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

Office of the Chief Counsel

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

OCT 12 2012

Mr. Neal Boyle
Island Airways
111 Airport Drive
Charlevoix, MI 49720

Dear Mr. Boyle:

This letter is in response to your January 18, 2012 request for interpretation of a duty period under part 135 of Title 14, Code of Federal Regulations.

In your letter you note that your company is a 119 certificate holder that conducts part 135 operations and also operates a part 145 repair station. Two of the pilots employed by the company are also airframe and powerplant mechanics that work at the part 145 repair station. These pilots regularly fly a short trip for the part 135 operation and then spend the rest of the shift performing maintenance work. Occasionally, the entire shift will be spent performing maintenance. You ask whether time spent by the pilot/mechanic employee doing maintenance for the part 145 repair station must be logged as duty time for the part 135 operation.

Two scenarios arise from your question: (1) the pilot/mechanic is performing mechanic duties under the part 145 certificate but flies or is expected to fly for the part 135 operator if needed; and (2) the pilot/mechanic is solely performing mechanic duties without flying for the part 135 operator or having the expectation to fly if needed.

The FAA has consistently interpreted "rest" as a continuous period of time during which the crewmember is free from all restraint by the certificate holder, including the freedom from work and freedom from responsibility to work should the occasion arise. Legal Interpretation to James Baxter, from Donald P. Byrne, Assistant Chief Counsel (Mar. 25, 1997). Duty means actual work for an air carrier, or the present responsibility for work should the occasion arise.[1] *Id.*

Regarding the first scenario, a pilot is on duty if the expectation exists that the pilot will work for the certificate holder if needed. The pilot/mechanic here has the responsibility to fly for the part 135 carrier if an assignment arises when he is on duty. Therefore, because the company expects the pilot/mechanic to fly if the need arises, the pilot/mechanic is on duty. *See* Legal Interpretation to Baxter; Legal Interpretation to David Bodlak, from Donald P. Byrne, Assistant Chief Counsel (Oct. 28, 1991).

[1] We note that the definitions in section 135.273, referenced in your letter, apply to the duty period limitations and flight rest time requirements for flight attendants.

Regarding the second scenario, even though the company does not expect the pilot/mechanic to fly, the time spent performing mechanic duties for the certificate holder cannot be considered a rest period under the part 135 pilot flight, duty, and rest rules. As discussed above a rest period is a continuous period of time free from all restraint, including freedom from work. The pilot/mechanic here is not at rest because the company, which is the part 135 operator and part 145 certificate holder, assigned the work. *See* Legal Interpretation to Bodlak. Therefore, the pilot/mechanic would be on duty in this circumstance as well.

This response was prepared by Dean E. Griffith, an attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the Air Transportation Division and Aircraft Maintenance Division of Flight Standards Service. Please contact us at (202) 267-3073 if we can be of additional assistance.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for International
Law, Legislation and Regulations