McBreen&Kopko

Air Carrier Newsletter

Air carriers have received increasing attention from U.S. regulators. Recent activity by the Federal Aviation Administration (FAA) is set to affect both pilots and part 121 operators.

FAA Legal Interpretations

Earlier this month, FAA addressed a request for legal interpretation regarding the consequences of deadhead transportation in connection with flight time limitations for flag operations and conditions for admission to an aircraft flight deck. FAA clarified that because an individual assigned to deadhead transportation cannot also be assigned as a flightcrew member, the time does not count towards flight time limits. However, if the individual performs duty during the course of the flight as a pilot, flight engineer, or flight navigator, the individual becomes a flightcrew member and the total block-to-block time for the flight will accrue towards flight time limitations.

With regard to prior legal interpretations regarding the discretion of a pilot-in-command (PIC) to admit individuals to the flight deck, FAA proposed to rescind relevant portions implying air carriers have no ability to question the decision of the PIC to deny flight deck access for a reason that is not based on a safety concern. FAA expects a PIC will be able to articulate a safety-related reason for denying access for situations under 14 CFR 121.547(a)(3)-(4). Last, to the extent a certificate holder assigns a deadheading individual, flightcrew member, or crewmember to a particular operation and that individual is not required for the operation, FAA would not view that individual as a "required crewmember" for purposes of 14 CFR 121.385(a).

Amendment to Line Check Requirements

This week, as a result of the FAA Modernization and Reform Act of 2012, FAA removed the line check performance evaluation requirements for pilots over sixty (60) years of age. The technical amendment aligns FAA regulations to statutory requirements, which will establish the same line check requirements for all pilots in part 121 operations, regardless of age. The amendment was effective upon publication in the Federal Register.

PRIA AC 120-68F

Last month, FAA issued [Advisory Circular (AC) 120-68F, Pilot Records Improvement Act of 1996 (PRIA)](link). The AC was expanded from the previous version to address operational situations that could affect a hiring employer's record request under PRIA. In particular, part 121 air carriers must furnish records of each action taken concerning the release from employment or physical or professional disqualification of the flightcrew member that "the employer" did not subsequently overturn.

Hiring employers are not required to comply with PRIA or have a PRIA Background Report on file if the pilot has been continuously employed by the same air carrier or air operator with no break in service since the initiation of PRIA on **February 6, 1997**. With regard to PRIA checks for bought or merged companies, if in the process of the sale or merger, the air carrier certificate number changes, the acquiring company must complete new PRIA checks. A pilot cannot transfer his or her current PRIA file from one air carrier to another.

Electronic Flight Bag AC 120-76B

Earlier this month, FAA issued [Advisory Circular (AC) 120-76B, Guidelines for the Certification, Airworthiness, and Operational Use of Portable Electronic Flight Bags](link). The AC is intended for all operators conducting flight operations under part 121 who want to replace required paper information with an Electronic Flight Bag (EFB). The AC sets forth acceptable means to obtain FAA authorization for operational use of an EFB. For guidance on the installation of EFB components, refer to the current edition of AC 20-173, Installation of EFB Components.

For more information, please contact:

Lisa A. Harig, Esq.
McBreen & Kopko
1501 Lee Highway, Suite 180
Arlington, Virginia 22209

lharig@mklawdc.com
Tel: +1 703 247 5487
Fax: +1 703 852 3590

www.mcbreenkopko.com