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

Office of the Chief Counsel

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

MAR 10 2011

Wesley C. Converse
Director of Flight Operations
W7245 Hwy 35
Bay City, WI 54723

Dear Mr. Converse:

This is in response to your email message of November 10, 2010 requesting an interpretation of "transportation not local in character" as it appears in 14 CFR section 135.263(c) based on the facts of the following scenario you provided in your inquiry and further clarified in subsequent phone conversations with our office.

Red Wing Aeroplane Company is a 14 CFR part 135 operator based in Bay City, Wisconsin. Typically, Red Wing Aeroplane's crewmembers must travel to Minneapolis-St. Paul International Airport (MSP) to take a commercial flight to a location where they will then serve as a flightcrew member on a part 135 flight for Red Wing Aeroplane. The commute from Red Wing's base of operations in Bay City to MSP may range from fifty minutes to an hour and fifteen minutes. To reduce the burden of the commute and save its crewmembers the daily parking fees at MSP, Red Wing Aeroplane offers its crewmembers free transportation from the company's offices in Bay City to MSP. The crewmembers may opt to commute on their own from their residence in Bay City, Wisconsin, or may opt to be driven to MSP by Red Wing Aeroplane. You question whether the hour commute to MSP constitutes transportation that is local in nature such that it may be considered part of the crewmember's rest period.

Based on the facts as outlined above and the following analysis, the FAA has determined that the transportation provided by Red Wing Aeroplane could be considered transportation that is local in nature, and thus, part of the crewmember's rest period as long as there is no present requirement for duty at the company facility that would effectively end the crewmember's commute for purposes of applying the local in nature definition as described below. Consequently, any alteration of the facts presented may give rise to a finding that a crewmember has assumed company related duties and change the result of this interpretation. For example, providing or making available flight related manifests, flight planning information or other materials needed by crewmembers to perform their duties for Red Wing, and which are to be read or reviewed during the transportation to MSP, would constitute a present requirement for duty. Further, while the treatment of this transportation as local in character could be reasonable for crewmembers living in the general area of Bay City, Wisconsin, it would not be reasonable for crewmembers who are already living in the MSP area because it could double their commuting time.

First, we note that the pertinent regulation, 14 C.F.R. § 135.263(c), refers to what is commonly called "deadhead transportation," where crewmembers fly as passengers on the air carrier's airplane to a destination where they are to begin service as flightcrew members, or the reverse. While such crewmembers are being deadheaded, they could not at the same time be considered relieved from all duty with the air carrier for the purpose of satisfying §135.263(c). The FAA has consistently interpreted that this provision would apply regardless of whether the crewmembers accomplished the deadhead portion of the trip on a company airplane, an airplane of another carrier, or by ground transportation. See Legal Interpretation to James W. Johnson from Donald P. Byrne, Assistant Chief Counsel for Regulations and Enforcement (July 14, 1992). Section 135.263(c) did not intend to, and does not, apply the deadhead transportation rule to transportation from one's home to one's place of business or employment. Id.

Specifically, 14 C.F.R. §135.263(c) states:

> Time spent in transportation, not local in character, that a certificate holder requires of a flight crewmember and provides to transport the crewmember to an airport at which he is to serve on a flight as a crewmember, or from an airport at which he was relieved from duty to return to his home station, is not considered part of a rest period.

Three qualifications must be met before section 135.263(c) applies: (1) the transportation cannot be local in character, (2) the air carrier must require the transportation of a flight crewmember, and (3) the air carrier must provide the transportation. See id. (determining that transportation between Los Angeles International and John Wayne Airport and between Baltimore-Washington International Airport and Washington Dulles International Airport, with a one hour average commute time between the airports, was local in nature).

Under the facts of your scenario, the first criterion of §135.263(c) is not met. In regard to the first criterion, the FAA has interpreted "local transportation" as transportation that is reasonably brief, and that includes travel by crewmembers from their residences, a hotel, or a motel to an airport. Id.; see also Legal Interpretation to James W. Johnson from Donald P. Byrne, Assistant Chief Counsel for Regulations and Enforcement (March 27, 1992). Local transportation may also include travel between co-domicile airports, sometimes with transit times exceeding one and a half hours (between Los Angeles International Airport and John Wayne Airport). *See* Johnson Interpretation (July 14, 1992). In a previous interpretation, the FAA found that transportation by a crewmember from BWI to Dulles, that is required and provided by the carrier, is still considered part of the crewmember's rest period because it is local in nature. See id. The interpretation identified BWI and Dulles as co-domicile airports with travel time between them sometimes exceeding one hour. Co-domicile airports are generally within a relatively close geographic location to one another, and it is reasonable to assume that crewmembers dispatched from one co-domicile airport might terminate at the other. Id.

Although MSP and the airport in Bay City, Wisconsin have not been designated as co-domicile airports, the commuting time from the base of Red Wing's operation to MSP is on

average one hour, and may be considered reasonably brief. The FAA has determined that the one-hour commute from Red Wing Aeroplane's base of operation in Bay City, Wisconsin, to MSP may be considered transportation that is local in nature. This interpretation does not address those crewmembers of Red Wing Aeroplane's who may not be based in Bay City, Wisconsin and may be required by the company to travel from that location to another for duty.

You also ask if the crewmember's duty time starts when he or she leaves the Red Wing parking lot, or when his or her commercial flight departs MSP. Once the crewmember arrives at MSP, he or she is required to take a commercial flight that is provided by the carrier,[1] not local in character, to an airport where he or she will be operating on a flight as a crewmember. Therefore, the flight from MSP meets all the requirements of 135.263(c), and is not considered part of the flightcrew member's rest period.

Finally, we would like to stress that the FAA mandates rest periods to ensure that crewmembers have the opportunity to get sufficient uninterrupted sleep. See Legal Interpretation to James W. Johnson from Donald P. Byrne, Assistant Chief Counsel Regulations Division (November 7, 2003). For transportation to be considered local in nature, as in this case, the transportation must be reasonably brief to ensure that the crewmembers get sufficient sleep before they commence with their flightcrew member duties. We note that any change in the facts of this scenario, such as an increase in the time of transport, may change our conclusion that this transportation is local in nature.

I hope this information has been helpful. This interpretation has been coordinated with the Air Transportation Division of the Flight Standards Service (AFS-200). If you have further questions concerning this interpretation, please contact Sabrina Jawed on my staff at 202-267-3073.

Sincerely,

Rebecca MacPherson
Assistant Chief Counsel for Regulations, AGC-200

[1] Section 135.263(c) applies regardless of whether "the crewmembers accomplished the deadhead portion of the trip on a company airplane, an airplane of another carrier, or by ground transportation." Johnson Interpretation (July 14, 1992).