U.S. Department
of Transportation
Federal Aviation
Administration

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

April 29, 2005

Edgar C. Fell
Vice President, Safety and Regulatory Compliance
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Suite 111
Memphis, TN 38132

Dear Mr. Fell:

This is in response to your February 17, 2003 letter for a request of the domestic flight time limitations and rest requirements, as set forth in 14 CFR § 121.471. Please note that a "legal" flight in this letter, refers only to a flight that complies with the flight attendant duty period limitations and rest requirements.

You ask the following questions:

1) Can previous interpretations regarding the applicability of § 121.471(g) be applied to § 121.467(b)(14)?
2) In the scenario below, is the certificate holder and flight attendant legal to operate this flight in accordance with § 121.467(b)(14):

A flight attendant has been properly scheduled under FAR 121.467 with a report time of 0700 and a scheduled release time of 2050, a duty period of 13 hours and 50 minutes. Immediately prior to this duty, the flight attendant was given a 10 hour rest period. The flight attendant's last flight is scheduled to depart at 1905 and scheduled [sic] to arrive at 2035 with 15 minutes provided for checkout procedures. The aircraft to which the flight [sic] attendant is assigned incurs an unforeseen mechanical problem that will delay the flight for 45 minutes, making her actual duty period 14 hours and 35 minutes.

The applicable regulation sections are listed below:

Section 121.467 Flight attendant duty period limitations and rest requirements: Domestic, flag, and supplemental operations.

(b)(1) Except as provided in paragraphs (b)(4), (b)(5), and (b)(6) of this section, no certificate holder conducting domestic, flag, or supplemental operations may assign a flight attendant to a scheduled duty period of more than 14 hours.

- (b)(2) Except as provided in paragraph (b)(3) of this section, a flight attendant scheduled to a duty

period of 14 hours or less as provided under paragraph (b)(1) of this section must be given a

scheduled rest period of at least 9 consecutive hours. This rest period must occur between the completion of the scheduled duty period and the commencement of the subsequent duty period.

(b)(14) A flight attendant is not considered to be scheduled for duty in excess of duty period limitations if the flights to which the flight attendant is assigned are scheduled and normally terminate within the limitations but due to circumstances beyond the control of the certificate holder conducting domestic, flag, or supplemental operations (such as adverse weather conditions) are not at the time of departure expected to reach their destination within the scheduled time.

Questions Answered

1) Previous interpretations of § 121.471(g) may be used as guidance for interpreting § 121.467(b)(14) in similar factual situations. However, as you identified in your letter, § 121.471(g) concerns flight time limitations whereas § 121.467(b)(14) concerns duty time, which must include flight time. See § 121.467(a) definition of flight attendant duty period. Therefore, questions concerning a pilot's flight time may substantially differ from questions concerning a flight attendant's duty time, which may include both flight time and non-flight time. Moreover, questions involving "circumstances beyond the control of the certificate holder," whether concerning pilots or flight attendants, do not affect rest requirement analyses.

2) In your letter you ask whether it is legal for the certificate holder and flight attendant to operate this flight in accordance with § 121.467(b)(14). Please note, that the flight attendant duty period limitations and rest requirements only apply to the certificate holder, a flight attendant may not be charged with a violation of § 121.467. Itis unclear from your scenario which flight is "this" flight since you indicate the flight attendant is scheduled for multiple flights. We will assume for purposes of this interpretation that you meant the last flight of the day, scheduled to depart at 1905.

In order to answer your question, we need to make a number of assumptions because your scenario lacked certain facts that may impact the answer to your question. If any of these assumptions are incorrect, the answer to this question may change. First, we assume the flights in the scenario you describe do not use augmented flight attendant crews pursuant to sections 121.467(b)(4), (5), and (6), because you do not refer to augmented flight attendant crews or their corresponding sections. Second, we assume the scenario you describe complies with section 121.467(b)(13) requiring 24 consecutive hours free from all duty during any seven consecutive calendar days. We assume the certificate holder in the scenario you described did not choose the option permitted by section 121.467(c), to apply the flight crewmember flight time limitations and rest requirements. We assume the scenario you described did not involve the application of any of the following sections 121.467(b)(7), (8), or (9), including application of these sections to time periods prior to or during the ten hour rest you describe in the scenario you described. In order for your scenario to be "legal" under the flight attendant duty period limitations and rest requirements, we assume any required rest period, such as the section 121.467(b)(2) requirement, is given before the next duty period. This assumption reinforces the long held FAA position that circumstances beyond the control of the certificate holder permit exceeding duty period limitations but does not permit reducing required rest periods. Therefore, your scenario would not be "legal" if the certificate holder gave the flight attendant less than the required amount of rest before the next duty period, regardless of the delay.

