November 15, 2002

Inspector William J. Simpson
Flight Standards Division, ASO-200
FAA Southern Region Headquarters
P.O. Box 20636
Atlanta, GA 30320

Dear Inspector Simpson:

This letter is in response to a request for an interpretation from your office. In telephone conversations during the week of November 4, 2002, you sought advice about the rules applicable to operations under Subpart S, 14 C.F.R. sections 121.503 through 121.525. You asked several questions, some of which will be addressed by a later, more detailed opinion from our office. We provide the following response regarding some rather narrow issues, based on certain assumptions we have made regarding the facts provided.

Actual and Assumed Facts:

A certificate holder operating under Subpart S transports charter passengers from a point in the 48 contiguous States and takes all the passengers to a point outside the 48 contiguous States, namely, to an international location. Next, the certificate holder brings passengers back to the destination in the 48 contiguous States, during a 24-consecutive-hour period. The flights are conducted using an MD-80 aircraft that only requires a flight crew of two pilots. The outbound and return flight legs are scheduled for a total of 10 hours of aloft time. With two positions at the pilot controls, this amounts to a total of 20 hours of work at the pilot duty station (i.e., 10 hours of left seat duty and 10 hours of right seat duty). The pilot-in-command (PIC) performs all take-offs and landings. For some of the time on the outbound and the return flight leg, First Officer "A" manipulates the controls of the aircraft. A third pilot, First Officer "B," manipulates the controls on some, but not all, of the flight legs during the 24-consecutive-hour period. We assume that the certificate holder makes the election, under section 121.513, to comply with sections 121.515 and 121.521 through 121.525, in lieu of sections 121.503 through 121.511.

Question:

Whether it is legally permissible for the 3 pilots to divide the total 20-hour duty station time among themselves (i.e., divide 20 hours by 3), and count for each pilot only 6.7 hours, in

demonstrating compliance with the regulation's daily, 30 consecutive days, 90 consecutive days, aloft time limitations.

Answer:

Under Subpart S, when a flight is international in character, a certificate holder has the option, under section 121.513,[1] of electing to comply with the provisions found in sections 121.515 and 121.521 through 121.525, instead of the provisions found in section 121.503 through 121.511. Section 121.521 states as follows, in relevant part:

> **121.521 Flight time limitations: Crew of two pilots and one additional airman as required**
> (a) No certificate holder conducting supplemental operations may scheduled an airman to be aloft as a member of the flight crew in an airplane that has a crew of two pilots and at least one additional flight crewmember for more than 12 hours during any 24 consecutive hours.
>
> (c) No airman may be aloft as a flight crewmember more than--
> (1)120 hours during any 30 consecutive days; or
> (2)300 hours during any 90 consecutive days.

Based on the facts provided, namely the amount of aloft time received, and the type of operations (i.e., international), we assume that the certificate holder made the section 121.513 election and thus must comply with section 121.521.

The Agency has previously interpreted the term "aloft" as the time from the moment the aircraft first moves under its own power for the purpose of flight until the moment that it comes to rest at the next point of landing. The duration of "aloft" is equivalent to "block to block" time.

Assuming that the pilot who is the PIC on the outbound flight leg remains the PIC on the return leg, we conclude that the total aloft time that he or she accumulates is 10 hours. Thus, even if the PIC is not manipulating the controls of the aircraft for the full 10 hours or even if he or she is not at a pilot duty station for the full 10 hours,[2] once he or she serves as a flight crewmember on flight leg, the entire aloft time for that flight leg counts. Accordingly, the PIC must count 10 hours in demonstrating compliance with the daily, 30 consecutive, and 90 consecutive days aloft time limitations of section 121.521, paragraph (a) and paragraph (c) (1) and (2). In addition, as to First Officer "A," who manipulates the controls of the aircraft on a flight leg, or who is in the right seat on a flight leg, the entire aloft time for that flight leg counts. Thus, First Officer "A" must also count 10 hours in

---

[1] Section 121.513 states as follows:
§121.513 Flight time limitations: overseas and international operations: airplanes.
In place of the flight time limitations in §§ 121.503 through 121.511, a certificate holder

conducting supplemental operations may elect to comply with the flight time limitations of §§ 121.515 and 121.521 through 121.525 for operations conducted --

(a) Between a place in the 48 contiguous States and the District of Columbia, or Alaska, and any place outside thereof;
(b) Between any two places outside the 48 contiguous States, the District of Columbia, and Alaska; or
(c) Between two places within the State of Alaska or the State of Hawaii.

[2] A PIC, who for example might sit at the flight deck jump seat and supervise other pilots flying the aircraft, serves as a flight crewmember; and all of the block-to-block time for that flight leg counts as aloft time for him.

demonstrating compliance with the daily, 30 consecutive days, and 90 consecutive days aloft time limitations of section 121.521, paragraph (a) and paragraph (c)(1) and (2), assuming he was at a pilot duty station for some period of time during each flight leg.

Obviously, the discussion of aloft time in this letter would be relevant to any analysis conducted under section 121.521(b).

As you know, we have several follow-up questions concerning First Officer "B," and concerning the certificate holder's compliance or noncompliance with the record keeping requirements of 14 C.F.R Section 121.683 as to flight crewmembers in general.

This response was prepared by Constance M. Subadan, Attorney, Operations and Air Traffic Law Branch; Joseph A. Conte, Manager. We hope that it is helpful to you.

Sincerely,

Donald P. Byrne
Assistant Chief Counsel
Regulations Division