U.S. Department
of Transportation
Federal Aviation Administration

Office of the Chief Counsel

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

AUG 12 2014

Marc Anderson
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Dear Mr. Anderson,

This letter is in response to your April 18, 2014 letter regarding the applicability of 14 C.F.R. part 117, Tables A and B, to check pilots employed by a certificate holder. Specifically you ask whether the limitations in those tables apply when the check pilot is performing *non-flying* check pilot duties (i.e., the check pilot is conducting the evaluation while sitting in the cockpit jump seat). Your letter assumes that there are no issues with cumulative flight time limits or cumulative or daily flight duty period (FDP) limits. The answer to your question is that, based upon long standing interpretations, it depends on whether the check pilot has control over the safe operation of the flight.

The FAA previously addressed the issue of when flight time limitations may apply to a check pilot performing duties as a check pilot in Legal Interpretation 1990-22,[1] where the FAA stated:

> You ask specifically about time spent by the check pilots in the forward observer's seat, or jump seat.[2] Consistent with the agency's past interpretations, which have just been set forth above, the answer depends upon the amount of control, authority, and responsibility held by the check pilot. If a check pilot sitting in the jump seat has the requisite degree of control, authority, and responsibility regarding the safe operation of the flight, then the time so spent will count for purposes of the flight time limitations. On the other hand, if the check pilot sitting in the jump seat is merely an observer/advisor with no control, authority, and responsibility regarding the safe operation of the flight, then the time so spent will not count for purposes of the flight time limitations and need not be recorded by the carrier.

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[1] Legal Interpretation to Manager, Technical Evaluation and Certification Branch, AGL-270 from Donald P. Byrne, Acting Assistant Chief Counsel, Regulations and Enforcement Division (Aug 1990)

[2] Interpretation 1990-22 also dealt with check pilot duties performed as a PIC, but that issue is not part of the interpretation request.

As a result, a determination as to whether the flight time and FDP limitations would apply turns on an examination of all the facts regarding the role of the check pilot in a given operation. The FAA notes that this long-standing interpretation has not been changed over the years and, although originally issued with respect to a part 121 flight and duty question, would not change when considered in relation to the flight and duty rules of part 117. In other words, the same decision process that has always been used in making a determination to track flight time for check pilots would continue under part 117.

Your letter then asks a number of situational questions dealing with the application of Table A and then Table B to different scenarios. However, the application for each of those scenarios would be the same, using the discussion noted above. It becomes a two part exercise. First, in line with the previous interpretations, a determination must be made as to whether the check pilot has the requisite degree of control, authority and responsibility over the safety of the flight. Second, if the check pilot has the requisite degree of control, then the Table A and Table B limits are applied counting the line check segments as flight segments.

Conversely, if the check pilot is determined not to have the requisite control, then any segment where a check pilot conducts a line check would not be counted against the limits in Table A. However, a segment may count towards the limits in Table B if the line check segment occurs before or between segments where the check pilot is one of the flying pilots.

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 letter has been prepared by Robert H. Frenzel, Manager, Operations Law Branch, Office of the Chief Counsel and coordinated with the Air Transportation Division of Flight Standards Service.

Sincerely,

Mark W. Bury
Assistant Chief Counsel for
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