June 23, 2000

Mr. James W. Johnson
Legal Department
Air Line Pilots Association, Intl
535 Herndon Parkway
P.O. Box 1169
Herndon, Virginia 20172-1169

Dear Mr. Johnson:

This is in response to your letter of February 4, 2000, requesting a legal interpretation of the flight time limitations and rest requirements, as set forth in 14 C.F.R. § 121.471.

The applicable provisions of section 121.471 are set forth below:

> **§ 121.471 Flight time limitations and rest requirements: All flight crewmembers.**
>
> b) Except as provided in paragraph (c) of this section, no certificate holder conducting domestic operations may schedule a flight crewmember and no flight crew member may accept an assignment for flight time during the 24 consecutive hours preceding the scheduled completion of any flight segment without a scheduled rest period during those 24 hours of at least the following:
>
> (1) 9 consecutive hours of rest for less than 8 hours of scheduled flight time.
>
> (2) 10 consecutive hours of rest for 8 or more but less than 9 hours of scheduled flight time.
>
> (e) No certificate holder conducting domestic operations may assign any flight crewmember and no flight crewmember may accept assignment to any duty with the air carrier during any required rest period.

The facts you provided, your question, and our response thereto are set forth below:

Facts:
A pilot is assigned a rest period beginning at 20:00 hours and is subject to call beginning at 05:00 hours. He is called and ordered to report for flight duty at 06:00 hours and will be released at 20:00 hours. During the hour (05:00-06:00) prior to reporting, the pilot is obligated to answer the phone should the company call him.

Question:
Is the pilot on duty during the period of 05:00-06:00 since he has a present responsibility for duty and is not free from "all duty and restraint"?

Answer:
While section 121.471 does not directly set forth duty limits, it does set forth flight time limits and rest requirements. The FAA has consistently interpreted the rest required by section 121.471(b) as a continuous period of time, determined prospectively, during which the crewmember is free from all duty and restraint by the certificate holder. Rest is defined as relief from all work for the certificate holder, including relief from a present responsibility for work should the occasion arise. *See* June 25, 1996, letter to R.C. McCormick, from Donald P. Byrne, Assistant Chief Counsel, Regulations Division (copy enclosed). In the situation you describe, if the pilot was scheduled for less than 8 hours of flight time during the period 06:00 on Day 2 to 20:00 on Day 2, there would be no violation of the rest provisions because the pilot enjoyed 9 hours (that is, the period 20:00 on Day 1 to 05:00 on Day 2) of continuous rest free from all restraint, pursuant to section 121.471(b)(1). However, that would not be the case if the pilot was scheduled for 8 or more but less than 9 hours of flight time during the period 06:00 on Day 2 to 20:00 on Day 2. In such a situation, section 121.471(b)(2) requires that the pilot get 10 consecutive hours of rest. We assume for purposes of this interpretation that the air carrier does not avail itself of the reduced rest provisions and compensatory rest provisions of section 121.471(c). Because you state that the pilot is "obligated" to answer the phone starting at 05:00 on Day 2, the time during which he is under that obligation to the carrier does not count as "rest." *Compare* December 9, 1999, letter to James R. Knight II, from Donald P. Byrne, Assistant Chief Counsel, Regulations Division (stating that the rest requirements under section 135.263(b) are not violated where a pilot is not obligated to be available to answer the phone or a pager and the certificate holder successfully contacts him or her during the crew rest period to assign a trip scheduled to begin after the required rest period) (copy enclosed).

This response 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