James W. Johnson, Esq.
Air Line Pilots Association 535
Herndon Parkway
P.O. Box 1169
Herndon, Virginia 22070

Dear Mr. Johnson:

Thank you for your letter of February 22, 1989, requesting an interpretation of § 121.471(d) of the Federal Aviation Regulations (FAR). We apologize for the lengthy delay in our response and thank you for your patience.

Your letter states as follows:

> This request was prompted by an incident that occurred at Midway Airlines. A flight crew was scheduled for duty aloft on the sixth day of their schedule and were scheduled to be released from duty prior to 2400 hours so they could have the seventh day (24 hour period) free of all duty for the air carrier. Due to a late arrival of an aircraft, the crew became aware in the early afternoon that they could not complete their schedule before the beginning of the seventh day. However, the company advised the crew they were "legal" to complete the trip and the crew was not released from duty until 0007 on the seventh day.

Having set forth the circumstances of this situation, you then ask the following question:

> By directing the crewmembers to operate this trip, did Midway violate FAR § 121.471(d)?

Paragraph (d) of § 121.471 provides as follows:

> Each domestic air carrier shall relieve each flight crewmember engaged in scheduled air transportation from all further duty for at least 24 consecutive hours during any seven consecutive days.

In addition, paragraph (g) of § 121.471 provides as follows:

> A flight crewmember is not considered to be scheduled for flight time in excess of flight time limitations if the flights to which he is assigned are scheduled and normally terminate within the limitations, but due to circumstances beyond the control of the air carrier (such as adverse weather conditions) are not at the time of departure expected to reach their destination within the scheduled time.

The FAA has always interpreted § 121.471 so as to provide air carriers with reasonable flexibility when actual time exceeds scheduled time. Thus, the FAA's position, and one that is longstanding, is that while a flight crewmember's assignment must not be scheduled to occur during any portion of the seventh day, this does not preclude the completion of the sixth-day flight assignment when that flight assignment has been delayed due to unanticipated factors not taken into consideration under normal scheduling procedures. See the enclosed interpretation dated June 22, 1971.

It should be noted, however, that 24 hours rest must be given the crewmember before a further duty assignment if, due to delays beyond the carrier's control, the flight schedule has extended into the seventh day. Furthermore, air carriers are under an obligation to schedule realistically, and if actual flight time is consistently higher than the scheduled flight time allowed, the schedule should be adjusted.

In summary, restricting our answer to the specific situation you have presented, we do not consider Midway to have violated § 121.471 where the flight crewmembers' assignments spilled over into the seventh day by only 7 minutes due to circumstances beyond the control of the carrier, as long as the flight crewmembers were given the full 24 hours rest before any further duty aloft assignments in air transportation.

This interpretation has been coordinated with the Air Transportation Division of the Flight Standards Service at FAA Headquarters. We hope that it has satisfactorily answered your inquiry.

Sincerely,

Donald P. Byrne Assistant
Chief Counsel
Regulations and Enforcement Division