- In the scenario you provided, the certificate holder complies with the applicable flight attendant duty period limitations. Pursuant to section 121.467(b)(1), a flight attendant may not be scheduled for

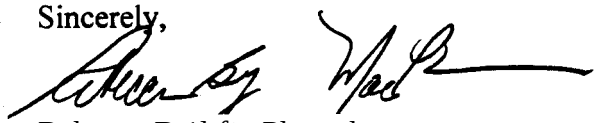
more than 14 hours of duty time, which includes flight time, unless there is more than the minimum number of flight attendants on a flight. Section 121.467(b)(14) is one exception to section 121.467(b)(1), in that it permits extending a flight attendant's duty period beyond the scheduled duty where there are circumstances beyond the control of the certificate holder. Unforeseen mechanical problems and weather may be two circumstances which qualify as beyond the control of the certificate holder. However, there are other circumstances that the FAA does not consider to be circumstances beyond the control of the certificate holder.[1] As section 121.467(b)(14) states, flights to which a flight attendant is assigned must normally terminate within duty period limitations. Therefore, a flight attendant's schedule may not be extended on a regular basis. If a flight attendant's schedule is regularly extended purportedly due to circumstances beyond the control of the operator, it is the operator's obligation to adjust a flight attendant's schedule so that the schedule normally terminates within duty time limitations. Therefore section 121.467(b)(14) permits the extension of duty time from 2050 to 2135 in this scenario for a duty period greater than 14 hours because the delay was caused by circumstances beyond the control of the certificate holder.

In the scenario you provided the certificate holder complies with the applicable flight attendant rest requirements. Section 121.467(b)(2) requires a certificate holder to give a flight attendant at least 9 consecutive hours of rest if the flight attendant is scheduled for a duty period of 14 hours or less. The required rest period must occur between the scheduled duty period and the beginning of a subsequent duty period. Assuming the flight attendant receives the required 9 hours of rest before the next duty period the schedule you describe would be "legal" under the flight attendant duty period limitations and rest requirements?

O Please note that the duty period limitations and rest requirements for flight attendants do not necessarily guard against all forms of fatigue that may occur due to actions or inactions by the flight attendant, the certificate holder, or others. A combination of a change in schedule by a certificate holder and a flight attendant's schedule during non-duty time may combine to create a fatigued flight attendant. Though such fatigue causing circumstances may comply with the literal language of the duty and rest requirements for flight attendants, such fatigue must be considered in determining whether a certificate holder's operation is careless and reckless contrary to 14 C.F.R. § 91.13(a).

We trust this interpretation answered your questions. This was prepared by Douglas Mullen, Attorney, reviewed by Joseph Conte, Manager, Operations Law Branch of the Office of the Chief Counsel and coordinated with Flight Standards Service.

Sincerely,



Rebecca B.1ltf[r]acPhersoh .
Assistant Chief Counsel, Regulations Division

One example, as stated in the final rule adopting the provisions of 14 CFR 121.467(b)(14), is "this provision [14 CFR 467(b)(14)] does not apply to operational delays relating to flight attendant staffing problems." 59 FR 42974, 42979.

[2] Hence, the flight attendant must receive 9 hours of rest between 2135 and the beginning of the next duty period. If the flight attendant was scheduled for a duty period 9 hours after the scheduled release time of 2050, which would have been 0550, the flight attendant would not be able to begin duty at 0550 because this would only give the flight attendant 8:15 rest.

- The certificate holder could require the flight attendant to start duty at 0550 even if his or her duty ended at 2135, if the certificate holder reduced the flight attendant's rest period to 8 hours per section 121.467(b)(3) and later gave the flight attendant 10 hours rest.