June 23, 2000

Mr. Brad Blythe
[redacted]

Dear Mr. Blythe:

This is in response to your letter of August 14, 1998, requesting a legal interpretation concerning the crediting of flight time for crewmember flight time limitations within the meaning of 14 C.F.R. §§ 1.1 and 121.471. We apologize for the delay in responding to you.

Your first question is whether, in regard to pushback procedures, the time from the beginning of the push (we assume by means of an external pushback or tug vehicle) until the time the aircraft taxies under its own power (i.e., total time spent in pushback) counts as flight time. We have held in a prior interpretation that "the time spent towing the airplane prior to the moment it first moves under its own power for the purpose of flight is not flight time...." *See* October 18, 1972 Memorandum to AGL-7, from Dewey R. Roark, Jr., Acting Associate General Counsel, Regulations and Codification Division (copy enclosed). Therefore, the time spent in pushback does not count for purposes of the flight time limitations of section 121.471.

Your second question is whether, in regard to de-icing procedures, the time the aircraft taxies to a de-icing pad (that is, from the gate to the de-icing pad) counts as flight time. You contend that the answer should be "yes," since the aircraft is taxiing "for the purpose of flight." We have recently addressed this question, in detail, in our June 22, 2000 Letter to James W. Johnson, from Donald P. Byrne, Assistant Chief Counsel, Regulations Division (copy enclosed). We restate the conclusion, therein, in response to your question:

> FAA-required de-icing procedures are "preparatory to flight," and when the aircraft taxies under its own power from the gate to the de-icing pad, it is "for the purpose of flight." Thus, we further conclude that flight time <u>starts</u> at the moment when the aircraft taxies under its own power from the gate to the de-icing pad, and flight time <u>continues</u> until the moment the aircraft comes to rest at the next point of landing. And, all of that time is flight time, and must be credited for purposes of the flight time limitations of section 121.471.

This opinion was prepared by Constance M. Subadan, Attorney, Operations Law Branch, and Joseph A. Conte, Manager. It has been coordinated with the Director of the Flight Standards Service and 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 Division