U.S. Department
of Transportation
**Federal Aviation
Administration**

800 Independence Ave., S.W.
Washington, D.C. 20591

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Mr. James W. Johnson
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Re: Rest Requirements under 14 CFR § 121.471

Dear Mr. Johnson:

This letter responds to your request for an interpretation of the rest requirements applicable to domestic operations under the Federal Aviation Regulations in Title 14 of the Code of Federal Regulations (14 CFR). A copy of your letter is enclosed.

A. Consecutive Hours of Rest

The first question you pose relates to the rest requirements under 14 CFR § 121.471(b) and the meaning of the phrase "consecutive hours of rest," *i.e.*, how many, if any, interruptions of a rest period are allowed. Section 121.471(b) states that

> [N]o certificate holder conducting domestic operations may schedule a flight crewmember and no flight crewmember 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 that 24 hours of at least the following:
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> (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.
> (3) 11 consecutive hours of rest for 9 or more hours of scheduled flight time.

The scenario you present is one in which air carriers "are making repeated calls to the pilot until such time that they actually talk to the pilot." Your concern is that this repeated and persistent calling interrupts a pilot's opportunity to rest, and you question how often an air carrier can try to contact a pilot who is on rest without violating the rest requirements under § 121.471(b).

In analyzing a pilot rest question, the first consideration is whether the rest period the pilot received satisfies the requirement regarding the nature of a rest period, *i.e.*, whether the pilot received a period of time that complies with the three conditions the FAA finds necessary to qualify as a rest period. The FAA has consistently stated through legal interpretations that "rest" under the Federal Aviation Regulations is (1) a continuous period of time; (2) determined prospectively; and (3) during which the crewmember is free from all restraint by the certificate holder, including freedom from work or freedom from present responsibility for work should the occasion arise. *See, e.g.*, Letter from Donald P. Byrne, Assistant Chief Counsel, Regulations Division, to R.C McCormick (June 25, 1996); Letter from Donald P. Byrne, Assistant Chief Counsel, Regulations Division, to James W. Johnson (October 29, 2002); and Letter from Donald P. Byrne, Assistant Chief Counsel, Regulations Division, to James W. Johnson (May 9, 2003) (copies enclosed).

Under your fact pattern, the questions are whether repeated phone calls effectively terminate the continuous period of time required for rest, and whether the flight crewmember is free from all restraint by the air carrier. If, under your scenario, the pilot is obligated to answer the ringing telephone, then the entire period that the pilot was under such an obligation is not part of the "rest period" – even if the carrier does not call the pilot once during that period (this often is referred to as reserve or standby duty). *See* Letter from Donald P. Byrne, Assistant Chief Counsel, Regulations Division, to James W. Johnson (June 23, 2000) and Letter from Donald P. Byrne, Assistant Chief Counsel, Regulations Division, to James R. Knight II (December 9, 1999) (copies enclosed). If, on the other hand, the pilot is not under any obligation to answer the telephone or to be available to answer the telephone, the time up to the duty report time is considered a "continuous" rest period. *See* Letter from Byrne to Johnson (October 29, 2002) and Letter from Byrne to Johnson (June 23, 2000). It is the FAA's policy, under the commonly referred to "one phone call exception," that a rest period is not viewed as interrupted if the air carrier *makes contact* with the pilot one time by telephone, pager or the like.[1] Once the contact is made, it cannot, however, be made again without interrupting the rest period.

To reemphasize — under no circumstances is a pilot obligated to answer the telephone if the pilot is considered to be on rest. It appears that some people overlook the voluntary nature of receiving phone calls. Thus, if the pilot seeks to have an uninterrupted rest period, the pilot certainly can take measures to prevent being contacted by the carrier, *e.g.*, if the pilot is staying at a hotel, the front desk can hold any incoming calls; or if the pilot is at home, the telephone ringer can be turned off and an answering machine can pick up calls. Further, a flight crewmember can provide written notification to the air

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[1] Note that the Federal Aviation Regulations do not explicitly allow "one phone call" from the carrier during a pilot's rest period. However, the FAA established the "one phone call" policy based on certain narrow conditions and the fact patterns presented to us. Generally speaking, an air carrier can initiate a phone call and a pilot can — on his or her own volition — receive one call from an air carrier without the phone call being viewed as disruptive and breaking the continuous rest period.

