviation safety.

Flight attendants serve as a core component in cabin safety responsibilities. One of those responsibilities includes handling passengers who threaten the safety of other passengers or might be unruly or disruptive. Over the past five years, FAA received 14,343 reports of unruly passengers on flights.³¹ Flight attendants handle these passengers to ensure the safety of other passengers. If a flight attendant is permitted during their duty period to be relieved of their safety responsibilities, including handling unruly passengers (*e.g.*, a meal or rest break), there would be a critical gap in cabin safety coverage during the flight. In this situation, a flight attendant may not be available to handle a passenger's disruptive or violent behavior that could harm other passengers or cause risk to the operation of the aircraft. Flight attendants need to be available and ready to perform safety procedures during their duty period.

Another example of the aviation safety need for flight attendants to remain on duty during their duty period and perform safety responsibilities is the growing number of lithium battery events involving smoke, fire, or extreme heat in the aircraft cabin. Passengers frequently carry portable electronic devices powered by lithium-ion batteries, including cell phones, laptops, portable rechargers, watches, and cameras. As more of these lithium-ion battery devices are introduced to the aircraft cabin, the risk of smoke, fire, or extreme heat increases. Between March 3, 2006 and January 8, 2026, there were 693 verified incidents of lithium battery related events involving, smoke, fire or extreme heat.³² The frequency of incidents has increased progressively from 39 incidents in 2020 to 93 incidents in 2025.³³ Flight attendants need to respond quickly to such an event to mitigate the risk of onboard lithium battery fires; this need is heightened given the likelihood that the number of these events will continue to increase. As previously stated, if a flight attendant was relieved of their safety responsibilities during a duty period, then he or she would not be responsible for responding to an emergency such as a fire, thus placing aviation safety at risk.

Therefore, FAA proposes new §§ 117.31(a) and 121.468(a) to ensure that FAA regulation of flight attendant and flightcrew member duty and rest periods preempt State and local laws and to clarify the availability of meal and rest breaks for flight attendants while on duty. Including meal or rest breaks during a duty period in which the flight attendant is relieved from all responsibilities does not enhance the safety of the flying public nor does it relieve a burden on certificate holders. As with pilots, FAA recognizes flight attendants will have physiological needs (*e.g.*, using the restroom and consuming food and drink) during their duty period. Given this context, FAA understands many CBAs between certificate holders and labor unions or certificate holder's standard operating procedures cover the topic of physiological needs (*e.g.*, meal and rest breaks). As such, FAA intends for certificate holders to determine how to ensure that all flight attendants are available to perform safety-related responsibilities and also be able to meet physiological needs during a duty period.

FAA proposes a conforming amendment by adding § 117.31(a) to forestall any confusion for flightcrew members responsibilities and to avoid any implication that FAA does not intend to preempt State and local law with regard to flightcrew members.³⁴

In addition, because an air carrier may apply the duty and rest provisions of part 117 to flight attendants, pursuant to § 121.467(c), FAA believes it is necessary to include conforming amendments in part 117.

Finally, FAA proposes a technical amendment to revise the authority citation for 14 CFR part 117 that would remove the citation to title 49 of the United States Code (49 U.S.C.) 106(g) to reflect amendments resulting from the FAA Reauthorization Act of 2024 and would add the citation to 49 U.S.C. 106(f) to reflect FAA's current statutory rulemaking authority.³⁵

IV. Regulatory Notices and Analyses

A. Regulatory Impact Analysis

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) require agencies to regulate in the “most cost-effective manner,” to make a “reasoned determination that the benefits of the intended regulation justify its costs,” and to develop regulations that “impose the least burden on society.” The Office of Management and Budget determined this proposed rule is a significant regulatory action as defined in section 3(f) of Executive Order (E.O.) 12866.

The decision in *Bernstein* and the potential for similar litigation to apply state meal and rest break laws to flight attendants presents the possibility of airlines having to comply with a patchwork of requirements. These requirements could also affect individual flight attendants at the same airline differently. There have been efforts to mitigate the decision -- in March of 2023, the State of California amended its Labor Code (§ 512.2) to exempt flight attendants from standard meal and rest period requirements if they are covered by a CBA that addresses these breaks. However, not all airlines are covered by collective bargaining agreements.

