U.S. Department
of Transportation
Federal Aviation
Administration

Office of the Chief Counsel

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

MAY 13 2014

Joshua Foltz
[redacted]

Dear Mr. Foltz,

This is in response to your March 16, 2014 letter asking whether the short-call-reserve flight duty period (FDP) limitations specified in 14 C.F.R. § 117.21(c) provide an exception to the FDP limitations of § 117.13 and § 117.17. You provide several factual examples and ask how the FDP limitations of part 117 would apply to those examples.

Our answer is divided into two parts. First, we will discuss the legal concepts applicable to your question. Second, we will apply our analysis to your specific examples.

A. General Discussion

Part 117 contains a set of flight, duty, and rest regulations that apply to all part 121 passenger operations and certain part 91 operations.[1] These rules include limits on the length of a flightcrew member's daily FDP. The daily FDP limits for unaugmented operations are codified in § 117.13 and Table B while the daily FDP limits for augmented operations are codified in § 117.17 and Table C. These daily FDP limits can be extended only in certain specific circumstances which are explicitly specified in § 117.19 and § 117.29.

Flightcrew members who are on short-call reserve are also subject to the provisions of § 117.21(c). Subsections 117.21(c)(3) and (4) limit the combined period of time that a flightcrew member can spend in a reserve availability period (RAP) and FDP. Because the provisions of § 117.21(c)(3) and (4) are not one of the FDP extensions specified in § 117.19 and § 117.29, the short-call-reserve limits of § 117.21(c) do not allow a flightcrew member to exceed the FDP limits of § 117.13 and § 117.19. Rather the short-call-reserve limits of § 117.21(c) apply in addition to the FDP limits of § 117.13 and § 117.19.

B. Discussion of Examples

Now that we have discussed the relationship between § 117.21(c) and the daily FDP limits of § 117.13 and § 117.17, we apply that discussion to your examples.

[1] 14 C.F.R. § 117.1.

Example 1:

In your first example, you state that an acclimated flightcrew member begins a short-call-reserve RAP at 04:00. This flightcrew member is then assigned an unaugmented 5-segment FDP that begins at 05:30. You ask whether that flightcrew member's FDP must terminate at 17:00 or 19:30.[2]

Because the flightcrew member in your example is assigned an unaugmented FDP as part of short-call reserve, the length of that FDP is subject to the limitations of § 117.13 and § 117.21(c)(3). First, we apply § 117.13. Subsection 117.13(a) prohibits an acclimated flightcrew member from exceeding the daily FDP limits of Table B unless an FDP extension specified in § 117.19 or § 117.29 applies. For a 5-segment FDP that begins at 05:30, the daily FDP limit of Table B is 11.5 hours. Thus, without an FDP extension, the FDP in your scenario may not terminate later than 17:00 without violating § 117.13.[3]

Next, we turn to § 117.21(c)(3). That subsection states:

> For an unaugmented operation, the total number of hours a flightcrew member may spend in a flight duty period and a reserve availability period may not exceed the lesser of the maximum applicable flight duty period in Table B of this part plus 4 hours, or 16 hours, as measured from the beginning of the reserve availability period.

As mentioned previously, the maximum applicable FDP limit in Table B is 11.5 hours. Adding 4 hours to this number results in 15.5 hours. Since 15.5 hours is less than 16 hours, the combined FDP and RAP time of the flightcrew member in your example cannot exceed 15.5 hours without violating § 117.21(c)(3).[4] Because the RAP of the flightcrew member in your example began at 04:00, § 117.21(c)(3) would require that the flightcrew member's FDP terminate by 19:30 at the latest without an FDP extension.

Thus, we have two different part 117 provisions applicable to the same FDP. Section 117.13 requires that the FDP be terminated no later than 17:00 while § 117.21(c)(3) requires that the FDP be terminated by 19:30. To comply with both provisions, the FDP of the flightcrew member in this example would have to be terminated by 17:00. If it is terminated between 17:00 and 19:30, the FDP would not violate § 117.21(c)(3), but it would violate § 117.13. If the FDP is terminated after 19:30, it would violate both § 117.13 and § 117.21(c)(3). In other words, when two different provisions apply to the same FDP, the more stringent of the two limitations will act to limit the FDP.

