U.S. Department
of Transportation

**Federal Aviation
Administration**

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

NOV 20 2000

Captain Richard D. Rubin, Chairman
Allied Pilots Association
14600 Trinity Boulevard
Suite 500
Fort Worth, Texas 76155-2512

Dear Captain Rubin:

This is in response to your recent letter to me, of September 26, 2000, concerning various questions that have arisen as a result of the implementation of changes to the pilot reserve system at American Airlines. Your questions are based on the flight time and rest regulations that are applicable to domestic operations.

The facts, situations and questions that you present are set forth below. I have also responded to each question separately below.

Facts: A crew is assigned reserve standby duty commencing at 0600. They are then called at 0900 to check in for a flight assignment at 1100.

	End of Rest	Report at	Release at	Sched. Rest	Look-back Rest
Day 1	0600	1100	2100	10:00	9:00
Day 2	0700	0700	1700	12:00	10:00

In the above example, assume that the crew was assigned to three segments with a total of less than 8 hours of flying in each duty period and that the scheduled block-in of the last flight of each day is 15 minutes prior to release. This original schedule does not require compensatory rest.

I note, preliminarily, that your letter states that I should assume that the flight crew "was assigned to three segments with a total of less than 8 hours of flying in each duty period." I assume that by that statement you mean "less than a total 8 hours of scheduled flight time for the three flight segments, on both Day 1 and Day 2." Based on that assumption, the regulations that I will apply are those that require a minimum of 9 consecutive hours of scheduled rest (section 121.471(b)(1)) that may be reduced to a minimum of 8 hours with a minimum of 10 hours compensatory rest that must begin no later than 24 hours after the commencement

of the reduced rest (section 121.471(c)(1)(the "reduced/compensatory rest" exception)). I have also made other assumptions or clarifications that are described in my responses below.

Situation 1: On Day 1, all goes according to plan on the first two segments. However, after leaving the gate on the third segment, the crew encounters an unanticipated ground delay that results in only an 8 hour, 45 minutes look-back rest period upon termination at destination.

1. Is compensatory rest now required upon landing?

Response: You do not provide specific details on what is the termination time of the last flight segment. (I assume that by "termination at destination" you mean the "termination of the last flight segment.") However, you state, above, that the flight crew would only receive an 8 hours and 45 minutes look-back rest period. I therefore assume that the termination of that last flight segment, based on the other factual details you provide above, was at 2115. Looking back 24 hours from 2115 on Day 1 to 2115 on the day prior to Day 1, one finds only 8 and three quarters consecutive hours of rest in the period 2115 (of the day prior to Day 1) to 0600 hours (on Day 1).

The only situation in which a certificate holder may reduce the minimum 9 hour required rest period is to utilize the "reduced/compensatory rest" exception that allows certificate holders the flexibility to adjust scheduled rests in the event of late arrivals. Thus, a certificate holder may reduce the required scheduled rest so that one finds a minimum look-back rest of 8 consecutive hours on termination of the last flight segment, as well as provide the required compensatory rest. In your scenario, the certificate holder could reduce the required minimum 9 consecutive hours of scheduled rest to 8 and three-quarters hours.[1] However, the certificate holder must also provide the flight crewmember with a compensatory rest period of at least 10 hours that must begin no later than 24 hours after commencement of the reduced rest period. In your scenario, that compensatory rest must begin at 2115 on Day 1, since the reduced rest begins at 2115 on the day before Day 1.

[1] I note that the certificate holder could reduce the scheduled rest to a minimum of 8 hours.

2. In the case of a ground delay prior to take-off, would the crew and certificate holder be correct in using planned flight time and taxi-in time in determining the scheduled arrival time?

Response: The FAA requires the crew and the certificate holder to use the actual expected flight time and taxi-in time, based on the specific conditions that exist on the day, to determine the scheduled arrival time for purposes of determining whether a flight should be commenced. For example, if an airline has published a flight time of three hours, but knows that the actual time the flight will take is four hours because of weather, ground delays, etc., then the FAA requires the carrier to use four hours for purposes of calculating the arrival time. On the other hand, if the air carrier has scheduled a flight for three hours, but on the day in question, it is reasonable to conclude that flight time would only be two and a half hours, the carrier may use two and a half hours to calculate the arrival time.

3. If the ground delay continues to the point that the look-back rest is reduced below 8 hours, can the crew continue? If so, what are the rest requirements upon arrival?

Response: The flight may not take off if the look-back rest period is reduced to less than 8 hours. There must be at least an eight-hour look-back rest period. The eight-hour minimum reduced rest may not be further reduced under any circumstance.

4. If a ground delay, that would result in a late arrival that would not provide at least 8 hours of look-back rest is known by the certificate holder and/or crew prior to gate departure, can the crew depart legally based upon the published scheduled flight time?

Response: No. As stated above, the FAA requires the crew and the certificate holder to use the actual expected flight time and taxi-in time, based on the specific conditions that exist on the day, to determine the scheduled arrival time for purposes of determining whether a flight should be commenced. If the actual expected flight time is longer than the carrier originally calculated in determining the scheduled arrival time, then the actual expected flight time must be used in determining the look-back rest period.

Situation 2. On Day 1, the crew is late inbound on the second segment which results in not being able to leave the gate on the third and last segment on time. As a result, the look-back would now provide 8 hours and 45 minutes rest in the previous 24, based on the scheduled duration of the final segment.

