April 16, 1992

Captain G.L. Bergner

[redacted]

Dear Captain Bergner:

This is in response to your letter of November 8, 1991, requesting an interpretation of Federal Aviation Regulation (FAR) 121.471 regarding flight time limitations and the rest requirements or domestic air carriers. We regret that the press of other matters, including safety rulemaking, exemptions, and requests for interpretations submitted prior to yours has prevented us from responding to your request sooner.

In reference to FAR 121.471(a)(1) through (a)(4) you ask the following question.

"May these time limitations be exceeded if a pilot is legal to start a day but, due to factors such as wind, etc., exceeds his regularly scheduled block times and becomes faced with a situation where if he begins his last flight, it will knowingly cause him to exceed the limitations in this section?"

The answer to your first question is yes. We have attached a prior interpretation, to Captain Lloyd W. Barry dated September 9, 1987, that addresses your first question. Please note that Captain Barry's interpretation specifically addresses FAR 121.471(a)(3). Because we must have precise facts regarding the other paragraphs we have limited our answer to FAR 121.471(a) (3).

Your second question asks how FAR 121.471(g) affects the implied 15-hour, or 16-hour, "duty day" of FAR 121.471(b), (b) (1) and (c)(1)?

To answer this question we must first point out that FAR 121.471 does not contain an explicit limitation on duty time. As the subheading for FAR 121.471 states, that provision deals with flight time limitations and rest requirements for domestic air carriers. Under FAR 121.471 there are no 15-hour or 16-hour duty time limitations. With this in mind we assume your question asks how FAR 121.471(g) applies to actual flights flown in excess of the scheduled flight time amounts in FAR 121.471(b), (b)(1) and (c)(1)?

In considering this question, we point out that the scheduled flight time amounts in these provisions are used to designate the number of hours of scheduled rest required. Thus, they are not flight time limitations as in the case of FAR 121.471(a) limitations. Therefore, paragraph (g) does not apply. The discussion and answer under your last question are fully dispositive of your second question.

Lastly, you ask if the circumstances and facts of a given flight or series of flights are such, that looking back 24-hours from the actual completion time of the last flight you will not be able to find the applicable rest period required under FAR 121.471 (b) and (c), because the flight was delayed for reasons not inconsistent with FAR 121.471(g), what is the result?

The answer to this question lies within the language of the applicable provision itself. Under the scheduling provisions of FAR 121.471(a) and (b) no air carrier "may schedule" a flight crewmember and no flight crewmember "may accept" an assignment in excess of the flight time limitations and rest requirements under that section. This language is prospective in application. If the schedule is set up by the air carrier, so as to meet the flight time limitations and rest requirements under that section, deviations encountered in the operation of an otherwise legitimately scheduled flight are permitted. The regulation restricts an air carrier's scheduling of a pilot and a pilot's accepting an assignment at the time of the scheduling. It is important to note however, that the delay cannot infringe on the next required rest period. In recognition of this type of circumstance the regulation contains allowance for use of a reduced rest period. Of course, if the carrier uses a reduced rest period, it must then provide a compensatory rest period in accordance with the regulation.

We point out that in the circumstance of a flight's continuing beyond the 24-hour planned completion period, it is possible that the flight crewmember may have become significantly fatigued. If the state of fatigue would endanger or potentially endanger the life or property of other persons, then the certificate holder should relieve the flight crewmember from further duty aloft. In this respect, note the provisions of FAR 91.13 entitled "Careless or reckless operation."

This interpretation was prepared by Francis C. Heil, Attorney, Operations Law Branch; Richard C. Beitel, Manager. We hope this information satisfies your request.

Sincerely,

Donald P. Byrne Assistant
Chief Counsel
Regulations and Enforcement Division