U.S. Department
of Transportation
Federal Aviation Administration

Office of the Chief Counsel

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Dear Messrs. Wykoff and Mullen,

This letter responds to your joint letter requesting clarification of a number of questions relating to the implementation of part 117. In a separate legal interpretation issued to you on November 26, 2013, we responded to your Question #9, relating to the cumulative limit "look back" provisions found in § 117.23 because we felt that a response to that question needed to be issued sooner in order to ensure clarity about how the cumulative limits will be handled during the implementation of part 117. The remaining questions are answered below.

1. 117.3 - Acclimation Definition: *Must the 36 consecutive hours of rest required to trigger acclimation be prospective or could an "accidental" acclimation occur where a pilot's rest period is unexpectedly extended to reach the 36 consecutive hour threshold?*

Unlike required rest periods under § 117.25, for purposes of determining whether a pilot has become acclimated, the rest does not need to be prospective. There are two ways that a pilot becomes acclimated to a new theater. Either the pilot receives 36 consecutive hours of rest or remains in the new theater for 72 hours. Being acclimated is simply a status used to determine where to enter Tables B and C at the start of a Flight Duty Period (FDP). Once either of those two conditions are met, a pilot is deemed to be acclimated to the new theater. We note that the preamble to the final rule provided an example of where a pilot acclimates to a theater as a result of an unexpected delay that extended a planned rest period.

2. 117.3 – Theater: *May a deadhead after a Flight Duty Period (FDP) (but before rest) change the final destination/acclimation end point for the FDP?*

No. An FDP arrival point is defined as the point at which the FDP ends. A post-FDP deadhead is not part of an FDP. Accordingly, a post-FDP deadhead is not used to determine theater.

3. 117.3 – Theater: *A deadhead-only duty period is not a FDP. If a pilot is scheduled to travel during a deadhead-only duty period to a destination that is more than 60 degrees of longitude from the departure point, will that scheduled travel result in a change of theater if:*

a. *the pilot completes the travel as scheduled; or*

b. *the pilot voluntarily chooses to deviate from the scheduled deadhead-only duty assignment and either remains in his current location or travels to a different location on his own time? (For example, a pilot is scheduled to travel by deadhead from Madrid to Atlanta, but chooses to either remain in Madrid or travel to some other location that is not Atlanta.)*

In a clarification letter to A4A from Rebecca B. McPherson (Nov. 2012), the FAA stated that a deadhead that is not part of an FDP cannot cause a change in theater because a theater can only be changed as part of an FDP. This is because a theater is defined in § 117.3 as the difference between FDP departure and arrival points. Duty that is not part of an FDP cannot create an FDP departure or arrival point and thus cannot cause a change in theater. Thus, both examples above involving deadheads that are not part of an FDP would not cause a change in theaters.

4. 117.19 – Flight Duty Period Extensions: *Is PIC concurrence required for extensions of FDP limits that are 30 minutes or less?*

All FDP extensions taken under § 117.19 are governed by either § 117.19(a)(1) or § 117.19(b)(1). Both of these sections require PIC concurrence with any extension of up to 2 hours. However, since extensions of 30 minutes or less have no additional limitations or requirements, the FAA would view PIC certification under § 117.5 for that flight segment as meeting the concurrence requirement for extensions of 30 minutes or less. This is consistent with the preamble to the final rule, where we stated that "[t]here is a 30-minute buffer attached to each FDP to provide certificate holders with the flexibility to deal with delays that are minimal. However, after the 30-minute buffer, any time that the FDP needs to be extended, the requirements and limitations of this section apply." (77 FR 370, Jan. 4, 2012) The FAA emphasizes that this 30-minute buffer may not be scheduled as part of an FDP; rather, the 30-minute buffer is only there to deal with minimal delays. The other subsections in § 117.19 apply additional limitations on FDP extensions greater than 30 minutes, and would require an affirmative PIC concurrence for those extensions separate from the § 117.5 certification.

5. 117.13, 117.17 - Tables A, B & C – FDP Start Times: *The following questions seek clarification of how pilots and carriers are expected to determine the correct time zone to enter Tables A, B & C.*

a. Must a carrier designate the underlying time zone (e.g., local or home base) to be utilized by pilots to determine the correct time of day to enter Tables A, B & C? If so, when and where must the carrier make a designation of the time zone for FDP start purposes? Must the designation be in writing? Must a carrier wait until after a 30-hour rest break to change starting time zones in a theater? Must the carrier designate any change in the time zone a flightcrew member is expected to use to enter the Tables for each FDP on the schedule, or elsewhere?

