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

NOV 16 2007

Frederick W. Schwarz
[redacted]

RE: Legal Interpretation of 14 C.F.R. 135.267(f)(Subpart F)

Dear Mr. Schwarz:

This responds to your letter requests dated October 12, 2007 and October 20, 2007 that involve an interpretation of 14 C.F.R. section 135.267(f) which states:
135.267(f)(Subpart F) – "The certificate holder must provide each flight crewmember at least 13 rest periods of at least 24 consecutive hours each in each calendar quarter."

First, your requests ask whether several past FAA legal interpretations involving the rest provisions and definitions are still valid. The answer is "yes."

The FAA most recently interpreted 14 C.F.R. 267(f) in a letter from Rebecca B. MacPherson, Assistant Chief Counsel, Regulations Division to Michael T. Brazill, Director of Operations, Summit Jet L.L.C. dated December 19, 2005. This letter and the previous FAA interpretations upon which it is based are still valid.

Specifically, the FAA reiterates its definition of "rest period" as stated in that letter: "The nature of the 'daily' rest period is the same, regardless of the applicable subpart. Rest must 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.... In addition, the nature of the 24-hour rest period is the same as the nature of the 'daily' rest period." (underline in original)

Second, your letter asks whether the rest provisions and definitions apply specifically to on demand charter operators with 135 air carrier certificates. The answer is "yes."

As stated in its 2005 legal interpretation sent to Mr. Brazill cited above, "[t]he relevant showing that Summit Jet must make under the regulation is that each flight crewmember actually receives at least 13 rest periods in every quarter. If Summit Jet cannot do so, it has not satisfied the regulation's plain requirement." (underline in original) This statement applies to all operators who chose to operate a flight under its 135 air carrier certificate whether it is an "on demand charter" flight or any other designation.

This response was prepared by Bruce Glendening, Attorney in the Regulations Division of the Office of the Chief Counsel and has been coordinated with the Flight Standards Service at FAA Headquarters. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Rebecca MacPherson
Assistant Chief Counsel
Regulations Division (AGC-200)