REGULATION OF FRACTIONAL AIRCRAFT OWNERSHIP PROGRAMS

The Recommendation of the
Fractional Ownership Aviation Rulemaking Committee

Presented to the
Federal Aviation Administration
Washington, DC
February 23, 2000

The Fractional Aircraft Ownership Aviation Rulemaking Committee recommends that the FAA undertake revisions to parts 91, 119, 125 and 135. For purposes of convenience, those recommendations are set forth in the format of a *Notice of Proposed Rulemaking*. However, the Committee recognizes that the final text of any *Notice of Proposed Rulemaking* is within the discretion of the FAA.

The recommendation reflects the consensus of the Committee's diverse membership, which included:

David Harrington – Airbus Industries
Gary Arber – Alpha Flying
Michael Pittard – Aviation Charter Services
Thomas Ciotti – Aviation Resource Management
Lee D. Monson – Boeing
Dennis Keith – Bombardier Business Jet
Frederick Gevalt, III – The Air Charter Guide
Geoff Parker – British Civil Aviation Authority
William Yek – DaimlerChrysler
Patricia Thomas – Department of Transportation
Dayton Lehman – Department of Transportation
Paul Stinebring – Emerson Electric
Richard G. Smith, III – Executive Jet Aviation
Katherine Perfetti – Federal Aviation Administration
Edward Kammerer – Fleet Capital Leasing
Darnell Martins – Flight Options
Ed Bolen – General Aviation Manufacturers Association ("GAMA")
W. W. Boisture, Jr. – Gulfstream
Joseph Corrao – Helicopter Association International
Marc Fruchter – Marc Fruchter Aviation
Andrew Cebula – National Air Transportation Association ("NATA")
John W. Olcott – National Business Aviation Association ("NBAA")
James C. Christiansen, FOARC Chairman – TAG Aviation USA, Inc.
Donald Baldwin – Texaco
Trevor Owen – Transport Canada
Gary Hart – Raytheon TravelAir
Timothy McSwain – U. S. Aviation Underwriters Group

FOARC RECOMMENDATION
Note: This is a proposal to the FAA and <u>not</u> a pending *Notice of Proposed Rulemaking*.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 119, 125 and 135

[Docket No. FAA-2000-XXXX; Notice No.YY-ZZ]

[RIN XXXX-XXXX]

Regulation of Fractional Aircraft Ownership Programs

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to update and revise the regulations governing operations by aircraft in fractional ownership programs. This action is undertaken because the FAA has determined that current regulations do not fully reflect the characteristics of fractional ownership programs nor the current scope of some fractional ownership program aircraft operations. The proposed revisions would define fractional ownership programs and their various participants, more clearly allocate responsibility and authority for safety of flight operations for purposes of compliance with the regulations, and ensure that fractional ownership program aircraft operations maintain a high level of safety. Certain elements of this proposal would provide, in the relevant sections of a new subpart K of part 91, a level of safety equivalent to that of corresponding provisions of part 135. Consequently, parallel changes to corresponding sections of part 135 are proposed to permit qualified on-demand operators an alternate means of compliance for certain commercial operations.

DATES: Comments must be received on or before March 1, 2000.

ADDRESSES: Comments on this document should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. **[**FAA-2000-XXXX**]**, 400 Seventh Street SW., Room Plaza 401, Washington, DC 20590-0001. Comments also may be sent electronically to the following Internet address: 9-NPRM-CMTS@faa.gov. Comments may be filed and/or examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Katherine Hakala Perfetti, Flight Standards Service (AFS-200), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-3760, email: katherine.perfetti@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document also are invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this document must include a pre-addressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket No. [FAA-2000-XXXX.]'' The postcard will be date stamped and mailed to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: (703) 321-3339), the Government Printing Office (GPO)'s electronic bulletin board service (telephone: (202) 512-1661), or, if applicable, the FAA's Aviation Rulemaking Advisory Committee bulletin board service (telephone: (800) 322-2722 or (202) 267-5948).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the GPO's web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Communications must identify the notice number or docket number of this NPRM.

Persons interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

History and Background

FOARC RECOMMENDATION
Note: This is a proposal to the FAA and <u>not</u> a pending *Notice of Proposed Rulemaking*.

In 1986, Executive Jet Aviation, Inc. created a new program that offered to aircraft owners increased flexibility in the ownership and operation of aircraft by individuals and corporations. This program used existing aircraft acquisition concepts, including shared aircraft ownership, and provided for the management of the aircraft by an aircraft management company. The aircraft owners participating in the program agreed not only to share their aircraft with others having an ownership interest in that aircraft, but also to lease their aircraft to other owners in the program. The aircraft owners used the common management company to maintain the aircraft and administer the leasing of the aircraft among the owners. An FAA determination allowed this "fractional ownership" program to operate under part 91 of the Federal Aviation Regulations.

Since that time, the number of companies offering fractional ownership programs has grown. During the 1990s this growth was substantial and sustained. As of early 2000, the leading fractional ownership programs alone managed approximately 450 aircraft on behalf of 1,800 shareowners completing approximately 500 flights daily. Growth in fractional ownership programs is expected to increase.

While the vast majority of these programs are conducted under part 91, some are conducted under part 135. Of those operating under part 91, most follow the "best practices" of corporate aviation. It should be noted that an analysis of FAA and NTSB accident data for U.S.-registered turbine-powered aircraft during the ten-year period from 1987-1998 demonstrates that fractional ownership aircraft operations are among the safest in aviation.

As fractional ownership programs have grown in size, complexity and number, there has been considerable controversy within the aviation community as to their appropriate regulatory structure. Additionally, the FAA has had evolving concerns regarding issues of accountability and responsibility for compliance. Consequently, the FAA has continued its analysis of the appropriate regulatory environment for these programs.

Fractional Ownership Aviation Rulemaking Committee

In October of 1999, the FAA convened a special aviation rulemaking committee, the Fractional Ownership Aviation Rulemaking Committee (FOARC), pursuant to the Administrator's authority under 49 U.S.C. 106(p)(5), to address the issues surrounding the regulation of operations conducted by fractional owners and certain activities of fractional ownership program managers. Pursuant to the order of October 6, 1999 that established the FOARC, the committee's objective was to "propose such revisions to the Federal Aviation Regulations and associated guidance material as may be appropriate with respect to fractional ownership programs."

The FOARC was composed of 27 members selected by the FAA as representative of the various constituencies interested in regulation of fractional ownership program operations, who were assisted by designated advisors and counsel.

FOARC members represented on-demand charter operators, fractional ownership program managers and owners, aircraft manufacturers, corporate flight departments, traditional aircraft management companies, aircraft financing and insurance companies, and industry trade

associations. Also included were representatives of the FAA, the U.S. Department of Transportation and foreign civil aviation authorities.

The FOARC met for nine days in November and December 1999. A final meeting was held on January 20, 2000, to review and approve draft recommendations. Within the FOARC's meeting schedule, two days were set aside for public hearings to provide the public an opportunity to comment or present positions on this issue. Notice of these public meetings was provided in the Federal Register and through the media. The FAA will review and consider all material presented by participants at the public meetings.

Early in its deliberations, the members of the FOARC agreed that the committee would attempt to reach consensus recommendations and that, absent consensus, majority and minority reports would be provided to the FAA. In the end, the members of the FOARC reached unanimous consensus on all the committee's recommendations, including those with respect to changes in both parts 91 and 135. Those recommendations form the basis of this NPRM.

Operational Control and Regulatory Responsibility

Safety is the shared responsibility of the entire aviation community. The FAA's objective is to assure the optimum level of safety for aircraft operations. Prior to the introduction of fractional ownership programs, the Federal Aviation Regulations implicitly recognized differing levels of operational control and regulatory responsibility among persons traveling by air, and provided levels of oversight intended to maintain an optimum level of safety in view of these differences.

In general, airline passengers exercise no control over and bear no responsibility for the airworthiness or operation of the aircraft aboard which they are flown. Because the traveling public has no control over, or responsibility for, airline safety-of-flight issues, an optimum level of public safety is provided by the FAA's imposition of very stringent regulations and oversight under part 121 and the sections of part 135 applicable to scheduled service.

In general, on-demand or supplemental air charter passengers exercise limited control over but bear no responsibility for the operation of the aircraft aboard which they are flown. On-demand or supplemental air charter passengers negotiate the point and time of origin and destination of the flight, and may have the ability (subject to the pilot's supervening authority) to direct or redirect the flight. Under these circumstances, the optimum level of public safety is provided by the FAA's imposition of stringent regulations and oversight under part 121 or part 135.

In general, aircraft owners flying aboard aircraft they own or lease exercise full control over and bear full responsibility for the airworthiness and operation of their aircraft. Under these circumstances, the optimum level of public safety is provided by the FAA's imposition of general operating and flight regulations and oversight under part 91.

These policies and differing levels of responsibility were reflected in the development of part 91, subpart D, subsequently subpart F, which governs most of business aviation today. On July 25, 1972, the FAA promulgated Amendment 91-101 to 14 CFR part 91 (37 FR 14758, July 25, 1972). This Amendment added to part 91 a new subpart D, applicable to large and turbojet-powered

multiengine aircraft. Subpart D was the predecessor to the current subpart F of part 91 (54 FR 34314, Aug. 18, 1989). Section 91.181 of subpart D was the predecessor of current § 91.501 (54 FR 34314).

Commercial and Non-Commercial Flight Activities

In creating the new subpart, the FAA continued its longstanding policy that individuals and corporations may operate their aircraft under part 91 and included these operations as the cornerstone of the new subpart. This policy is currently embodied in § 91.501(b)(4), which allows a person to operate his or her aircraft "for his personal transportation, or the transportation of his guests when no charge, assessment, or fee is made for the transportation," and in § 91.501(b)(5), which allows for the "[c]arriage of officials, employees, guests, and property of a company on an airplane operated by that company . . . when the carriage is within the scope of, and incidental to, the business of the company . . . ."

In preserving these uses under part 91, the FAA chose to focus on the commercial (on-demand charter) or non-commercial (business or personal) motive a company or individual has in operating an aircraft, rather than on the form of the arrangements that led to the acquisition of the aircraft interest. In proposing the new subpart, the FAA pointed out that, "in order to augment or more fully utilize their fleets, many corporate aircraft operators entered into agreements for the loan, exchange, or sharing of their aircraft" (36 FR 19509). The FAA permitted such arrangements to continue under the new subpart, and specifically allowed for even more complex arrangements, such as time-sharing arrangements, interchange agreements, and joint ownership arrangements. In explaining its determination that such arrangements do not affect which part of the Federal Aviation Regulations the aircraft should operate under, the FAA stated in the preamble to the final rule (37 FR 14758):

> "[T]he decision to proceed with the upgrading of part 91 for large and turbine-powered multiengine airplanes is an important threshold step in the FAA policy to remove, to the extent possible, those differences in the safety standards that [are] primarily economic in nature and result in unnecessary restrictions or limitations on aircraft operators. In accordance with that policy, the need for different or additional safety standards for corporate operations should be resolved on the basis of safety, rather than economics or juristic semantics. Safetywise, we have determined that neither the relationship of the corporations nor the type of compensation received for the services rendered should be relevant or controlling under the standards of the new subpart D for the various corporate kinds of operations that do not involve common carriage.
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> "In order to make this change in policy clear to all interested persons, § 91.181(b) includes a list of the kinds of operations that may be conducted under subpart D. In addition, § 91.181(c) of subpart D expressly provides that charges covering the normal operating expenses of the aircraft and the salary of the crew may be made under a time sharing or interchange agreement as defined in that section. This policy also applies to a corporation regardless of its relationship, if any, to the corporation for which the carriage is conducted. Accordingly, the application of subpart D to a

> corporate operator will no longer be dependent on whether that operator is a parent or subsidiary corporation or a member of a conglomerate. It should be noted, however, that if a corporation is established solely for the purpose of providing transportation to the parent corporation, a subsidiary or other corporation, the foregoing policy does not apply. In that case, the primary business of the corporation operating the airplane is transportation and the carriage of persons or goods for any other corporation, for a fee or charge of any kind, would require the corporation operating the airplane to hold a commercial operator certificate under part 121 or 135, as appropriate."

This statement of the intent of subpart D highlights the importance of identifying, in the context of shared aircraft ownership and use arrangements, the person in operational control of the aircraft at any given time. Historically, this information has been used to determine whether an operation may be conducted under part 91 with adequate assurance of public safety, or must be conducted under the requirements of on-demand air passenger service under part 135. This statement also highlights the longstanding ability of aircraft owners to purchase aviation expertise for the purpose of managing, maintaining or otherwise aiding the operation of the aircraft they operate under part 91.

Current § 91.501 authorizes, under part 91, operations involving the personal use of aircraft (§ 91.501(b)(4)), the use of aircraft within the same corporate group (§ 91.501(b)(5)), and the use of time sharing agreements (§ 91.501(c)(1)), interchange agreements (§ 91.501(c)(2)), and joint ownership agreements (§ 91.501(c)(3)) within or outside of the same corporate group (§ 91.501(b)(6)).

General Discussion of the Proposal

It is within this legal context that the FOARC considered the regulation of fractional ownership programs today. During these deliberations, the FOARC determined that fractional owners flying aboard fractionally-owned aircraft contractually acknowledge and exercise substantial control over and bear substantial responsibility for the airworthiness and operation of their aircraft. Like whole aircraft owners, fractional owners can initiate, conduct, redirect and terminate a flight. Fractional owners also operate their aircraft under part 91 only for themselves and their guests and may not offer transportation for hire to the general public unless they do so under part 135 or part 121. Additionally, it should be noted that both fractional owners and whole aircraft owners: 1) conduct research so that they can be assured that they will select the right aircraft and realize an adequate return from their capital investment; 2) acquire an interest in an aircraft through a significant capital investment; 3) purchase aviation expertise for the purpose of managing, maintaining or otherwise aiding the operation of the aircraft they operate under part 91, including the option to select flight crews and; 4) bear the risk of loss or damage to the aircraft and the risk of diminution of value of the aircraft.

Based on its analysis of fractional ownership program arrangements, the FOARC concluded that fractional owners flying aboard fractionally-owned and operated aircraft share more of their regulatory characteristics with the owners of non-commercially operated aircraft than with on-demand operators. Consequently, the FOARC concluded that fractional ownership programs are

properly regulated under part 91 of the Federal Aviation Regulations. Fractional owners operating under part 91 are engaged in non-commercial operations and, as such, may not offer air transportation services (common carriage), air commerce services for compensation, chargeback, or hire without appropriate air carrier certification and appropriate economic authority, although fractional owners may be compensated to the extent permitted under applicable existing sections of part 91.

Fractional owners differ from a majority of whole business or personal aircraft owners in that 1) fractionally-owned aircraft typically have multiple owners, 2) their aircraft's availability is as a component of a pooled fleet, 3) the owners of a fractionally-owned aircraft agree to use the services of a single company to manage their aircraft, and 4) all owners agree to a uniform aircraft configuration. The FOARC concluded that these characteristics, unique among general aviation operations, suggest additional regulatory oversight under part 91.

To clearly define the safety responsibilities of fractional owners and fractional ownership program managers under the Federal Aviation Regulations, the FOARC recommended that a new subpart K of 14 CFR part 91 be established to regulate fractional ownership programs. Proposed subpart K clarifies the conditions under which fractional owners exercise operational control of fractional ownership program aircraft and specifies a fractional aircraft program manager's obligations with respect to its provision of aircraft management services related to the airworthiness and operation of fractional ownership program aircraft.

