November 12, 1992

Richard P. Schweitzer
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888 Seventeenth Street, N.W.
Washington, DC 20006-3959

Dear Mr. Schweitzer:

This is in response to your request dated July 31, 1992, for interpretation of 14 C.F.R. Section 121.471(g).

You ask about the following scenarios:

(1) When a carrier knows at the beginning of a multi-leg flight that adverse weather during the final leg will preclude the pilot from completing all the legs within the allowed flight time.

(2) When, prior to the final leg of a multi-leg flight, the carrier knows that adverse weather conditions along the final leg will preclude the pilot from completing the final leg within the allowed flight time.

Discussion:

Section 121.471(g) applies to both the scenarios you describe. It reads:

> 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.

If the schedule was set up by the air carrier so as to meet the requirements of §121.471(a)(4), deviations within the particular time frames due to weather or other unforeseen delays would be permitted. The key to the applicability of such an exception is the unforeseen weather conditions or other unforeseen delays disrupting an otherwise properly scheduled flight. If the original scheduling is upset because the weather causes a diversion, the final segment(s) may,

nonetheless, be conducted, notwithstanding that the final segment(s) will be completed outside the eight hour period originally planned.

This interpretation is supported by the preamble to the most recent revision of the flight time rules. "Subsection 121.471(g) ... state[s] that a flight crewmember is not considered to be scheduled for duty in excess of flight time limitations if the scheduled flights normally terminate within the limitation" (emphasis original) 50 FR 29306 at 29314, July 18, 1985. No penalty exists in §121.471 for circumstances under which actual flight time exceeds scheduled flight time when the delay is due to circumstances beyond the control of the operator.

The flight time regulations have a premise that each certificate holder is scheduling realistically. The aforementioned preamble specifically states: "compliance with the flight scheduling rules requires each air carrier to schedule realistically. If actual flight time is consistently higher than the scheduled flight time allowed, the schedule should be adjusted." Thus, constant deviations from the flight and duty time limitations of Part 121 based upon such delays are not acceptable if the certificate holder is not scheduling realistically.

In light of the above discussion it should be clear that in both scenario (1) and (2) the remaining legs may be legally completed.

We hope that this satisfactorily answers your inquiries.

Sincerely,

Donald P. Byrne Assistant
Chief Counsel
Regulations and Enforcement Division