The proposed rule would clarify that FAA regulations pertaining to flightcrew member and flight attendant duty and rest periods preempt state-mandated meal and rest break laws. In doing so, the proposed rule would prevent the potential patchwork of requirements that could result through litigation. State meal and rest break requirements differ and the nature and result of any future litigation is unknown. Also unknown are subsequent actions, such as the amendment to California Labor Code, that might mitigate the impact of any decisions. However, the types of impacts industry may avoid by not having to comply with different state requirements include staffing flights with additional flight attendants; reserving passenger seats for additional flight attendants; disruption to

flight operations; and wider route implications from increased costs. Airlines may also experience efficiency gains from only having to track and comply with FAA regulations for flight attendants.

In comparison, the ruling in *Bernstein* resulted in damages payable to flight attendants who were not afforded State mandated meal and rest breaks. The proposed rule would clarify that these State laws do not apply to flight attendants and prevent or discourage similar litigation. While airlines would not have to comply with the State requirements, flight attendants would also not be afforded any incremental breaks compared to those already identified in CBAs or airline policies.

In summary, FAA anticipates the proposed rule will prevent airlines from having to comply with differing State meal and rest break requirements for flight attendants that could be costly and disruptive to operations. Flight attendants would not receive meal and rest breaks based on State laws and would instead continue under existing CBAs and airline policies. FAA requests comments on this analysis and the identified uncertainties.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) and the Small Business Jobs Act of 2010 (Pub. L. 111–240), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term “small entities” comprises small businesses and not-for-profit organizations independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

If an agency determines a rulemaking will not result in a significant economic impact on a substantial number of small entities, the head of the agency may so certify under section 605(b) of the RFA. The proposed rule does not impose costs on any

entities, including small entities (individuals are not small entities under the RFA). Also, the economic impacts of this rule with respect to cost savings are uncertain as they relate to potential future litigation. Therefore, FAA certifies the proposed rule would not result in a significant economic impact on a substantial number of small entities. FAA solicits comments regarding this determination.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39), as amended by the Uruguay Round Agreements Act (Pub. L. 103-465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

FAA has assessed the potential effect of this proposed rule and determined it ensures the safety of the American public and does not exclude imports that meet this objective. As a result, FAA does not consider this proposed rule as creating an unnecessary obstacle to foreign commerce.

D. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or Tribal government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those costs. FAA determined the proposed rule would not result in the expenditure of \$187,000,000 or more (\$100,000,000 adjusted for inflation using the most current

Implicit Price Deflator for the Gross Domestic Product) by State, local, or Tribal governments, in the aggregate, or the private sector, in any one year.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires FAA to consider the impact of paperwork and other information collection burdens imposed on the public. FAA has determined there would be no new requirement for information collection associated with this proposed rule.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

G. Environmental Analysis

FAA has analyzed the environmental impacts of this proposed rule pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.). FAA has determined this rule is categorically excluded pursuant to Paragraph B-2.6(f) of appendix B to FAA Order 1050.1G, FAA National Environmental Policy Act Implementing Procedures.³⁶ Categorical exclusions are categories of actions the agency has determined normally do not significantly affect the quality of the human environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS).³⁷ In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS.³⁸ In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS.³⁹ This rulemaking, which proposes

to preempt duty and rest requirements to ensure passenger safety, is categorically excluded pursuant to Paragraph B-2.6f of FAA Order 1050.1G: “Regulations, standards, and exemptions (excluding those that if implemented may cause a significant impact on the human environment.” FAA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

FAA has analyzed this proposed rule under the principles and criteria of Executive Order (E.O.) 13132, Federalism. This proposed rule has “federalism implications” as defined by E.O. 13132, because it would have a “substantial direct effect” on the States and on the relationship between the Federal Government and the States. In accordance with section 2 of E.O. 13132, FAA has determined that the problem of inconsistent aircraft crew duty regulations is of “national significance” and requires a uniform Federal solution. Under section 4, an agency may only preempt State law when a statute contains express preemption or there is “clear evidence” that Congress intended preemption. FAA relies on the express preemption provision of the ADA (49 U.S.C. section 41713(b)(1)) and clear evidence that State meal and rest break laws and rules “directly conflict” with Federal safety objectives. FAA has restricted this preemption to the “minimum level necessary” to achieve the safety and economic objectives of the Federal Aviation Act and the ADA. With regard to consultation with State and local officials, FAA has been clear throughout the litigation in *Bernstein* that it believes that these laws should be preempted and, in this NPRM, requests comment from States and local governments on this issue.