carrier of his or her desire not to be contacted while on rest periods (or the conditions under which contact should not be attempted). If an air carrier receives such a "do not call" letter from a flight crewmember, then the carrier is on actual notice that its attempts to contact the pilot during the rest period could disrupt the pilot's attempts to sleep. In such a situation, unlike the situations summarized in footnote 1, even one phone call from the carrier to the pilot is evidence that the carrier has broken the pilot's continuous rest period, and the rest period must begin anew before the carrier could use the pilot in part 121 domestic operations.

At the same time, however, an air carrier should consider the consequences of repeatedly trying to reach a pilot who is on rest (assuming the pilot has not explicitly provided the air carrier a "do not call" letter). For example, if a pilot must report for duty by 7 a.m., he or she is likely sleeping during the hours of midnight to 5 a.m.; or if a pilot is on an 8 hour rest period, he or she is likely asleep 4 hours into the period. Therefore, the air carrier should assume that any attempts to contact the pilot during those periods of sleep would disturb the pilot. Perhaps, the pilot hears the repeated rings of the telephone but has chosen not to answer or is too disoriented from being roused from sleep to do so (there is no obligation to do so). Repeated attempts by the air carrier to contact the pilot during these hours would not be reasonable. While these "interruptions" do not meet the legal standard for breaking a continuous rest period as interpreted by the FAA (because contact has not been made), these circumstances do raise serious concerns about potential pilot fatigue and the possibility of a careless or reckless operation of the aircraft (*i.e.,* by pilot and certificate holder) contrary to 14 CFR § 91.13 (a).

B. Transportation that is Local in Nature

The second question you pose relates to 14 CFR § 121.471(f) and the meaning of the phrase "transportation that is local in nature." In fact, under § 121.471(f), a rest period does not include any "time spent in transportation, *not local in character*, that a certificate holder requires of a flight crewmember and provides to transport the crewmember to an airport at which he is to serve on a flight as a crewmember, or from an airport at which he was relieved from duty to return to his home station." Conversely then, time spent in transportation that is local in character may be counted towards a rest period.

The context of your question is when air carriers assign pilots to "co-domicile airports." Industry practice is to consider travel between or among these airports as transportation that is local in character. You specifically ask: (1) Are there any realistic limits on the travel time or distance between co-domiciles to qualify as "local in nature;" and (2) Are there any limits as to the time or distance for any required transportation to a layover location in order for the transportation to be "local in nature?"

First, note that the concept of "co-domiciles" is a creation of the aviation industry. The Federal Aviation Regulations and the United States Code provisions dealing with aviation safety do not make mention of such a concept. In prior interpretations, the FAA

discussed the practice of co-domicile assignment based solely on the narrow facts presented to us in the letters of inquiry. Now, however, it appears that the FAA should more fully address the matter because to the extent that air carriers are designating airports "co-domiciles" when they are geographically far apart and arguing that travel between "co-domicile" airports is part of the rest period regardless of the amount of time spent in travel, the FAA disagrees.

We previously stated that it is reasonable to include the travel between co-domicile airports within the meaning of "local in character" because co-domicile airports are generally within a relatively close geographic location to one another. *See* Letter from Donald P. Byrne, Assistant Chief Counsel, Regulations and Enforcement Division, to James W. Johnson (July 14, 1992) (copy enclosed). Because there are many factors, including traffic patterns and population density, that can affect a pilot's travel from Airport A to Airport B, we believe it is appropriate to discuss the acceptable distance between co-domiciles, *and layover locations*[2] *for that matter*, in measurements of time. However, rather than designate a maximum number of minutes that may be spent traveling to and from a flight assignment (excluding commutes made to and from a place of residence at the end or beginning of a duty week) during a rest period, the travel time must be so brief, *i.e.*, "local in character," as to prevent a pilot or air carrier from undermining the FAA's safety purpose in mandating rest period requirements, as further explained below.

