Federal Aviation Administration

Memorandum

Date: JUN 16 2009

To: Steve Albert, FAA ANM-PDX-CMO-19

Thru: Brad Pearson, Flight Standards Division Manager, ANM-200

From: Rebecca MacPherson, Assistant Chief Counsel, Regulations Division

Prepared by: Anne Bechdolt, Acting Manager, Operations Law Branch (AGC-220)

Subject: Continuous rest periods as required under 14 C.F.R. §121.471(d)

This is in response to an inquiry received from Mr. Robert Bender regarding the rest provisions of 14 C.F.R. §121.471(d) in which you requested clarification. In his request, Mr. Bender noted that his company requires pilots to call crew scheduling between 4:00 p.m. and 6:00 p.m. the day before a scheduled reserve period to allow the company to notify the pilot of a flight assignment or a change to the originally scheduled reserve availability period. In determining whether a pilot has been free from all duty for at least 24 consecutive hours during any 7 consecutive days as required under § 121.471(d), Mr. Bender questions whether this two-hour period is considered to be part of a continuous rest period.

The FAA has consistently held that for a period to qualify as a rest period, it must be (1) a continuous period; (2) determined prospectively; and (3) during which the crewmember is free from all restraint by the certificate holder, including freedom from present responsibility from work should the occasion arise. *See* Legal Interpretation to Candace K. Kolander from Rebecca MacPherson, Assistant Chief Counsel, Regulations Division (Apr. 29, 2005); Legal Interpretation to Charles E. Marcum, from Rebecca MacPherson (2004) (confirming that the period of time that a pilot under reserve status is obligated to answer a carrier's phone call or page is not considered part of a rest period); Legal Interpretation 2003-6, to James. W. Johnson, from Donald P. Byrne, Assistant Chief Counsel, Regulations Division (Oct. 29, 2002).

In determining whether a rest period is continuous, it is the FAA's policy that such a period will be considered continuous if the air carrier pages or calls a pilot once during the rest period, and the pilot, on his own volition, accepts the call or responds to the page. *See* Legal Interpretation to James W. Johnson from Donald P. Byrne, Assistant Chief Counsel, Regulations Division (June 23, 2000) (noting however that the air carrier cannot make more than one attempt to contact the pilot and have the period still be considered continuous). However, if the pilot is obligated to answer the telephone, or respond to a page, then the entire period that the pilot is under such an obligation is not considered part of the continuous rest period, even if the carrier

does not call the pilot once during that period. *See id.; see also* Legal Interpretation to James W. Johnson from Donald P. Byrne, Assistant Chief Counsel, Regulations Division (Nov. 7, 2003); Legal Interpretation to James R. Knight II, from Donald P. Byrne, Assistant Chief Counsel for Regulations (Dec. 9, 1999). Accordingly, in this instance, because the pilot must respond from any call or page from the air carrier between 4:00 p.m. and 6:00 p.m., this two-hour period is not considered to be part of a continuous rest period.

This response was coordinated with the Air Transportation Division of Flight Standards Service.