In the clarification letter issued to A4A referenced above, the FAA stated that, for the purpose of determining where to enter Tables A, B and C, a carrier may designate either the local time where the flightcrew member began the series of FDPs or the corresponding home base time if the flightcrew member is acclimated to a theater that encompasses the home base. When, where or how the designation is made is up to the carrier, but typically it is expected that it would be made in the context of setting up the schedules so that when flightcrew members bid on crew pairings, they have a complete understanding of how the schedule was constructed. In this respect, the designation would typically also be in writing. Once made, the designation would apply for the series of FDPs ending when a flightcrew member begins the 30 hour rest period under § 117.25(b). Then the process repeats itself when the next series of FDP begins. A new series of FDPs will begin when any of three circumstances occur: the flightcrew member receives 30 consecutive hours of rest, the flightcrew member ends an FDP outside of the theater where the FDP began and becomes unacclimated, or the flightcrew member becomes acclimated to a new theater.

b. 117.13 – Tables A & B – FDP Start Times: Assume a pilot based in JFK operates a flight to LAX and receives a 10-hour rest. Can a carrier choose the time zone (LAX or JFK) to start the next FDP in LAX, or must the time zone be kept the same for the entire series of FDPs? (A "series" of FDPs as used here means multiple FDPs occurring between the 30-hour rest breaks required by 117.25(b).) If the carrier does not make any attempt to change the time zone for FDP start purposes in the above example, what time zone (JFK or LAX) should the pilot use to enter Tables A & B at LAX?

An acclimated flightcrew member enters Tables A, B or C based on either (1) the local time where the FDP series starts; or (2) the corresponding time where the flightcrew member's home base is located. As discussed in 5(a) above, this designation continues for the entire series of FDPs until the 30 hour rest period under § 117.25(b) is given. Looking at the above example, we know that the pilot's home base is in JFK, but we don't know when that pilot last had 30 hours of rest. If the 30 hours of rest took place immediately before the JFK-LAX flight, then the FDP series began in JFK and the pilot will continue to enter Tables A and B based on JFK time, since JFK is both the local time and the home base time.

6. 117.17 – Table C – FDP Start Times:

a. Can an augmented pilot be reassigned to a new time zone after a planned 30-hour stop in another time zone in his home theater? For example, a SFO-based pilot is assigned a SFO-IAD-FRA-IAD-SFO round trip. The pilot flies SFO-IAD and lays over at IAD for more than 30 hours free from all duty. The pilot then reports to fly IAD-FRA. May the carrier designate IAD as the time zone for the pilot to enter the FDP Tables for that flight duty?

As explained in Question 5 above, an acclimated pilot begins a new FDP series after receiving 30 consecutive hours of rest under § 117.25(b). Thus, the 30 hours of rest in IAD would trigger a new FDP series for the IAD-FRA flight and the carrier would be able to designate either the local time at IAD or the flightcrew member's home base time in SFO for the new series of FDPs since SFO would be part of the theater encompassing IAD.

b. In the above example, assume the SFO-based pilot became acclimated while in theater at FRA in Germany. On the return trip FRA-IAD-SFO the pilot is assigned a layover of 36 hours free from all duty at IAD. The pilot then reports to fly from IAD to SFO. May the carrier choose either SFO time or IAD time as the starting time zone for that pilot's FDP? The pilot flies to SFO and after a 10-hour rest reports for flight duty. If no carrier designation of any change in the FDP start time zone was made after the layover at IAD, what time zone should the pilot use for FDP start purposes in SFO (IAD or SFO time)?

Your example presumes that the pilot in question has become acclimated to the FRA theater. Therefore, once the flightcrew member in your example receives 36 consecutive hours of rest at IAD, the flightcrew member would be acclimated to the IAD theater. Since that theater also encompasses SFO, the flightcrew member's home base, the carrier can elect to begin the next FDP series using either IAD or SFO. Once that designation is made, it would be used for the remainder of that series of FDPs. Unless a carrier specifically designates home-base time (SFO in this example), the series of FDPs would use the local time where the FDP series begins (IAD in this example) and continue to use that time zone for the rest of the series of FDPs.. As discussed in Question 5(a) above, the specifics for how, when and where the designations are communicated is up to the carrier.

7. 117.13, 117.17 - Tables B & C – FDP End Time: *May a pilot be assigned to additional flight duty after the cancellation of all remaining segment(s) of a FDP. For example, after the completion of the first of five scheduled segments during a FDP, a pilot's schedule shows cancellation of all remaining segments due to weather. May the pilot be held on duty (and for how long) and subsequently assigned additional flying during that FDP, or must the pilot be released into rest before accepting another flight assignment? If the pilot may not be reassigned to additional flying without a rest break, which provision in Part 117 prevents the reassignment?*

Under § 117.3's definition of a flight duty period, an FDP ends when "the aircraft is parked after the last flight and *there is no intention for further aircraft movement by the*

same flightcrew member." (emphasis added). This means that the flight in question must definitively be the flightcrew member's last flight and there must be an affirmative intent for no further aircraft movement. This affirmative intent is lacking when the certificate holder is unsure whether there will be another flight or further aircraft movement. As a result, if the certificate holder intends or may intend to use the flightcrew member for another flight or further aircraft movement, the certificate holder may do so by holding the pilot on duty with the FDP clock running, making necessary adjustments based on any assignments to ensure that the pertinent FDP limits are not violated. However, by doing so, the time held over on the FDP is subject to the cumulative limits of section 117.23(c)

8. 117.13, 117.17 - Tables B & C – FDP End Time: *A pilot is assigned a FDP followed by a deadhead. Is it permitted for the pilot to be assigned to operate the deadhead after blocking in on the last previously assigned segment?*

Yes, the pilot may be assigned to a deadhead after blocking in on the last previously assigned segment of an FDP. A deadhead can be assigned at any time. However, when a deadhead occurs prior to an FDP without the required intervening rest or during an FDP, it must be treated as part of the FDP. We also note that a deadhead that exceeds the applicable FDP limit in Table B would be subject to the compensatory rest provisions of § 117.25(g).

