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

Mr. Richard Burns
Federal Aviation Administration
AEA-NYC-FSDO-15
990 Stewart Ave.
Garden City, NY 11530

June 11, 2007

Dear Inspector Burns,

This letter is in response to several inquiries from a Captain Fernando Rivera, a pilot from Polar Air and Jay Wells, attorney, Air Line Pilots Association concerning 14 CFR Section 121.485(b).

Section 121.485(b) requires a certificate holder conducting flag operations with three or more pilots and an additional flight crewmember to give each pilot a rest period that is at least twice the total number of hours flown since the last rest period. This rest is required when the pilot returns to his base from a flight or series of flights. In addition, exemption number 4317, which was granted to the member carriers of the Air Transport Association and any similarly situated air carrier that may be subject to Section 121.485, limits the application of section 121.485 to crews scheduled to fly more than 12 hours during any 24 consecutive hours.

The two concerns presented by Captain Rivera are: (1) assuming a crew meets all of the requirements of Section 121.485(b), is a crew entitled to Section 121.485(b) rest if the crew flies a series of flights with fewer than three pilots before returning to the U.S?; and (2) assuming a crew meets all other requirements of Section 121.485(b), is a crew entitled to the Section 121.485(b) rest if the crew is returned to a base that is not the crew's home base?

First, the attached 1963 Legal Interpretation by James B. Minor, in response to a memorandum dated November 29, 1962, states that the rest required by Civil Aviation Regulation (CAR) Section 41.56 (now Section 121.485(b)) is limited to only flights meeting the requirements of Section 121.485(b), not to the flights with fewer than three pilots. Thus, if an outbound Flag flight (from the US to a foreign location) and the inbound flight consist of crews with at least three or more pilots and an additional flight crewmember, then the amount of rest required is twice the amount of flight time for those two segments. However, if during the time that the flight crewmembers are abroad, two of the pilots conduct part 121 flights among foreign cities while the other original flight crewmembers remain on the ground, then the flight time for those two pilots is not counted in the calculation for Section 121.485(b) rest. In calculating the total 121.485(b) rest that is due, the carrier is required to count only those flights or series of flights on which three or more flight crewmembers and an additional flight crewmember must be on board.

Second, a crew meeting all of the requirements detailed above must receive the rest required by Section 121.485(b) when it returns to home base. There appeared to be some confusion that if a crew were returned to a base that is not its "home base", the crew would not be entitled to the

Section 121.485(b) rest. This is not true. When the crew eventually returns to its home base, it must receive the Section 121.485(b) rest. See Legal Interpretation from Ned K. Zartman, dated November 19, 1971. Sending a crew to another base without the required rest cannot be used to defeat the purpose of the rule.

Whether a certificate holder is undermining the anti-fatigue safety goals of Section 121.485(b) is an issue the FAA can examine on a case-by-case basis. For example, if the crew's home base is Chicago, the certificate holder can have the crew first land at a "gateway" city such as New York, Boston or Washington and then proceed to Chicago where the flight crew will receive its rest under Section 121.485(b). But the certificate holder cannot circumvent the safety underpinnings of the regulation by sending the crew from New York to Dallas to Las Vegas to Los Angeles and then back to Chicago. If such routing occurs, the FAA would consider issuing a certificate holder-specific operation specification to make sure the flight crew gets its Section 121.485(b) rest within a reasonable period upon returning to the U.S.

Additionally, the FAA has allowed carriers to give pilots the required Section 121.485(b) rest at another base in the U.S. You stated in some circumstances it appeared a certificate holder was providing the 121.485(b) rest at a base that was not the pilots' home base. You stated that some pilots were seeking additional Section 121.485(b) rest once they returned to their home base. There is no requirement in the rules to provide Section 121.485(b) rest twice. If the pilots receive the rest at an alternative base, the certificate holder is not required to provide the rest again at the pilots' home base. However, the only way a certificate holder does not have to give the Section 121.485(b) rest at the pilots' home base is if they are given the entire 121.485(b) rest due at one time, at another base. If all of the rest is not given at an appropriate alternative base, the pilots must receive the full 121.485(b) rest at their home base. And, the FAA would weigh the safety impact, if any, of allowing a carrier to give the Section 121.485(b) rest at an alternative base that was not in the same time zone as the actual home base. Part of the safety features of the rest rules codified in Section 121.485(b) is not only the amount of rest required – but also the location of the rest. An important safety feature regarding the location test, from an anti-fatigue perspective, is the time zone in which the rest is given. Thus, for an enforcement perspective, rest given in an alternative U.S. city that is also in the same time zone as the crew's U.S. home base is more likely to be considered as meeting the anti-fatigue safety underpinning for the Section 121.485(b) rest requirements. On the other hand, if the carrier provides the rest in an alternative U.S. city that is one or more time zones away from the U.S. home base for the pilots, the less likely --- from an enforcement perspective --- the FAA will be willing to accept such rest as meeting all of the safety features under Section 121.485(b).

We trust this interpretation has answered your questions. This interpretation has been coordinated with the Air Transportation Division of Flight Standards Service.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel, Regulations Division

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