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

Office of the Chief Counsel

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

FEB 21 2014

Jorge de Cubas
US Airline Pilots Association
200 E. Woodlawn Road
Suite 250
Charlotte, NC 28217

Dear Mr. de Cubas,

This letter is in response to your request for an interpretation to determine what constitutes a "diversion" for purposes of applying the pertinent Flight Duty Period (FDP) limits in Table B of 14 C.F.R. part 117. In particular, you ask whether a planned fuel stop that is known prior to departure counts as an additional segment.

On March 5, 2013, the FAA published a notice entitled "Clarification of Flight, Duty, and Rest Requirements" Docket No. FAA-2012-0358 (78 FR 14166). In that notice, the FAA responded to a number of questions dealing with changes to FDP limits due to the addition or subtraction of flight segments once an FDP has begun. Generally, the FAA stated that:

> a certificate holder can change the number of flight segments in an FDP after that FDP has started by either assigning the flightcrew members additional flight segments or cancelling previously-scheduled flight segments. A change in the number of flight segments assigned to a flightcrew member would change the pertinent FDP limit in Table B. Thus, a certificate holder could potentially decrease or increase the applicable FDP limit by assigning additional flight segments or cancelling previously-assigned flight segments. (78 FR 14171)

In addressing whether a diversion is to be counted as a flight segment when considering changes to the number of flight segments, the FAA stated:

> Turning to diversions, the portion of the final rule preamble that discusses flight segments makes no mention of a diversion counting as a separate flight segment. Accordingly, because there was no intent to treat diversions as flight segments, a diversion does not constitute a new flight segment for purposes of part 117. However, we emphasize that, while a diversion may not count as a flight segment,

the time spent on diversion would still count for purposes of the FDP and flight time limits. (78 FR 14172)

The effect of the clarification is to exclude diversions from the requirement to recalculate a previously scheduled FDP limit when flight segments are added after an FDP has begun. The primary reason for excluding diversions is that they are unknown and unplanned events. As such, the FAA will treat only diversions that occur after takeoff as falling within this limited exception under part 117. In contrast, taking the example in your letter, a rescheduled flight due to a planned fuel stop known prior to departure would not be treated as a diversion. That rescheduled flight would constitute an additional flight segment for purposes of determining whether the FDP limit for that flight crewmember must be changed to account for the additional segment.

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 International
Law, Legislation and Regulations, AGC-200