July 11, 2014

Fellow Pilots of JetBlue,

Your MEC has been working hard to come to a resolution on the implementation of FAR 117 into our FSM. We have had meetings with JetBlue Flight Ops leadership as well as direct meetings with the FAA at their headquarters in Washington to ensure that we have done our due diligence and have been deliberate in the steps we take. While we believe that we have been able to resolve a number of issues, we still have not been able to satisfactorily resolve a portion of the implementation of FAR 117 into our FSM. This update is long but necessary in order explain the issues in play. So please take time to read through this entire update and ask any questions you may have on the information provided below.

The two primary outstanding implementation issues are: 1) the requirement for a reserve pilot to check their schedule and acknowledge it on a day off; and 2) the extension of an FDP. Given the inability for us to reach a resolution, we feel obligated to provide guidance to the pilots of JetBlue on our position and how we believe you should respond to the current FSM implementation. We will continue to try to resolve both of these issues with Flight Ops Leadership and find a better solution that allows for full compliance with your FSM governance and your PEA while creating a more efficient use of the pilots for schedule integrity. If you have any questions, please contact your LEC representatives and they will help get you an answer.

The MEC has examined two scenarios involving Reserve Check-In: 1) check-in is voluntary; and 2) check-in, acknowledging and/or accepting an assignment is required duty. Another FAA interpretation of FAR 117 just released further strengthens our position on this issue. It is referred to as the Michael Phelan-PPA Global Energy Interpretation. The guidelines below are based on this and other guidance spelled out in the FAR 117, the FSM, and your PEA.

**Check-In is Voluntary**
If truly voluntary, a reserve pilot may voluntarily check his/her schedule after the DRO is released. However, without knowing their next assignment, a reserve pilot must assume that they go on duty at the time they last knew before going into a rest period. Since that default time for Reserve Duty is 0001L, a reserve must be in rest 10 hours prior, or 1400 Base Local. This makes a reserve pilot’s window for voluntarily accepting an assignment different than the last known 0001L Reserve assignment, between DRO release and 1400L.

While your MEC argued for first-day LCR default, we cannot assume this assignment without acknowledging before our 10 hours of rest. We must assume a first day SCL, or RAP, that begins at 0001L. This means with a two-hour callout, the earliest report will be 0200 for a 9-hour FDP, this pilot must duty off by 1100.
For a 0300 call, and two-hour callout for a 0500 Report, this means a maximum RAP+FDP of 4+12 or 16 hours, beginning at 0001L. In this scenario you would actually be legal for an 11 hour FDP, and would have to duty off at 1600L.

If the company wants to call you at 0001L and release you from duty to assign you a later, same day duty period, they may do so with your concurrence IAW FSM, section D.13.

**Check-In is Required**

If a pilot must check in (mandatory), acknowledge or accept a duty assignment as a precept to performing their job, then it becomes a responsibility or a duty to perform this action. Again, a pilot cannot determine that their first day reserve assignment is anything other than 0001L, until the DRO is released. And again, the pilot must assume their assignment is 0001L, if there is nothing to the contrary released by 1400, the day before assignment. This is to ensure 10 hours of rest before 0001L. It is likewise the pilot’s duty to inform the company at the first available opportunity whether they are legal or illegal to accept the assignment as issued. All reserve pilots should record the date and time of such required Reserve Duty for appropriate compensation under FSM D.17 and the PEA Addendum B.F Company Business Time.

**FDP Extensions**

The FAA has issued another interpretation to further clarify FDP extensions to supplement what has already been provided. It is referred to as the *Garciglia Interpretation*. This interpretation confirms that a short duration delay does not constitute a valid reason for an FDP extension. The example given by the FAA is:

> [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.

The other key area that is further reinforced by *Garciglia* is that an FDP extension is not mandatory. The FAA and FAR 117 make clear that the PIC has to concur to any extension and can do so in any increment that they feel is justified for the operational circumstances that are present at the time; for example 25 minutes. A PIC cannot concur to an FDP extension in advance without knowing of the circumstances that require the FDP extension.

A pilot does not have to say that they are not fit for duty to say that they do not concur with an extension. A pilot does not have to say that they are fatigued to not extend. A pilot cannot be required to fill out a fatigue report to justify the reasons why they did not extend their FDP. We believe that there are occasions that an FDP extension is warranted and is in the best interest of both the pilot and JetBlue to give due consideration to the extension. However, we do not believe that coercion into agreeing to an extension or risk being punished by having PTO taken from the pilot is either appropriate or justified by FAR 117. If that has happened to you, please contact your LEC representative so that it can be dealt with appropriately through the processes set up in our Letter of
Agreement with JetBlue.

Finally, an area that has not yet been formally addressed by the FAA via an interpretation, but one in which your MEC is coordinating with the FAA on an interpretation that will hopefully be out soon, is better defining “unforeseen operational circumstances” and how that applies to FDP extensions. FAR 117.19(a)(1) requires that FDP extensions be based on unforeseen operational circumstances. FAR 117.3 defines unforeseen operational circumstances as unplanned events of insufficient duration to allow for adjustments to schedules such as unforecast weather, equipment malfunction or unexpected air traffic delays. By way of example, based on historical data, it is well known that it takes approximately 10 minutes longer to fly the approach and land at JFK if it is in a runway 22 configuration. Therefore, it is not an unforeseen operational circumstance that flight times will be longer if the forecast indicates that JFK will be using a runway 22 configuration at the time of arrival. The same thing can be said about forecast thunderstorms in the summer or snowstorms in the winter. As long as it is in the forecast and the Company knows about the circumstances in time to make schedule adjustments, it is not an unforeseen circumstance that would qualify for an FDP extension. Another example is a flight plan calculated using normal speeds through an area of known and forecast turbulence that would normally require that the aircraft be slowed to .76M. It is not unforeseen that an aircraft will fly at a slower speed through the turbulence as prescribed in the FCOM.

Ultimately, the PIC is required to make the best decision that they can based on the operational circumstances they are presented with to ensure that they safely operate the aircraft. The FAA expects a Captain to make that decision with or without an interpretation from the FAA. We do not need an interpretation from the FAA to refuse a vector from ATC into a thunderstorm. We do explain to ATC that we cannot accept the vector and give the reason. Normally, we should provide that same information to JetBlue if we are refusing an extension to an FDP, but that should not have to be provided through a Fatigue Report using an FCI any more than ATC can require a NASA report to explain why you did not accept a vector into a thunderstorm. It would just not make sense.

Thank you for taking the time to read this long update on FAR 117. We will continue to update you as this evolves so that you are armed with accurate information on which to base your decisions. Please give any questions you have to your LEC representatives so that they can be answered or forwarded to us for further clarification.

Fraternally and respectfully,

Captain Jim Bigham  
Interim MEC Chairman

Captain Gustavo Rivera  
Interim Vice Chairman

Captain Wes Clapper  
Interim Sec-Treas