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

Office of the Chief Counsel

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

NOV 14 2017

Mr. William Batman
Director of Operations
PenAir
6100 Boeing Avenue
Anchorage, AK 99502

Re: Request for Legal Interpretation of 14 CFR §§ 117.3 Flight Duty Period (FDP) and 117.19 FDP Extensions Regarding Aircraft Repositioning on the Ground

Dear Mr. Batman:

This letter responds to your July 14, 2017, request by electronic mail for an interpretation of 14 CFR §§ 117.3 and 117.19 concerning Flight Duty Period (FDP), FDP extensions, and aircraft repositioning on the ground. According to your letter, PenAir's operation regularly requires flightcrew members who have completed all scheduled revenue flights to reposition the same aircraft or another aircraft from the tarmac into a hangar at the end of the day.

You seek clarification on (1) whether the FAA considers a flightcrew to be on duty and operating within the FDP when repositioning another aircraft; and (2) whether the flightcrew may use an FDP extension to reposition aircraft.

Section 117.3 defines duty and FDP respectively as:

> [A]ny task that a flightcrew member performs as required by the certificate holder, including but not limited to flight duty period, flight duty, pre- and post-flight duties, administrative work, training, deadhead transportation, aircraft positioning on the ground, aircraft loading, and aircraft servicing.
>
> [A] period that begins when a flightcrew member is required to report for duty with the intention of conducting a flight, a series of flights, or positioning or ferrying flights, and ends when the aircraft is parked after the last flight and there is no intention for further aircraft movement by the same flightcrew member.

Section 117.19(a)(1) provides that if unforeseen operational circumstances arise prior to takeoff:

> The pilot in command and the certificate holder may extend the maximum flight duty period permitted in Tables B or C of this part up to 2 hours. The pilot in command and the certificate holder may also extend the maximum combined flight duty period and reserve availability period limits specified in §117.21(c)(3) and (4) of this part up to 2 hours.

Section 117.19(b)(1) provides that if unforeseen operational circumstances arise after takeoff:

> The pilot in command and the certificate holder may extend maximum flight duty periods specified in Tables B or C of this part to the extent necessary to safely land the aircraft at the next destination airport or alternate airport, as appropriate.

Repositioning the Same Aircraft

As you correctly state in your request, duty includes "aircraft positioning on the ground,"[1] and FDP includes "positioning or ferrying flights, and ends when the aircraft is parked after the last flight and there is no intention for further aircraft movement by the same flightcrew member."[2] The FAA has previously clarified that further aircraft movement under § 117.3 includes moving the aircraft between gates or to a hangar, and is part of a flightcrew's FDP.[3]

Repositioning Another Aircraft

When the flightcrew is repositioning an aircraft other than the one in which it completed scheduled flights, the certificate holder's intent for further aircraft movement is determinative. In a prior interpretation, the FAA clarified that termination of the FDP requires "an affirmative intent for no further aircraft movement" and that:

> 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,

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[1] 14 CFR § 117.3.
[2] *Id.*
[3] *See Clarification of Flight, Duty, and Rest Requirements*, 78 FR 14166, 14168 (Mar. 5, 2013).

making necessary adjustments based on any assignments to ensure that the pertinent FDP limits are not violated.[4]

The intent for no further aircraft movement follows the certificate holder, not the aircraft or the flightcrew. Regardless of which aircraft is moved into the hangar, the flightcrew is still operating under the certificate holder's intent to use the flightcrew for further aircraft movement. Therefore, if a flightcrew has not yet started a rest period, and is asked to reposition a different aircraft, the certificate holder may do so by "holding the pilot on duty with the FDP clock running[.]"[5]

FDP Extensions

We understand your second question to ask whether the pilot can use extension time to reposition the aircraft (or another aircraft) after a scheduled flight has been completed, assuming an FDP extension under § 117.19 is agreed upon between the pilot in command and the certificate holder.[6]

