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

Office of the Chief Counsel

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

JUL 10 2018

Captain Paul Triponey
[redacted]

Re: Flight time limitations and rest requirements under 14 C.F.R. § 135.267.

Dear Mr. Triponey,

This is in response to your letter dated July 20, 2015, requesting clarification of the flight and duty requirements of 14 C.F.R. § 135.267. For your convenience, we have restated your questions below, followed by our interpretation of pertinent parts of the applicable regulation. For this response, we assumed that the questions relate to helicopter air ambulance operations for which the flight crew is scheduled for regular 12-hour shifts under § 135.267(c).

Question 1: *What is the maximum allowable flight time permitted within a 14-hour duty period?*

Section 135.267(c) allows certificate holders to schedule flight crews on regularly assigned duty periods of no more than 14 hours. Flight times within the duty periods are restricted to a maximum of 8 hours for flight crews consisting of one pilot and 10 hours for flight crews consisting of two pilots. The 8-hour and 10-hour flight time limitations include any additional commercial flying performed by the flight crew during the period. 14 CFR § 135.267(c)(2).

Question 2: *Since § 135.267(c) allows an exceedance beyond 8 hours flight time when those flights occur within a regularly assigned duty period of no more than 14 hours, is it correct to infer that a pilot can fly 14 hours flight time (understanding that the likelihood would be rare) without requiring additional rest as required in § 135.267(e)?*

Your assumption is incorrect.

Section 135.267(e) states that "when a flight crewmember has exceed the daily flight time limitations in this section…that flight crewmember must have a rest period before being assigned or accepting an assignment for flight time…". The unequivocal language "*in this section*" means that it applies to the entirety of § 135.267. Thus, if the flight time limitation is exceeded for reasons beyond the control of the certificate holder or the flight

crew, then the increased rest provisions of § 135.267(e) come into effect. *See* Legal Interpretation to Manager, Lincoln Flight Standards District Office, from Donald P. Byrne, Acting Assistant Chief Counsel, Regulations and Enforcement Division (August 9, 1989). For clarification purposes, we stress that § 135.267(e) is applicable only if the flight time limitations are exceeded.

We remind you that, although § 135.267(c) allows for an extension of flight times within a 14-hour maximum duty period, it does not permit the extension of the duty period. An exceedance of the 14-hour duty period constitutes a violation of § 135.267(c). *See* Legal Interpretation to Mr. Moody, from Lorelei Peter, Assistant Chief Counsel for Regulations (August 22, 2017).

Question 3: *Are there any circumstances where a pilot (under the amplifying conditions stated above) can incur in flight time beyond the 14th hour of the duty period, assuming the flight time is conducted under part 135?*

Operations that exceed the 14-hour duty time threshold constitute a violation of § 135.267(c). The only exception to this rule is when the excess flight time is due to a delay *enroute* caused by unanticipated events (e.g., unanticipated headwinds) if the certificate holder or flight crew reasonably anticipated all flight segments would have been completed within the 14-hour duty period. *See* Legal Interpretation to Mr. Ross, from Donald P. Byrne, Assistant Chief Counsel, Regulations Division (August 30, 1993).

Question 4: *Are the three distinct descriptions repeatedly listed within FAA legal interpretations as conditions meeting the requirement for "circumstances beyond the control of the certificate holder" (ATC delays, unforeseen weather delays, and mechanical delays), an exhaustive list? Would delays such as: (a) difficulties in stabilizing a critically ill or injured patient prior to transportation, (b) changes in destination due to the nature of illness or age of the patient, (c) unplanned reposition flights to accommodate multiple helicopters at a single helipad, (d) delays in locating off-site or unprepared landing areas, or (e) numerous other delays related to changing patient medical condition, recognized as "circumstances beyond the control of the certificate holder," and possibly allow for an exceedance of flight time limitations?*

FAA policy dictates that (1) delays caused by late cargo or passenger arrivals, (2) maintenance difficulties, and (3) adverse weather, are circumstances beyond the control of the certificate holder and the crew, and are valid reasons to extend a flight beyond the flight limitations imposed by § 135.267. The aforementioned is not an exhaustive list of circumstances beyond the control of the certificate holders and flight crew. The FAA reserves the right to assess other events to determine whether they constitute circumstances beyond the control of a certificate holder or operator.

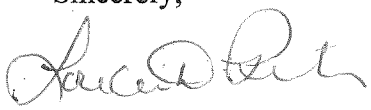
Question 5: *Can a delay encountered in the first or second segments of the sequence of flights be applied to the last leg, even if the pilot knows that the segment would cause him to exceed daily flight time limits? Would a delay during any segment of the sequence of flights*

which are operated as helicopter air ambulance allow for an exceedance of the regularly scheduled 14-hour duty day (whether or not a flight time limit may be exceeded)?

If the operation involves a regularly assigned duty period under § 135.267(c), then the duty period cannot be extended, and the operation cannot be carried out if the delay will cause the flight crew to operate beyond the maximum 14-hour duty period threshold.

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 Francisco E. Castillo, Attorney in the Regulations Division of the Office of the Chief Counsel, and coordinated with the Air Transportation Division of the Flight Standards Service.

