



NATIONAL TRANSPORTATION SAFETY BOARD

Office of Aviation Safety
Washington, D.C. 20594

August 24, 2021

Attachment 8: FAA Legal Interpretation to NTSB

OPERATIONAL FACTORS FACTUAL REPORT

CEN20LA215



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

December 16, 2020

Shaun Williams
Senior Aviation Accident Investigator
National Transportation Safety Board
4760 Oakland Street, Suite 500
Denver, CO 80239

Re: Request for legal interpretation of 14 CFR § 135.267

Dear Mr. Williams:

This letter responds to your August 25, 2020 request for an interpretation of the rest requirements of 14 CFR § 135.267 as they apply to an ongoing NTSB investigation of a fatal Mitsubishi MU-2B airplane, N44MX, accident on June 7, 2020, near Sioux Falls, South Dakota. The airplane was operated as a 14 CFR part 135 on-demand cargo flight.

Your letter states that during the course of the NTSB investigation you held pilot interviews that indicated the part 135 operator does not define duty periods and instructs pilots that they are “on rest” until they show up for a flight; pilots are notified for the flight by the company during this period of “rest” by utilization of the “one phone call policy”; and pilots are only off rest when they show at the airport for the flight assignment until the completion of post-flight paperwork, at which time, they are again on rest.

You ask the FAA to consider the information you gathered from your interviews during the NTSB investigation and determine if the operator’s rest scheme is consistent with § 135.267 and particularly the requirements that rest must be prospective and free from restraint.

The FAA has determined that based on your request for a legal interpretation, we do not have enough information to render an interpretation. Similar to the Kleiner (2016) legal interpretation, which you enclosed with your request, more information is needed. The analysis in Kleiner remains valid, and provides enough information for an inspector or investigator to gather additional evidence for respective investigations. Further, we decline to comment on the information provided in your request, as the impetus for the inquiry is a matter that could lead to enforcement action.

Sincerely,

Lorelei D. Peter

Assistant Chief Counsel for Regulations, AGC-200