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

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

Dec. 15, 2005

Captn. Michael A. Citrano, Jr.
Senior Director of Operations
Atlas Air, Inc.
2000 Westchester Ave
Purchase, NY 10577-2543

Dear Captain Citrano:

This letter responds to Atlas Air's April 6, 2005 request for an interpretation of 14 C.F.R. section 121.483(b).[1] The request essentially concerns the nature and applicability of rest provisions in section 121.483(b).

Questions:

1. Does the following statement, which is contained in the Atlas Flight Operations Manual (FOM), have an impact on crew rest, specifically, if a crewmember responds to a company contact, is his or her rest period considered disrupted, thereby requiring additional time for required rest? "During a layover, unless otherwise advised by crew scheduling, the crewmember must be contactable within four (4) hours unless specifically released from this requirement by crew scheduling for a longer period of time." The scenario given refer[s] to a layover time of 37 hours.

2. How should FAR 121.483(b), specifically the statement: "In any case, he must be given at least 24 consecutive hours of rest during any seven consecutive days" be applied in the following scenario: A crewmember is assigned residence reserve. (A residence reserve[2] crewmember must

[1] Section 121.483(b) states: If a pilot has flown 20 or more hours during any 48 consecutive hours or 24 or more hours during any 72 consecutive hours, he must be given at least 18 hours of rest before being assigned to any duty with the air carrier. In any case, he must be given at least 24 consecutive hours of rest during any seven consecutive days.

[2] Atlas Air fully defines **Residence reserve** as follows: "**Residence reserve**, which shall allow the Crewmember to remain at his residence until assigned to a work pattern or re-assigned to another reserve category. The Crewmember must be able to report to the closest jet served airport to his residence for departure within 4 hours of notification of an assignment from the Company. A Residence reserve Crewmember must be available for contact and assignment by the company from 0001z to 2400z on each day that he is assigned to a reserve status. He shall be required to call the Company within 15 minutes of notification by the Company. He may be released from further contactability for the remainder of his work day or other predetermined period based on the needs of the operation as determined by the Company."

Atlas Air also has another reserve category, **Base reserve**, that it defines as follows: "**Base reserve**, which require[s] the Crewmember to remain at his Base (JFK, STN, MIA, LAX or ANC) until either assigned a work pattern or reassigned to another reserve category. He must be able to report to his Base within 2 hours of notification of an assignment by the Company. He shall be required to call the Company within 15 minutes of notification by the Company. He may be released from further contactability for the remainder of his work day or other predetermined period based on the needs of the operation as determined by the Company."

be available for contact and assignment by the company from 0001z to 2400z on each day that he is assigned residence reserve status. He must be able to report to an airport within 4 hours of notification, and, must call the company within 15 minutes of notification.) Can duty be assigned on Day 9?

3. Can a crewmember be assigned to 3 consecutive days of Residence reserve followed by 4 consecutive days of duty aloft in scheduled air transportation?

4. Is Atlas Air permitted to assign duty aloft on Day 9 [in the following scenario]?
    a. Day 1 OFF
    b. Day 2 OFF
    c. Day 3 Residence reserve
    d. Day 4 Residence reserve
    e. Day 5 Deadhead to operating airport- crew rest < 24 hours [i.e., less than 24 hours]
    f. Day 6 Duty aloft- crew rest < 24 hours
    g. Day 7 Duty aloft- crew rest< 24 hours
    h. Day 8 Duty aloft- crew rest < 24 hours
    i. Day 9 Duty aloft- crew rest < 24 hours

5. Is Atlas Air permitted to deadhead the crewmember to his Base on Day 9 [in the following scenario]?
    a. Day 1 OFF
    b. Day 2 OFF
    c. Day 3 Residence reserve
    d. Day 4 Residence reserve
    e. Day 5 Deadhead to operating airport- crew rest < 24 hours
    f. Day 6 Duty aloft- crew rest < 24 hours
    g. Day 7 Duty aloft- crew rest < 24 hours
    h. Day 8 Duty aloft-crew rest < 24 hours
    i. Day 9 Deadhead return to Base- crew rest < 24 hours

Answer to Question 1:
The nature of rest is the same regardless of the required amount of a particular rest period, whether that rest period be the "daily" rest period, the rest period after having flown 20 or 24 hours, or the 24-consecutive-hour rest period. It must meet the three-prong test, i.e., be: 1) continuous; 2) determined prospectively i.e., known in advance; and 3) free from all restraint by the certificate holder, including freedom from work or freedom from present responsibility for work should the occasion arise. Whether the rest period referred to in Question 1 is intended to be a 18-hour rest period after having flown 20 or 24 hours or a 24-consecutive-hour rest period, it would not be a legal rest period if the pilot "must be contactable within four (4) hours," because it would not meet any of the elements for rest.

Answer to Question 2:
Reserve does not meet the nature of rest test for the 24-consecutive-hour rest period, even if it is Residence reserve, because when a crewmember in such Residence reserve status "must be available for contact and assignment by the company from 0001z to 2400z on each day that he is assigned to a reserve status" he is not "free from all restraint," which includes "present responsibility for work should the occasion arise." Assuming the pilot was on Residence reserve on Days 1 through 8, none of those days are 24-consecutive-hour rest periods. Because one must be able to find this rest period when one looks back 7 consecutive days from midnight of the day of any planned Part 121 (or Part

135) operation, the pilot may not perform a flight assignment on Day 9. Instead, he must be given a 24-hour rest period on Day 9, with the assignment to flight time delayed until Day 10. *See e.g.,* July 26, 2005 Letter to James W. Johnson, from Rebecca B. MacPherson, Assistant Chief Counsel, Regulations Division [2005-7] (copy enclosed).

Answer to Question 3:
No. The 3 consecutive days of Residence reserve do not satisfy the nature of rest test for the 24-consecutive-hour rest period. See previous discussion.

Answer to Question 4:
No. When one looks back 7 days from midnight of the 9th day involving duty aloft, i.e., flight time, one does not find a 24-consecutive-hour rest period because the Residence reserve on Day 3 is not a valid 24-hour rest period. See previous discussion.

Answer to Question 5:
Yes. The certificate holder is permitted to deadhead the crewmember to his Base on Day 9 because in so doing the pilot would not be performing flight time. Note that the days off on Day 1 and 2 (assuming they meet the nature of rest test) would satisfy the 24-hour rest period requirement for flight time performed on Days 6, 7, and 8.

Sincerely,

Rebecca B. MacPherson
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Regulations Division, AGC-200

Enclosure

The FAA has not published this interpretation in the Federal Register for pre-issuance comments because it does not present a new issue. This is consistent with the Federal Register Notice of Reinstatement of 1980 Public Comment Procedures for Requests for Interpretation of the Flight Time, Rest and Duty Period Regulations, issued on December 12, 2005. That Notice states that Federal Register public comment procedures would be subject to three limitations: 1) pre-issuance comments would be solicited for requests presenting new issues, i.e., not for repetitive type questions; 2) even for new issues, the agency may issue an interpretation immediately, subject to post-issuance comments; and 3) the Agency reserves the right to modify or discontinue the use of the procedures, at the Office of the Chief Counsel's election.