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

Office of the Chief Counsel

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

AUG 1 1 2016

Captain Kevin McCabe
Contract Compliance Committee
Atlas Pilots
1850 Parkway Drive
Anchorage, AK 99504

Re: Rest requirements under 14 C.F.R. 121.485(b).

Dear Mr. McCabe:

In your inquiry of October 2, 2015, you pose two questions related to rest periods found in part 121 of the Federal Aviation Regulations.

1. **Calculating amount of rest required by § 121.485(b).**

First, you ask whether the Subsection 121.485(b) rest period is to be calculated based on (a) the pilot's total number of hours flown as a crewmember since the last rest period or (b) the total number of hours flown by the pilot since the pilot's last rest period.

Your first question was previously addressed in a Letter from Rebecca B. McPherson, Assistant Chief Counsel, Regulations Division, to Richard Burns (June 11, 2007). We previously stated that Subsection 121.485(b) requires a certificate holder conducting flag operations with three or more pilots and an additional flight crewmember to give each pilot a rest period that is at least twice the number of hours flown since the last rest period. This rest is required when the pilot returns to his base from a flight or series of flights.

The rest required by Subsection 121.485(b) is limited to a flight meeting the requirements of Subsection 121.485(b), not to flights with fewer than three pilots. Thus, if an outbound Flag flight (from the US to a foreign location) and the inbound flight consist of crews with at least three or more pilots and an additional flight crew member, then the amount of rest required is twice the amount of flight time for those two segments ((outbound + inbound) x 2 = rest period). However, if during the time that the flight crewmembers are abroad, two of the pilots conduct part 121 flights among foreign cities while the other original flight crewmembers remain on the ground, then the flight time for those two pilots is not counted in the calculation for Subsection 121.485(b) rest ((outbound + inbound) – (2 pilots additional part 121 hours) x 2 = rest period). In calculating the total Subsection 121.485(b) rest that is due, the certificate holder conducting flag operations is required to count only those flights or series of flights on which three or more flight crewmembers and an additional flight crewmember are all on aboard. We trust this analysis has addressed your first question.

2. Whether flying on a company-paid ticket qualifies as rest.

Second, you ask whether the Subsection 121.485(b) rest period, or part of the rest period, can be taken in the situation where a pilot, for personal reasons, chooses to live far away from the certificate holder's home station, and the certificate holder provides, at no cost to the pilot, commercial air carriage to the pilot's home of residence.

Your question deals with deadhead transportation. The FAA has previously explained that deadhead transportation "has traditionally meant a situation in which the pilot is required to ride as a passenger in transportation that is not local, provided by the certificate holder." Letter to James W. Johnson from Donald P. Byrne (May 9, 2003). Deadhead transportation is generally not considered to be part of a rest period.

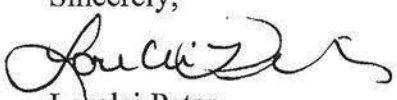
Based on the phrasing of your question, we infer that the pilot in your scenario is not required to use the certificate-holder-provided commercial air carriage. Accordingly, that air transportation would not be considered deadhead transportation. However, it is necessary to discuss the implications of the pilot's choice of a lengthy commute.

We have previously stated that the FAA domestic rest rules are designed to free the pilot from all obligations or duty to the carrier so that the pilot has the opportunity to plan for and actually get sufficient sleep in the rest period immediately preceding a duty period involving part 121 domestic flying. Thus, the FAA expects pilots to act responsibly by planning for and getting sufficient pre-duty sleep.

As you described in your scenario, some pilots, who live far away from the certificate holder's home station, voluntarily travel into or from the certificate holder's home station, utilizing commercial air carriage paid for and/or reimbursed by the certificate holder. Based on our understanding of the scenario, the certificate holder provides the commercial air carriage as a benefit under the pilot's total compensation package. Due to this benefit, the pilot has the ability to control where he or she lives. Despite the benefit to the pilot, we must emphasize, however, that the FAA expects the commuting pilot to take proactive measures in order to stave off potential fatigue and the possibility of careless or reckless operation of aircraft contrary to Section 91.13(a*)*. Accordingly, while the personal commute time does not count against the required rest period of Subsection 121.485(b), the pilot is expected to act responsibly and to obtain sufficient pre-duty sleep. *See* Letter from Donald P. Byrne, Assistant Chief Counsel, Regulations Division, to James W. Johnson (November 7, 2003).

We trust this letter is responsive to your inquiry. The response was prepared by Scott Reygers, Attorney, Office of Chief Counsel, and coordinated with the Air Transportation Division of Flight Standards Service.

Sincerely,



Lorelei Peter
Assistant Chief Counsel for Regulations, AGC-200

02 October, 2015

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Dear Madam or Sir,

FAR 121.485 has been around for a very long time. I am aware of a very old - and continually renewed - exemption 4317, to this regulation that ties it to flight time and not just a four pilot crew. And I understand the reasons for that waiver and the impetus behind it.

I have two questions, however, that seem to keep cropping up in the day-to-day crew scheduling world.

1. Paragraph B of the Regulation says, in part:

"The certificate holder conducting flag operations shall give each pilot, upon return to his base from any flight or series of flights, a rest period that is at least twice the total number of hours he flew since the last rest period at his base."

It seems like this section of the regulation is very clear. A member of a crew of "three pilots and an additional airman" are required to have at least twice the TOTAL number of hours he flew since the last rest period at his base. I have recently been told that the verbiage really means twice the total number of hours flown as "a crew of three pilots and an additional airman." I cannot find, however, an interpretation from your office or waiver from the FAA that indicates that this is, in fact, true. And the regulation does not seem to support that statement.

So which is it? Twice the TOTAL number of hours flown since the airman's last rest in base? Or twice the number of hours flown as a member of a crew of "three pilots and an additional airman" since the airman's last rest in base?

2. The second question is related. I understand from previous letters from your office that the rest required by 121.485 must be "free from all company duty." So my question is this; Can the 121.485 rest, or part of the rest, be taken while on a company paid ticket from base to home? For example, a crewmember gets to his base with some required 121.485 rest. A ticket to his home is arranged with ex-base travel taking place immediately after he lands. So the question is, does his required rest start after block in at his base? Or does it start when he gets to his home?

I know that this question skirts the commuting dilemma - is it rest or is it duty - but am also aware that the FAA has previously said that commuting is neither rest nor duty. So if that is the FAA position, then am I correct in assuming that 121.485 rest cannot be taken during a company paid (or any) commute home?

Thank you for your time

Kevin McCabe
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