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

Office of the Chief Counsel
800 Independence Ave., SW.
Washington, DC 20591

OCT 28 2014

Gregory S. Winton
The Aviation Law Firm
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Annapolis, Maryland 21401

Dear Mr. Winton:

This letter responds to your June 25, 2014 request for a legal interpretation of 14 C.F.R. §135.267. In your request for a legal interpretation, you provided a fact pattern involving a sample three-day flight and duty schedule for a pilot flightcrew member serving on a two-pilot crew in unscheduled operations. Specifically, you asked whether the schedule complies with the compensatory rest requirements in §135.267(c). As discussed below, the fact pattern does not comply with §135.267(c) or with the requirements of §135.267(b).

Summary of Sample Schedule
The sample schedule indicates the pilot flew 10 hours from 1400 to 2400 on Day 1, which was followed by rest for the next 10 hours from 0000 to 1000 on Day 2.[1] The pilot then began another flight assignment and flew 10 hours from 1000 to 2000 on Day 2. The second flight assignment was followed by a 10-hour rest period beginning at 2000 on Day 2 and ending at 0600 on Day 3. The fact pattern asserts that "the assigned flight time occurred during a regularly assigned duty period."

Background
Certificate holders may establish flightcrew member schedules under the rolling 24 consecutive hour flight time limitations in §135.267(b) or under the regularly assigned duty period limitations in §135.267(c). *See* legal interpretation to Daniel Berry from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (May 22, 2009).

Section 135.267(b)(2) limits a flightcrew member's total flight time (including other commercial flying) to 10 hours within "any 24 consecutive hours" for a two-pilot flightcrew. This flight time limit may be exceeded pursuant to §135.267(c), "if the assigned flight time occurs during a *regularly assigned duty period* of no more than 14 hours…" subject to the additional conditions in §135.267(c)(1)-(3)(emphasis added).

Analysis
The sample schedule you provided does not indicate the pilot was, in fact, assigned to duty pursuant to a regularly assigned duty period. Your fact pattern indicates the pilot's 14-hour duty period may begin at a different time from one day to the next. If that is the case, then §135.267(c) may not be used to exceed the flight time limitations in paragraph §135.267(b). *See* legal

[1] The sample schedule indicates the pilot "flew" X number of hours each day. For purposes of this interpretation, we assume this statement refers to the pilot's actual flight time.

interpretation to John Barney from Donald P. Byrne, Assistant Chief Counsel for the Regulations and Enforcement Division (Dec. 19, 1991)(Regularly assigned duty period refers to "the schedule of a pilot who comes to work and who goes home at the same time every day."); and Berry interpretation ("A key component of the regularly assigned duty period provision, §135.267(c), is that the start and end time of a 14-hour duty day does not vary from day-to-day."), copies of which are enclosed.

Furthermore, the fact pattern you provided does not appear to comply with the flight time limitations in §135.267(b) either. To comply with §135.267(b), a pilot member (of a two-pilot crew) is limited to 10 hours of flying time. *See* §135.267(b)(2); Barney interpretation. The sample schedule indicates the pilot "flew" a total of 14 hours within a single, consecutive 24-hour period (spanning from 1400 hours on Day 1 to 1400 hours on Day 2). Accordingly, the sample schedule would not be considered compliant with §135.267(b)(2).

This response was prepared by Bonnie C. Dragotto, an Attorney in the Operations Law Branch of the International Law, Legislation and Regulations Division of the Office of the Chief Counsel and coordinated with the Air Transportation Division of the Flight Standards Service. If you need further assistance, please contact our office at (202) 267-3073.

Sincerely,

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

Enc.