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

Office of the Chief Counsel

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

FEB 1 8 2011

Mr. Kevin McCabe
Local 1224 Steward
Atlas Pilots Scheduling Committee Chairman
1850 Parkway Drive
Anchorage, AK 99504

Dear Mr. McCabe:

In a letter dated December 1, 2009 (attached to an e-mail dated March 17, 2010) you requested legal interpretations in response to a number of issues related to flight time limitations for flag operations. Specifically, you sought an interpretation as to whether the relief from the rest requirement in 14 C.F.R. § 121.485(b), granted by Exemption 4317L was determined to be applicable based on scheduled time or dispatch time. You also sought answers to questions regarding deadhead time and responsibility for compliance with 14 C.F.R. § 121.483.

We apologize for the delay in responding to your request. With this letter we are providing a partial response to your requests, responding to the questions regarding deadhead time and responsibility for compliance with 14 C.F.R. § 121.483. We will continue to examine your questions regarding Exemption 4317L.

In your letter, you provided an example of a flightcrew member schedule, about which you ask a series of questions. For purposes of this interpretation, we have assumed that the hours of flight, rest and deadhead times you described in the sample schedule represent scheduled blocks. We have also assumed that the blocks of time described represent consecutive blocks. Based on these assumptions, the crewmember schedule is as follows:

Block 1: 12:40 hours flight time
Block 2: 12 hours rest
Block 3: 8 hours flight time
Block 4: 11 hours rest
Block 5: 2 hours deadhead
Block 6: 18 hours rest

Your questions involve the application of 14 C.F.R. § 121.483(b) to this schedule. 14 C.F.R. § 121.483(b) applies to air carriers conducting flag operations using an airplane that has a crew of two pilots and one additional crewmember. The certificate holder must provide a pilot who has flown 20 or more hours during any 48 consecutive hours or 24 or more hours during any 72 consecutive hours, with 18 hours of rest before that pilot can be assigned to any duty with the air carrier. *See* 14 C.F.R. § 121.483(b). In addition, a pilot

must be given at least 24 consecutive hours of rest during any seven consecutive days. *See* 14 C.F.R. § 121.483(b).

Specifically, you ask whether the deadhead leg required by the certificate holder in the above schedule, constitutes duty and whether the 18 hours of rest required by § 121.483(b) must be taken prior to the deadhead leg or prior to the next "flight deck duty". For the reasons stated below the scenario you present complies with § 121.483(b).

The scenario you present involves an operation conducted under § 121.483 which establishes flight time limitations for flag operations with two pilots and one additional crewmember. Neither §§ 121.483(a) or (b) use the term, "flight deck duty" nor do they set limits on flight deck duty.[1] *Cf.* 14 C.F.R. §§ 121.507 *and* 121.509 (establishing limitations on flight deck duty for pilots in supplemental operations). Specifically, § 121.483(b) limits pilots' "block to block time" or "time aloft" in that if a pilot "*has flown* 20 or more hours during any 48 consecutive hours or 24 or more hours during any 72 consecutive hours, he must be given at least 18 hours of rest..." (emphasis added). The agency has interpreted the terms "flight time" and "flown" as equivalent to total "block to block time" or "time aloft". *See* Legal Interpretation 1989-1; Legal Interpretation 1997-20. Consequently, § 121.483(b) provides a flight time limitation, rather than a duty time limitation. *See* Legal Interpretation 1979-42; Legal Interpretation 1977-67. The provision can only be violated when the pilot acts as an operating flightcrew member. *See* id.

Thus, the agency allows air carriers to assign a pilot a deadhead leg at the end of a duty period before providing the rest required by § 121.483(b) because the pilot is not assigned as a flightcrew member in this instance. *See* Legal Interpretation 1979-42; Legal Interpretation 1977-67. This approach is consistent with the intent of the rule - to prevent a flightcrew member's fatigue from adversely affecting the safety of flight. *See* Legal Interpretation 1979-66; 1977-67. "Requiring the pilot to deadhead prior to the start of any rest period specified in Section 121.483(b) has no effect on safety since the pilot becomes a passenger and in no way acts as a flight crewmember while engaged in deadhead transportation." *See* Legal Interpretation 1979-42. *See also* Legal Interpretation to Captain Michael A. Citrano, Jr. from Rebecca B. MacPherson (December 15, 2005) (stating that a pilot in deadhead transportation is not performing flight time); Legal Interpretation 1977-76. But, as mentioned above, a certificate holder must provide the pilot with the rest required by §121.483(b) before assigning any further duty to the pilot. We do caution however, that in determining whether a pilot has been provided the appropriate amount of rest, time spent in deadhead transportation is not considered part of the rest period. *See* 14 C.F.R. §121.491. *See also* Legal Interpretation 1997-4 (explaining that "...[W]hen a crewmember is in deadhead transportation, he is not relieved from all duty with an air carrier, whether he travels on a company plane or on another carrier. The FAA policy is that deadhead travel does include a 'present responsibility for work if the occasion should arise'and thus, cannot be considered part of a rest period.")

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[1] The term "flight deck duty" refers to work as a flightcrew member on the flight deck. *See* Legal Interpretation 1989-1; Legal Interpretation 1997-20. This term is used in Subpart S of part 121, which establishes flight time limitations for supplemental operations.

You also ask whether compliance with the regulation is a joint responsibility between the certificate holder and the crewmember or whether responsibility for compliance rests completely with one of the parties. Given the context, we are assuming that your question in this instance refers to compliance with § 121.483. Compliance with this regulation is a joint responsibility. The scheduling burden rests with the air carrier and therefore the carrier is responsible for creating schedules that comply with the regulation. *See* §§ 121.483(a) and 121.483(b); Legal Interpretation 1991-29. In that §121.483(c) specifically states, "No pilot may fly…," the pilot also has a responsibility to refrain from flight duty in violation of the duty limits of the regulation.

We appreciate your patience and trust that the above responds to your concerns. If you need further assistance, please contact my staff at (202) 267-3073. This response was prepared by Sara Mikolop, Attorney, Operations Law Branch of the Regulations Division of the Office of the Chief Counsel, and coordinated with the Air Transportation Division of the Flight Standards Service.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for Regulations, AGC-200