U.S. Department
of Transportation
Federal Aviation Administration

Office of the Chief Counsel

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

FEB 2 1 2018

Ms. Michelle Eperson
[redacted]

Re: Request for Legal Interpretation of 14 CFR § 117.25(b)

Dear Ms. Eperson:

This letter responds to your October 11, 2017, request for interpretation of 14 CFR § 117.25(b) concerning the rest period requirement. According to your letter, you work as a pilot for a 121 supplemental passenger air carrier, and your work schedule was as follows:

Day 1: operated a flight
Days 2-4: attended class room ground school
Days 5-7: conducted flight simulator work

You seek clarification on whether being assigned seven consecutive days of work with no rest period[1] during those seven days is a violation of § 117.25(b), which states:

> Before beginning any reserve or flight duty period a flightcrew member must be given at least 30 consecutive hours free from all duty within the past 168 consecutive hour period.

As you correctly state in your letter, training required by the certificate holder falls under the definition of duty.[2] The FAA defines duty as "any task that a flightcrew member

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[1] Your letter includes an excerpt from the Legal Interpretation to Mr. Eric McEldowney from Mark Bury, Assistant Chief Counsel for Regulations (Mar. 13, 2015); however, that legal interpretation is inapplicable to your scenario. In the McEldowney scenario, flightcrew members were required to complete training during a scheduled rest period. In your scenario, you were not given a rest period.

[2] *See* Legal Interpretation to Norman W. Robinson, Jr. from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations, at 1 (July 14, 2011) ("The FAA has consistently

performs as required by the certificate holder, including but not limited to flight duty period . . .[and] training[.]"[3]

However, the requirement in paragraph (b) of § 117.25 that a certificate holder provide a flightcrew member with a consecutive 30-hour rest period in the 168-hour period immediately preceding a flight duty period (FDP) is not triggered unless the flightcrew member begins a reserve or FDP.[4] Additionally, the FAA only includes training conducted in an aircraft or flight simulator in its definition of FDP if the training occurred before a flight segment or between flight segments without an intervening required rest period.[5]

A previous legal interpretation[6] addressed whether § 117.25(b) requires a certificate holder to provide the 30-hour rest period prior to a pilot commencing deadheading or training. The interpretation concluded that the requirements of § 117.25(b) must be satisfied *only prior* to reserve or FDP. As long as the duty is not part of a reserve or FDP, the pilot would not need to satisfy the requirements of § 117.25(b) prior to commencing duty.[7]

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 letter has been prepared by Sarah Yousaf, Operations Law Branch, Office of the Chief Counsel, and coordinated with the Air Transportation Division of Flight Standards Service.

Sincerely,

Lorelei D. Peter
Assistant Chief Counsel for Regulations, AGC-200

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interpreted duty to mean 'actual work for a certificate holder, or the present responsibility for work should the occasion arise.'"); Legal Interpretation to Scott M. Ewing from Mark W. Bury, Assistant Chief Counsel for International Law, Legislation and Regulations, at 1-2 (Jan. 13, 2014) (extending the conclusion set forth in Robinson to part 121 certificate holders).

[3] 14 CFR § 117.3.

[4] 14 CFR § 117.25(b); *see Clarification of Flight, Duty, and Rest Requirements*, 78 FR 14166, 14177 (Mar. 5, 2013) ("[T]he point of reference for the 168-hour period specified in § 117.25(b) is the beginning of an FDP.").

[5] *See* 14 CFR § 117.3; *Flightcrew Member Duty and Rest Requirements*, 77 FR 329, 342 (Jan. 4, 2012).

[6] *See* Legal Interpretation to Mr. Oliver Duncan, from Lorelei Peter, Acting Assistant Chief Counsel for Regulations, at 4 (Sept. 18, 2015).

[7] *Id.*

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Office of the Chief Counsel

October 11, 2017

To whom it may concern:

I presently work as Pilot for a 121 supplemental passenger air carrier, operating its pilots under FAR 117 rest and duty rules. My question is as follows:
I operated a flight my first day under 117, followed by three days of recurrent class room ground school, followed by three consecutive days of simulator work. I was assigned 7 days of work by the air carrier, without a rest period in that span of days. Is this a violation of 117.25 B ? Taken into account that the below interpretation states that training assigned by the certificate holder is considered duty.
Sincerely,

Michelle Epefson
[redacted]

This part of the McEldowney interpretation stands for the proposition that a certificate holder must allow flightcrew members an opportunity outside of rest periods to complete any distance learning training that is required by the certificate holder. Completion of training required by the certificate holder (whether in a class room, via distance learning, or

flight training) is work that is assigned by the certificate holder, and thus constitutes duty. See the Legal Interpretation to Norman W. Robinson, Jr. from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (July 14, 2011) ("The FAA has consistently interpreted duty to mean 'actual work for a certificate holder, or the present responsibility for work should the occasion arise.'"); see also the Legal Interpretation to Scott M. Ewing from Mark W. Bury, Assistant Chief Counsel for International Law, Legislation and Regulations (Jan. 13, 2014) (extending the conclusion set forth in Robinson to part 121 certificate holders).