The FOARC recommended that proposed subpart K of part 91 should apply only to fractional ownership program aircraft and not to other business aircraft arrangements including traditional flight departments, the use of management companies providing aviation expertise, flying clubs, partnerships or other ownership forms that do not meet the definition of "fractional ownership program" set forth in proposed subpart K. Fractional ownership programs may be operated under part 121 or part 135, instead of proposed subpart K of part 91, if they comply with the requirements of those parts. Operations conducted under part 121 or part 135, as applicable, are not required to comply with proposed subpart K.

Existing fractional ownership programs have adopted best practices that have resulted in an outstanding safety record. The FOARC recommended that many of those best practices, together with new requirements, be codified in proposed subpart K. The FOARC recognized that the regulatory requirements proposed in subpart K impose a significant new regulatory standard upon all current and future fractional owners and program managers. The FOARC believed that this standard was necessary in the public interest to ensure the optimum level of public safety for fractional ownership program operations.

The FOARC concluded that certain changes to part 135 are required. As the FOARC evaluated existing best practices in the industry and parallel provisions of part 135 in developing proposed subpart K, the FOARC determined that certain provisions of proposed subpart K provide a level of safety equivalent to the parallel provisions of part 135. Corresponding amendments are proposed to the pertinent sections of part 135 to permit an alternative means of compliance for on-demand operators under these sections of part 135, as appropriate. These changes also reflect improvements

in technology and the ability to operate safely as proven by the operating experience of business aircraft operators, including fractional owners.

The FOARC recommended that, if this proposal is adopted, the FAA work closely with the affected parties and the industry to develop guidance and to implement the changes proposed to parts 91 and 135. The FOARC also recommended that the FAA commit sufficient resources to implement these changes.

The FOARC recommended that the FAA also establish a national point of contact for fractional ownership operational and airworthiness issues to ensure standardization of the implementation process and policy application. The FOARC recommended that procedures be put in place by FAA to ensure that fractional program managers also are subject to FAA oversight and surveillance equal to that experienced by part 135 or part 121 operators. The FOARC also recommended that approvals for fractional ownership program operations (such as MELs, RVSM, manual reviews and maintenance programs) be conducted through a process similar to part 135 and/or part 121 processes and procedures, as appropriate.

The FOARC recommended that the FAA provide equivalent assistance to part 135 operators endeavoring to meet the revised part 135 regulations. Finally, the FOARC recommended that the FAA conduct appropriate training and ensure that any internal administrative changes, necessary for on-going oversight of compliance with these regulations, are made. The consensus achieved by the FOARC was contingent upon the FAA's commitment to fully implement the FAA inspection and oversight requirement of part 91, subpart K to the degree currently employed in part 135 operations.

Section-by-Section Analysis

14 CFR part 91

Sections 91.1009 through 91.1013 Clarification of Operational Control Issues

It is important to clarify the concept of "operational control" in the context of fractional ownership programs. The FAA in the past has held that when more than one entity has some involvement in the operation of an aircraft, the entity which has "operational control" is the "operator" for purposes of legal responsibility for the safe operation of the flight and compliance with the Federal Aviation Regulations with respect to the flight. The traditional criteria applied by the FAA in determining who has operational control have focused on which entity makes certain decisions related to the flight, particularly decisions that bear on the safety of the flight and thus require an adequate level of aviation expertise.

While the FOARC felt that it was important for the FAA to continue to hold the entity in operational control of a flight responsible for the safe operation of the flight and compliance with the Federal Aviation Regulations with respect to the flight, the FOARC also felt that traditional notions of "operational control" are not obviously useful in the situations where owners of business aircraft do not possess aviation safety-related expertise and thus contract with an expert to provide

such expertise (as is often the case in fractional ownership programs as well as in the case of wholly-owned business aircraft).

It was the view of the FOARC that, in the context of fractional ownership programs, safety is best served by the FAA's applying a new definition of operational control specific to these programs, clarifying the regulatory compliance implications of operational control for all participants, and ensuring that those in operational control of fractional ownership program flights clearly understand and acknowledge the responsibilities attendant to that operational control.

Proposed § 91.1009 clarifies current law and policy by providing that the fractional owner is in operational control whenever the owner has directed that a fractional ownership program aircraft carry passengers or property designated by that owner and the aircraft is in fact carrying those passengers or property. This section requires, as a condition to the owner's being considered to be in operational control, that the owner have the rights and be subject to the limitations set forth in proposed §§ 91.1003 through 91.1013, which are intended to ensure that the owner: (1) has the ability to obtain adequate information to determine that the program is being conducted safely, (2) does not engage in commercial operations without the appropriate authority, (3) has advance notice when a non-program aircraft is substituted for a fractional ownership program aircraft on a flight for the owner, and (4) is fully aware of the responsibilities and implications of the owner being in operational control.

The owner, as the entity in operational control, remains responsible for the safe operation of the flight and compliance with the Federal Aviation Regulations with respect to the flight under this definition. The FOARC concluded, in the context of fractional ownership programs, that safety is best served by placing additional responsibility for safety decisions on the expert fractional ownership program manager who is subject to direct FAA safety regulation under proposed subpart K. Under this proposal, the fractional ownership program manager is jointly and severally responsible with the owner for the safe operation of the flight and for compliance with the FARs affecting that flight. Consequently, regulatory responsibility for the safe operation of a fractional ownership program aircraft is shared with equal and concurrent force, and with equal exposure to FAA enforcement, between the fractional owner operating the fractional ownership program aircraft and the fractional ownership program manager.

Proposed § 91.1011 clarifies the regulatory compliance implications of fractional owners' being in operational control. It provides that when a fractional owner is in operational control of a flight, that owner is responsible for compliance with all Federal Aviation Regulations pertaining to that flight. The section acknowledges that the owner may delegate some or all of the tasks associated with regulatory compliance to the program manager and may rely on the program manager's expertise. Nevertheless, the section clarifies that, in the event of such a delegation, the owner, as the entity in operational control, remains responsible for compliance. Since the program manager also has responsibilities for ensuring compliance under proposed subpart K and other proposed revisions to part 91, this regulatory structure provides to the FAA the option of taking enforcement action against the program manager, the owner in operational control of the pertinent flight, or both.

FOARC RECOMMENDATION
Note: This is a proposal to the FAA and <u>not</u> a pending *Notice of Proposed Rulemaking*.

Proposed § 91.1013 requires the program manager to brief each fractional owner on the owner's operational control responsibilities, and requires the owner to review and sign an acknowledgement of fractional owner's operational control responsibilities. The acknowledgement must state that the owner is in operational control of any fractional ownership program aircraft being used to carry persons or property designated by the owner. It must further state that when the owner is in operational control, the owner is: (1) responsible for compliance with all Federal Aviation Regulations applicable to the flight, even when the owner has contracted with the program manager to carry out tasks related to compliance, (2) exposed to FAA enforcement action for any noncompliance, and (3) exposed to significant liability risk in the event of any personal injury or death resulting from the flight. The acknowledgement form must further state that the owner has read, understands, and accepts the operational control responsibilities described in the acknowledgement, and understands that program flights over which the owner has operational control will be operated under part 91 rules rather than the part 121 or 135 rules that apply to commercial or air carrier operations. The acknowledgment also must state that the owner understands that the failure of either the program fractional owners or the program manager to comply with the Federal Aviation Regulations may result in enforcement action.

Sections 91.1014 through 91.1035, 91.1047, 91.1109 through 91.1115 and 135.21 Responsibility of Fractional Ownership Program Managers

One of the major concerns leading to formation of the FOARC was whether, and to what extent, fractional ownership program managers properly were subject to FAA surveillance and enforcement under the existing regulations when conducting program operations. The information developed by the FOARC indicated that program managers consider themselves subject to FAA surveillance and enforcement. It also is apparent that the majority of program managers voluntarily have adopted as standard practices systems and procedures that are intended to facilitate FAA surveillance and enforcement. The FOARC recommended that it would be prudent to conform part 91, subpart K to the existing industry practices and to the extent consistent with those practices, parts 119 and 135.

Proposed §§ 91.1014 and 91.1109 through 91.1115 would make it clear that the fractional ownership program manager, in addition to the owners, is responsible for the airworthiness, safe operation and maintenance of fractional ownership program aircraft. Under the proposed sections, the program manager is subject to both the surveillance and enforcement authority of the FAA. This responsibility is not predicated on operational control, which remains with the owner. Rather, it is based on the fractional ownership program manager's status as a provider of certain aircraft management services, the proper delivery of which is critical to aviation safety. The program manager's status in this regard is similar to that of a repair station.

The FOARC recommended that management specifications be issued to fractional ownership program managers. The issuance of management specifications that detail program managers' practices and procedures, and that state the program managers' authorized deviations and exemptions, would facilitate the oversight activities of the Flight Standards District Offices. The program manager, the fractional aircraft owners, and flight crew and ground and maintenance personnel shall be responsible for compliance with the management specifications. The management specifications must include the registration number and serial number for each

program aircraft. A current listing of names and addresses of each fractional owner must be available at the program managers' principal base of operations for FAA review. The management specifications must be available at the program managers' principal base of operations for owner and FAA review.

Accordingly, proposed § 91.1015 requires each fractional ownership program manager to hold management specifications. Proposed §§ 91.1017 and 91.1019 describe the procedures for amending, suspending, or revoking management specifications and for tests and inspections. Consistent with the requirement for management specifications, safety and security and the administration of drug and alcohol abuse programs are the responsibility of the program manager under proposed §§ 91.1021 and 91.1047.

Each fractional ownership program manager is required by proposed §§ 91.1023 and 91.1025 to create and maintain a "program operating manual." Proposed § 91.1023 further requires each fractional ownership program aircraft to have aboard the program operating manual. A similar amendment of § 135.21 is proposed to require a manual setting forth the certificate holder's flight procedures and policies aboard each aircraft. Recordkeeping requirements are the responsibility of the program manager under proposed § 91.1027. Proposed §§ 91.1029 through 91.1035 require the program manager to establish an aircraft scheduling and dispatching system to designate a pilot in command and second in command for each program flight, to provide all designated operating information to the pilot to carry aboard the aircraft and to ensure that a detailed pre-flight passenger briefing is conducted prior to the operation of a fractional ownership program aircraft on a program flight. Each pre-flight passenger briefing under proposed § 91.1035 must include the name of the entity in operational control of that flight and whether the flight is a non-commercial or commercial operation.

Sections 91.1001 through 91.1007 Defining Fractional Ownership

Since proposed subpart K will extend new regulatory requirements to fractional ownership programs, program managers and owners, it is important that these terms be defined with precision. Proposed §§ 91.1001 through 91.1007 would do so, relying in substantial part on industry guidelines developed early in 1999. If an aircraft ownership arrangement does not fit within these definitions, it may well fit within one or more of the existing operating models in part 91, subpart F, i.e., an interchange, joint ownership or a time share. In these circumstances proposed subpart K would not apply.

Proposed § 91.1001(b)(1) states five requirements for a fractional ownership program: a designated program manager; one or more owners per fractional ownership program aircraft, with at least one aircraft having multiple owners; a minimum fractional ownership interest of at least one-sixteenth (1/16) for a subsonic, fixed-wing or powered-lift fractional ownership program aircraft or at least one-thirty-second (1/32) for a rotorcraft fractional ownership program aircraft; a dry lease exchange agreement among all the owners; and multi-year program agreements. These five characteristics, when present in a program, distinguish a fractional ownership program from other arrangements that involve aircraft multiple ownership.

FOARC RECOMMENDATION
Note: This is a proposal to the FAA and <u>not</u> a pending *Notice of Proposed Rulemaking*.

The core of the definition of a fractional ownership program is the concept of a "minimum fractional ownership interest." In setting a minimum fractional ownership interest, and throughout proposed subpart K, the FOARC sought to prevent potential abuse by persons who might try to offer air charter transportation under the guise of a fractional ownership program. For example, it was noted that a 1/1000 interest in a used light piston single-engine airplane might be sold profitably for a very small dollar amount, entitling the purchaser thereof to an "ownership" interest equivalent to a few hours of occupied flight time in the aircraft, with pilot provided. The FOARC determined that aviation safety would be compromised if persons were permitted to offer what would amount to air charter services under proposed subpart K, thereby evading the important safety and supervision requirements of part 135 applicable to such service.

The FOARC concluded that a minimum fractional ownership interest of one sixteenth (1/16) of a subsonic, fixed-wing or powered-lift fractional ownership program aircraft, or one thirty-second (1/32) of a rotorcraft, would constitute a sufficient ownership interest to deter possible abuse.

In addition, the FOARC discussed the ownership of supersonic business aircraft. However, since no supersonic business aircraft exist today, the FOARC recommended that specific regulatory language addressing the operations of supersonic business aircraft not be developed until such aircraft are available.

As to rotorcraft, it was determined that abuse would be sufficiently deterred by setting the minimum fractional ownership interest at one thirty-second (1/32). Although rotorcraft offer unique vertical take-off and landing capabilities, require much smaller prepared landing and take-off surfaces, and are able to operate to and from unprepared sites more effectively than airplanes, the cruising speeds, range, and passenger capacity of business rotorcraft are small compared to those of comparably priced business airplanes. Moreover, while business airplanes that participate in fractional ownership programs are expected to operate frequently between airports separated by significant distances – often measured in thousands of miles – rotorcraft that participate in fractional ownership programs are not expected to operate outside of a range of, at most, a few hundred miles. In light of these factors, the FOARC determined that a smaller minimum fractional ownership interest would impose an equivalent burden on the ownership of rotorcraft as that imposed on airplane operations under subpart K.

Proposed § 91.1001(b)(6) defines fractional ownership program aircraft. A fractional ownership program aircraft is an aircraft in which a fractional owner has a minimum ownership interest, as the term has been defined in § 91.1001(b)(3), and is included in a dry-lease aircraft exchange. Aircraft which are owned at least in part by a fractional ownership program manager or an affiliated company meeting the definition of "fractional owner" under paragraph (b)(5) of proposed § 91.1001, and which meet the conditions set forth in paragraph (b)(6) of that section, are considered to be fractional ownership program aircraft.

Proposed § 91.1003 specifies the terms of the mandatory contract between the program fractional owners and the program manager. The contract must ensure that each owner has the right to inspect and to conduct audits of the program manager. This is the practice in most, if not all fractional ownership programs today. Proposed § 91.1005 prohibits a fractional owner from receiving any compensation other than that permitted by §§ 91.321 and 91.501. Proposed § 91.1005 also makes it

clear that the total hours flown by a fractional owner may not exceed the total hours associated with that fractional owner's share of ownership, consistent with current industry practice. Any hours in excess of that ownership share must be flown under parts 121 or 135. Proposed § 91.1007 requires a fractional owner to be notified in advance, when possible, that a non-program aircraft will be substituted for a fractional ownership program aircraft on a program flight. This reflects the current fractional ownership program practice.

Sections 91.1037, 135.23, 135.385 and 135.387 The "60% Rule"

Section 135.385 prohibits an air carrier subject to that section from taking off for a destination airport unless the Airplane Flight Manual indicates that the aircraft at normal loads is capable of a full stop landing at that airport within 60% of the effective length of the runway. There is no similar requirement in part 91 applicable to general aviation operations. As a consequence of the so-called "60% rule," on-demand operators may not operate into many airports that are safely served by business jets, including fractionally-owned business jets, under part 91.

The 60% rule reflects the inability to predict airplane landing performance that existed during the 1930s and 1940s. During this period, performance variations existed among aircraft of the same model produced by the same manufacturer, and these differences were often significant. Maintenance regulations and mechanic training relied extensively on an individual mechanic's capabilities, compared to today's development of approved airplane repair manuals. Replacement of parts and components occurred upon failure, and failures occurred often compared to today's operations. Modern pilot training is far more sophisticated, and emergency training is performed in simulators that have far greater capabilities than existed in previous decades. The physics of stopping an airplane are better understood today. Airport designs have been largely standardized, and pavement standards have been developed. Moreover, weather forecasts of wind or precipitation are far more accurate than in the past.

