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

Office of the Chief Counsel

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

SEP 30 2013

Bob Hughes
United Airlines, Inc.
233 South Wacker Drive, WHQCM
Chicago, IL 60606

Dear Mr. Hughes:

This is in response to your August 26, 2013 letter asking for clarification about exceeding the cumulative limits set out in 14 C.F.R. part 117. Your letter poses the following scenario. An acclimated flightcrew member reports for a flight duty period (FDP) that has been scheduled within all cumulative limits. However, before taking off on one of the flight segments, the flightcrew member realizes that, due to intervening events, he will exceed one of the cumulative limits of part 117 if he takes off on the flight segment. You ask whether the flightcrew member can take off on the flight segment or whether he must return to the gate. You also ask us to assume that the flight segment in question would be completed within the pertinent daily FDP and flight-time limits, and that completing the flight segment would cause the flightcrew member to exceed only the cumulative part 117 limits.

Part 117 contains a set of flight, duty, and rest regulations that will go into effect on January 4, 2014. This part sets out, in § 117.23, cumulative limits that restrict the amount of flight-time and FDP that a flightcrew member can accumulate over certain periods of time. There are only three exceptions to these cumulative limits, and all three exceptions are explicitly specified in part 117.

The exceptions are as follows. Section 117.11(b) permits a flightcrew member to exceed cumulative flight-time limits for unforeseen operational circumstances that arise after takeoff. Similarly, § 117.19(b) permits a flightcrew member to exceed cumulative FDP limits for unforeseen operational circumstances that arise after takeoff. Under both provisions, the limits can be exceeded only to the extent necessary to safely land the aircraft at the next destination airport or alternate, as appropriate. Third, § 117.29(b) permits operations conducted pursuant to a deviation under § 119.57 to exceed the cumulative FDP and flight-time limits if the pilot-in-command determines that these limits must be exceeded in order to allow the flightcrew to fly to the closest destination where they can either (1) safely be relieved from duty by another flightcrew; or (2) receive the requisite amount of rest prior to commencing their next FDP.[1]

[1] Subsection 117.29(b) also applies to operations conducted pursuant to a contract with the U.S. Government. However, § 117.29(c) limits the extension granted to these operations under § 117.29 by stating that the § 117.29 extension may not be used by operations conducted under contract with the U.S. Government to exceed the cumulative limits of § 117.23.

Out of the above three exceptions to the cumulative limits of part 117, the only exception that permits a flightcrew member to exceed cumulative limits for circumstances that become known prior to takeoff is the one in § 117.29(b). Consequently, because the flightcrew member in your scenario knows, prior to takeoff, that he or she will exceed one of the cumulative limits, that flightcrew member can only take off if he or she is on an operation being conducted pursuant to a § 119.57 deviation and the pilot-in-command determines that an extension is necessary under the criteria set out in § 117.29. Otherwise, the flightcrew member in your scenario may not take off, as no other exception in part 117 permits a flightcrew member to exceed the cumulative limits of § 117.23 for circumstances that are known prior to takeoff.

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 Alex Zektser, Attorney, International Law, Legislation and Regulations Division of the Office of the Chief Counsel, and coordinated with the Air Transportation Division of Flight Standards Service.

Sincerely,

Mark W. Bury
Assistant Chief Counsel for International Law, Legislation and Regulations