1. Is compensatory rest now required upon arrival?

Response: Yes. Compensatory rest would be required upon arrival at the third destination. See the discussion in my response to question 1 of Situation 1 above.

2. If the crew were further delayed so that they could not depart to provide at least 8 hours of look-back rest upon arrival, could they depart legally?

Response: No. If, when using the actual expected flight time, the carrier cannot find at least 8 hours of look-back rest upon arrival, then the flight may not depart, under the FAA regulations. See my response to question 3 of Situation 1 above.

3. If there is a known ground stop for the destination of the final segment, which would result in look-back rest of only 7 hours and 45 minutes, can the crew legally leave the gate? If they are off the gate when the ground stop occurs, can they continue?

Response: If it is known, or reasonably should be known, that the flight time will be extended because of ground stops at the destination airport, then this information must be included in determining the actual expected flight time. If, when this information is factored in, it is known or should be known that arrival based upon the actual expected flight time will not result in at least 8 hours of look-back rest, then the flight may not leave the gate. If the flight is away from the gate, but is not yet in the air, then the flight may not take off. If the ground stops at the destination airport do not become known until after the flight is in the air, the FAA will not, as a matter of enforcement policy, take enforcement action against the flight crewmember or the certificate holder for a violation of the regulations, provided the ground stops at the destination airport are an unforeseen delay beyond the control of the certificate holder and the full, required minimum reduced rest and the compensatory rest are given at the completion of the flight segment.

4. Should the scheduled arrival time in 3 above be based upon published scheduled flight time or flight planned duration (flight time plus taxi time)?

Response: Arrival time in 3 above should be based on flight planned duration, i.e., the actual expected flight time based on the conditions existing on the day in question. Also, I am not sure what you mean by "published scheduled flight time." If you mean scheduled flight time as published in the Official Airline Guide (OAG), such flight time may be unrealistically high. Sometimes a certificate holder might overestimate the duration of a flight in order to have some cushion in the schedule and be able to report an on-time arrival. The actual realistic flight time (block to block time) may be less than such "published scheduled flight time" in the OAG.

5. Would the reason for the crew being late on the second flight (beyond the control of the air carrier or not) have any bearing on the rest requirement?

Response: I assume that your question is whether section 121.471(g) (the "circumstances beyond the control of the certificate holder" exception) excuses a rest violation. No. That exception applies only to the scheduling of flight time. It is inapplicable to, and does not excuse, a violation of a rest requirement. Also see my response to question 1 of Situation 1 in which I discuss the use of the "reduced/compensatory rest" exception, its purpose, and compliance with its terms.

Situation 3: On Day 1, one of the carrier's hubs is impacted by a weather system in the morning. As a result, the carrier decides to delay all remaining departure times that day out of the hub.

1. If a departure so delayed would result in a crew having look-back rest of less than 9 hours, would compensatory rest be required?

Response: Yes. (I assume that the look-back rest, which is less than 9 hours, would still be at least 8 hours.)

2. If the delay resulted in a crew having look-back rest of less than 8 hours, could a crew legally depart?

Response: No. The FAA would consider this flight to be in violation of the regulations.

Situation 4. The crew and air carrier know, prior to departure, that forecast winds or enroute weather are resulting in a flight plan for that segment that exceeds the normal duration published in the carrier's schedules.

1. Can the crew legally depart if the scheduled arrival time based on the flight plan would encroach upon or delay the required start of a compensatory rest period?

Response: I assume that the questions for Situation 4 relate to Day 1 and to the last flight segment. I am not sure what you mean by "published in the carrier's schedules." See my response to question 4 in Situation 3 above. If you mean that the crew and certificate holder know, prior to take-off, that en route weather conditions will result in the flight taking longer than expected, then my answer is as follows. Even if the expected termination of the last flight segment would allow a minimum 8 consecutive hours look-back rest period, if the crew and certificate holder expect, prior to take-off, that the flight will infringe on the required start of the compensatory rest period, the crew may not legally depart. Thus, although the actual flight time might exceed flight time limits and although exceeding flight time limits in these circumstances would be allowed under the "circumstances beyond the control of the certificate holder" exception, that exception does not permit an encroachment on reduced rest or compensatory rest below the minimums specified in the regulations.

2. If the original crewmember's schedule did not require compensatory rest, would compensatory rest be required if the scheduled arrival based upon the flight plan information resulted in the crewmember having less than 9 hours of look-back rest upon arrival?

Response: If, upon termination of the last flight segment, the look-back rest was actually less than 9 hours, then compensatory rest is required regardless of the scheduled arrival.

3. If the original crewmember's schedule did not require compensatory rest, would the crewmember be legal to depart if the scheduled arrival based upon the flight plan information resulted in the crewmember having less than 8 hours of look-back rest upon arrival?

Response: No. If, at the time of departure, it is calculated that a pilot will have less than 8 hours of look-back rest upon termination of the last flight segment, then the flight may not take off. The intention to give

compensatory rest may not be used to permit a pilot to take a flight when it is known at the beginning of the flight that the pilot will have less than 8 hours of look-back rest upon termination of the last flight segment.

I hope these responses will be helpful to you.

Sincerely,

James W. Whitlow
Deputy Chief Counsel