U.S. Department
of Transportation
Federal Aviation Administration

Office of the Chief Counsel

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

JAN 20 2015

Don Wykoff
Air Line Pilots Association, Int'l
535 Herndon Parkway
P.O. Box 1169
Herndon, VA 20172-1169

Re: FDP Extensions and Cumulative Limits

Dear Mr. Wykoff,

We are in receipt of your July 11, 2014 request for interpretation concerning a number of questions relating to flight duty period (FDP) extensions under 14 C.F.R. § 117.19 and the cumulative limitations in § 117.23. The answers to your questions are detailed below.

Question 1: *Must the decision to extend a flight duty period for any amount of time beyond Table B or C limits be a joint decision by pilot-in-command (PIC) and the certificate holder based upon the consideration of the circumstances at the time of request?*

Your letter gives an example of a certificate holder policy that all extensions of less than 30 minutes are considered to be preapproved. The FAA has clarified this question in a number of recent interpretations.[1] Our position has been consistent and clear. As emphasized in Garciglia, there must be concurrence between the certificate holder and the PIC for all extensions. For ease of application, the FAA has stated that a fitness for duty certification under § 117.5 could be used for extensions of 30 minutes or less, but the concurrence itself must take place when the need for an extension is known. That is when the parties may rely on the § 117.5 certification as a record of the concurrence. As the FAA emphasized in the Wykoff/Mullen interpretation (March 2014), "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." To allow this concurrence to be automatic would allow extensions to become part of the schedule. That is not the intent of the rule.

Question 2: *A pilot completes a regularly scheduled Part 121 passenger segment and is assigned to operate a second segment during the same FDP as a required crewmember. There is a delay in the departure time for the second segment. The carrier holds the pilot*

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[1] *See*, legal interpretation to Don Wykoff and Douglas Mullen from Mark W. Bury, Assistant Chief Counsel for International Law, Legislation and Regulations (Mar. 20. 2014); Clarification letter (Mar. 5, 2013); McFadden (May 13, 2014); Garciglia (Jul. 8, 2014); Anderson (Jul. 7, 2014)

on duty for the purpose of acting as a required crewmember on the delayed second scheduled segment, when and if the flight is able to operate. Eventually, the second flight segment is cancelled and the pilot is released without being assigned any further flying. Are we correct that the pilot's duty from FDP start until release from any and all responsibility for further flying counts towards the § 117.23(c) cumulative FDP limits?

Yes. The FAA has previously answered this question in several interpretations. *See*, Wykoff and Mullen (Mar. 20, 2014) and Clarification Letter (Mar. 5, 2013).

Question 3: *A reserve pilot is assigned to and completes one or more regularly scheduled Part 121 passenger segments during an FDP. After completing the last assigned segment the reserve pilot is required by the carrier to check with the carrier's scheduling department 15 minutes after block-in on the last assigned segment for a possible further flying assignment. If there is a further flying assignment the reserve pilot is expected to accept the assignment. If there is no further flying assignment the reserve pilot is released to rest. Assuming there is no further flying assignment, are we correct that because the pilot had a continuing responsibility to accept further flying duty, should flying be assigned, that the pilot's duty from block-in until release counts towards the pilot's § 117.23(c) cumulative limits?*

Yes. This question is the same as #2 above, with a slightly nuanced fact pattern. The FAA has also answered this question in the interpretations referenced above. While the FAA acknowledges that there could be unique fact patterns that may affect how the regulations are applied, the basic principles of duty and what is to be included as part of an FDP – and therefore subject to the cumulative limits in § 117.23(c) – are clear in the regulation, as explained in those previous interpretations.

Question 4: *A pilot is assigned to and completes one or more regularly scheduled Part 121 passenger segments during an FDP. After completion of the last flying segment the pilot is assigned to and completes a deadhead transportation leg (not as a required crewmember) without an intervening rest. At the conclusion of the deadhead transportation leg the pilot is required to check with the carrier's scheduling department for a possible further flying assignment. If there is a further flying assignment the pilot is expected to accept the assignment. If there is no further flying assignment the pilot is released to rest. Assuming there is no further flying assignment for the pilot after the deadhead transportation leg, are we correct that the pilot's duty from his or her last block-in as a required crewmember until his or her release from any obligation for further flying after the deadhead counts towards the § 117.23(c) cumulative limits?*

No. Deadhead transportation that occurs after a flight segment is not included as part of an FDP. A pilot in deadhead transportation is never a required flightcrew member. Under the definition in § 117.3, only a period of deadhead transportation followed by a flight segment without an intervening rest period is part of an FDP. Thus, in your example where no further flying assignment occurs after the deadhead transportation, the time spent in the deadhead transportation does not count toward the § 117.23(c) cumulative limits. *See*, Wykoff and Mullen (Mar. 20, 2014); Clarification Letter (Mar. 5, 2013).

Question 5: *A pilot is on the last assigned day of flying before being released into a 30-hour minimum rest period. He or she is assigned to and completes one or more regularly scheduled Part 121 passenger segments. The pilot's remaining flying for the day is cancelled due to an irregular operation. The carrier has a policy that requires a pilot who has flying canceled under these circumstances to standby at the airport for up to five hours for an additional flight assignment. The pilot complies with the carrier's policy and stands by at the airport for five hours for a possible additional flight assignment. No further flying is assigned and the pilot is released to rest. Are we correct that the five hours airport standby time counts towards the pilot's § 117.23(c) cumulative FDP limits as the pilot had a continuing responsibility for further flying should flying be assigned?*

Yes. Under § 117.21 all airport/standby reserve is counted as part of an FDP, whether it occurs prior to, after or between assignments. *See*, Clarification Letter (Mar. 5, 2014).

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 Regulations, AGC-200