The FAA Clarification to Section 117.19(b)(1) states that "the post-takeoff FDP extension only encompasses the time 'necessary to safely land the aircraft at the next destination airport or alternate airport, as appropriate.'"[7] Thus, as to post-takeoff FDP extensions, the extension is available solely to safely land the aircraft, and terminates once the airplane has landed.[8] Therefore, the post-takeoff FDP extension does not include repositioning of the same or a different aircraft after landing, because the FDP extension terminates once the aircraft has safely landed.[9]

The FAA characterizes the § 117.19(a) limitations on FDP extensions for unforeseen operational circumstances arising prior to takeoff as "more stringent" because "the certificate holder and pilot in command have more options for dealing with unexpected situations that arise while the plane is still on the ground."[10] While FDP may include repositioning an airplane,[11] the FAA limited post-takeoff FDP extensions to safely landing the plane at the next destination airport or alternate airport.[12] Therefore, since

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[4] Letter to Don Wykoff & Douglas Mullen from Mark W. Bury, Assistant Chief Counsel for International Law, Legislation and Regulations, at 4-5 (Mar. 20, 2014).
[5] *Id.*
[6] In answering this question, we assume that the flightcrew is acclimated. We also assume that taking the extension will not cause the flightcrew to exceed any cumulative limits or daily flight time limit.
[7] 78 FR at 14173.
[8] *See id.*
[9] *See id.* at 14173-14174.
[10] *Id.* at 14173.
[11] § 117.3.
[12] § 117.19(b)(1).

limitations on prior-to-takeoff FDP extensions are more strict than post-takeoff FDP extensions, repositioning of the same or different aircraft after the flight has landed using a prior-to-takeoff FDP extension is not permissible.

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 Sarah Yousaf, Operations Law Branch, Office of the Chief Counsel and coordinated with the Air Transportation Division of Flight Standards Service.

Sincerely,

Lorelei Peter
Assistant Chief Counsel for Regulations, AGC-200

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From: Young, Kim L (FAA)
Sent: Monday, July 17, 2017 12:38 PM
To: Hawks, Rob (FAA)
Subject: FW: 117.3 duty VS FDP question

Should this be assigned to AGC-220, and to whom?
Kim L Young
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From: William Batman [mailto:William.Batman@penair.com]
Sent: Friday, July 14, 2017 7:04 PM
To: Young, Kim L (FAA)
Cc: Martin, Howard (FAA)
Subject: 117.3 duty VS FDP question

PenAir is looking for some clarification on CFR 117.3 definitions of Duty VS Flight Duty period pertaining to aircraft positioning on the ground.

Duty means any task that a flightcrew member performs as required by the certificate holder, including but not limited to flight duty period, flight duty, pre- and post-flight duties, administrative work, training, deadhead transportation, aircraft positioning on the ground, aircraft loading, and aircraft servicing.

Flight duty period (FDP) means a period that begins when a flightcrew member is required to report for duty with the intention of conducting a flight, a series of flights, or positioning or ferrying flights, and ends when the aircraft is parked after the last flight and there is no intention for further aircraft movement by the same flightcrew member. A flight duty period includes the duties performed by the flightcrew member on behalf of the certificate holder that occur before a flight segment or between flight segments without a required intervening rest period. Examples of tasks that are part of the flight duty period include deadhead transportation, training conducted in an aircraft or flight simulator, and airport/standby reserve, if the above tasks occur before a flight segment or between flight segments without an intervening required rest period.

PenAir's operation regularly requires crews to reposition the aircraft to the hangar at the end of the day. My First question is when the crew has completed all scheduled revenue flight with no intent of further flight, this would be the end of that crews Flight duty period. Since they have not yet started a rest period yet they would then be on duty. Therefore using the definition of duty, would that crew be available to position that particular aircraft, or any other aircraft they may or may not have flown previously that day, on the ground to the hangar as defined in 117.3 Definitions "Duty"? My second question is if the reposition is deemed part of the FDP would that then be eligible for an extension to the FDP under 117.19 to move the airplane?