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

Office of the Chief Counsel

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

AUG - 5 2016

James W. Johnson
Senior Managing Attorney, Legal Department
Air Line Pilots Association, International
535 Herndon Parkway
PO Box 1169
Herndon, Virginia 20172-1169

Re: Termination of flight time under 14 C.F.R. § 1.1

Dear Mr. Johnson:

This is in response to your letter posing four scenarios and asking whether flight time, as defined in 14 C.F.R. § 1.1, terminates in each of those scenarios. Because the answer to all four scenarios is the same, we will first summarize your scenarios and then explain why flight time does not terminate in any of those scenarios.

Scenarios:
Your letter poses the following four scenarios for FAA consideration.

Scenario 1: A flight from BWI to DEN diverts for weather into COS, fully intending to continue to DEN. The aircraft is parked at a remote location on the airfield. No air stairs are provided, no doors are opened, and no passengers deplane or emplane. The aircraft must operate its auxiliary power unit while the engines are shut down, requiring flightcrew supervision as no ground personnel or support equipment are available.

Scenario 2: This scenario presents the same facts as Scenario 1 except that air stairs are briefly brought to the aircraft at COS allowing some passengers but not the flightcrew to deplane.

Scenario 3: A flight from BWI to DEN lands at DEN. Because of gate unavailability, the aircraft is parked at a remote location on the airfield. No air stairs are provided, no doors are opened, and no passengers deplane or emplane. The aircraft must operate its auxiliary power unit while the engines are shut down, requiring flightcrew supervision as no ground personnel or support equipment are available.

Scenario 4:[1] A flight lands at DEN. Because of air traffic congestion, the aircraft stops after exiting the landing runway and remains stationary for several minutes with the parking brake set.

[1] We have rephrased this scenario to help clarify the issue.

Discussion:
Your letter asks whether the accrual of flight time for the flightcrew in each of the above scenarios would temporarily cease or otherwise terminate given the facts of the scenario.

Flight time is defined in 14 C.F.R. § 1.1, in pertinent part, as "[p]ilot time that commences when an aircraft moves under its own power for the purpose of flight and ends when the aircraft comes to rest after landing." In a 2004 interpretation issued to Randall C. Kania, the FAA explained that once flight time commences, it continues to accrue as long as the pilot is required to remain onboard the aircraft. Thus, an aircraft does not come to rest after landing while the flightcrew is required to remain on the aircraft.

Each of your scenarios presents a fact pattern where flight time has commenced and the aircraft has landed, but the flightcrew is still required to remain on the aircraft. Consequently, the aircraft in each of your scenarios has not come to rest after landing and flight time would continue to accrue in each scenario.

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,

Lorelei Peter
Assistant Chief Counsel for Regulations, AGC-200

LEGAL DEPARTMENT
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May 19, 2016

Via Email at Mark.Bury@faa.gov
and First Class Mail

Mark Bury, Deputy Chief Counsel
Regulations and Enforcement
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591

Dear Mr. Bury:

I am writing on behalf of the United Master Executive Council regarding a request for clarification of the definition of flight time. The request was made on July 2, 2014 and we have not received your response. We have previously followed up requesting a reply. We believe you will agree the response is overdue and we request your immediate attention to our request. We have attached a copy of the correspondence and our follow up request for your convenience.

Please contact me if you have any questions.

Sincerely,

James W. Johnson

James W. Johnson
Senior Managing Attorney, Legal Department

JWJ/map
Enclosures
cc: Robert Frenzel, Manager, Operations Branch;
Regulations Division at Federal Aviation
Captain Phil Otis, ALPA UAL MEC FAR 117 Coordinator

UNITED MASTER EXECUTIVE COUNCIL
AIR LINE PILOTS ASSOCIATION, INTERNATIONAL
9550 W. Higgins Road • Suite 1000 • Rosemont, IL 60018 • 847-292-1700

July 2, 2014

Mark Bury, Assistant Chief Counsel
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591

Dear Mr. Bury,

We are requesting a clarification of the definition of "*flight time*" in Title 14 § 1.1 General Definitions. At issue for us is this question: what is the point in time when flight time "...ends when the aircraft comes to rest after landing".

