U.S. Department
of Transportation
Federal Aviation
Administration

Office of the Chief Counsel

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

JUL -8 2014

Manuel Garciglia
[redacted]

Dear Mr. Garciglia,

This is in response to your letter posing several questions about the flight duty period (FDP) extension provisions of 14 C.F.R. § 117.19. Our answers to your questions are set out below.

1. Duration of unplanned event

In your first question, you ask how long an unplanned event must be in order to give rise to an unforeseen operational circumstance that allows a flight duty period (FDP) to be extended pursuant to § 117.19.

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] The regulations of part 117 limit, among other things, the length of an FDP that a flightcrew member can work. However, section 117.19 allows these FDP limits to be extended if unforeseen operational circumstances arise.[2]

An unforeseen operational circumstance is defined as "an unplanned event of insufficient duration to allow for adjustments to schedules..."[3] In the preamble to the final rule that created part 117, the FAA explained that:

> [T]he phrase "insufficient duration to allow for adjustments to schedules" is intended to exclude unplanned events of relatively short duration. For example, the FAA would not consider a five-minute air traffic delay as an unforeseen operational circumstance that justifies the need for a two-hour FDP extension. Because relatively short unplanned events should not be used as a basis for extending an FDP, the FAA has decided to retain "insufficient duration to allow for adjustments to schedules" in the definition of unforeseen operational circumstances.[4]

[1] 14 C.F.R. § 117.1.
[2] *See* 14 C.F.R. § 117.19(a) and (b).
[3] 14 C.F.R. § 117.3.
[4] *Flightcrew Member Duty and Rest Requirements*, 77 FR 330, 348 (Jan. 4, 2012).

Thus, as discussed in the final rule preamble, as long as the unplanned event is not relatively short, it can give rise to an unforeseen circumstance sufficient to allow an extension under § 117.19. Since there are a wide variety of different operations with a number of different unplanned events that could arise, we cannot give a specific timeframe of how long the unplanned event must be. Rather, the unplanned event must simply be long enough to reasonably justify the need to take an FDP extension.

2. Mandatory concurrence with an FDP extension.

In your second question, you ask whether the pilot-in-command (PIC) is required to concur with an FDP extension under § 117.19.

In order to use a § 117.19 extension, both the PIC and the certificate holder must concur with the extension.[5] However, an extension under § 117.19 is almost always optional, as the certificate holder and PIC could opt to cancel the flight segment for which the extension is necessary. Thus, the PIC would be in compliance with part 117 if he or she does not concur with an FDP extension and does not fly the flight segment for which the FDP extension is necessary.

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, AGC-200

[5] *See* 14 C.F.R. § 117.19(a)(1) and (b)(1).