U.S. Department
of Transportation
Federal Aviation
Administration

Office of the Chief Counsel

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

FEB - 3 2015

Darin M. Moody
[redacted]

Re: One-phone-call rule and effect of legal interpretations

Dear Mr. Moody,

This is in response to your November 7, 2014, e-mail asking two questions about the flight, duty, and rest rules of 14 C.F.R. part 135 and the effect of legal interpretations on local Flight Standards District Offices. Our answers to your questions are set out below.

1. Whether an operator under part 135 can require a pilot to answer the phone during a rest period.

For your first question, you state that your former employer[1] required pilots who were on rest to answer the phone if they received a call from the certificate holder. You ask whether this requirement is permissible during a rest period.

The FAA has answered this question in a number of previous interpretations. One of the more recent interpretations to address this question was issued to Jason M. Kidd on November 13, 2012. For your convenience, below we have included the pertinent portion of the *Kidd* interpretation:

> For your first question, you ask whether a certificate holder can require a flight crewmember to answer a phone call from the certificate holder during a rest period.
>
> During a rest period, a crewmember must be free from all restraint by the certificate holder. If a crewmember is required to answer the phone by the certificate holder, then that crewmember is not free from all restraint. Thus, that flight crewmember is not on a valid rest period. Accordingly, a certificate holder cannot require a flight crewmember to answer a phone call during a rest period.
>
> We note, however, that the FAA has a "one phone call" policy that "generally allows a certificate holder to initiate one phone call during [a] crewmember's rest period." If the crewmember voluntarily chooses to

[1] Based on your question, we will assume that your former employer was a certificate holder operating under 14 C.F.R. part 135.

answer this phone call, then the FAA does not view the call as disruptive and breaking the rest period. However, we emphasize that in order for the "one phone call" policy to apply, the crewmember cannot be required to answer the certificate holder's phone call, but must instead answer the phone on his own volition.[2]

To sum up, based on the *Kidd* interpretation a certificate holder operating under part 135 cannot require a pilot to answer a phone call from the certificate holder during a rest period.

2. Whether a legal interpretation issued by the Office of the Chief Counsel is binding on the local Flight Standards District Office.

For your second question, you ask whether a legal interpretation issues by the Office of the Chief Counsel Office is binding on the local Flight Standards District Office (FSDO).

A legal interpretation issued by the Office of the Chief Counsel is the FAA's official position concerning the meaning of a statute, regulation, or other legal requirement. The FAA has previously stated that "[v]alidly adopted legal interpretations issued by the Regulations Division of the Office of the Chief Counsel are coordinated with relevant program offices at FAA Headquarters and have FAA-wide application."[3] Because a legal interpretation constitutes an official FAA position that has FAA-wide application and because a FSDO is part of the FAA, a legal interpretation issued by the Office of the Chief Counsel is binding on the FSDO.

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 Alex Zektser, Attorney Regulations Division of the Office of the Chief Counsel, and coordinated with the Air Transportation Division of Flight Standards Service.

Sincerely,

Mark W. Bury
Assistant Chief Counsel for Regulations, AGC-200

[2] Letter to Jason M. Kidd from Rebecca MacPherson, Assistant Chief Counsel for Regulations (Nov. 13, 2012) (internal citations omitted). A copy of the *Kidd* interpretation is attached to this letter.
[3] Letter to Taylor S. Perry from Rebecca MacPherson (July 28, 2010).