Sincerely,



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

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US Department of Transportation
Federal Aviation Administration
800 Independence Ave., S.W.
Washington, DC 20591

July 20, 2015

Captain Paul Triponey
[redacted]

I am seeking clarification on flight and duty time limitations under FAR Part 135, more specifically as they pertain to the recent rules changes/additions for Helicopter Air Ambulance Operations (FAR 135.601 and subsequent).

Amplifying information:

1. One pilot unscheduled crews. 4 Pilots/helicopter are scheduled for 12 hour shifts for continuous 24 hour coverage, typical of HAA scheduling. I assume, therefore that 135.267(c) is applicable.
2. Regularly assigned duty periods of not more than 14 hours (actual schedule is regularly assigned 12 hour duty periods). 10 hours scheduled rest before and after each regularly assigned period. Pilots are scheduled to begin and end each day at the same time.
3. Helicopter Air Ambulance Operations as defined by FAR 135.601.
4. For the purposes of this clarification, assumption can be made that no other commercial flying occurs during the 10 (12) hour scheduled rest period.

Questions/scenarios for which interpretation is requested:

1. **What is the maximum allowable flight time permitted within the 14 hour duty period?** Since 135.267(c) allows an exceedance beyond eight hours flight time when those flight hours occur within a regularly assigned duty period of not more than 14 hours, is it correct to infer that a pilot can fly 14 hours flight time (understanding that the likelihood would be rare) without requiring additional rest as required in 135.267(e)? It is understood that in any case, the pilot cannot report for duty the next day until he has a minimum 10 hour rest period.
2. **Are there any circumstances where a pilot (under the amplifying conditions stated above) can fly flight time beyond the 14th hour of the duty period** (assuming that flight time is conducted under Part 135, not Part 91)?
3. **Recognizing that three distinct descriptions have been repeatedly listed within FAA legal interpretations as conditions meeting the requirements for "circumstances beyond the control of the certificate holder" (ATC delays, unforeseen weather delays, and mechanical delays), is this list all inclusive?** Specifically, in the environment of Helicopter Air Ambulance Operations, there are an infinite number of potential delays which are peculiar to these operations. Among them are: difficulties in stabilizing a critically ill or injured patient prior to transport, changes in destination due to the nature of illness or age of the patient, unplanned reposition flights to accommodate multiple helicopters at a single helipad, delays in locating off-site or unprepared landing areas, or numerous other delays related to changing patient medical conditions. **Would delays such as these be recognized as "circumstances**

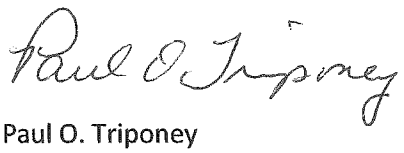
beyond the control of the certificate holder," and possibly allow for an exceedance of flight time limitations?

4. This question is related to previous legal interpretations regarding 135.267(b) where flight time exceedances are permitted due to circumstances (delays) beyond the control of the certificate holder, when those delays could only be applied to the segment in which they occurred (in other words, a delay in the first segment could not allow a flight time exceedance during the last segment, when the pilot knew before take- off on the last leg that that flight time would exceed limitations). With the new language defining "Helicopter Air Ambulance Operations" in 135.601 (flight or *sequence of flights*), **can a delay encountered in the first or second segments of the sequence of flights be applied to the last leg, even if the pilot knows that that segment would cause him to exceed daily flight time limits (which I have inferred is 14 hours flight time)? And, would a delay during any segment of the sequence of flights which are operated as HAA allow for an exceedance of the regularly scheduled 14 hour duty day (whether or not a flight time limit may be exceeded)?**

   To assist in answering, here is a hypothetical (though quite possible) scenario: A pilot reports for duty (with the required preceding 10 hour rest period completed and in accordance with 135.267(c)) at 0700. His first flight of the period is assigned at 1800. His planned sequence of flights is as follows: 20 minutes flight time to the first destination to embark a patient; 30 minutes planned on the ground to prepare the patient for transport (which is the company average delay); 40 minutes flight time to the next destination to disembark the patient; 30 minutes on the ground at the disembark location (again, based on company average times); then 40 minutes flight time for the return to home base. If this sequence of flights goes exactly as planned, the pilot would return to his original departure point (base) at 20:40. He would only accumulate 1 hour and 40 minutes of flight time, and would return 1 hour and 40 minutes after his 12 hour scheduled duty period, and 20 minutes before the end of the 14 hour maximum duty period. However, in the next scenario, he encounters an additional 30 minute delay at the first destination (patient embark) due to a lengthy extrication from a motor vehicle that was unplanned or unknown to the pilot before departure, and another similar difficulty at the patient disembark point due to a deteriorating medical condition. In this scenario, the pilot would be faced with a departure time of 2100 for the third segment in the sequence of flight, and he would arrive back at his base at 2140. At the time of take-off (2100), he will not exceed any flight time limits (still 100 minutes), but at 2101, he will immediately be flying past the 14 hour maximum duty day during the final segment of the sequence of flights, as a result of delays encountered during the first two segments. Would the pilot be in violation of rest requirements of 135.267(c) if he flew this third segment with medical personnel on board the aircraft (it is already understood that 135.601 **would** permit him to fly back without medical personnel, so this question deals with that segment of flight if medical personnel are on board)?

Thank you for your consideration.

Sincerely,



Paul O. Triponey