Nov 9, 1990

Mr. William W. Edmunds, Jr.
Engineering and Air Safety Department Airline
Pilots Association
535 Herndon Parkway, P.O. Box 1169 Herndon,
Virginia 22070

Dear Mr. Edmunds:

We apologize for any delay in responding to your request of June 13, 1990, for an interpretation of FAR §121.471(c).

You ask the following question: If a pilot is assigned 16 hours of continuous duty with a carrier, during which he flies less than 8 hours, can he be given a reduced rest of 8 hours at the completion of the 16 hours of continuous duty and a compensatory rest of 10 hours at his next rest period?

You cite a Comair proposal as illustrative. A pilot reports for duty at 0600, and is scheduled to be on continuous duty until 2200 that night. Upon release from duty, the company requires the pilot to report for duty the next morning at 0600.

You further refine your question and ask whether the time between 2200 and 0600 is a legal rest period or whether Comair has to provide the pilot with a minimum rest period of 10 hours rest as a compensatory rest since, at the completion of the duty period at 2200, the crewmember had received only 8 hours of rest in the previous 24 hours?

If we read your request for interpretation correctly, you seem to be under the impression that a rest period follows a flight segment. The correct view is that any rest period must occur "...during the 24 hours Preceding the scheduled completion of any flight segment..."

With that in mind, recited below are the pertinent regulations, to aid the analysis.

FAR §121.471(b) states: Except as provided in paragraph (c) of this section, no domestic air carrier may schedule a flight crew member and no flight crew member may accept an assignment for flight time during the 24 consecutive hours preceding the scheduled completion of any flight segment without a scheduled rest period during that 24 hours of at least the following:

(1) 9 consecutive hours of rest for less than 8 hours of scheduled flight time. (Emphasis added)

FAR §121.471(c) states:

An air carrier may schedule a flight crewmember for less than the rest required in paragraph (b) of this section or may reduce a scheduled rest period under the following conditions:

(1) A rest required under paragraph (b)(1) of this section may be reduced to a minimum of 8 hours if the flight crewmember is given a rest period of at least 10 hours that must begin no later than 24 hours after the commencement of the reduced rest period. (Emphasis added)

It is well settled that a carrier may not reduce a compensatory rest period. In the Comair scenario, if a required 9 hour rest period is reduced to 8 hours, then no later than 24 hours after the commencement of the reduced rest period, a minimum compensatory rest period of 10 hours must commence, even if that means delaying the next flight schedule. The carrier may not reduce the compensatory rest period.

Your last question is whether the required rest period provisions in FAR §135.265 would be interpreted in the same manner as are the FAR §121.471 rest provisions.

The answer is that they would be interpreted in the same manner since the regulatory language is identical.

We hope that we have answered your questions fully.

Sincerely,

Donald P. Byrne
Acting Assistant Chief Counsel
Regulations and Enforcement Division