The FAA mandates minimum rest periods in order for pilots to have the opportunity to get sufficient uninterrupted sleep[3] and thereby reduce or eliminate the chances of fatigue-related aviation accidents. The Agency's purpose in excluding transportation that is not "local in character" from a rest period is to deter carriers from expecting pilots to spend unreasonable time traveling for purposes of their flight duty assignments. For example, just because a carrier contracts with a particular hotel to house its pilots between two consecutive duty days for assignments out of the same airport, does not mean that the travel time between the airport and the hotel is *reasonably brief* so as not to affect the pilot's opportunity to get sufficient sleep at the hotel. Similarly, simply because an air carrier declares two airports to be "co-domiciles," does not necessarily mean that the time it takes the pilot between assignments in two consecutive duty days to travel, for example, from one airport to a hotel near the second airport, and later to the second airport would be *reasonably brief so as not to cut into the pilot's opportunity to get sufficient sleep at the hotel.*[4] The FAA rejects, as fallacious, any air carrier assertion that

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[2] We understand that the term "layover" has different meanings in the aviation industry. For purposes of this interpretation, a "layover location" means a hotel or similar lodging for sleep.

[3] See part A of this letter for a discussion regarding when and how often a carrier might reasonably try to contact a pilot during a rest period without creating the untimely interruption of the pilot's sleep that could result in dangerous fatigue the next day.

[4] For example, if a rest period between 2 duty days is already a minimum reduced rest period of 8 hours, the transportation time between the airport and the hotel must be very brief, otherwise that surface transportation time will cut into the amount of time available for the pilot to get sufficient sleep at the hotel before the next day's flights.

it has not interfered with the pilot's opportunity to get sufficient sleep simply because the pilot could sleep in the backseat of the van or hotel shuttle van on his or her way to the hotel.

For purposes of complying with the rest requirements under paragraphs (b) and (c) of section 121.471 of the regulations, when a carrier positions a pilot far away from the pilot's personal residence between two consecutive duty days, the carrier must ensure that there is adequate lodging for sleep available to the pilot, and the travel time between the airport and the lodging must be reasonably brief *if the carrier intends to count that transportation time as part of the required rest period.* If the transportation time cannot be accomplished reasonably briefly, *i.e.,* it is not local in nature, then such time may not be counted as part of the required rest period.

The discussion above should be contrasted with the situation where the pilot, for personal reasons, chooses to live far away from his primary work station. The FAA domestic rest rules are designed to free the pilot from all obligations or duty to the carrier so that the pilot has the opportunity to plan for and actually get sufficient sleep in the rest period immediately preceding a duty period involving part 121 domestic flying. The FAA expects pilots to act responsibly by planning for and getting sufficient pre-duty sleep. Some pilots, who live far away from their primary work station, travel into their work station a day before their duty week begins in order to get adequate sleep in a hotel or a carrier-supplied dormitory at or near the work station. In this situation, the pilot has control over where he or she lives, and at the same time, by arriving at the work station locale early, can obtain sleep in an adequate lodging before beginning part 121 domestic flight operations. The FAA expects the commuting pilot to take such measures in order to stave off potential fatigue and the possibility of careless or reckless operation of aircraft contrary to 14 CFR § 91.13 (a).

In contrast, during a work assignment period, when the pilot is on a layover between two consecutive duty days, more often than not, the pilot will be far from his or her home residence. In that situation, the carrier, for business purposes, has placed the pilot far from home. While the FAA rules do not require carriers to pay for hotel rooms for layovers, the FAA expects carriers to ensure that there are adequate lodging facilities available for such pilots between consecutive duty periods. Moreover, in order for the carrier to be eligible to count the transportation time between the airport(s) and the lodging as being "local in character" and, thus, part of the required rest period before the subsequent duty period, the time spent in such transportation must be reasonably brief. Again, it must be brief in order to maximize the amount of time available to the pilot to plan for and to get sufficient sleep before serving in part 121 service the following duty day.

We trust this letter is responsive to the inquiry. The response was prepared by Joseph A. Conte, Manager, Operations and Air Traffic Law Branch, Office of the Chief Counsel

and Komal K. Jain, Attorney-Advisor, Office of the Chief Counsel, and coordinated with the Air Transportation Division of Flight Standards Service.

Sincerely,

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Regulations Division

Enclosures