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

Office of the Chief Counsel

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

FEB 0 1 2018

Mr. Timothy Slater
Assistant Chief Pilot
KaiserAir, Inc.
3935 Hansford Ct.
Santa Rosa, CA 95404

Re: Request for Legal Interpretation of 14 CFR § 117.17(c)(1)

Dear Mr. Slater:

This letter responds to your October 6, 2017, request for an interpretation of 14 CFR § 117.17(c)(1) concerning the two-hour in-flight rest requirement. Section 117.17 Flight duty period: Augmented flightcrew requires that:

> (c) No certificate holder may assign and no flightcrew member may accept an assignment under this section unless during the flight duty period:
> (1) two consecutive hours in the second half of the flight duty period are available for in-flight rest for the pilot flying the aircraft during landing.

Your letter provides two scenarios. The first includes this timeline:

12:00 Crew shows for work (flight duty period [FDP] begins)
14:00 Flight departs San Francisco for Portland (Flight time is 1.5 hours)
15:30[1] Crew leaves for lunch and break
22:30 Crew returns to airport
23:45 Passengers return
00:00 Flight departs Portland for Seattle (Flight time is 1.0 hours)
01:00 Flight arrives in Seattle
01:15 Passengers deplane
01:30 Crew leaves airplane (FDP ends)

[1] Your scenario states that at 15:00 the crew leaves for lunch and break, however that does not take into account the 1.5 hour flight time. If the flight departs at 14:00 and is 1.5 hours, the crew would not land and leave for lunch until 15:30.

Since the FDP exceeds 14 CFR Part 117 Table B's 13-hour maximum limit using a two pilot crew, the operator augments the crew to three pilots with an approved class 3 rest facility under OpSpec A117, increasing the maximum FDP limit according to Table C to 15 hours.

In the second scenario, which you describe as slightly modified, the flightcrew flies three segments: six hours in segment 1, six hours in segment 2, and 60[2] minutes in segment 3.

You seek clarification on (1) how scenario one would comply with the two-hour in-flight rest requirement when the pilots would not be able to get a 2-hour rest since the second half of the FDP includes a flight time of only one hour; and (2) whether in scenario two a 2-hour rest period during leg 2 for the pilot landing legs 2 and 3 would count for both landings as long as it was after the 6.5 cumulative hour mark.

Scenario One

14 CFR § 117.3 defines augmented flight crew as "[A] flightcrew that has more than the minimum number of flightcrew members required by the airplane type certificate to operate the aircraft to allow a flightcrew member to be replaced by another qualified flightcrew member for in-flight rest." The preamble to the Final Rule for part 117 further explains that the purpose of the additional staffing is to allow flightcrew members to work in shifts and rest during the flight.[3]

In your scenario, the flightcrew is increased to three pilots to accommodate the 13.5 hour FDP. However, the purpose of adding additional members to a flightcrew under Table C is so that they may replace each other at the in-flight controls for in-flight rest. In this scenario, the flight times are not long enough for an augmented flight crew to relieve each other by using two hours of in-flight rest. Therefore, section 117.17 is not applicable because this crew does not fall under the definition of an augmented flight crew.

Your specific scenario notwithstanding, even under an appropriately assigned augmented operation, § 117.17(c)(1) requires that there be sufficient time during the second half of the FDP for the pilot landing the aircraft to take two consecutive hours of in-flight rest. The regulatory language unambiguously prohibits the assignment or acceptance of an augmented operation unless two consecutive hours in the second half of the FDP *are available* for the landing pilot's in-flight rest. Accordingly, in order to utilize the Table C FDP limits for augmented operations, the assignment must include at least two hours of in-flight time for rest during the second half of the FDP.

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[2] Your letter says "60 segment #3." We assume you intended to write "60 minutes segment #3" because you indicate that the FDP halfway point is 6.5 hours, meaning total FDP is 13 hours, which would be two 6-hour segments plus one 60-minute segment.

[3] *See* 77 FR 329, 339-340.

