

FAA Legal Interpretations

Defining Pilot Rest and Much More

By Jacqueline E. Rosser



Air carriers, and every pilot who works for one, are very familiar with the regulations providing for pilot rest periods. But what exactly is “rest” when it comes to regulatory compliance? The fine folks at Merriam-Webster say rest is, among other things,

“sleep or a freedom from work or labor”. That’s actually not too far from how the Federal Aviation Administration (FAA) defines rest, but they include a few more conditions that either clarify or confuse the situation, depending on your perspective and whether or not you have a law degree.

According to about 5,000 legal interpretations (okay, that may be a slight exaggeration), the FAA has said that for a “rest period” to be legal it must be: 1) continuous, 2) determined prospectively (i.e. known in advance) and 3) free from all restraint from the certificate holder, including freedom from work or freedom from the

present responsibility for work should the occasion arise.

Requiring a pilot to answer cell phone calls? No problem. But don't even think about calling that time part of a rest period. You failed to meet part three of the definition. Call a pilot during his or her rest period to ask a question about that updated W-2 he or she filed? Okay. But, if you call him or her again, you just busted that rest period and can't count any of it toward meeting your regulatory requirement. Why? The rest wasn't *continuous*.

In simple terms, anytime you require a pilot to do something, like answer a call from you and/or report for duty once that call is answered, that time is simply not rest. At least not according to the FAA. And, well, when it comes to regulatory compliance (and enforcement!) their opinion is really the one that matters most.

If you've never heard of that definition of rest before, don't feel too badly. I speak with operators every year who have never heard that highly detailed definition of rest, nor seen its many interpretations. Don't

bother looking in the FARs for that definition; you won't find it there. I've never found it in the FAA's inspector guidance or any Advisory Circular either.

Although you might not realize it, the FAA's definition of rest has actually been around for a few decades. Unfortunately, it largely exists only in legal interpretations issued by the FAA Office of the Chief Counsel.

At a recent webinar presented by NATA, we delved into the subject of what makes a legal rest period and how the FAA's definition can make it very difficult for Part 135 operators to comply, particularly those whose business relies mainly on pop-up charters that have less than ten hours of notice. If you are a Part 135 operator and missed it, you can review the webinar recording by visiting www.nata.aero/webinars.

During that session, several operators were concerned that, not only didn't they know about the multitude of interpretations related to rest periods, but also they were unaware that legal interpretations can and do apply to almost all regulated entities,

not just the person who requested the interpretation.

The saying "knowledge is power" comes to mind. Knowing how the FAA will determine whether the rest periods you provide are compliant requires you to know and understand these legal interpretations. How can you do that?

To start with, become familiar with the FAA's online searchable database of legal interpretations (see sidebar to locate that database). Spend an afternoon searching on key phrases and reading the interpretations. For example, a simple search for "rest period" yields 96 different interpretations. Check back periodically to see what new interpretations may have surfaced. Then take what you've learned and do your best to make sure your system for assigning rest periods actually comports to the FAA's requirements.

Ultimately, the purpose of the rest period lines up precisely with the dictionary definition; giving a pilot the chance to sleep, not work. But the FAA determines whether or not you've done that by relying upon their interpretations. **A**

Finding Interpretations

The FAA has issued thousands of legal interpretations over the years related to any number of specific regulatory requirements. Any one of them could be insightful to air carriers, repair stations, flight schools, training centers or anyone required to comply with FAA regulations. The agency has begun posting legal interpretations dating back to 1990. All are searchable, but may not be currently available. Navigate to the Office of the Chief Counsel's Regulation Division's search tool at http://www.faa.gov/about/office_org/headquarters_offices/agc/pol_adjudication/agc200/Interpretations/ to get there.