August 5,2005

Don Treichler
Director, Teamsters Airline
Division 6242 Westchester
Parkway, Suite
250 Los Angeles, CA 90045

Dear Mr. Treichler:

This letter is in response to your July 4, 2004 letter requesting an interpretation of 14 C.F.R. §§121.503, 121.505(b), 121.507(b) and 121.509(b) that pertain to rest and duty time.

You provide the following information: The crew was scheduled and actually reported for duty at 0600. Its first leg was scheduled from 0700-1100. Due to deicing it actually took from 0700-1140. Its second leg was scheduled from 1200-1600 and then off duty at 1615. It actually incurred a maintenance delay from 1140-1900 and the flight operated from 1900-2300 and then off duty at 2315. [l]t was scheduled on duty for a total of 10:15. Actual time from report to off duty was 17:15. The crew was sent to a hotel for three hours during the 7:20 maintenance delay. The airline contends that the three hours spent in the hotel is not part of the duty day; thus, the overall duty day is reduced to 14:15.

You ask whether an air carrier may break a duty period by placing crewmembers in a hotel for a period of less than eight hours, thereby effectively enabling the carrier to extend the crew's overall duty period beyond the 16 hours provided by these regulations. Based on the hypothetical you presented we assume that your question relates specifically to section 121.505(b), which states a 16-hour duty limit. We also assume that your hypothetical and question relate to a 2-pilot crew, that the "U.S. mainland rules" apply, and that the carrier cannot elect under section 121.513 to follow the "international rules" applicable to operations that are international in character.

Sections 121.503(b) and 121.505(b) provide:

> Section 121.503(b): Each pilot who has flown more than 8 hours during any 24 consecutive hours must be given at least 16 hours of rest before being assigned to any duty with the certificate holder.
>
> Section 12-1.505(b): No pilot of an airplane that has a crew of two pilots may be on duty for more than 16 hours during any 24 consecutive hours.

Duty as used in section 121.505(b) means either actual work for the supplemental air carrier or commercial operator, or present responsibility for such should the occasion arise. *See* Nov. 27, 1970, Letter to Honorable Alan Cranston, from George U. Carneal, General Counsel (copy enclosed).

The nature of rest is the same, regardless of the type of operation. Thus, whether the operation is, for example, domestic or supplemental, it must satisfy three conditions in order to qualify as a rest period: It must be 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* Oct. 29, 2002, Letter to James W. Johnson, from Donald P. Byrne, Assistant Chief Counsel, Regulations Division [No. 2003-6] (copy enclosed). Furthermore, the FAA has previously said that while FAR 121.503 and FAR 121.505 do not specifically say that the rest period must be a continuous period of time, the rest time prescribed in the regulations must be continuous hours. Rest is intended to reduce pilot fatigue and this goal of reducing pilot fatigue would not be enhanced by allowing rest periods of less than 8 or 16 continuous hours as outlined in these sections, or by providing short unplanned breaks in a flying schedule. *See* Feb.19, 1991, Letter to William Zimmerman, from Donald P. Byrne, Assistant Chief Counsel, Regulations and Enforcement Division [No. 1991-5] (copy enclosed).

In light of the previous interpretations and the information you provide, it is clear that the period of 3 hours in the hotel does not satisfy the requirements that a rest period be continuous and determined prospectively, i.e., known in advance: It was not a continuous period of at least 8 hours. Neither was it a period of 8 hours that was known in advance to the flight crewmembers. Finally, it appears that the flight crewmembers were, in effect, "on call" during the 3 hours in which they were placed in the hotel, and had a present responsibility for work, i.e., there was an expectation that they would be required to return to the airport and take the flight as soon as the maintenance problem was resolved. When a flight crewmember is required to hold himself in readiness for a quick report time, the flight crewmember is considered to be "on duty." *See* Nov. 27, 1970, Letter to Hon. Alan Cranston. Thus, the 3 hours in the hotel in effect extended the flight crew's on duty time beyond the 16-hour limit stated in section 121.505(b).

This letter was prepared by Joseph A. Conte, Manager, Operations & Air Traffic Law Branch, and Constance M. Subadan, Attorney. It was coordinated with the Air Transportation Division of the Flight Standards Service at FAA Headquarters.

Sincerely,
James W. Whitlow
Deputy Chief Counsel