Scenario Two

This scenario does not indicate how many pilots are in the flightcrew, what the scheduled start times for the FDP and the three flight segments are, or how much time is in between each flight segment. For the purposes of answering your question, we will assume that the flightcrew is augmented and the FDP does not exceed the applicable maximum FDP limits in Table C.

The preamble to the Final Rule responded to commenters who found the language unclear as to whether the two-hour in-flight rest opportunity was required for each augmented segment. The FAA explained that:

> Based on these rest requirements, at least one flight segment in the second half of the augmented FDP of a flightcrew member who will be flying an aircraft during landing must exceed two hours so that the flightcrew member can obtain his or her minimum continuous in-flight rest. This flight segment need not be the last flight segment of the FDP. The two hours of in-flight rest simply needs to take place in the second half of the FDP of the flightcrew member who will be flying the aircraft during landing.[4]

In a previous interpretation, the FAA clarified that the preamble to the final rule for part 117 indicates that the in-flight rest requirement is intended to apply only to the pilot landing the final flight segment.[5] Therefore, in this scenario, as long as the pilot who is landing flight segment 3 takes a consecutive two-hour in-flight rest period in the second half of the FDP, the operation complies with 117.17(c)(1).

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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[4] *Id.* at 367.

[5] *See* Letter to Anthony Snieder from Lorelei Peter, Assistant Chief Counsel for Regulations, at 1 (January 5, 2017); 77 FR 329, 363-367.

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To Whom It May Concern,

I have a question regarding flight and duty time requirements conducted by a 14CFR Part 121 Supplemental Air Carrier. Specifically the Augmented crew duty and flight time requirements under 14CFR Part 117 when the duty day requires augmentation but the flight time is short. Here is an example (presume all crew are properly trained, qualified, acclimated, fit for duty and rested prior to duty start): (All times will be kept local and in same time zone for ease of example)

12:00 Crew shows for work (flight duty period begins)
14:00 Flight departs San Francisco (SFO) for Portland (PDX). Flight time 1.5 hours
15:00 Crew leaves for lunch and break
22:30 Crew returns to airport
23:45 Passengers return
00:00 flight departs Portland (PDX) for Seattle (SEA). Flight time 1.0 hour
01:00 flight arrives SEA
01:15 Passengers deplane
01:30 crew leaves airplane and duties off (Flight Duty period End)

Based on 14CFR Part 117 Table B using a 2 pilot crew, a 13 hour duty day is the maximum, and this flight does NOT fit into that time period. Therefore the operator elects to augment the crew to 3 pilots (14 CFR 117.17). With an approved class 3 rest facility (OpSpec A117) in the airplane this would boost the Flight Duty Period according to Table C to 15 hours. However, how can we comply with 14CFR §117.17(c)(1) which states :

No certificate holder may assign and no flightcrew member may accept an assignment under this section unless during the flight duty period:
(1) Two consecutive hours in the second half of the flight duty period are available for ***in-flight*** *rest for the pilot flying the aircraft during landing.*

The pilots will be released to go to a hotel at 15:00, but they will not get 10 hours of rest, or a 8 hour sleep period. Nor will they be able to get two consecutive hours of rest "in-flight" since the last leg is only 1 hour long. Total flight time is only 2.5 hours.

In a slightly modified scenario, the crew could fly 6 hours segment #1, 6 hours segment #2 and then be asked to relocate the airplane on a 60 segment #3. Would a 2-hour rest period for the pilot landing legs 2 AND 3 during leg #2 count for both landings as long it was after the 6.5 cumulative hour mark in segment #2? (remain within the 14CFR §117.11.(a)(2) 13-hour time limit and 3 segments)

We note that the provisions of 14CFR §117.15 split duty would not apply as they are outside the time limits provided of 22:00-05:00, though otherwise the scenario fits well for split duty.

These are very realistic scenarios for supplemental 121 operator. I am looking for guidance on how we can comply with the regulation.

Thank you,

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