B. Executive Order 13211, Regulations that Significantly Affect Energy Supply, Distribution, or Use

FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. FAA has determined it would not be a “significant energy action” under the Executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609 and has determined this action would have no effect on international regulatory cooperation.

D. Executive Order 14192, Unleashing Prosperity Through Deregulation

This proposed rule, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

VI. Additional Information

A. Comments Invited

FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should

submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rule. Before acting on this proposal, FAA will consider all comments it receives on or before the closing date for comments. FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), FAA solicits comments from the public to inform its rulemaking process better. FAA posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

B. Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to the person in the **FOR FURTHER INFORMATION CONTACT** section of this document. Any commentary FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

C. Electronic Access and Filing

A copy of this NPRM, all comments received, any final rule, and all background material may be viewed online at www.regulations.gov using the docket number listed above. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at www.federalregister.gov and the Government Publishing Office's website at www.govinfo.gov. A copy may also be found at FAA's Regulations and Policies website at www.faa.gov/regulations_policies.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue S.W., Washington, D.C. 20591, or by calling (202) 267-9677. Commenters must identify the docket or notice number of this rulemaking.

All documents FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

D. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit www.faa.gov/regulations_policies/rulemaking/sbre_act/.

¹ FAA also proposes a conforming amendment to § 117.31(b) to mirror the proposed language in § 121.468(b) to reiterate FAA regulations preempt State laws.

² See *Ventress v. Japan Airlines*, 747 F.3d 716 (9th Cir. 2014); *Kohr v. Allegheny Airlines, Inc.*, 504 F.2d 400, 404 (7th Cir. 1974); *French v. Pan Am Exp., Inc.*, 869 F.2d 1, 5 (1st Cir. 1989).

³ See, e.g., *Bernstein v. Virgin Am., Inc.*, 3 F.4th 1127 (9th Cir. 2021).

⁴ *Flight Attendant Duty Period Limitations and Rest Requirements* final rule, 87 FR 61452 (Oct. 12, 2022).

⁵ No. 19-CV-01491-VC, 2021 WL 2913656 (1 (N.D. Cal. July 12, 2021) (“The plaintiffs’ meal and rest break claims are not preempted by either the Airline Deregulation Act or the Federal Aviation Act. This result is compelled by the Ninth Circuit’s decision in *Bernstein v. Virgin America, Inc.*, where the court held that California’s meal and rest break requirements were not preempted by either statute as applied to the airline industry. 990 F.3d 1157, 1167-1170 (9th Cir. 2021).”).

⁶ See Colo. Code Regs. § 1103-1-5.1; Mass. Gen. Laws ch. 149, §§ 100–101; Minn. R. 5200.0120(4); Or. Admin. R. 839-020-0050(2)(a). See Cal. Lab. Code § 512; 7 Colo. Code Regs. § 1103-1-5.1; Conn. Gen. Stat. § 31-51ii(a); Del. Code Ann. tit. 19, § 707(a); 820 Ill. Comp. Stat. 140/3; Ky. Rev. Stat. Ann. § 337.355; Me. Rev. Stat. Ann. tit. 26, § 601; Mass. Gen. Laws ch. 149, §§ 100–01; Minn. Stat. § 177.254(3); Minn. R. 5200.0120(4); Nev. Rev. Stat. § 608.019(1); N.H. Rev. Stat. § 275:30-A; N.Y. Lab. Law § 162; N.D. Admin. Code 46-02-07-02(5); Or. Admin. R. 839-020-0050(2); R.I. Gen. Laws § 28-3-14; Tenn. Code Ann. § 50-2-103(h); Wash. Admin. Code § 296-126-092(1); W. Va. Code § 21-3-10a.

⁷ *Nat’l Fed’n of the Blind v. United Airlines, Inc.*, 813 F.3d 718, 733 (9th Cir. 2016).

⁸ *Id.*

⁹ *Id.*

¹⁰ See, e.g., 49 U.S.C. 44701(a) (requiring FAA to issue regulations to “promote safe flight of civil aircraft in air commerce”); *id.* § 40103(b)(2) (requiring FAA to “prescribe air traffic regulations”).

¹¹ 49 U.S.C. § 44701(a)(4).

¹² 14 CFR 121.391.

¹³ 14 CFR 121.391(d), 121.393, 121.394.

¹⁴ 14 CFR 121.467.

