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

Office of the Chief Counsel

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

JUL 26 2011

Mr. Martin Murat
Western Airways
200 Jim Davidson Drive
Sugar Land, TX 77478

Dear Mr. Murat,

This is in response to your September 22, 2009, request for a legal interpretation regarding 14 C.F.R. §135.267(c). In your request, you present a scenario in which a multiple-leg trip is scheduled to be completed within a 14-hour duty day, however, the passengers arrive late following one of the legs and, as a result, the trip is expected to exceed 14 hours. You question whether the passenger delay may constitute a circumstance beyond the control of the certificate holder such that the flightcrew members may continue the trip beyond the scheduled 14 hours. Further, you question if a maintenance issue would constitute a circumstance beyond the control of the certificate holder such that the flightcrew members could exceed the daily flight time limitations of §135.267.

In response to your request, we would like to first note that unless the flightcrew members in your scenario are assigned to a regularly scheduled duty day of 14 hours, the flight time limitations that would govern your scenario are provided under 135.267(b)(1) (8 hours for single pilot operations), or (b)(2) (10 hours for two-pilot crew operations), and not 135.267(c)(1). In order for the flight time limitations for a 14-hour duty day to apply, the start and end time of a 14-hour duty day must not vary from day-to-day. *See* 14 C.F.R. §135.267(c)(1),(2); Legal Interpretation to Daniel Berry, from Rebecca B. MacPherson, Assistant Chief Counsel, Regulations Division (May 22, 2009); Legal Interpretation to John Barney, from Donald P. Byrne, Assistant Chief Counsel, Regulations and Enforcement Division (Dec. 19, 1991) (stating that a pilot under a regularly assigned duty period "comes to work and ... goes home at the same time every day"); *cf.* Legal Interpretation to Jim Mayors, from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (Mar. 2, 2009) (discussing application of the regularly assigned 14-hour duty day).

Because it is unclear, based on the facts you present, whether the flightcrew members work a regularly assigned flight duty schedule under § 135.267(c), or are scheduled under the "moving 24 consecutive hour" flight time limitations of 135.267(b)(1) or (2), we will not be able to answer your specific question regarding acceptance of a flight assignment that goes beyond 14 hours. This interpretation will address generally what constitutes a circumstance beyond the control of the certificate holder and flightcrew member such that the flight time limitations in §135.267(b) may be exceeded.

Section 135.267 (e) provides an exception to the daily flight time limitations for circumstances beyond the control of the certificate holder or flight crewmember (such as adverse weather conditions), provided the flightcrew member is given additional rest before being assigned or accepting a subsequent flight assignment. In addition to adverse weather conditions, the FAA has previously concluded that delays caused by late passenger or cargo arrivals and maintenance difficulties may constitute circumstances beyond the control of the certificate holder and crewmember, provided the originally scheduled operation was realistically scheduled. *See* Legal Interpretation 1993-21 (Aug. 30, 1993); *cf.* Legal Interpretation issued to William E. Banks, Jr., from Rebecca B. MacPherson, Assistant Chief Counsel, Regulations Division (March 18, 2009). Based on the facts you present, it appears that both situations may constitute circumstances beyond the control of the certificate holder and flightcrew members such that the daily flight time limitations of §135.267(b) may be exceeded. For your review, we have enclosed a copy of the legal interpretation issued in 1993.

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 Anne Bechdolt, Acting Manager of the Operations Law Branch of the Regulations Division of the Office of the Chief Counsel, and coordinated with the Air Transportation Division of Flight Standards Service.

Sincerely,

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

Enclosure