In the former environment, the Civil Aeronautics Board (CAB), which regulated all commercial operations at the time, felt it necessary to institute the 60% rule to compensate for the many unknown or unpredictable factors affecting airplane-landing distances. In 1958, the CAB was petitioned to modify the 60% rule. In issuing an update in July of 1958 to CAR SR-422, the CAB stated:

> "Strong representation has been made to the Board to the effect that the numerical factors applicable to the aforementioned rules are too high and should be reduced pending further experience. The Board considers that it would not be in the public interest to reduce any of these factors until such time as further experience indicates that they are in fact overly conservative. Realizing, however, that the issues are of considerable importance in prescribing a practical level of performance, the Board stands ready to reconsider the relevant provisions of this regulation at such time as substantiating information is received."

No review of the 60% rule has been conducted in the intervening four decades.

In the interim, the FAA has continually improved its guidelines regarding the accuracy and reliability of published airplane performance data. First adopted in 1964, FAR 25.21, "Airworthiness Standards: Transport Category Airplanes," states that each flight certification requirement must be demonstrated "by systematic investigation of each probable combination of weight and center of gravity." Additional guidance is published in AC 25-7, "Flight Test Guide For Certification Of Transport Category Airplanes." This Advisory Circular states that "[w]here variation in the parameter on which a tolerance is allowed will have an effect on the results of the test, the results should be corrected to the most critical value of the parameter within the operating envelope being approved."

With regard to determining landing distance for an Airplane Flight Manual (AFM), AC 25-7 also states, "[m]ore (flight) tests will be necessary if the distribution of the data does not give sufficient confidence in the parametric correlation. Past experience has shown that 40 landings would establish a satisfactory confidence level without further analysis."

The following table indicates some of the landing distance factors that contribute to safe aircraft operations and are required for aircraft certification under current FAA regulations but were not required when the FAA instituted the 60% rule.

Manufacturer's Requirements	Result	Added Safety Margin
Airborne Distance. Engines must be set to the high side of the flight idle trim band.	During landing at flight idle, engines will contribute the maximum amount of forward thrust when the throttles are in the flight idle position.	Actual landing distance will be shorter than calculated landing distance.
Airborne Distance Steep approaches and high touchdown sink rates, formerly considered "traditional", are "no longer considered acceptable".	Actual glideslope must be within –2.5 degrees to –3.5 degrees. Touchdown sink rates must be 8 feet per second or lower.	Actual landing distance will be shorter than calculated landing distance.
Airborne Distance. If derived, data must show an upper bound to the Part 25 zero-wind airborne distances achieved in past certifications and minimum speed (V_{REF}) loss.	The only time a manufacturer may approximate landing distance using a standard (FAA approved) equation is when data from past certifications is consistent and "clustered".	Actual landing distance will be shorter than calculated landing distance.
Airborne Distance. If derived, touchdown speed is assumed to be V_{REF} –3 knots.	Most touchdowns are at V_{REF} –5 knots.	Actual landing distance will be shorter than calculated landing distance.
Airborne Distance. If a manufacturer includes data from steeper approaches and higher touchdown rates in a parametric analysis, the most the air distance (or speed) from 50 feet can be reduced is ten percent. (The max. allowed glideslope is –3.5 degrees and the max. touchdown rate is 8 feet per second.)	Somewhat steeper approaches over the threshold, or slightly higher touchdown rates, will reduce landing distances more than is predicted in the AFM.	Actual landing distance will be shorter than calculated landing distance.
Landing Distance. Wheel brake assemblies must be at the fully worn limit of their allowable wear range.	In practice, wheel brake assemblies are most likely to be above the fully worn limit.	Actual landing distance will be shorter than calculated landing distance.

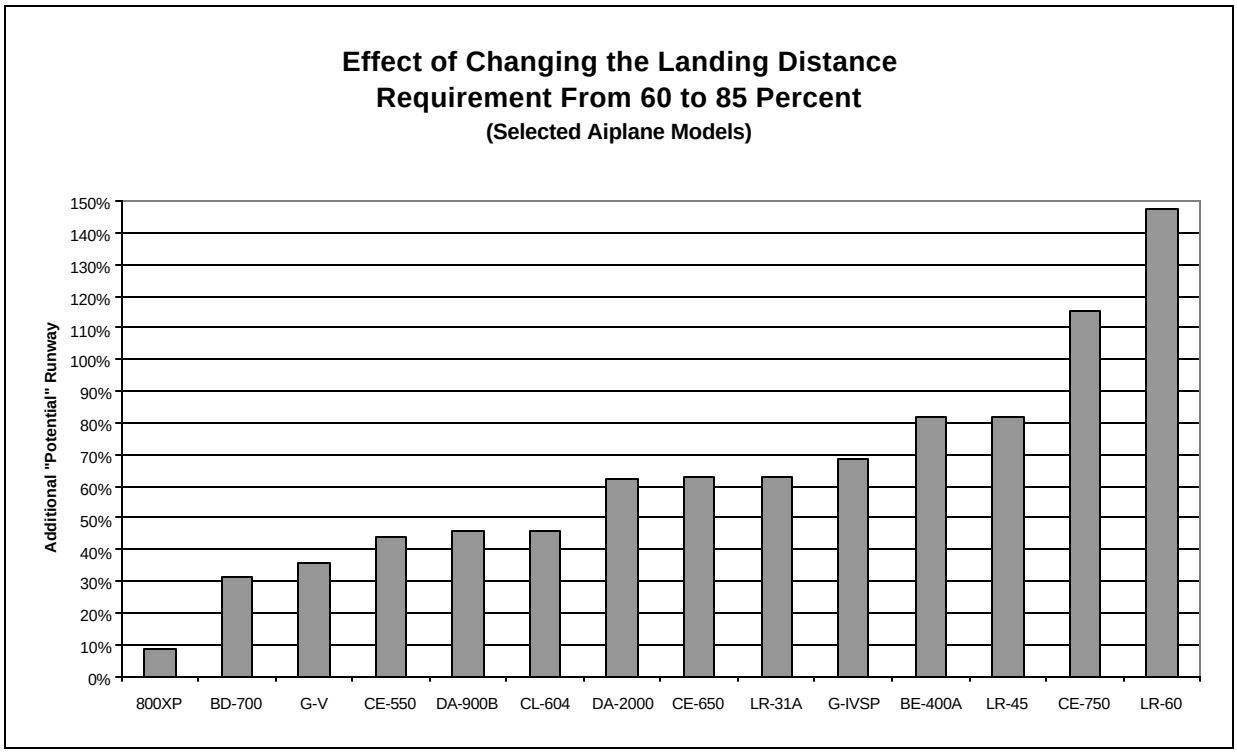
Landing Time Delays. It is assumed that the pilot delays activating the first deceleration device (brakes etc.) until at least one second after touchdown.	This is a conservative estimate of pilot reaction time.	Actual landing distance will be shorter than calculated landing distance.
Landing Time Delays. It is assumed that the pilot delays activating the second deceleration device (brakes etc.) until at least one second after activating the first deceleration device.	This is a conservative estimate of pilot reaction time.	Actual landing distance will be shorter than calculated landing distance.

Business jets have operated in an identical environment as part 135 air charter, but without the 60% rule, for many years. If the rule were necessary for this type of operation, business jets operated under part 91 should have a higher rate of runway overshoot events than air taxi and on-demand operators under part 135. However, such a difference has not been observed. Aviation safety data indicate that the landing accident rates under part 91 and 135 during the previous twelve-year period were nearly identical. A report prepared by Robert E. Breiling Associates of Boca Raton, Florida concluded, "it would appear that the 40% safety factor in present use for FAR 135 is excessive. A factor based on actual aircraft performance on contaminated runways with the inclusion of a 10% to 20% safety factor would be more appropriate."

Since the 1940s, when the 60% rule was first instituted, there have been significant advances in the accuracy of aircraft performance data and substantial technological improvements in aircraft stopping-system engineering and design. Consequently, the FOARC recommended changing the landing distance limitations requirement of part 135 to 85% for qualified on-demand operators. Over forty years of operating experience indicates this new rule will provide an appropriate margin of safety and, additionally, would subject both fractional ownership aircraft operations and qualified on-demand air charter flights to the same requirements. Proposed §§ 91.1037, 135.23, 135.385 and 135.387 would accomplish this in two ways. First, the full stop landing distance would be increased to 85% of the effective runway length for both the destination and alternate airports, consistent with the recommendations of the FOARC. Second, a fractional ownership program manager or a qualified on-demand operator would be allowed to include a Destination Airport Analysis procedure in its operating manual. This procedure, which would be reviewed and approved by the FAA using standards identical to those imposed on on-demand operators under amended § 135.23, would allow the 85% stopping distance requirement to be exceeded if appropriate planning in the circumstances indicated that there would be no compromise of safety. These options would be available only to fractional ownership program managers, who do not have any runway stopping requirement today, and to qualified on-demand operators who meet the flight crew experience, pilot operating limitations and pairing requirements of proposed §§ 91.1053 and 91.1055.

These changes would ensure that the current best practices of fractional ownership program managers continue, while applying those same best practices to on-demand operators with equivalent crew training and experience requirements. The result will be a substantial expansion of the opportunities for on-demand operators without any compromise of safety. The table below, prepared for the FOARC by the General Aviation Manufacturers Association (GAMA), shows the effect of changing the landing distance for popular business aircraft types.

FOARC RECOMMENDATION
Note: This is a proposal to the FAA and <u>not</u> a pending *Notice of Proposed Rulemaking*.



The most critical impact of the proposed rule is at airports with a single-runway. The table below, also prepared by GAMA for the FOARC, presents examples of single-airport runways where the new rule will allow part 135 operations previously restricted by the 60% rule.

Example of Single-Runway Airport	**Runway Length**	**Example of Airplanes Excluded Solely By The 60% Rule**	**Example of Airplanes Excluded Solely By An 85% Rule**
Meigs Field, IL	3,899	BE-400A, BE-800XP, CE-550, CE-650, CE-750, CL-604, DA-900B, DA-2000, GIVSP, LR-31A, LR-45, LR-60	Lear 60
Bonifay, FL	4,014	BE-400A, CE-650, CE-750, DA-2000, GIVSP, LR-31A, LR-45, LR-60	None
Los Angeles, CA (Whitman)	4,120	BE-400A, CE-650, CE-750, DA-2000, GIVSP, LR-45, LR-60	None
Covington, GA	4,203	BE-400A, CE-750, DA-2000, GIVSP, LR-45, LR-60	None
Hilton Head, SC	4,300	BE-400A, CE-750, G-IVSP, LR-45, LR-60	None
Glaskow, KY	4,586	BE-400A, CE-750, LR-45, LR-60	None
Washington Court House, OH	5,100	LR-60	None

Sections 91.1039, 135.1 and 135.225 IFR Destination Airport Weather Reporting

FOARC RECOMMENDATION
Note: This is a proposal to the FAA and <u>not</u> a pending *Notice of Proposed Rulemaking*.

Section 135.225(a) prohibits an air carrier subject to that section from initiating an instrument approach at a destination airport unless that airport has a weather reporting facility on the field. Part 91 does not impose a similar restriction on general aviation aircraft. The majority of U.S. airports used by general aviation aircraft do not have on-field weather reporting facilities, relying instead on the facilities at nearby airports.

The FAA has considered several petitions for exemption from the requirement of § 135.225(a). In most cases these petitions were denied, in part, because the petitioners failed to identify how their circumstances were different from the general class of regulated persons in order to justify relief by exemption. In a pending petition for rulemaking, the National Air Transportation Association, on behalf of its part 135 on-demand air charter membership, has asked for relief from the requirement subject to certain operational limitations.

Following extensive discussion of the regulation, the FOARC concluded that the public can best be served, and an equivalent level of safety maintained, by permitting an alternative means of compliance with the destination airport weather reporting facility requirements under part 135, and applying the same provision in part 91, subpart K. Fractional ownership program aircraft operated under part 91 have successfully and safely operated under conditions and circumstances similar to those experienced by part 135 operators. The FOARC examined available safety information, finding no evidence that safety has been compromised in part 91 fractional operations when an approved weather reporting facility is not available at a destination airport.

The FOARC is proposing that "qualified on-demand charter operators" be permitted to use an alternative means of compliance with the weather reporting requirement. The alternative means of compliance requires a weather report from a weather reporting facility at either the destination or a nearby airport and a current local altimeter setting for the destination airport or procedures for determining that setting in the air carrier's operations manual. To ensure an equivalent level of safety, only "qualified on-demand operators," as defined in proposed § 135.1(b), would be eligible to use this alternative means of compliance. "Qualified on-demand operators" must meet flight crew experience, pilot operating limitations and pairing requirements of proposed §§ 91.1053 and 91.1055.

An alternative means of compliance with §§ 135.225(a) will benefit the public in that numerous communities will be able to gain access to air transportation via air charter operations to and from local airports that presently do not have an approved weather reporting facility. The benefits of air charter include emergency medical transportation, disaster relief, transportation of critical materials and personnel, and various economic benefits.

Sections 91.1041 and 135.145 Aircraft Proving Tests

The FOARC recommended that when a fractional ownership program first starts up, or when such a program adds a more complex category or new class of aircraft, the 25-hour proving test requirement of § 135.145 should apply. However, the FOARC noted that the manner in which § 135.145(a) has been interpreted by the FAA requires proving tests whenever a new type of aircraft is added, even if that aircraft type is similar to existing aircraft in the operator's fleet. Accordingly, under proposed § 91.1041 and amended § 135.145(a), proving tests would be

required for fractional ownership program aircraft and part 135 aircraft only when operations first are instituted or when a more complex category or new class of aircraft is added to the fleet.

Sections 91.1043 and 135.167 Overwater Operations

In reviewing the overwater equipment requirements of § 91.509, members of the FOARC noted that some FAA offices interpret the "30 minutes or 100 miles" standard to mean that whichever measure is less is the one that applies. Given the speed of pressurized turbine-powered aircraft and the flight levels at which they operate, the difference between 30 minutes and 100 miles could be substantial. The FOARC recommended that if an aircraft can operate at high speed and high altitude, they should be given the option of meeting either standard, i.e., typically the 30 minute standard, weather conditions permitting. A new § 91.1043 would be added to make it clear that the additional overwater equipment requirements do not apply when a fractional ownership program flight proceeds with a pressurized turbine-powered aircraft certified to an altitude greater than 25,000 feet "more than 30 minutes or 100 miles from the nearest shore, whichever is greater," weather conditions permitting.

The FOARC believed that the same requirement should apply to on-demand operations under § 135.167. Although the overwater equipment requirements for such operations apply when the flight will proceed more than 50 miles from the nearest shore, they are often operated with equipment substantially similar to the equipment in the fractional aircraft programs. Accordingly, an exception is proposed for § 135.167 identical to that in the proposed § 91.1043.

Section 91.1045 Additional Equipment Requirements

The FOARC recommended that a fractional ownership program aircraft on a program flight be required to carry a cockpit voice recorder, flight recorder, ground proximity warning system, airborne thunderstorm detection equipment or airborne weather radar, and a traffic alert and collision avoidance system to the extent that such equipment would be required if that aircraft were operating under part 135. This conforms to the existing best practices of fractional ownership program managers and is consistent with maintaining an equivalent level of safety. Proposed § 91.1045 would extend these requirements to fractional ownership program aircraft, with the accompanying limitations as to size and type of aircraft to which those requirements apply.