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[2] Your examples do not include any information about the flightcrew member's cumulative FDP. Accordingly, for the sake of discussion, we will assume that the FDPs provided in your examples would satisfy the cumulative FDP limits of § 117.23.

[3] This time limit could be extended by using the FDP extensions provided in § 117.19 and § 117.29. However, for ease of discussion, we will assume that the certificate holder in your examples will not use these FDP extensions.

[4] This time limit could also be increased using the applicable FDP extensions. As mentioned in the previous footnote, for ease of discussion, we will assume that these extensions will not be used here.

Example 2:

In your second example, you state that an acclimated flightcrew member begins a short-call-reserve RAP at 01:00. This flightcrew member is then assigned an unaugmented 5-segment FDP that begins at 03:00. You ask whether that flightcrew member's FDP must terminate at 14:00 or 12:00.

As in the previous example, because the acclimated flightcrew member in your example is assigned an unaugmented FDP as part of short-call reserve, the length of that FDP is subject to the limitations of § 117.13(a)/Table B and § 117.21(c)(3). First, we apply § 117.13(a) and Table B. For a 5-segment FDP that begins at 03:00, the daily FDP limit of Table B is 9 hours. Thus, without an FDP extension, the FDP in your scenario may terminate no later than 12:00 without violating § 117.13.

Turning to § 117.21(c)(3), as mentioned previously, the maximum applicable FDP limit in Table B is 9 hours. Adding 4 hours to this number results in 13 hours. Since 13 hours is less than 16 hours, the combined FDP and RAP time of the flightcrew member in your example cannot exceed 13 hours without violating § 117.21(c)(3). Because the RAP of the flightcrew member in your example began at 01:00, § 117.21(c)(3) would require that the flightcrew member's FDP terminate by 14:00 at the latest without an FDP extension.

Thus, similar to the previous example, § 117.13 requires that the flightcrew member's FDP terminate by 12:00 while § 117.21(c)(3) requires that the FDP terminate by 14:00. Just as in the previous example, in order to satisfy both of these regulatory provisions, the FDP in this example must terminate no later than 12:00.

Example 3:

In your final example, you posit an acclimated flightcrew member on short call reserve who is assigned an augmented FDP. In this example, the flightcrew member begins his RAP at 04:00 and is then assigned an augmented FDP that begins at 05:30. You ask whether the FDP must end by 21:00 or 18:30.

The length of an FDP for a flightcrew member on short call reserve who is assigned an augmented FDP is governed by § 117.17 and § 117.21(c)(4). First, we apply § 117.17. Subsection 117.17(a) states that an FDP for an acclimated augmented flightcrew member may not exceed the FDP limits of Table C. Your letter does not provide us with sufficient information to determine which limit of Table C applies, but it asks us to assume that the applicable Table C limit is 13 hours.[5] Based on this assumption, the augmented FDP would have to terminate by 18:30 per § 117.17.

Turning to § 117.21(c)(4), that section states:

[5] To determine the applicable FDP limit, in addition to knowing the time that the FDP begins, we would also need to know the number of pilots who are on the augmented crew and the class of rest facility that is used.

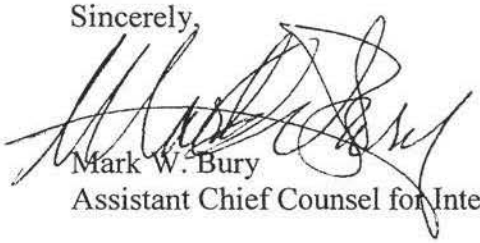
> For an augmented operation, the total number of hours a flightcrew member may spend in a flight duty period and a reserve availability period may not exceed the flight duty period in Table C of this part plus 4 hours, as measured from the beginning of the reserve availability period.

Per the assumption in your letter, the applicable FDP period of Table C is 13 hours. Adding four hours to this number results in 17 hours. Because the RAP of the flightcrew member in your example began at 04:00, § 117.21(c)(4) would require that the flightcrew member's FDP terminate by 21:00 at the latest without an FDP extension.

Thus, § 117.17 requires that the flightcrew member's FDP terminate by 18:30 while § 117.21(c)(4) requires that the FDP terminate by 21:00. In order to satisfy both of these regulatory provisions, the FDP in this example must terminate no later than 18:30.

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,



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