April 8, 1992

Mr. Michael A.
Laurenzano [redacted]

Dear Mr. Laurenzano:

This is in response to your letters to the Federal Aviation Administration (FAA) asking for interpretations of the Federal Aviation Regulations (FAR) pertaining to definitions of "reserve duty", "duty", and "rest".

Your first letter was written July 22, 1991. In that letter you asked for an interpretation of the term "reserve", and asked whether it was a duty status or a rest period. You also said that you work for a Part 121 air carrier who treats "reserve" as non-duty status, and that crew members on "reserve" status are subject to call for flight duty at all times, with duty beginning at the time they report to work.

The FAA answered by telling you that the Operations Law Branch, to which the inquiry was assigned, was short an attorney and that we hoped to answer you within 90 days.

You answered in a letter dated August 5, saying that it was totally unacceptable for you to have to wait 90 days for an interpretation. You demanded an answer upon receipt of the letter, and promised to contact the FAA Administrator, U.S. Senators, and Congressmen in your next inquiry.

The FAA answered on August 19, 1991. We told you that because you did not tell us what type of Part 121 carrier you work for, and because you did not provide specifics, including a trip, duty, and rest schedule, it was not possible for us to render a specific opinion. We told you that there are many forms of "reserve" or "standby" status among the various carriers, making it important to have a schedule if we were to speak in other than very general terms.

In the spirit of trying to be of as much help as possible, we enclosed copies of several interpretations which were carefully selected to give you an understanding of the FAA position on your questions, including definitions of "rest" and "duty", and their application to "standby" or "reserve" duty. These interpretations clearly set out the concept that anytime a crew member is required to hold himself immediately available for a flight assignment, it is not a rest period. This has been the FAA

position on this question for over thirty years, and represents the current FAA policy on the subject.

Your response to our letter was dated August 28, 1991. In it, you expressed irritation at receiving copies of interpretations that were over twenty years old, and you provided a duty schedule to accompany the question about "reserve" status. You again expressed irritation that you might have to wait 90 days to receive an answer, due to staff shortages in the Operations Law Branch.

On October 31 you wrote to then-Administrator James Busey. You complained about receiving copies of twenty year old interpretations, and you were unable to understand why we asked for specific information to answer what you termed a generic question.

The Operations Law Branch has been understaffed during the entire time that you have been writing to us, and we have other responsibilities than answering requests for interpretations, including high priority safety rulemaking projects and requests for exemptions. We apologize that we have not been able to handle your requests sooner.

With respect to your question, we will first repeat the definitions in the materials previously sent to you:

Duty means actual work for an air carrier, or present responsibility for work should the occasion arise. "Reserve" or "standby" status, where a flight crewmember is to remain at home subject to call to flight duty at any time, is duty and does not constitute rest. Duty also includes all preflight and post flight activities.

Rest is a period free from all restraint, including the present responsibility to work should the occasion arise. It is prospective in nature. One telephone or beeper call to a crewmember from the carrier during a rest period is not a violation of the rest period.

A pilot on "standby" or "reserve" duty (terms used in the generic sense) has a present responsibility to work if called, therefore he or she is on duty, in the sense that "standby" or "reserve" duty cannot be substituted for a required rest period.

Your question involves an interpretation of the regulations requiring at least 24 consecutive hours rest during any 7 consecutive days in which a flight crew member is engaged in air transportation. In Part 121, these regulations are (FAR 121.471(d), FAR 121.481(d), FAR 121.483(b), and (FAR) 121.503(c). In your question, you state that your employer operates under Domestic, Flag, and Supplemental rules.

> My schedule consists of working four days on beginning at 2115L on the first day (Monday) and terminating duty at 1030L the next morning. The second through fourth (sic) day are repeat schedules. On the fifth day at 1030L I am scheduled for reserve duty (to be on call during the entire period at my residence) until 1615 on the 6th day (Sunday). I then am scheduled for flight duty on Monday to report at 0900L. Now, can I accept this flight duty? Would I be in violation of the regulation that requires a rest period of at least 24 consecutive hours every seven consecutive days, if I did accept this flight duty on Monday. (sic)

Although the hypothetical does not say, we assume the duty each of the first four days involves flight as a crewmember in air transportation. We also assume that the reserve duty at home and on call means that the crewmember must be available for an immediate flight assignment, should the occasion arise. You do not give actual flying time for each of the first four days of the schedule, and we do not know what type of Part 121 operation the schedule is flown under, so we are not able to evaluate the adequacy of the rest periods given by your employer.

As explained in the discussion of definitions, a requirement that a crewmember be at home, available for a telephone call giving an immediate flight assignment, is not rest. The schedule given does not show that the pilot is prospectively relieved from all duty for at least 24 consecutive hours at least once during the seven consecutive days, so there is a failure to comply with one of the cited regulations, depending on the type of Part 121 carrier flying involved. You may not be assigned flight duty in air transportation for 0900 on Monday. You must first be prospectively assigned a 24 hour period in which you are relieved of all duty, including the obligation to hold yourself available for a flight assignment, should the occasion arise.

These regulations, such as FAR 121.471(d), have been consistently interpreted by the FAA as flight time limitations, rather than duty time limitations. This means that the regulations are violated only when the flight crew member is returned to duty in air transportation without the requisite 24 hour rest period during any 7 consecutive days.

We also note your concern that you might be subject to enforcement action. By its terms, (FAR) 121.471(D) applies to the air carrier, and only the air carrier can be charged with a violation. If a flight crewmember believes his assignment to flight duty is in violation of the regulations, he should promptly report the matter to the FAA office having jurisdiction

over the air carrier involved.

This letter has been coordinated with the Manager, Air Transportation Division of the Flight Standards Service.

We hope this letter satisfactorily answers your questions.

Sincerely,

Donald P. Byrne Assistant
Chief Counsel
Regulations and Enforcement Division