Sections 91.1047, 135.249, 135.251 and 135.255 Drug and Alcohol Abuse Programs and Required Maintenance

The FOARC recommended a drug and alcohol abuse recognition and prevention program for all personnel in safety-related functions associated with fractional aircraft ownership programs. Notwithstanding the fact that there is no statutory requirement for drug and alcohol abuse testing of general aviation personnel, proposed § 91.1047 requires that appropriate testing programs be established for all fractional ownership program manager personnel performing safety sensitive program functions.

During the course of the FOARC's deliberations on this subject, representatives of on-demand operators pointed out an issue in the comparable part 135 requirements. When unanticipated

maintenance is required, such as a tire change, existing part 135 does not allow that maintenance to be performed at an airport that does not have available a maintenance provider properly enrolled and subject to the provisions of an approved anti-drug and alcohol program. This does not encourage safe operating practices. Accordingly, the FOARC recommended that the drug and alcohol abuse program requirements in both part 91, subpart K and part 135 should provide an exception for unanticipated required line maintenance, provided that the FAA is advised within 24 hours after such an event. This exception is set forth in proposed §§ 91.1047(d), 135.249(d), 135.251(c) and 135.255(c).

Sections 91.1049 through 91.1107 Personnel Requirements; Flight, Duty and Rest Time Requirements; and Testing and Training

The requirements relating to the qualifications, testing and training of crewmembers and flight, duty and rest time received considerable attention from the FOARC. Using previously developed industry guidelines and best practices as a starting point the FOARC recommended that proposed subpart K should include a comprehensive set of requirements intended to ensure that fractional ownership managers continue to maintain a high level of safety. Those requirements are set forth in proposed §§ 91.1049 through 91.1107. These sections establish new requirements for part 91 fractional ownership operations and reflect the unique characteristics of those operations.

Proposed § 91.1049 would require each program manager to publish pilot and flight attendant duty schedules and to staff, at a minimum, three pilots per fractional ownership program aircraft. Proposed § 91.1051 would require a fractional ownership program pilot safety background check. Proposed § 91.1053 would establish minimum experience and ratings requirements for pilots in fractional ownership programs. Small fractional ownership program operations may be unduly burdened by the minimum experience and ratings requirements established by proposed § 91.1053. Therefore, with safety being the key consideration, proposed § 91.1053 would also enable the Administrator to authorize deviations from minimum experience and rating requirements for smaller fractional ownership program operations because other acceptable and adequate minimum experience requirements may be appropriate.

Proposed § 91.1055 would establish operating limitations and pairing requirements. For example, a second in command with fewer than 100 hours of flight time flying for the program manager in that type of aircraft could not make a takeoff or landing in the designated situations where safety might be compromised.

Proposed §§ 91.1057 through 91.1061 would establish flight, duty and rest time requirements for pilots flying fractional ownership program aircraft on program flights. A comprehensive set of flight, duty and rest time requirements is proposed. For example, the definition section in proposed § 91.1057 includes a definition of reserve status that is intended to clearly delineate between reserve and standby status. The limitations are displayed in chart form consistent with the concept of “plain language” regulation. Because of concerns about Circadian rhythm patterns, minimum rest periods are established for east/west flights that cross five or more time zones.

Proposed §§ 91.1063 through 91.1107 set forth the testing and training requirements for fractional ownership program flight crews. The requirements reflect the existing best practices of fractional ownership program managers.

Sections 91.501 and 91.509 Conforming and Other Technical Amendments

A number of proposed changes are necessary to conform existing regulations to the proposed subpart K and for other technical purposes. They are discussed in order below.

Section 91.501 would be amended to include references to fractional ownership program aircraft. Section 91.509 would be amended to include a cross reference to the appropriate provision in proposed subpart K in addition to the clarifying language with respect to "30 minutes flying time or 100 nautical miles," discussed above under § 91.1043.

14 CFR part 119

Section 119.1 and 125.1 Applicability; Technical Amendment

Section 119.1 and 125.1 would be amended to include a reference to part 91, subpart K to make it clear parts 119 and 125 are not applicable to fractional ownership program aircraft. This would make it clear that operations of fractional ownership program aircraft having more than 20 seats or a maximum payload capacity of 6,000 pounds may be conducted under part 91, subpart K without the need for part 125 certification or a deviation from part 125, which is warranted based on the equivalent level of safety provided in subpart K for aircraft utilized in fractional ownership programs.

14 CFR part 135

Section 135.247 Pilot Qualifications: Recent Experience

On April 30, 1999, the FAA amended § 61.57 to provide an alternate means of compliance for pilots of type-rated aircraft to maintain night recency of experience. The FOARC recommended that due to the similar nature of operations and aircraft used, pilots used for on-demand part 135 operations also should be able to maintain night recency of experience using this alternate means of compliance.

Paperwork Reduction Act

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. Information collection requirements in this proposed rule previously have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and have been assigned OMB Control Numbers [XXXX-XXXX and YYYY-YYYY.]

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980, as amended, requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. And fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA has determined that this proposal: (1) would generate benefits that justify its costs and is a "significant regulatory action" as defined by Executive Order 12866 and under the Department of Transportation's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) because there has been considerable public interest in this subject; (2) would not have a significant impact on a substantial number of small entities; and (3) would not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Costs

[INSERT SUMMARY OF COST PORTION OF COST-BENEFIT ANALYSIS HERE**]**

Benefits

[INSERT SUMMARY OF BENEFIT PORTION OF COST-BENEFIT ANALYSIS HERE**]**

International Trade Impact Statement

This proposed rule would not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries and the import of foreign goods and services into the United States. After reviewing relevant legal and other materials, and following consultation with interested parties and the civil aviation authorities of other nations, the FAA has concluded that fractional ownership programs that are in compliance with the provisions of proposed subpart K of 14 CFR part 91 are not engaged in commercial aviation, but rather are engaged in that portion of non-commercial aviation commonly referred to in the United States as general aviation or business aviation. This proposal is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States. Furthermore, the proposal is consistent with the terms of several trade agreements to which the United States is a signatory, such as the Trade Agreements Act of 1979 (19 U.S.C. 2501 *et seq.*), incorporating the Agreement on Trade in Civil Aircraft (31 U.S.C. 619) and the Agreement on Technical Barriers to Trade (Standards) (19 U.S.C. 2531). Aircraft management services are not subject to general obligations and specific U.S. market access commitments under the General Agreement on Trade in Services (GATS) administered by the World Trade Organization (WTO). The proposed rule is fully consistent with United States' obligations and commitments under this treaty. The proposed

revisions to parts 91 and 135 also are consistent with 49 U.S.C. 40105, formerly § 1102(a) of the Federal Aviation Act of 1958, as amended, which requires the FAA to exercise and perform its powers and duties consistently with any obligation assumed by the United States in any agreement that may be in force between the United States and any foreign country or countries.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, § 605(b) of the 1980 Act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA conducted the required review of this proposal and determined that . . .[FOR FAA COMPLETION]

Federalism Implications

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified at 2 U.S.C. 1501-1571, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in an agency final rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.

Section 204(a) of the Reform Act, 2 U.S.C. 1534(a), requires each Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local and

tribal governments on a proposed "significant intergovernmental mandate.'' A "significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year.

Section 203 of the Reform Act, 2 U.S.C. 1533, which supplements § 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, each agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million a year, therefore the requirements of the Reform Act do not apply.

Compatibility With ICAO Standards

In keeping with the U.S. obligation under the Convention of International Civil Aviation, it is the FAA's policy to comply with the Standards and Recommended Practices of the International Civil Aviation Organization (ICAO) to the maximum extent practicable. For this notice, the FAA has determined that this proposal, if adopted, would not present any differences.

In view of the FAA's conclusion that fractional ownership program operations conducted in conformity with proposed subpart K of 14 CFR part 91 are general aviation activities, this proposed rule is not expected to conflict with the requirements of ICAO applicable to international general aviation operations.

Environmental Analysis

FAA Order 1050.1D defines the FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with the FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Pub. L. 94-163, as amended (42 U.S.C. 6362). It has been determined that it is not a major regulatory action under the provisions of the EPCA.

List of Subjects

14 CFR Part 91

Aircraft, Airworthiness directives and standards, Aviation safety, Safety.

14 CFR Part 119

Administrative practice and procedure, Air carriers, Aircraft, Aviation safety, Charter flights, Reporting and recordkeeping requirements.

14 CFR Part 125

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 135

Aircraft, Airplanes, Airworthiness, Airmen, Rotorcraft, Aviation safety, Safety.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 91 of Title 14, part 119 of Title 14, part 125 of Title 14 and part 135 of Title 14, Code of Federal Regulations (14 CFR 91, 119, 125 and 135) as follows:

PART 91-GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506-46507, 47122, 47508, 47528-47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

Subpart A-General

Subpart F - Large and Turbine-Powered Multiengine Airplanes and Fractional Ownership Program Aircraft

2. Amend § 91.501 by revising paragraphs (a) and (b) to read as follows:

§ 91.501 Applicability.
(a) This subpart prescribes operating rules, in addition to those prescribed in other subparts of this part, governing the operation of large airplanes of U.S. registry, turbojet-powered multiengine civil airplanes of U.S. registry, and fractional ownership program aircraft of U.S. registry that are operating under subpart K of this part. The operating rules in this subpart do not apply to those aircraft when they are required to be operated under parts 121, 125, 129, 135, and 137 of this chapter. (Section 91.409 prescribes an inspection program for large and for turbine-powered (turbojet and turboprop) multiengine airplanes and turbine-powered rotorcraft of U.S. registry when they are operated under this part or part 129 or 137.)
(b) Operations that may be conducted under the rules in this subpart instead of those in parts 121, 129, 135, and 137 of this chapter when common carriage is not involved, include-

* * *

(10) Any operation identified in paragraphs (b)(1) through (b)(9) of this section when conducted in a fractional ownership program aircraft operated by a fractional owner under subpart K of this part.

* * * * *

3. Amend § 91.509 by revising paragraphs (a) and (b) to read as follows:

§ 91.509 Survival equipment for overwater operations.
(a) * * * * *
(b) Except as provided in § 91.1043 of this part, no person may take off an airplane for flight over water more than 30 minutes flying time or 100 nautical miles from the nearest shore, whichever is greater, unless it has on board the following survival equipment:
* * * * *

4. Add subpart K to part 91 of title 14 Code of Federal Regulations to read as follows:

Subpart K-Fractional Ownership Operations
§ 91.1001 Applicability.
§ 91.1003 Management contract between owner and program manager.
§ 91.1005 Owner's use of program aircraft.
§ 91.1007 Advance notice of non-program aircraft substitution.
§ 91.1009 Clarification of when owner is in operational control.
§ 91.1011 Implications of owner being in operational control.
§ 91.1013 Owner's understanding and acknowledgement of its operational control responsibilities.
§ 91.1014 Manager's responsibility for ensuring compliance.
§ 91.1015 Management specifications.
§ 91.1017 Amending, suspending, or revoking program manager's management specifications.
§ 91.1019 Conducting tests and inspections.
§ 91.1021 Safety and security.
§ 91.1023 Program operating manual requirements
§ 91.1025 Program operating manual contents.
§ 91.1027 Recordkeeping.
§ 91.1029 Flight scheduling and locating requirements.
§ 91.1031 Pilot in command or second in command: Designation required.
§ 91.1033 Operating information required.
§ 91.1035 Passenger awareness.
§ 91.1037 Large transport and non-transport category aircraft: Turbine engine-powered: Limitations: Destination airports and alternate airports.
§ 91.1039 IFR takeoff, approach and landing minimums.
§ 91.1041 Aircraft proving tests.
§ 91.1043 Overwater operations.
§ 91.1045 Additional equipment requirements.
§ 91.1047 Drug and alcohol abuse program.

§ 91.1001 Applicability.

(a) This subpart prescribes rules, in addition to those prescribed in other subparts of this part, governing the operation of a fractional ownership program aircraft in a fractional ownership program.

(b) As used in this part-

(1) A *fractional ownership program* or *program* means any system of aircraft exchange involving two or more airworthy aircraft that consists of all of the following elements:

(i) The provision for fractional ownership program management services by a single fractional ownership program manager on behalf of the fractional owners;

(ii) One or more fractional owners per program aircraft, with at least one program aircraft having more than one owner;
(iii) Possession of at least a minimum fractional ownership interest in one or more program aircraft by each fractional owner;
(iv) A dry-lease aircraft exchange arrangement among all of the fractional owners; and
(v) Multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.
(2) A *dry-lease aircraft exchange* means an arrangement, documented by the written program agreements, under which the program aircraft are available, on an as needed basis, and subject to specified conditions, without crew, to each fractional owner.
(3) A *fractional ownership interest* means the ownership of an interest or holding of a multi-year leasehold interest and/or a multi-year leasehold interest that is convertible into an ownership interest in a program aircraft.
(4) A *minimum fractional ownership interest* means-
(i) A fractional ownership interest equal to, or greater than, one-sixteenth (1/16) of at least one subsonic, fixed-wing or powered-lift program aircraft; or
(ii) A fractional ownership interest equal to, or greater than, one-thirty-second (1/32) of at least one rotorcraft program aircraft.
(5) A *fractional owner* or *owner* means an individual or entity which possesses a minimum fractional ownership interest in a program aircraft and which has entered into the applicable program agreements.
(6) A *fractional ownership program aircraft* or *program aircraft* means an aircraft in which a fractional owner has a minimum fractional ownership interest and which has been included in the dry-lease aircraft exchange pursuant to the program agreements, and one or more of such aircraft referred to collectively.
(7) *Fractional ownership program management services* or *program management services* mean administrative and aviation support services furnished in accordance with the applicable requirements of this subpart or offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of program safety guidelines, and the coordination of the following:
(i) The scheduling of the program aircraft and crews;
(ii) Program aircraft maintenance;
(iii) Crew training for crews employed, furnished or contracted by the program manager or the fractional owner;
(iv) Satisfaction of recordkeeping requirements; and
(v) Development and use of a program operations manual and maintenance program manual.
(8) A *fractional ownership program manager* or *program manager* means the designated entity that offers fractional ownership program management services to fractional owners.

§ 91.1003 Management contract between owner and program manager.
Each owner shall have a contract with the program manager that-
(1) Requires the program manager to ensure that the program complies with all applicable Federal Aviation Regulations.
(2) Provides the owner the reasonable right to inspect, or have a designee of the owner inspect, the records of the program manager pertaining to the operational safety of the program, including all program log books and maintenance records.

(3) Provides the owner the reasonable right to audit, or have a designee of the owner audit, the operational safety aspects of the program, including all program log books and maintenance records.
(4) Designates the program manager as the owner's agent solely to receive service of notices pertaining to the program that the FAA seeks to provide to owners and authorizes the FAA to send such notices to the program manager solely in its capacity as the agent of the owner for such service.

§ 91.1005 Owner's use of program aircraft.
(a) Except as provided in paragraph (b) of this section, no owner may engage in the carriage of persons or property as a common carrier for compensation or hire using program aircraft unless the owner possesses an appropriate FAA air carrier certificate and appropriate economic authority from the Department of Transportation, and such operations are conducted under part 121 or 135 of this Title, as applicable.
(b) Nothing in this subpart precludes the owner from receiving such compensation as is permitted by §§ 91.321 or 91.501 for the owner's operation of a program aircraft.
(c) During the term of the multi-year program agreements under which a fractional owner has obtained a minimum fractional ownership interest in a program aircraft, the flight hours used during that term by the owner on program aircraft shall not exceed the total hours associated with the fractional owner's share of ownership.