¹⁵ 49 U.S.C. 44701(a)(4).

¹⁶ See 14 C.F.R. § 117.3 and 14 C.F.R. § 121.467.

¹⁷ See footnote 7.

¹⁸ See 14 CFR 25.803 (FAA airworthiness regulation that requires a demonstration that an airplane can be evacuated within 90 seconds under simulated emergency conditions).

¹⁹ 14 CFR 121.404.

²⁰ Section 335(a) of the FAA Reauthorization Act of 2018 (Pub. L. No. 115-254, 132 Stat. 3186 (Oct. 5, 2018), codified at 49 U.S.C. 44701 note).

²¹ See *Flight Attendant Duty Period Limitations and Rest Requirements* final rule, 87 FR 61452 at 61457.

²² See, e.g., CBA between American Airlines and AFPA, Section 4 (Expenses) and Section 38 (Crew Rest), available at www.apfa.org/contract/; CBA Between Alaska Airlines and AFPA, Letter of Agreement 10, “Flight Attendant Onboard Breaks,” available at <https://afaalaska.org/wp-content/uploads/2025/11/2025-2028-AFA-Alaska-CBA-Interim-Document-11.21.2025.pdf>.

²³ Pub. L. 95–504, 92 Stat. 1705 (Oct. 24, 1978).

²⁴ 504 U. S. 374 (1992).

²⁵ 552 U.S. 364 (2008).

²⁶ 14 CFR 121.467(a).

²⁷ 14 CFR 121.391 provides that a certificate holder may, however, use more than the required number of flight attendants.

²⁸ See generally *Flight Attendant Duty Period Limitations and Rest Requirements* final rule, 87 FR 61452 (Oct. 12, 2022).

²⁹ *Flight Attendant Duty Period Limitations and Rest Requirements* 59 Federal Register 42977-42978 (Aug. 19, 1994).

³⁰ *Id.* at 42978.

³¹ Federal Aviation Administration, “Dangerous Behavior Doesn’t Fly,” www.faa.gov/unruly.

³² Federal Aviation Administration, “Lithium Battery Incidents” www.faa.gov/hazmat/resources/lithium_batteries/incidents.

³³ *Id.*

³⁴ FAA does not intend to alter the status quo of flightcrew member *duty* as defined in § 117.3 and the definition of a *flightcrew member* in § 1.1.

³⁵ Pub. L. 118-63, sec. 204, 138 Stat. 1041 (May 16, 2024).

³⁶ 90 FR 29615 (Jul. 3, 2025).

³⁷ *See* DOT Order 5610.1D § 9.

³⁸ *Id.* § 9(b).

³⁹ *Id.* § 9(b).

List of Subjects

14 CFR Part 117

Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Safety.

The Proposed Amendment

For the reasons discussed in the preamble, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 117—FLIGHT AND DUTY LIMITATIONS AND REST

REQUIREMENTS: FLIGHTCREW MEMBERS

1. The authority citation for part 117 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 40113, 40119, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 46901, 44903-44904, 44912, 46105.

2. Add § 117.31 to read as follows:

§ 117.31 Preemption of State and local meal and rest break requirements.

(a) Except as authorized under this part, a certificate holder must ensure that all flightcrew members are available to perform safety-related responsibilities during a flight duty period.

(b) This part preempts any State or local law, rule, regulation, order or standard, or enforcement thereof, covering the subject matter of flightcrew member duty and rest periods, including meal and rest breaks.

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(f), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112-95, sec. 412, 126 Stat. 89, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44729, 44732; 46105; Pub. L. 111-216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112-95, 126 Stat. 62 (49 U.S.C. 44732 note); Pub. L. 115-254, 132 Stat. 3186 (49 U.S.C. 44701 note).

4. Add § 121.468 to read as follows:

§ 121.468 Preemption of State and local meal and rest break requirements.

(a) Except as authorized under this part, a certificate holder must ensure that all flight attendants are available to perform safety-related responsibilities and also be able to meet physiological needs during a duty period.

(b) Section 121.467 of this part preempts any State or local law, rule, regulation, order or standard, or enforcement thereof, covering the subject matter of flight attendant duty and rest periods, including meal and rest breaks.

Issued under authority provided by 49 U.S.C. 106(f) and 44701 in Washington, D.C.

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[FR Doc. 2026-13546 Filed: 7/2/2026 8:45 am; Publication Date: 7/6/2026]