The Kania letter of 2004 states in part "When the pilot must remain on board, this constitutes a delay that does not interrupt the accrual of flight time, because of the continuing 'purpose of flight'." Does this interpretation also apply to ground time at a divert station, where the crew is required to remain on board the aircraft and the crew intends to fly again after whatever delay is necessary at the divert airfield? Is there a difference if a crew has landed on the last flight of a duty period, but encounters a delayed taxi, with temporary stops, before reaching their final parking position? To answer these questions, please consider these scenarios:

Scenario 1:
A flight from BWI to DEN diverts for weather into COS, fully intending to continue to DEN. The aircraft is parked at a remote location on the airfield. No air stairs are provided, no doors are opened, and no passengers deplane or emplane. The aircraft must operate its auxiliary power unit while the engines are shut down, requiring flight crew supervision as no ground personnel or support equipment are available. The aircraft is refueled and proceeds to DEN, its final destination.

Is the time spent on the ground in COS "flight time" per FAR 1.1? We believe all of the ground time during the divert would be considered "flight time", as the crew was required to remain on board and continued intent for flight existed.

Scenario 2:
A flight from BWI to DEN diverts for weather into COS, fully intending to continue to DEN. The aircraft is parked at a remote location on the airfield. Air stairs are briefly brought to the aircraft to allow some passengers (not the crew) to deplane, then the doors are shut and the air stairs depart. The aircraft must operate its auxiliary power unit while the engines are shut down, requiring flight crew supervision as no ground personnel or

support equipment are available. The aircraft is refueled and proceeds to DEN, its final destination.

Is the time spent on the ground in COS "flight time" per FAR 1.1? We believe all of the ground time during the divert would be considered "flight time", as the crew was required to remain on board and continued intent for flight existed. Even though the means to exit the aircraft was provided, the opportunity to do so did not exist due to ongoing duties and responsibilities in the cockpit.

Scenario 3:
A flight from BWI to DEN lands at DEN. Because of gate unavailability, the aircraft is parked at a remote location on the airfield. No air stairs are provided, no doors are opened, and no passengers deplane or emplane. The aircraft must operate its auxiliary power unit while the engines are shut down, requiring flight crew supervision as no ground personnel or support equipment are available. After a delay, the crew taxis the aircraft under its own power to a gate or hard stand for passenger unloading.

Is the time spent on the ground after the aircraft first comes to a stop at the remote location in DEN "flight time" per FAR 1.1? We believe that the first stop does not constitute the aircraft coming to "rest", as the crew was required to remain on board and continued intent for aircraft movement by the crew existed. We believe the intent of FAR 1.1 is that flight time would continue to accrue as long as the aircraft continues to be operated by the crew under its own power until reaching a final parking location where passengers can be offloaded.

Scenario 4:
Two flights land at DEN simultaneously, on different runways. One crew is able to taxi expeditiously from their landing runway to their final parking spot where passengers are offloaded. However, because of airport traffic congestion, the other aircraft stops after exiting their landing runway and remains stationary for several minutes, with the parking brake set. After the delay for traffic, the crew taxis the aircraft under its own power to a gate or hard stand for passenger unloading.

Is the accrual of flight time ended differently for these two crews because the second crew's aircraft came to a stop after exiting its landing runway? Does the stop for traffic congestion constitute coming to "rest", per FAR 1.1? We believe that the first stop after exiting the runway does not constitute the aircraft coming to "rest", as the crew was required to remain on board and continued intent for aircraft movement by the crew existed. We believe the intent of FAR 1.1 is that flight time would continue to accrue as long as the aircraft continues to be operated by the crew under its own power until reaching a final parking location where passengers can be offloaded.

Thank you for your attention to this matter.

Sincerely,

Phil Otis
ALPA UAL MEC FAR 117 Coordinator

C: Jay Heppner, UAL MEC Chairman
John G. Schleder, ALPA Attorney
James Johnson, ALPA Attorney

Attachment: Kania Letter