§ 91.1007 Advance notice of non-program aircraft substitution.
Reasonable efforts shall be made to give notice to a fractional owner prior to the flight when a non-program aircraft is substituted for a program aircraft for the use of the fractional owner. Notification shall include the name of the person providing the non-program aircraft.

§ 91.1009 Clarification of when owner is in operational control.
(a) The owner is in operational control of a program flight when the owner-
(1) Has the rights and is subject to the limitations set forth in §§ 91.1003 through 91.1013;
(2) Has directed that a program aircraft carry passengers or property designated by that owner; and
(3) The aircraft is carrying those passengers or property.
(b) The owner is not in operational control of a flight in the following circumstances:
(1) A program aircraft is used for a flight for administrative purposes such as demonstration, positioning, ferrying, maintenance, or crew training, and no passengers or property designated by such owner are being carried; or
(2) The aircraft being used for the flight is being operated under part 121 or 135 of this chapter.

§ 91.1011 Implications of owner being in operational control.
Each owner in operational control of a program flight shall be responsible for complying with all pertinent Federal Aviation Regulations, including those related to airworthiness and operations in connection with the flight. Each owner may delegate some or all of the performance of the tasks associated with carrying out this responsibility to the program manager, and may rely on the program manager for aviation expertise. When the owner delegates performance of certain tasks to the program manager or relies on the program manager's expertise, the owner, as the entity in operational control and in addition to the program manager, shall be responsible to the FAA for compliance.

§ 91.1013 Owner's understanding and acknowledgement of its operational control responsibilities.

(a) Upon the signing of an initial program management services contract, or a renewal or extension of a program management services contract, the program manager shall brief the owner on the owner's operational control responsibilities, and the owner shall review and sign an acknowledgement of fractional owner's operational control responsibilities. The acknowledgement shall be included with the program management services contract. The acknowledgement shall state that the owner is in operational control of the aircraft and is aware of its operational control responsibilities in the program when the operation of a program aircraft for the owner will be conducted as a non-commercial operation under part 91. The acknowledgement also shall state that:

(i) the owner has responsibility for compliance with all Federal Aviation Regulations applicable to the flight;

(ii) the owner may be exposed to enforcement actions for any noncompliance; and

(iii) the owner may be exposed to significant liability risk in the event of a flight-related occurrence that causes personal injury or property damage. The owner's signature on the acknowledgement will serve as the owner's affirmation that the owner has read, understands, and accepts the operational control responsibilities described in the acknowledgement.

(b) Each program manager shall assure that the owner and owner's representatives have access to the acknowledgements for such owner's program aircraft. Each program manager shall assure that the FAA has access to the acknowledgements for all program aircraft.

§ 91.1014 Manager's responsibility for ensuring compliance.

The fractional ownership program manager shall ensure that its contract management assistance is sufficient to ensure owner compliance with all applicable sections of this part in program operations where a fractional owner has operational control.

§ 91.1015 Management specifications.

(a) Each person conducting operations under this subpart or furnishing fractional ownership program management services to fractional owners shall do so in accordance with management specifications issued by the Administrator to the fractional ownership program manager under this subpart. Management specifications shall include:

(1) The current list of all fractional owners;

(2) The authorizations, limitations, and procedures under which each kind of operation, if applicable, is to be conducted, including, time limitations or standards for their determination, for overhauling, inspecting, and checking airframes, engines, propellers, rotors, and emergency equipment;

(3) Procedures under which each class and size of aircraft is to be operated;

(4) The registration markings and serial numbers of each aircraft to be operated which are to be inspected under an approved airplane inspection program;

(5) The specific location of the program manager's principal base of operations and, if different, the address that shall serve as the primary point of contact for correspondence between the FAA and the program manager and the name and mailing address of the program manager's agent for service;

(6) Other business names the program manager may use;

(7) Authorization for the method of controlling weight and balance of aircraft;
(8) Any authorized deviation and exemption granted from any requirement of this chapter; and
(9) Any other information the Administrator determines is necessary.
(b) Management specifications issued under this subpart are effective unless-
(1) The management specifications are amended as provided in § 91.1017 of this part; or
(2) The Administrator suspends or revokes the management specifications for a kind of operation.
(c) At least 30 days before it proposes to establish or change the location of its principal base of operations, its main operations base, or its main maintenance base, a program manager must provide written notification to the Flight Standards District Office which issued the program manager's management specifications.
(d) Each program manager shall maintain a complete and separate set of its management specifications at its principal base of operations.
(e) Each program manager shall insert pertinent excerpts of its management specifications, or references thereto, in its program manual and shall-
(1) Clearly identify each such excerpt as a part of its management specifications; and
(2) State that compliance with each management specifications requirement is mandatory.
(f) Each program manager shall keep each of its employees and other persons who perform duties material to its operations informed of the provisions of its management specifications that apply to that employee's or person's duties and responsibilities.
(g) Each program manager shall keep its management specifications at its principal base of operations, or at a place approved by the Administrator, and shall make its management specifications available for inspection by the Administrator and the fractional owner(s) to whom the program manager furnishes its services for review and audit.

§ 91.1017 Amending, suspending, or revoking program manager's management specifications.
(a) The Administrator may amend, suspend, or revoke any management specifications issued under this subpart if-
(1) The Administrator determines that safety and the public interest require the amendment, suspension, or revocation of any management specifications; or
(2) The program manager applies for the amendment of any management specifications, and the Administrator determines that safety and the public interest allows the amendment.
(b) Except as provided in paragraph (e) of this section, when the Administrator initiates an amendment, suspension, or revocation of a program manager's management specifications, the following procedure applies:
(1) The Flight Standards District Office that issued the program manager's management specifications shall notify the program manager in writing of the proposed amendment, suspension, or revocation.
(2) The Flight Standards District Office which issued the program manager's management specifications shall set a reasonable period (but not less than 7 days) within which the program manager may submit written information, views, and arguments on the amendment, suspension, or revocation.
(3) After considering all material presented, the Flight Standards District Office that issued the program manager's management specifications shall notify the program manager of-
(i) The adoption of the proposed amendment, suspension, or revocation;
(ii) The partial adoption of the proposed amendment, suspension, or revocation; or

(iii) The withdrawal of the proposed amendment, suspension, or revocation.
(4) If the Flight Standards District Office which issued the program manager's management specifications issues an amendment, suspension, or revocation of the management specifications, it becomes effective not less than 30 days after the program manager receives notice of it unless-
(i) The Flight Standards District Office which issued the program manager's management specifications finds under paragraph (e) of this section that there is an emergency requiring immediate action with respect to safety; or
(ii) The program manager petitions for reconsideration of the amendment, suspension, or revocation under paragraph (d) of this section.
(c) When the program manager applies for an amendment to its management specifications, the following procedure applies:
(1) The program manager must file an application to amend its management specifications-
(i) At least 90 days before the date proposed by the applicant for the amendment to become effective, unless a shorter time is approved, in cases of mergers; acquisitions of operational assets that require an additional showing of safety (e.g., proving tests); resumption of operations following a suspension of operations as a result of bankruptcy actions; or the initial introduction of a more complex category or new class of aircraft to a program.
(ii) At least 15 days before the date proposed by the applicant for the amendment to become effective in all other cases.
(2) The application must be submitted to the Flight Standards District Office that issued the program manager's management specifications in a form and manner prescribed by the Administrator.
(3) After considering all material presented, the Flight Standards District Office that issued the program manager's management specifications shall notify the program manager of-
(i) The adoption of the applied for amendment;
(ii) The partial adoption of the applied for amendment; or
(iii) The denial of the applied for amendment. The program manager may petition for reconsideration of a denial under paragraph (d) of this section.
(4) If the Flight Standards District Office which issued the program manager's management specifications approves the amendment, following coordination with the program manager regarding its implementation, the amendment is effective on the date the Administrator approves it.
(d) When a program manager seeks reconsideration of a decision of the Flight Standards District Office that issued the program manager's management specifications concerning the amendment, suspension, or revocation of management specifications, the following procedure applies:
(1) The program manager must petition for reconsideration of that decision within 30 days of the date that the program manager receives a notice of denial of the amendment, suspension, or revocation of its management specifications, or of the date it receives notice of an FAA-initiated amendment, suspension, or revocation of its management specifications, whichever circumstance applies.
(2) The program manager must address its petition to the Director, Flight Standards Service.
(3) A petition for reconsideration, if filed within the 30-day period, suspends the effectiveness of any amendment, suspension, or revocation issued by the Flight Standards District Office which issued the program manager's management specifications unless that District Office has found, under paragraph (e) of this section, that an emergency exists requiring immediate action with respect to safety.

(4) If a petition for reconsideration is not filed within 30 days, the procedures of paragraph (c) of this section apply.
(e) If the Flight Standards District Office which issued the program manager's management specifications finds that an emergency exists requiring immediate action with respect to safety that makes the procedures set out in this section impracticable or contrary to the public interest-
(1) The District Office may amend, suspend, or revoke the management specifications and makes the amendment, suspension, or revocation effective on the day the program manager receives notice of it; and
(2) In the notice to the program manager, the District Office shall articulate the reasons for its finding that an emergency exists requiring immediate action with respect to safety or that makes it impracticable or contrary to the public interest to stay the effectiveness of the amendment, suspension, or revocation.

§ 91.1019 Conducting tests and inspections.
(a) At any time or place, the Administrator may conduct an inspection or test to determine whether a program manager under this subpart is complying with title 49 of the United States Code, applicable regulations, or the program manager's management specifications.
(b) The program manager must-
(1) Make available to the Administrator at the program manager's principal base of operations the program manager's management specifications; and
(2) Allow the Administrator to make any test or inspection to determine compliance respecting any matter stated in paragraph (a) of this section.
(c) Each employee of, or person used by, the program manager who is responsible for maintaining the program manager's records must make those records available to the Administrator.
(d) The Administrator may determine a program manager's continued eligibility to hold its management specifications on any grounds listed in paragraph (a) of this section, or any other appropriate grounds.
(e) Failure by any program manager to make available to the Administrator upon request, the management specifications, or any required record, document, or report is grounds for suspension of all or any part of the program manager's management specifications.

§ 91.1021 Safety and security.
(a) Each program manager shall provide a safety program, and a security program as appropriate to its operations, staffed by or contracted to a knowledgeable and non-conflicted person or entity with direct access to the program's senior management.
(b) Each program manager shall establish an anonymous safety reporting procedure that fosters an environment of safety without any potential for retribution.
(c) Each program manager shall establish procedures to respond to an aviation incident/accident.

§ 91.1023 Program operating manual requirements.
(a) Each program manager shall prepare and keep current a program operating manual setting forth procedures and policies acceptable to the Administrator. This manual shall be used by each program manager's management, flight, ground, and maintenance personnel in conducting its operations. However, the Administrator may authorize a deviation from this paragraph if the

Administrator finds that, because of the limited size of the operation, part of the manual is not necessary for guidance of management, flight, ground, or maintenance personnel.
(b) Each program manager shall maintain at least one copy of the manual at its principal base of operations.
(c) No manual may be contrary to any applicable Federal regulations, foreign regulation applicable to the program operations in foreign countries, or the program manager's management specifications.
(d) A copy of the manual, or appropriate portions of the manual (and changes and additions) shall be made available to maintenance and ground operations personnel by the program manager and furnished to-
(1) Its flight crewmembers; and
(2) Representatives of the Administrator assigned to the program manager.
(e) Each employee of the program manager to whom a manual or appropriate portions of it are furnished under paragraph (d)(1) of this section shall keep it up to date with the changes and additions furnished to them.
(f) Except as provided in paragraph (h) of this section, each program aircraft shall have aboard the program operating manual.
(g) For the purpose of complying with paragraph (d) of this section, a program manager may furnish the persons listed therein with all or part of its manual in printed form or other form, acceptable to the Administrator, that is retrievable in the English language. If the program manager furnishes all or part of the manual in other than printed form, it shall ensure there is a compatible reading device available to those persons that provides a legible image of the maintenance information and instructions, or a system that is able to retrieve the maintenance information and instructions in the English language.
(h) If aircraft inspections or maintenance are conducted at specified stations where the approved inspection program operations manual is available, the program manager is not required to ensure that the program operating manual is carried aboard the aircraft en route to those stations.

§ 91.1025 Program operating manual contents.
(a) Each program operating manual must have the date of the last revision on each revised page. Unless otherwise authorized by the Administrator, the manual shall include the following:
(1) Procedures for ensuring compliance with aircraft weight and balance limitations;
(2) Copies of the program manager's management specifications or appropriate extracted information, including area of operations authorized, category and class of aircraft authorized, crew complements, and types of operations authorized;
(3) Procedures for complying with accident notification requirements;
(4) Procedures for ensuring that the pilot in command knows that required airworthiness inspections have been made and that the aircraft has been approved for return to service in compliance with applicable maintenance requirements;
(5) Procedures for reporting and recording mechanical irregularities that come to the attention of the pilot in command before, during, and after completion of a flight;
(6) Procedures to be followed by the pilot in command for determining that mechanical irregularities or defects reported for previous flights have been corrected or that correction has been deferred;

(7) Procedures to be followed by the pilot in command to obtain maintenance, preventive maintenance, and servicing of the aircraft at a place where previous arrangements have not been made by the program manager or owner, when the pilot is authorized to so act for the operator;
(8) Procedures for the continuation of flight if any item of equipment required for the particular type of operation becomes inoperative or unserviceable en route;
(9) Procedures for refueling aircraft, eliminating fuel contamination, protecting from fire (including electrostatic protection), and supervising and protecting passengers during refueling;
(10) Procedures to be followed by the pilot in command in the briefing under § 91.1035.
(11) Procedures for ensuring compliance with emergency procedures, including a list of the functions assigned each category of required crewmembers in connection with an emergency and emergency evacuation duties;
(12) The approved aircraft inspection program, when applicable;
(13) Procedures for the evacuation of persons who may need the assistance of another person to move expeditiously to an exit if an emergency occurs;
(14) Procedures for performance planning that take into account take off, landing and enroute conditions;
(15) Procedures for pre-employment, random, and post accident drug and alcohol abuse programs for employees engaged in safety sensitive program operations; and
(16) At the program manager's election for reduced runway operating length requirements under § 91.1037, an approved Destination Airport Analysis establishing procedures for establishing runway margins at destination airports beyond those otherwise permitted by § 91.1037, taking into account the following factors as supported by published aircraft performance data supplied by the aircraft manufacturer for the appropriate runway conditions-
(i) Pilot qualifications and experience;
(ii) Aircraft performance data to include normal, abnormal and emergency procedures as supplied by the aircraft manufacturer;
(iii) Airport facilities and topography;
(iv) Runway conditions (including contamination);
(v) Airport or area weather reporting; and
(vi) Appropriate additional runway margins, if required.
(17) A suitable system (which may include a coded or electronic system) that provides for preservation and retrieval of maintenance recordkeeping information required by § 91.1113 in a manner acceptable to the Administrator that provides-
(i) A description (or reference to date acceptable to the Administrator) of the work performed:
(ii) The name of the person performing the work if the work is performed by a person outside the organization of the certificate holder; and
(iii) The name or other positive identification of the individual approving the work.
(18) Other procedures and policy instructions regarding program operations that are issued by the program manager or required by the Administrator

§ 91.1027 Recordkeeping.

