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November 18, 2022

The Honorable Maria Cantwell
Chairwoman
The Honorable Roger F. Wicker
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Peter A. DeFazio
Chairman
The Honorable Sam Graves
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

Subject: *Department of Transportation, Federal Aviation Administration: Flight Attendant Duty Period Limitations and Rest Requirements*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Transportation, Federal Aviation Administration (FAA) entitled "Flight Attendant Duty Period Limitations and Rest Requirements" (RIN: 2120-AL41). We received the rule on November 7, 2022. It was published in the *Federal Register* as a final rule on October 12, 2022. 87 Fed. Reg. 61452. The effective date is November 14, 2022.

According to FAA, the final rule amends FAA's regulations to ensure that flight attendants scheduled to a duty period of 14 hours or less are given a scheduled rest period of at least 10 consecutive hours and that the rest period is not reduced under any circumstances. FAA stated these changes are being made as required by the FAA Reauthorization Act of 2018, Pub. L. No. 115-254, 132 Stat. 3186 (Oct. 5, 2018).

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The final rule was published in the *Federal Register* on October 12, 2022. 87 Fed. Reg. 61452. The *Congressional Record* does not indicate when either House of Congress received the final rule. The final rule has a stated effective date of November 14, 2022. Therefore, the final rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of FAA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the

subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large initial 'S' and a long, sweeping tail on the 'J'.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Kimberly Young
Management & Program Analyst
Department of Transportation

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION
ENTITLED
“FLIGHT ATTENDANT DUTY PERIOD LIMITATIONS
AND REST REQUIREMENTS”
(RIN: 2120-AL41)

(i) Cost-benefit analysis

The Department of Transportation, Federal Aviation Administration (FAA) estimated the final rule will lead to increased costs of \$67.5 million per year at the seven percent discount rate and \$67.3 million per year at the three percent discount rate. FAA further estimated increased costs over five years present value to be \$277 million at the seven percent discount rate and \$308.3 million at the three percent discount rate.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

FAA prepared a Final Regulatory Flexibility Analysis. The Analysis discussed: (1) a statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments; (3) the agency response to comments filed by the Chief Counsel for Advocacy of the Small Business Administration; (4) a description of and an estimate of the number of small entities to which the rule will apply; (5) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

FAA determined that the final rule will not result in the expenditure of \$165,000,000 or more by state, local, or tribal governments in the aggregate, or the private sector, in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On November 21, 2021, FAA published a proposed rule. 86 Fed. Reg. 60424. FAA received 812 comments from a Transport Workers Union of America form letter campaign, Airlines for America, Association of Flight Attendants-CWA, Association of Professional Flight Attendants, International Association of Machinists and Aerospace Workers, International Brotherhood of Teamsters, American Federation of Labor & Congress of Industrial Organizations, American Academy of Sleep Medicine, Regional Airline Association, and United Airlines, as well as numerous individuals. FAA responded to the comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

FAA determined the final rule does not contain information collection requirements subject to PRA.

Statutory authorization for the rule

FAA promulgated the final rule pursuant to sections 106, 40103, 40113, 40119, 41706, 42301, 44101, 44701–44702, 44701 note, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732, 44732 note, and 46105 of title 49, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

FAA determined the final rule was a significant regulatory action.

Executive Order No. 13132 (Federalism)

FAA determined that this action will not have a substantial direct effect on the states, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government.