March 26, 1992

Mr. John H. Darbo
System Manager
Flight Operations, AMR Combs
P.O. Box 619622
Dallas-Ft. Worth Airport, TX 75261-9622

Dear Mr. Darbo:

Your letter of March 30, 1991, to Mr. Mark Zink of the Federal Aviation Administration (FAA) Certificate Management Office has been forwarded to this office for response. We apologize that the press of other matters, including safety rulemaking, petitions for exemptions, and requests for interpretations received prior to your letter, have prevented us from answering you sooner.

Your letter asks two questions. In the first question you ask for a review of your company policies contained in your operations manual.

As you know, we issue legal interpretations of the Federal Aviation Regulations (FAR) based on actual or hypothetical fact situations. We traditionally have declined to give legal approval to air carrier procedures manuals of this nature for several reasons. First, fact situations are not presented. Second, attempting to "approve" such manuals would require our interpretation of the air carriers' statements. Third, the potential workload would involve thousands of Part 135 and Part 121 operations manuals, and we would accomplish little else. We believe that we should continue to conduct business as we have in the past and not review procedures of this nature.

Your second question addresses the issue of "standby" or "reserve" duty for flight crewmembers. You say that you have reviewed the decision in U.S. v. Ozark Air Lines, Inc., 374 F. Supp. 234 (E.D. Mo. 1974) aff'd 506 F. 2d 526 (8th Cir. 1974), and that you also have reviewed an interpretation issued by this office to guide you in setting your policy. Because you do not give a schedule of flight time, duty hours, and rest periods, we are not able to specifically evaluate the propriety of what you describe. However, your announced intent to do the same as what you say the Part 121/135 carriers do, and the weekend "Reserve" duty you describe, prompt us to make several general observations.

We consider the Ozark decision to be mainly restricted to the facts of the case. Ozark Air Lines had a two-tiered reserve system of "standby reserve" and "backup reserve". The decision only addresses the issue of whether "backup reserve" is considered duty. It does not address "standby reserve" at all. "Backup reserve" meant that a flight crewmember had to be available to be contacted within a two hour period, and then had to report for duty within two hours of being contacted. The court held that "duty" did not include backup reserve status, and that a crewmember may be available for duty during a rest period, as long as he is not actually called to duty.

FAR 121.47 has changed since the Ozark decision. The words, which were the basis of that decision, were replaced with the concept of "flight time" in 1985. We are enclosing a copy of an interpretation dated May 31, 1989, which further discusses the Ozark decision.

The FAA has consistently defined "duty" to mean actual work for an air carrier or present responsibility to work should the occasion arise. Duty includes all preflight and post flight activities.

"Rest" is a period free from all duty and free from all present responsibility for work or duty. Rest is determined prospectively.

A standby or reserve pilot has a present responsibility to work if called; therefore he is on duty because he is not free from restraint. Standby duty tolls the rest period because a rest period must be free from restraint.

This interpretation has been prepared by Arthur E. Jacobson, Attorney, Operations Law Branch, Regulations and Enforcement Division; Richard C. Beitel, Manager, and has been coordinated with the Air Transportation Division of the Flight Standards Service at FAA Headquarters. We hope it has satisfactorily answered your inquiry.

Sincerely,

Donald P. Byrne
Assistant Chief Counsel
Regulations and Enforcement Division