(a) Each program manager shall keep at its principal business office or at other places approved by the Administrator, and shall make available for inspection by the Administrator the following:
(1) The program manager's management specifications;

(2) A current list of the aircraft used or available for use in operations under this subpart, the operations for which each is equipped (e.g., MNPS, RNP5/10, RVSM, etc.), and the owners of each aircraft;
(3) An individual record of each pilot used in operations under this subpart, including the following information:
(i) The full name of the pilot.
(ii) The pilot certificate (by type and number) and ratings that the pilot holds.
(iii) The pilot's aeronautical experience in sufficient detail to determine the pilot's qualifications to pilot aircraft in operations under this subpart.
(iv) The pilot's current duties and the date of the pilot's assignment to those duties.
(v) The effective date and class of the medical certificate that the pilot holds.
(vi) The date and result of each of the initial and recurrent competency tests and proficiency checks required by this subpart and the type of aircraft flown during that test or check.
(vii) The pilot's flight time in sufficient detail to determine compliance with the flight time limitations of this subpart.
(viii) The pilot's check pilot authorization, if any.
(ix) Any action taken concerning the pilot's release from employment for physical or professional disqualification.
(x) The date of the completion of the initial phase and each recurrent phase of the training required by this subpart; and
(4) An individual record for each flight attendant used in operations under this subpart, including the following information:
(i) The full name of the flight attendant, and
(ii) The date and result of training required by § 91.1063, as applicable.
(b) Each program manager must keep each record required by paragraph (a)(2) of this section for at least 6 months, and must keep each record required by paragraphs (a)(3) and (a)(4) of this section for at least 12 months. When an employee is no longer employed or affiliated with the program manager or fractional owner, each record required by paragraphs (a)(3) and (a)(4) of this section shall be retained for at least 12 months.
(c) Each program manager shall be responsible for the preparation and accuracy of a load manifest in duplicate containing information concerning the loading of the aircraft. The manifest shall be prepared before each takeoff and shall include-
(1) The number of passengers;
(2) The total weight of the loaded aircraft;
(3) The maximum allowable takeoff weight for that flight;
(4) The center of gravity limits;
(5) The center of gravity of the loaded aircraft, except that the actual center of gravity need not be computed if the aircraft is loaded according to a loading schedule or other approved method that ensures that the center of gravity of the loaded aircraft is within approved limits. In those cases, an entry shall be made on the manifest indicating that the center of gravity is within limits according to a loading schedule or other approved method;
(6) The registration number of the aircraft or flight number;
(7) The origin and destination; and
(8) Identification of crewmembers and their crew position assignments.
(d) The pilot in command of the aircraft for which a load manifest must be prepared shall carry a copy of the completed load manifest in the aircraft to its destination. The program manager shall

keep copies of completed load manifest for at least 30 days at its principal operations base, or at another location used by it and approved by the Administrator.
(e) Each program manager shall be responsible for providing a written document that states the name of the entity having operational control on that flight and the part of this chapter under which the flight is operated. The pilot in command of the aircraft shall carry a copy of the document in the aircraft to its destination. The program manager shall keep a copy of the document for at least 30 days at its principal operations base, or at another location used by it and approved by the Administrator.
(f) Records may be kept either in paper or other form acceptable to the Administrator.

§ 91.1029 Flight scheduling and locating requirements.
(a) Except as provided in paragraph (d) of this section, each program manager shall ensure that a system will be in place to oversee aircraft scheduling and/or dispatching operations in connection with any program operations.
(b) Except as provided in paragraph (d) of this section, each program manager shall have procedures established for locating each flight, for which a flight plan is not filed, that-
(1) Provide the program manager with at least the information required to be included in a VFR flight plan;
(2) Provide for timely notification of an FAA facility or search and rescue facility, if an aircraft is overdue or missing; and
(3) Provide the program manager with the location, date, and estimated time for reestablishing radio or telephone communications, if the flight will operate in an area where communications cannot be maintained.
(c) Flight locating information shall be retained at the program manager's principal place of business, or at other places designated by the program manager in the flight locating procedures, until the completion of the flight.
(d) The requirements of this section shall not apply to a flight for which a FAA flight plan has been filed and the flight plan is canceled within 25 nautical miles of the destination airport.

§ 91.1031 Pilot in command or second in command: Designation required.
(a) Each program manager shall designate a-
(1) Pilot in command for each program flight; and
(2) Second in command for each program flight requiring two pilots.
(b) The pilot in command, as designated by the program manager, shall remain the pilot in command at all times during that flight.

§ 91.1033 Operating information required.
(a) Each program manager shall, for all program operations, provide the following materials, in current and appropriate form, accessible to the pilot at the pilot station, and the pilot shall use them-
(1) A cockpit checklist;
(2) For multiengine aircraft or for aircraft with retractable landing gear, an emergency cockpit checklist containing the procedures required by paragraph (c) of this section, as appropriate;
(1) Pertinent aeronautical charts;
(2) For IFR operations, each pertinent navigational en route, terminal area, and approach and letdown chart; and

(3) For multiengine aircraft, one-engine-inoperative climb performance data and if the aircraft is approved for use in IFR or over-the-top operations, that data shall be sufficient to enable the pilot to determine that the aircraft can, if carrying passengers, climb, with the critical engine inoperative, at least 50 feet per minute when operating at the minimum enroute altitudes of the route to be flown or 5,000 feet MSL, whichever is higher.
(b) Each cockpit checklist required by paragraph (a)(1) of this section shall contain the following procedures:
(1) Before starting engines;
(2) Before takeoff;
(3) Cruise;
(4) Before landing;
(5) After landing; and
(6) Stopping engines.
(c) Each emergency cockpit checklist required by paragraph (a)(2) of this section must contain the following procedures, as appropriate:
(1) Emergency operation of fuel, hydraulic, electrical, and mechanical systems.
(2) Emergency operation of instruments and controls.
(3) Engine inoperative procedures.
(4) Any other emergency procedures necessary for safety.

§ 91.1035 Passenger awareness.
(a) Prior to the operation of a program aircraft by a fractional owner, a pre-flight passenger safety briefing shall be conducted, that advises the passenger(s) as to-
(1) The name of the entity in operational control of the flight and whether the flight is conducted as a non-commercial operation or a commercial operation;
(2) The use of safety belts, including instructions on how to fasten and unfasten the safety belts. Each passenger shall be briefed on when, where, and under what conditions the safety belt must be fastened about that passenger. This briefing shall include a statement that the Federal Aviation Regulations require passenger compliance with crewmember instructions concerning the use of safety belts;
(3) The placement of seat backs in an upright position before takeoff and landing;
(4) Location and means for opening the passenger entry door and emergency exits;
(5) Location of survival equipment;
(6) If the flight involves extended overwater operation, ditching procedures and the use of required flotation equipment;
(7) If the flight involves operations above 12,000 feet MSL, the normal and emergency use of oxygen; and
(8) Location and operation of fire extinguishers.
(b) Prior to the operation of a program aircraft by a fractional owner, the pilot in command shall ensure that each person who may need the assistance of another person to move expeditiously to an exit if an emergency occurs and that person's attendant, if any, has received a briefing as to the procedures to be followed if an evacuation occurs. This paragraph does not apply to a person who has been given a briefing before a previous leg of a flight in the same aircraft.
(c) The oral briefing required by paragraph (a) of this section shall be given by the pilot in command or a crewmember or other qualified persons designated by the Administrator.

(d) The oral briefing required by paragraph (a) shall be supplemented by printed cards that must be carried in the aircraft in locations convenient for the use of each passenger. The cards shall-
(1) Be appropriate for the aircraft on which they are to be used;
(2) Contain a diagram of, and method of operating, the emergency exits; and
(3) Contain other instructions necessary for the use of emergency equipment on board the aircraft.
(e) The briefing required by paragraph (a) of this section may be delivered by means of an approved recording playback device that is audible to each passenger under normal noise levels.

§ 91.1037 Large transport category aircraft: Turbine engine-powered: Limitations: Destination and alternate airports.

(a) A program manager shall not permit a turbine engine-powered large transport category program aircraft on a program flight to take off at a weight at which (allowing for normal consumption of fuel and oil in flight to the destination or alternate airport) the weight of the aircraft on arrival would exceed the landing weight in the Airplane Flight Manual for the elevation of the destination or alternate airport and the ambient temperature anticipated at the time of landing.
(b) Except as provided in paragraph (c) of this section, a program manager shall not permit a turbine engine-powered large transport category program aircraft on a program flight to take off unless, on arrival at its destination or alternate airport, the airplane is able to come to a full stop landing within 85 percent of the effective length of the runway, from a point 50 feet above the intersection of the obstruction clearance plane and the runway, considering the runway elevation, airplane weight, ambient temperature and wind conditions anticipated upon arrival at that airport. The computation of landing weight and stopping distance must be done in accordance with the Airplane Flight Manual for that airplane, assuming:
(1) The aircraft is landed on the most favorable runway and in the most favorable direction, in still air.
(2) The aircraft is landed on the most suitable runway considering the probable wind velocity and direction and the ground handling characteristics of the airplane, and considering other conditions such as landing aids and terrain.
(c) A program manager shall not permit a turbine engine-powered large transport category program aircraft on a program flight to take off at a weight in excess of that allowed by the runway margin in paragraph (b) of this section unless such operation is permitted by an approved Destination Airport Analysis, which includes an analysis of pilot qualifications, in the program operating manual.
(d) Unless, based on a showing of actual operating landing techniques on wet runways, a shorter landing distance (but never less than that required by paragraph (b) of this section) has been approved for a specific type and model airplane and included in the Airplane Flight Manual, no person may take off a turbojet airplane when the appropriate weather reports or forecasts, or any combination of them, indicate that the runways at the destination or alternate airport may be wet or slippery at the estimated time of arrival unless the effective runway length at the destination airport is at least 115 percent of the runway length required under paragraph (b) of this section.

§ 91.1039 IFR takeoff, approach and landing minimums.

(a) No pilot on a program aircraft operating a program flight may begin an instrument approach procedure to an airport unless -

(1) Either that airport or the alternate airport has a weather reporting facility operated by the U.S. National Weather Service, a source approved by U.S. National Weather Service, or a source approved by the Administrator; and
(2) The latest weather report issued by the weather reporting facility includes a current local altimeter setting for the destination airport. If no local altimeter setting is available, the pilot may use alternate altimeter settings indicated on the approach chart.
(b) The MDA or DH and visibility landing minimums prescribed in part 97 of this chapter or in the program manager's management specifications are increased by 100 feet and 1/2 mile respectively, but not to exceed the ceiling and visibility minimums for that airport when used as an alternate airport, for each pilot in command of a turbine-powered aircraft who has not served at least 100 hours as pilot in command in that type of aircraft.
(c) No person may take off an aircraft under IFR from an airport where weather conditions are at or above takeoff minimums but are below authorized IFR landing minimums unless there is an alternate airport within one (1) hour's flying time (at normal cruising speed, in still air) of the airport of departure.
(d) Each pilot making an IFR takeoff or approach and landing at an airport shall comply with applicable instrument approach procedures and weather minimums prescribed by the authority having jurisdiction over the airport. In addition, no pilot may, at that airport take off when the visibility is less than 600 feet as determined by the pilot in command and the pilot in command shall have assured that this visibility is maintainable for the entire length of the runway.

§ 91.1041 Aircraft proving tests.

(a) No new program or existing program adding a more complex category or new class of aircraft may use a turbojet airplane, or an aircraft for which two pilots are required by the type certificate for operations under VFR, if the program manager has not previously proved that aircraft or an aircraft of the same make and similar design in any operation under this part, or parts 121 or 135, unless, in addition to the aircraft certification tests, at least 25 hours of proving tests acceptable to the Administrator have been flown by that program manager including-
(1) Five hours of night time, if night flights are to be authorized;
(2) Five instrument approach procedures under simulated or actual instrument weather conditions, if IFR flights are to be authorized; and
(3) Entry into a representative number of en route airports as determined by the Administrator.
(b) No program manager may carry passengers in an aircraft during proving tests, except those needed to make the tests and those designated by the Administrator to observe the tests. However, pilot flight training may be conducted during the proving tests.
(c) For the purposes of paragraph (a) of this section an aircraft is not considered to be of similar design if an alteration includes-
(1) The installation of powerplants other than those of a type similar to those with which it is certificated; or
(2) Alterations to the aircraft or its components that materially affect flight characteristics.
(d) The Administrator may authorize deviations from this section if the Administrator finds that special circumstances make full compliance with this section unnecessary.

§ 91.1043 Overwater operations.

For a pressurized turbine-powered program aircraft certified to an altitude greater than 25,000 feet, the program manager on a program flight may, taking into consideration weather conditions,

including water temperature and surface visibility, elect not to comply with the equipment requirements in § 91.509(b) of this part provided that the flight does not proceed more than 30 minutes or 100 miles from the nearest shore, whichever is greater.

§ 91.1045 Additional equipment requirements.

(a) No pilot may operate a program aircraft on a program flight unless the aircraft is equipped with the following -

(1) A cockpit voice recorder conforming to § 135.151 of this chapter as applicable to the size, type, and class of aircraft specified in that section.

(2) A flight recorder conforming to § 135.152 of this chapter as applicable to the size, type, and class of aircraft specified in that section.

(3) A ground proximity warning system conforming to § 135.153 of this chapter as applicable to the size, type, and class of aircraft specified in that section.

(4) Either:

(a) Airborne thunderstorm detection equipment conforming to § 135.173 of this chapter as applicable to the size, type, and class of aircraft specified in that section, or

(b) Airborne weather radar conforming to § 135.175 of this chapter as applicable to the size, type, and class of aircraft specified in that section.

(5) A traffic alert and collision avoidance system conforming to § 135.180 of this chapter as applicable to size, type, and class of aircraft specified in that section.

§ 91.1047 Drug and alcohol abuse program.

(a) Each program manager shall provide each employee performing safety sensitive program functions and his or her supervisor with appropriate drug and alcohol abuse recognition and prevention training.

(b) No program manager may use any contractor to perform safety sensitive program functions unless that contractor provides each employee performing that function for the program manager and his or her supervisor with appropriate drug and alcohol abuse recognition and prevention training.

(c) Each program manager shall establish for employees engaged in safety sensitive program operations pre-employment, random and post-accident drug and alcohol abuse testing programs which are consistent with the Drug-Free Workplace Act, 41 U.S.C. 701-707, and with state and local laws.

(d) If a program aircraft is operated on a program flight into an airport at which no maintenance providers are available that are qualified under paragraph (b) of this section and unanticipated maintenance is required, the program manager may use persons not meeting the requirements of paragraph (b) of this section to provide such unanticipated required maintenance. A program manager shall notify its Flight Standards District Office within 24 hours after being provided required line maintenance in accordance with this paragraph.

(e) Notwithstanding paragraphs (a), (b) and (c) of this section, a previously FAA approved drug and alcohol abuse recognition, prevention, training and testing program may be used to satisfy these requirements.

§ 91.1049 Personnel.

(a) Each program manager and each fractional owner shall use in program operations on program aircraft duly licensed and appropriate flight crews meeting § 91.1053 criteria and qualified under the Federal Aviation Regulations, and provide oversight of those crews.
(b) Unless otherwise authorized by the Administrator, each program manager shall employ at least three (3) pilots per program aircraft. Additional flight crew staffing shall be determined based on the following factors, at a minimum:
(1) Number of program aircraft.
(2) Program manager flight, duty, and rest time considerations, and in all cases within the limits set forth in §§ 91.1057 through 91.1061 of this part.
(3) Vacations.
(4) Operational efficiencies.
(5) Training.
(c) Each program manager shall publish pilot and flight attendant duty schedules sufficiently in advance to follow the flight, duty, and rest time limits in §§ 91.1057 through 91.1061 of this part in program operations.
(d) Unless otherwise authorized by the Administrator, when any program aircraft is flown in program operations with passengers onboard, the crew shall consist of at least two (2) qualified pilots employed or contracted by the program manager or the fractional owner.
(e) The program manager shall ensure that trained and qualified scheduling or dispatch personnel are on duty to schedule and dispatch program aircraft during all hours that such aircraft are available for program operations.

