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

Office of the Chief Counsel

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

FEB -6 2013

Mr. Jim Stieve
Sr. Mgr. Certification and Compliance
Southwest Airlines – Operations
2702 Love Field Drive, HDQ1DP
Dallas, TX 75235

Dear Mr. Stieve:

This letter is provided in response to your request for a legal interpretation e-mailed to the Assistant Chief Counsel for International Law, Legislation and Regulations, on October 8, 2012. Specifically, you ask whether a flight that departs Puerto Rico and then lands at a point within the 48 contiguous states of the United States, must comply with the crew pairing requirements of 14 C.F.R. § 61.3(j). In addition, you asked the Assistant Chief Counsel to identify the applicable crew pairing requirements for flights that take-off and land within the 48 contiguous states of the United States and pass through Canadian airspace during the flight. For purposes of this legal interpretation, we assume that the flights will be conducted under the operating requirements of part 121 of title 14.

Part 61 of title 14 of the Code of Federal Regulations provides pilot certification requirements as well as limitations regarding a pilot's use of such certificate. Specifically, 14 C.F.R. § 61.3(j) prohibits a person who has reached the age of 60 but who has not reached the age of 65 from serving as pilot in command (PIC) unless another pilot on the flight crew is under 60 years of age. This crew pairing limitation applies to pilots conducting operations using an aircraft of U.S. registry that reflect the characteristics in one of the following paragraphs:

> (i) Scheduled international air services carrying passengers in turbojet powered airplanes;
> (ii) Scheduled international air services carrying passengers in airplanes having a passenger-seat configuration of more than nine passenger seats, excluding each crewmember seat;
> (iii)Nonscheduled international air transportation for compensation or hire in airplanes having a passenger-seat configuration of more than 30 passengers seats, excluding each crewmember seat; or
> (iv) Scheduled international air services, or nonscheduled international air transportation for compensation or hire in airplanes having a payload capacity of more than 7,500 pounds.

§ 61.3(j)(1). The terms, "scheduled international air service" and "non-scheduled international air transportation for compensation or hire" as used in § 61.3(j) include operations that pass through the airspace over the territory of more than one country.

Part 121 also contains a crew pairing requirement. Section 121.383(e) prohibits a person from serving as PIC in part 121 operations between two countries if that person has reached his or her 60th birthday but is less than 65 years of age, unless another pilot on the flight crew is under 60 years of age.

A pilot relying on a certificate issued under part 61 of title 14 of the Code of Federal Regulations when serving in operations under part 121 of title 14 of the Code of Federal Regulations, must satisfy the requirements of both parts because part 61 applies to the exercise of the pilot's certificate and part 121 applies to the operation in which the pilot serves. Accordingly, both § 121.383(e) and § 61.3(j) apply to pilots conducting part 121 operations if the operational characteristics of the flight meet the characteristics described in § 61.3(j)(1). This means that pilots who conduct part 121 operations that depart Puerto Rico, pass through the airspace over the territory of a country other than the United States, and then land at a point within the 48 contiguous states of the United States, must comply with the crew pairing requirements of § 61.3(j) if the operational characteristics of the flight are covered by that section.[1] This same analysis applies to a flight that takes-off and lands within the contiguous states of the United States but passes through the airspace over the territory of a country other than the United States (e.g. a cross country flight that passes through Canadian airspace).

This response was prepared by Sara Mikolop, an attorney in the Regulations Division of the Office of the Chief Counsel, and coordinated with the International Programs and Policy and Air Transportation Divisions of the Flight Standards Service. If you have any additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Mark W. Bury
Acting Assistant Chief Counsel for International Law,
Legislation and Regulations, AGC-200

[1] The information contained in the FTEPA FAQ document available at http://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/info/all_infos/media/age65_qa.pdf reflects the requirements of the Fair Treatment of Experienced Pilot Act requirements only.