9. 117.23 – Cumulative Limits: *Do the cumulative limits require a monthly and yearly look back for flight time limits and a weekly and monthly look back for flight duty period limits on January 4, 2014 (or effective Part 117 implementation date if different than January 4)?*

This question was issued as a separate interpretation. See, Letter to Captain Don Wycoff and Douglas K. Mullen from Mark W. Bury, Assistant Chief Counsel, International Law, Legislation and Regulation (Nov. 26, 2013).

10. 117.15(f) – Split Duty – Are extensions beyond 14 hours combined flight duty and rest permitted? *Assume a pilot is assigned combined split duty and rest totaling 13:55. 117.15(f) states that time spent in a suitable accommodation is not part of a pilot's flight duty period if combined flight duty and rest does not exceed 14 hours. Unforeseen circumstances arise prior to takeoff on the last segment of the split duty causing a 1:20 delay. If the pilot departs he or she is now expected to block in 15:15 after reporting for split duty. (Assuming the Pilot-in-Command concurs in the extension and no cumulative limitation of 117.23 would be exceeded), is it permissible under 117.15 for the pilot to take off knowing that the combined split flight duty and rest will exceed 14 hours?*

Yes, the 14-hour split-duty limit in § 117.15(f) is distinct from FDP limits. Section 117.15 contains a set of requirements that, if satisfied, allow split-duty rest to not be counted as part of a flightcrew member's FDP. If the requirements in § 117.15 are not satisfied, then the split-duty rest that does not satisfy those requirements is simply part of the flightcrew member's FDP and counts towards the pertinent FDP limits.

One of the requirements of § 117.15, contained in § 117.15(f), prohibits the combined FDP and split-duty rest from exceeding 14 hours. This 14-hour split-duty limit works as a maximum limit specific to split-duty rest so that any split duty rest exceeding the limit is simply added to the flightcrew member's other FDP time. The flightcrew member's total FDP time in your example would then be subject to the FDP-specific extensions specified in § 117.19 or, if applicable, § 117.29.

11. 117.15 – Split Duty – Applicability of Table B: *Does Table B limit flight duty during split duty assignments? For example, a pilot is assigned a split duty including 4 flight segments and a 3-hour mid-duty rest scheduled to begin at 2200 and end at 1200 (total 14 hours). Scheduled flight duty during this assignment is 11 hours. Table B limits FDPs beginning at 2200, with 4 legs, to 10 hours. Is the scheduled assignment with 11 hours of flight duty permissible or does Table B act limit the flight duty during the split duty assignment to 10 hours?*

The FDP limits will always act as a total limit on any assignment under part 117 that includes an FDP, and this includes split-duty assignments. Split duty rest that satisfies § 117.15 is simply not counted as FDP time. Your question acknowledges this by subtracting the 3 hour mid-duty rest from the 14-hour split duty assignment, resulting in an 11-hour FDP. However, as your question points out, Table B limits a 4 segment FDP starting at 2200 to 10 hours. Thus, the split duty assignment as scheduled would not meet the limits in Table B absent an FDP extension.

12. 117.15(d) – Split Duty – Rest Scheduled and Received: *May the amount or start time for split duty rest be rescheduled or reassigned after the start of the split duty FDP?*

Section 117.15(c) states that the split duty rest opportunity must be "scheduled before the beginning of the flight duty period in which that [split duty] rest opportunity is taken." (emphasis added). This provision ensures that a flightcrew member knows when the rest opportunity will be taken during the course of the FDP. Under § 117.15(d), the rest opportunity that is actually provided cannot be less than the rest opportunity scheduled. Thus, the length of the rest opportunity can be extended, but it cannot be less than what was scheduled. This is the only flexibility available for scheduling the split duty rest opportunity once an FDP has begun.

13. 117.25 – Rest Period: *A carrier's collective bargaining agreement allows reserve pilots upon their own initiative to opt into an available program that involves voluntarily checking the flight schedule on a required day off. The program is not mandatory. For example, a reserve pilot is scheduled for a 30-hour rest break beginning at midnight (2400) on Saturday and ending with the pilot's reserve availability period scheduled to begin at 0600 Monday. Under the voluntary program, the pilot agrees to check his schedule online no later than 2000 hours on Sunday. The pilot does so and sees that a trip has been scheduled beginning at 1000 on Monday. The pilot accepts the trip online and now has a report time of 0900 Monday. Is this practice permitted under Part 117?*

Assuming that the program is in fact voluntary, it would not violate § 117.25. However, voluntarily taking up extra duties during a rest period may violate § 117.5 if it causes the flightcrew member to become too fatigued to safety fly the plane.

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,

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