§ 91.1051 Pilot safety background check.
(a) Within 90 days of an individual beginning service as a pilot, the program manager shall request the following information:
(1) FAA records pertaining to-
(i) Current airman certificates and associated type ratings.
(ii) Current airman medical certificates.
(iii) Summaries of legal enforcement actions resulting in a finding by the Administrator of a violation.
(2) Records from all previous employers during the five years preceding the date of the employment application where the applicant worked as a pilot. If any of these firms are in bankruptcy, the records shall be requested from the trustees in bankruptcy for those employees. If the previous employer is no longer in business, a documented good faith effort shall be made to obtain the records. Records from previous employers shall include-
(i) Crew member and dispatcher records.
(ii) Drug testing - collection, testing, and rehabilitation records pertaining to the individual.
(iii) Alcohol misuse prevention program records pertaining to the individual.
(iv) The applicant's individual record that includes certifications, ratings, aeronautical experience, effective date and class of the medical certificate, etc.
(3) Motor vehicle driving record of the pilot candidate from the National Driver Register (NDR) database from the chief driver licensing official of the state.

§ 91.1053 Flight crew experience.

(a) No program manager or owner may use any person, nor may any person serve, as a pilot in command or second in command of a program aircraft, or as a flight attendant on a program aircraft, in program operations unless that person has the following experience and ratings:
(1) Total flight time for all pilots:
(i) Pilot in command - A minimum of 1,500 hours.
(ii) Second in command - A minimum of 500 hours.
(2) For multi-engine turbine-powered fixed-wing and powered-lift aircraft, the following FAA certification and ratings requirements:
(i) Pilot in command - Airline transport pilot and applicable type ratings
(ii) Second in command - Commercial pilot and instrument ratings
(iii) Flight attendant (if required or used) - Appropriately trained personnel
(3) For all other aircraft, the following FAA certification and rating requirements:
(i) Pilot in command - Commercial pilot and instrument ratings
(ii) Second in command - Commercial pilot and instrument ratings
(iii) Flight attendant (if required or used) - appropriately trained personnel
(b) The Administrator may authorize deviations from paragraph (a) of this section if the Flight Standards District Office which issued the program manager's management specifications finds that the crewmember has comparable experience, and can effectively perform the functions associated with the position in accordance with the requirements of this chapter. Grants of deviation under this paragraph may be granted after consideration of the size and scope of the operation, the qualifications of the intended personnel and the circumstances set forth in §§ 91.1055(b)(1)-(3). The Administrator may, at any time, terminate any grant of deviation authority issued under this paragraph.

§ 91.1055 Pilot operating limitations and pairing requirement.
(a) If the second in command of a fixed-wing program aircraft has fewer than 100 hours of flight time as second in command flying for the program manager in the type aircraft being flown, and the pilot in command is not an appropriately qualified check pilot, the pilot in command shall make all takeoffs and landings in any of the following situations:
(1) The prevailing visibility for the airport is at or below 3/4 mile.
(2) The runway visual range for the runway to be used is at or below 4,000 feet.
(3) The runway to be used has water, snow, slush or similar contamination that may adversely affect aircraft performance.
(4) The braking action on the runway to be used is reported to be less than "good."
(5) The crosswind component for the runway to be used is in excess of 15 knots.
(6) Windshear is reported in the vicinity of the airport.
(7) Any other condition in which the pilot in command determines it to be prudent to exercise the pilot in commands' authority.
(b) No program manager may release a program flight under this subpart unless, for that type aircraft, either the pilot in command or the second in command has at least 75 hours of program flight time, either as pilot in command or second in command. The Administrator may, upon application by the program manager, authorize deviations from the requirements of this paragraph by an appropriate amendment to the management specifications in any of the following circumstances:
(1) A newly authorized program manager does not employ any pilots who meet the minimum requirements of this paragraph.

(2) An existing program manager adds to its fleet a new category and class aircraft not used before in its operation.
(3) An existing program manager establishes a new base to which it assigns pilots who will be required to become qualified on the aircraft operated from that base.
(c) No flight crew may be assigned in any capacity in a program operation to more than two (2) aircraft types that require a separate type rating.

§ 91.1057 Flight, duty and rest time requirements.
(a) For purposes of this subpart-
Augmented flight crew means at least three (3) pilots.
Calendar day means the period of elapsed time, using Coordinated Universal Time or local time that begins at midnight and ends 24 hours later at the next midnight.
Duty period means the period of elapsed time between reporting for an assignment involving flight time and release from that assignment by the program manager. The time is calculated using either Coordinated Universal Time or local time to reflect the total elapsed time.
Multi-time zone flight means a continuous east or west flight crossing five (5) or more time zones that is not north of 60 degrees north latitude or south of 60 degrees south latitude.
Reserve status means that status in which a flight crew member, by arrangement with the program manager: holds himself or herself fit to fly to the extent that this is reasonably within the control of the flight crew member; remains within a reasonable response time of the aircraft as agreed between the flight crew member and the program manager; and maintains a ready means whereby the flight crew member may be contacted by the program manager. Reserve status is not part of any duty period. A flight crew member on reserve status who is called to duty may perform a normal duty period under §§ 91.1059 or 91.1061 if, following the flight crew member's last duty period, the flight crew member received the minimum rest before duty required by § 91.1059 or § 91.1061, respectively, before entering reserve status.
Rest period means a period of time required pursuant to this subpart that is free of all responsibility for work or duty prior to the commencement of, or following completion of, a duty period, and during which the flight crew member cannot be contacted by the program manager for purposes of program operations.
Standby means that portion of a duty period during which a flight crew member holds himself or herself in a condition of readiness to undertake a flight that in any way is greater than the state of readiness characteristic of reserve status, as that term is defined in this section.
(b) A program manager may assign a flight crewmember and a flight crewmember may accept an assignment for program flight time only when the applicable requirements of this section are met.
(c) No program manager may assign any flight crewmember to any program duty during any required rest period.
(d) Time spent in transportation, not local in character, that a program manager requires of a flight crewmember and provides to transport the crewmember to an airport at which he is to serve on a flight as a crewmember, or from an airport at which he was relieved from duty to return to his home station, is not considered part of a rest period.
(e) A flight crewmember may continue a flight assignment if the flights to which he is assigned normally terminate within the limitations, but due to circumstances beyond the control of the program manager or flight crewmember (such as adverse weather conditions), are not at the time of departure expected to reach their destination within the planned flight time.

(f) Each flight assignment shall provide for at least 10 consecutive hours of rest during the 24-hour period that precedes the planned completion time of the assignment.
(g) The program manager shall provide each flight crewmember at least 13 rest periods of at least 24 consecutive hours each in each calendar quarter.
(h) Any extension of planned duty or flight time shall be approved by the program manager with the concurrence of the flight crew but in no event may exceed the maximum time limits set forth in §§ 91.1059 and 91.1061 of this part, as applicable.
(i) A flight crew member on standby status may decline to undertake flight activities if, in the flight crew member's determination, to do so would not be consistent with the standard of safe operation required under this subpart, this part, and applicable provisions of this title.

§ 91.1059 Flight time limitations and rest requirements: One or two pilot crews.
(a) No program manager may assign any flight crewmember, and no flight crewmember may accept an assignment, for flight time as a member of a one- or two-pilot crew if that crewmember's total flight time in all commercial flying will exceed-
(1) 500 hours in any calendar quarter;
(2) 800 hours in any two consecutive calendar quarters; or
(3) 1,400 hours in any calendar year.
(b) Except as provided in paragraph (c) of this section, during any 24 consecutive hours the total flight time of the assigned flight, when added to any commercial flying by that flight crewmember, may not exceed-
(1) 8 hours for a flight crew consisting of one pilot; or
(2) 10 hours for a flight crew consisting of two pilots qualified under this subpart for the operation being conducted.
(c) No program manager may assign any flight crewmember, and no flight crewmember may accept an assignment, if that crewmember's flight time will exceed –

	Normal Duty	**Extension of Normal Duty**	**Planned Expanded Duty**
Minimum Rest Before Duty	10 Hours	10 Hours	10 Hours
Duty Time	Up to 14 Hours	Exceeding 14 Hours up to 16 Hours	Exceeding 14 Hours up to 16 Hours
Flight Time	Up to 10 Hours	Exceeding 10 Hours up to 12 Hours	Up to 12 Hours
Minimum Rest After Duty	10 Hours	12 Hours	Equal to Duty Time but never less than 10 Hours
Minimum Rest Period for Multi-Time Zone Flights.	14 Hours	18 Hours	24 Hours

§ 91.1061 Augmented flight crews.

(a) No program manager may assign any flight crewmember, and no flight crewmember may accept an assignment, if that crewmember's flight time will exceed –

	Normal Duty	**Planned Expanded Duty**
Minimum Rest Before Duty	10 Hours	10 Hours
Duty Time	14 Hours – 16 Hours	16 Hours – 18 Hours
Flight Time	Up to 12 Hours	Up to 16 Hours
Minimum Rest After Duty	12 Hours	18 Hours
Minimum Rest Period for Multi-Time Zone Flights	18 hours	24 hours

§ 91.1063 Testing and training: Applicability and terms used.
(a) Sections 91.1065 through 91.1107 of this part:
(1) Prescribe the tests and checks required for pilots and flight attendant crewmembers and for the approval of check pilots in operations under this subpart;
(2) Prescribe the requirements for establishing and maintaining an approved training program for crewmembers, check airman and instructors, and other operations personnel employed or used by the program manager in program operations;
(3) Prescribe the requirements for the qualification, approval and use of aircraft simulators and flight training devices in the conduct of an approved training program; and
(4) Permits training center personnel authorized under part 142 of this chapter who meet the requirements of § 91.1075 to provide training, testing and checking under contract or other arrangements to those persons subject to the requirements of this subpart.
(b) Program managers may elect to substitute appropriate rules from part 121, subparts N and O, of this chapter in place of the requirements in §§ 91.1065 through 91.1107 of this part, provided they obtain the prior approval of the Administrator for such substitution.
(c) For the purposes of this subpart, the following terms and definitions apply:
(1) *Initial training.* The training required for crewmembers who have not qualified and served in the same capacity on an aircraft.
(2) *Transition training.* The training required for crewmembers who have qualified and served in the same capacity on another aircraft.
(3) *Upgrade training.* The training required for crewmembers who have qualified and served as second in command on a particular aircraft type, before they serve as pilot in command on that aircraft.
(4) *Differences training.* The training required for crewmembers who have qualified and served on a particular type aircraft, when the Administrator finds differences training is necessary before a crewmember serves in the same capacity on a particular variation of that aircraft.
(5) *Recurrent training.* The training required for crewmembers to remain adequately trained and currently proficient for each aircraft crewmember position, and type of operation in which the crewmember serves.
(6) *In flight.* The maneuvers, procedures, or functions that shall be conducted in the aircraft.

(7) *Training center.* An organization governed by the applicable requirements of part 142 of this chapter that provides training, testing, and checking under contract or other arrangement to program managers subject to the requirements of this subpart.
(8) *Requalification training.* The training required for crewmembers previously trained and qualified, but who have become unqualified due to not having met within the required period the-
(i) Recurrent pilot testing requirements of § 91.1107;
(ii) Instrument proficiency check requirements of § 91.1069.

§ 91.1065 Initial and recurrent pilot testing requirements.
(a) No program manager may use a pilot, nor may any person serve as a pilot, unless, since the beginning of the 12th calendar month before that service, that pilot has passed a written or oral test, given by the Administrator or an authorized check pilot, on that pilot's knowledge in the following areas-
(1) The appropriate provisions of parts 61 and 91 of this chapter and the management specifications and the operating manual of the program manager;
(2) For each type of aircraft to be flown by the pilot, the aircraft powerplant, major components and systems, major appliances, performance and operating limitations, standard and emergency operating procedures, and the contents of the accepted operating manual or equivalent, as applicable;
(3) For each type of aircraft to be flown by the pilot, the method of determining compliance with weight and balance limitations for takeoff, landing and en route operations;
(4) Navigation and use of air navigation aids appropriate to the operation or pilot authorization, including, when applicable, instrument approach facilities and procedures;
(5) Air traffic control procedures, including IFR procedures when applicable;
(6) Meteorology in general, including the principles of frontal systems, icing, fog, thunderstorms, and windshear, and, if appropriate for the operation of the program manager, high altitude weather;
(7) Procedures for-
(i) Recognizing and avoiding severe weather situations;
(ii) Escaping from severe weather situations, in case of inadvertent encounters, including low-altitude windshear (except that rotorcraft aircraft pilots are not required to be tested on escaping from low-altitude windshear); and
(iii) Operating in or near thunderstorms (including best penetrating altitudes), turbulent air (including clear air turbulence), icing, hail, and other potentially hazardous meteorological conditions; and
(8) New equipment, procedures, or techniques, as appropriate.
(b) No program manager may use a pilot, nor may any person serve as a pilot, in any aircraft unless, since the beginning of the 12th calendar month before that service, that pilot has passed a competency check given by the Administrator or an authorized check pilot in that class of aircraft, if single-engine aircraft other than turbojet, or that type of aircraft, if rotorcraft, multiengine aircraft, or turbojet airplane, to determine the pilot's competence in practical skills and techniques in that aircraft or class of aircraft. The extent of the competency check shall be determined by the Administrator or authorized check pilot conducting the competency check. The competency check may include any of the maneuvers and procedures currently required for the original issuance of the particular pilot certificate required for the operations authorized and appropriate to the category, class and type of aircraft involved. For the purposes of this paragraph, type, as to an airplane, means any one of a group of airplanes determined by the Administrator to have a similar means of

propulsion, the same manufacturer, and no significantly different handling or flight characteristics. For the purposes of this paragraph, type, as to a rotorcraft, means a basic make and model.
(c) The instrument proficiency check required by § 91.1069 may be substituted for the competency check required by this section for the type of aircraft used in the check.
(d) For the purpose of this subpart, competent performance of a procedure or maneuver by a person to be used as a pilot requires that the pilot be the obvious master of the aircraft, with the successful outcome of the maneuver never in doubt.
(e) The Administrator or authorized check pilot certifies the competency of each pilot who passes the knowledge or flight check in the program manager's pilot records.
(f) All or portions of a required competency check may be given in an aircraft simulator or other appropriate training device, if approved by the Administrator. Each program manager shall ensure that each pilot annually receives at least one training session in a motion-based simulator, if available, for at least one program aircraft.

§ 91.1067 Initial and recurrent flight attendant crewmember testing requirements.
No program manager may use a flight attendant crewmember, nor may any person serve as a flight attendant crewmember unless, since the beginning of the 12th calendar month before that service, the program manager has determined by appropriate initial and recurrent testing that the person is knowledgeable and competent in the following areas as appropriate to assigned duties and responsibilities-
(a) Authority of the pilot in command;
(b) Passenger handling, including procedures to be followed in handling deranged persons or other persons whose conduct might jeopardize safety;
(c) Crewmember assignments, functions, and responsibilities during ditching and evacuation of persons who may need the assistance of another person to move expeditiously to an exit in an emergency;
(d) Briefing of passengers;
(e) Location and operation of portable fire extinguishers and other items of emergency equipment;
(f) Proper use of cabin equipment and controls;
(g) Location and operation of passenger oxygen equipment;
(h) Location and operation of all normal and emergency exits, including evacuation chutes and escape ropes; and
(i) Seating of persons who may need assistance of another person to move rapidly to an exit in an emergency as prescribed by the program manager's operations manual.

§ 91.1069 Flight crew: Instrument proficiency check requirements.
(a) No program manager may use a pilot, nor may any person serve, as a pilot in command of an aircraft under IFR unless, since the beginning of the 6th calendar month before that service, that pilot has passed an instrument proficiency check under this section administered by the Administrator or an authorized check pilot.
(b) No program manager may use a pilot, nor may any person serve, as a second command pilot of an aircraft under IFR unless, since the beginning of the 12th calendar month before that service, that pilot has passed an instrument proficiency check under this section administered by the Administrator or an authorized check pilot.
(c) No pilot may use any type of precision instrument approach procedure under IFR unless, since the beginning of the 6th calendar month before that use, the pilot satisfactorily demonstrated that

type of approach procedure. No pilot may use any type of nonprecision approach procedure under IFR unless, since the beginning of the 6th calendar month before that use, the pilot has satisfactorily demonstrated either that type of approach procedure or any other two different types of nonprecision approach procedures. The instrument approach procedure or procedures shall include at least one straight-in approach, one circling approach, and one missed approach. Each type of approach procedure demonstrated shall be conducted to published minimums for that procedure.
(d) The instrument proficiency checks required by paragraphs (a) and (b) of this section consists of an oral or written equipment test and a flight check under simulated or actual IFR conditions. The equipment test includes questions on emergency procedures, engine operation, fuel and lubrication systems, power settings, stall speeds, best engine-out speed, propeller and supercharger operations, and hydraulic, mechanical, and electrical systems, as appropriate. The flight check includes navigation by instruments, recovery from simulated emergencies, and standard instrument approaches involving navigational facilities which that pilot is to be authorized to use.
(e) Each pilot taking the instrument proficiency check shall show that standard of competence required by § 91.1065(d).
(1) The instrument proficiency check must-
(i) For a pilot in command of an aircraft, include the procedures and maneuvers for an airline transport pilot certificate in the particular type of aircraft, if appropriate; and
(ii) For a rotorcraft pilot in command or a second in command of any aircraft include the procedures and maneuvers for a commercial pilot certificate with an instrument rating and, if required, for the appropriate type rating.
(2) The instrument proficiency check must be given by an authorized check airman or by the Administrator.
(f) If the pilot is assigned to pilot only one type of aircraft, that pilot shall take the instrument proficiency check required by paragraph (a) of this section in that type of aircraft.
(g) If the pilot in command is assigned to pilot more than one type of aircraft, that pilot shall take the instrument proficiency check required by paragraph (a) of this section in each type of aircraft to which that pilot is assigned, in rotation, but not more than one flight check during each period described in paragraph (a) of this section.
(h) If the pilot in command is assigned to pilot both single-engine and multiengine aircraft, that pilot shall initially take the instrument proficiency check required by paragraph (a) of this section in a multiengine aircraft, and each succeeding check alternately in single-engine and multiengine aircraft, but not more than one flight check during each period described in paragraph (a) of this section. All or portions of a required flight check may be given in an aircraft simulator or other appropriate training device, if approved by the Administrator.
(i) All or portions of a required flight check may be given in an aircraft simulator or other appropriate training device, if approved by the Administrator.
(j) If the pilot in command is authorized to use an autopilot system in place of a second in command, that pilot shall show, during the required instrument proficiency check, that the pilot is able (without a second in command) both with and without using the autopilot to-
(1) Conduct instrument operations competently; and
(2) Properly conduct air-ground communications and comply with complex air traffic control instructions.
(3) Each pilot taking the autopilot check shall show that, while using the autopilot, the aircraft can be operated as proficiently as it would be if a second in command were present to handle air-

ground communications and air traffic control instructions. The autopilot check need only be demonstrated once every 12 calendar months during the instrument proficiency check required under paragraph (a) of this section.

§ 91.1071 Crewmember: Tests and checks, grace provisions, training to accepted standards.
(a) If a crewmember who is required to take a test or a flight check under this subpart, completes the test or flight check in the calendar month before or after the calendar month in which it is required, that crewmember is considered to have completed the test or check in the calendar month in which it is required.
(b) If a pilot being checked under this subpart fails any of the required maneuvers, the person giving the check may give additional training to the pilot during the course of the check. In addition to repeating the maneuvers failed, the person giving the check may require the pilot being checked to repeat any other maneuvers that are necessary to determine the pilot's proficiency. If the pilot being checked is unable to demonstrate satisfactory performance to the person conducting the check, the program manager may not use the pilot, nor may the pilot serve, as a flight crewmember in operations under this subpart until the pilot has satisfactorily completed the check.

§ 91.1073 Training program: General.
(a) Each program manager required to have a training program under § 91.1097 shall:
(1) Establish, obtain the appropriate initial and final approval of, and provide a training program that meets this subpart and that ensures that each crewmember, flight instructor, check airman, and each person assigned duties for the carriage and handling of hazardous materials (as defined in 49 CFR 171.8) is adequately trained to perform their assigned duties.
(2) Provide adequate ground and flight training facilities and properly qualified ground instructors for the training required by this subpart.
(3) Provide and keep current for each aircraft type used and, if applicable, the particular variations within the aircraft type, appropriate training material, examinations, forms, instructions, and procedures for use in conducting the training and checks required by this subpart.
(4) Provide enough flight instructors, check airmen, and simulator instructors to conduct required flight training and flight checks, and simulator training courses allowed under this subpart.
(b) Whenever a crewmember who is required to take recurrent training under this subpart completes the training in the calendar month before, or the calendar month after, the month in which that training is required, the crewmember is considered to have completed it in the calendar month in which it was required.
(c) Each instructor, supervisor, or check airman who is responsible for a particular ground training subject, segment of flight training, course of training, flight check, or competence check under this subpart shall certify as to the proficiency and knowledge of the crewmember, flight instructor, or check airman concerned upon completion of that training or check. That certification must be made a part of the crewmember's record. When the certification required by this paragraph is made by an entry in a computerized recordkeeping system, the certifying instructor, supervisor, or check airman, shall be identified with that entry. However, the signature of the certifying instructor, supervisor, or check airman, is not required for computerized entries.
(d) Training subjects that apply to more than one aircraft or crewmember position and that have been satisfactorily completed during previous training while employed by the program manager for another aircraft or another crewmember position, need not be repeated during subsequent training other than recurrent training.

(e) Aircraft simulators and other training devices may be used in the program manager's training program if approved by the Administrator.
(f) Each program manager shall be responsible for establishing safe and efficient crew management practices for all phases of flight in program operations including cockpit resource management training for all crew members used in program operations.
(g) Notwithstanding this subpart, a program manager may substitute appropriate rules from part 121, subparts N and O provided the program manager obtains authorization from the Administrator.

§ 91.1075 Training program: Special rules.
(a) Other than the program manager, only another program manager operating under this subpart or a training center certificated under part 142 of this chapter is eligible under this subpart to provide training, testing, and checking under contract or other arrangement to those persons subject to the requirements of this subpart.
(b) A program manager may contract with, or otherwise arrange to use the services of, a training center certificated under part 142 of this chapter to provide training, testing, and checking required by this subpart only if the training center-
(1) Holds applicable training specifications issued under part 142 of this chapter;
(2) Has facilities, training equipment, and courseware meeting the applicable requirements of part 142 of this chapter;
(3) Has approved curriculums, curriculum segments, and portions of curriculum segments applicable for use in training courses required by this subpart; and
(4) Has sufficient instructor and check airmen qualified under the applicable requirements of §§ 91.1089 through 91.1095 to provide training, testing, and checking to persons subject to the requirements of this subpart.

§ 91.1077 Training program and revision: Initial and final approval.
(a) To obtain initial and final approval of a training program, or a revision to an approved training program, each program manager must submit to the Administrator-
(1) An outline of the proposed or revised curriculum, that provides enough information for a preliminary evaluation of the proposed training program or revision; and
(2) Additional relevant information that may be requested by the Administrator.
(b) If the proposed training program or revision complies with this subpart, the Administrator grants initial approval in writing after which the program manager may conduct the training under that program. The Administrator then evaluates the effectiveness of the training program and advises the program manager of deficiencies, if any, that must be corrected.
(c) The Administrator grants final approval of the proposed training program or revision if the program manager shows that the training conducted under the initial approval in paragraph (b) of this section ensures that each person who successfully completes the training is adequately trained to perform that person's assigned duties.
(d) Whenever the Administrator finds that revisions are necessary for the continued adequacy of a training program that has been granted final approval, the program manager shall, after notification by the Administrator, make any changes in the program that are found necessary by the Administrator. Within 30 days after the program manager receives the notice, it may file a petition to reconsider the notice with the Administrator. The filing of a petition to reconsider stays the notice pending a decision by the Administrator. However, if the Administrator finds that there is an

emergency that requires immediate action in the interest of safety, the Administrator may, upon a statement of the reasons, require a change effective without stay.

§ 91.1079 Training program: Curriculum.

(a) Each program manager must prepare and keep current a written training program curriculum for each type of aircraft for each crewmember required for that type aircraft. The curriculum must include ground and flight training required by this subpart.
(b) Each training program curriculum must include the following:
(1) A list of principal ground training subjects, including emergency training subjects, that are provided.
(2) A list of all the training devices, mockups, systems trainers, procedures trainers, or other training aids that the program manager will use.
(3) Detailed descriptions or pictorial displays of the approved normal, abnormal, and emergency maneuvers, procedures and functions that will be performed during each flight training phase or flight check, indicating those maneuvers, procedures and functions that are to be performed during the inflight portions of flight training and flight checks.

§ 91.1081 Crewmember training requirements.

(a) Each program manager must include in its training program the following initial and transition ground training as appropriate to the particular assignment of the crewmember:
(1) Basic indoctrination ground training for newly hired crewmembers including instruction in at least the-
(i) Duties and responsibilities of crewmembers as applicable;
(ii) Appropriate provisions of this chapter;
(iii) Contents of the program manager's management specifications (not required for flight attendants); and
(iv) Appropriate portions of the program manager's operating manual.
(2) The initial and transition ground training in §§ 91.1101 and 91.1105, as applicable.
(3) Emergency training in § 91.1083.
(b) Each training program shall provide the initial and transition flight training in § 91.1103, as applicable.
(c) Each training program must provide recurrent ground and flight training in § 91.1107.
(d) Upgrade training in §§ 91.1101 and 91.1103 for a particular type aircraft may be included in the training program for crewmembers who have qualified and served as second in command on that aircraft.
(e) In addition to initial, transition, upgrade and recurrent training, each training program must provide ground and flight training, instruction, and practice necessary to ensure that each crewmember-
(1) Remains adequately trained and currently proficient for each aircraft, crewmember position, and type of operation in which the crewmember serves; and
(2) Qualifies in new equipment, facilities, procedures, and techniques, including modifications to aircraft.

§ 91.1083 Crewmember emergency training.

(a) Each training program shall provide emergency training under this section for each aircraft type, model, and configuration, each crewmember, and each kind of operation conducted, as appropriate for each crewmember and the program manager.
(b) Emergency training must provide the following:
(1) Instruction in emergency assignments and procedures, including coordination among crewmembers.
(2) Individual instruction in the location, function, and operation of emergency equipment including-
(i) Equipment used in ditching and evacuation;
(ii) First aid equipment and its proper use; and
(iii) Portable fire extinguishers, with emphasis on the type of extinguisher to be used on different classes of fires.
(3) Instruction in the handling of emergency situations including-
(i) Rapid decompression;
(ii) Fire in flight or on the surface and smoke control procedures with emphasis on electrical equipment and related circuit breakers found in cabin areas;
(iii) Ditching and evacuation;
(iv) Illness, injury, or other abnormal situations involving passengers or crewmembers; and
(v) Hijacking and other unusual situations.
(4) Review of the program manager's previous aircraft accidents and incidents involving actual emergency situations.
(c) Each crewmember must perform at least the following emergency drills, using the proper emergency equipment and procedures, unless the Administrator finds that, for a particular drill, the crewmember can be adequately trained by demonstration:
(1) Ditching, if applicable.
(2) Emergency evacuation.
(3) Fire extinguishing and smoke control.
(4) Operation and use of emergency exits, including deployment and use of evacuation chutes, if applicable.
(5) Use of crew and passenger oxygen.
(6) Removal of life rafts from the aircraft, inflation of the life rafts, use of life lines, and boarding of passengers and crew, if applicable.
(7) Donning and inflation of life vests and the use of other individual flotation devices, if applicable.
(d) Crewmembers who serve in operations above 25,000 feet must receive instruction in the following:
(1) Respiration.
(2) Hypoxia.
(3) Duration of consciousness without supplemental oxygen at altitude.
(4) Gas expansion.
(5) Gas bubble formation.
(6) Physical phenomena and incidents of decompression.

§ 91.1085 Training requirements: Handling and carriage of hazardous materials.

(a) Except as provided in paragraph (d) of this section, no program manager may use any person to perform, and no person may perform, any assigned duties and responsibilities for the handling or

carriage of hazardous materials (as defined in 49 CFR 171.8), unless within the preceding 12 calendar months that person has satisfactorily completed initial or recurrent training in an appropriate training program established by the program manager, which includes instruction regarding-
(1) The proper shipper certification, packaging, marking, labeling, and documentation for hazardous materials; and
(2) The compatibility, loading, storage, and handling characteristics of hazardous materials.
(b) Each program manager shall maintain a record of the satisfactory completion of the initial and recurrent training given to crewmembers and ground personnel who perform assigned duties and responsibilities for the handling and carriage of hazardous materials.
(c) Each program manager that elects not to accept hazardous materials shall ensure that each crewmember is adequately trained to recognize those items classified as hazardous materials.
(d) If a program manager operates into or out of airports at which trained employees or contact personnel are not available, it may use persons not meeting the requirements of paragraphs (a) and (b) of this section to load, offload, or otherwise handle hazardous materials if these persons are supervised by a crewmember who is qualified under paragraphs (a) and (b) of this section.

§ 91.1087 Approval of aircraft simulators and other training devices.
(a) Training courses using aircraft simulators and other training devices may be included in the program manager's training program if approved by the Administrator.
(b) Each aircraft simulator and other training device that is used in a training course or in checks required under this subpart must meet the following requirements:
(1) It must be specifically approved for-
(i) The program manager; and
(ii) The particular maneuver, procedure, or crewmember function involved.
(2) It must maintain the performance, functional, and other characteristics that are required for approval.
(3) Additionally, for aircraft simulators, it must be-
(i) Approved for the type aircraft and, if applicable, the particular variation within type for which the training or check is being conducted; and
(ii) Modified to conform with any modification to the aircraft being simulated that changes the performance, functional, or other characteristics required for approval.
(c) A particular aircraft simulator or other training device may be used by more than one program manager.
(d) In granting initial and final approval of training programs or revisions to them, the Administrator considers the training devices, methods, and procedures listed in the program manager's curriculum under § 91.1079.

§ 91.1089 Qualifications: Check airmen (aircraft) and check airmen (simulator).
(a) For the purposes of this section and § 91.1093:
(1) A check airman (aircraft) is a person who is qualified to conduct flight checks in an aircraft, in a flight simulator, or in a flight training device for a particular type aircraft.
(2) A check airman (simulator) is a person who is qualified to conduct flight checks, but only in a flight simulator, in a flight training device, or both, for a particular type aircraft.
(3) Check airmen (aircraft) and check airmen (simulator) are those check airmen who perform the functions described in §§ 91.1073(a)(4) and (c).

(b) No program manager may use a person, nor may any person serve as a check airman (aircraft) in a training program established under this subpart unless, with respect to the aircraft type involved, that person-
(1) Holds the airman certificates and ratings required to serve as a pilot in command in operations under this subpart;
(2) Has satisfactorily completed the training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this subpart;
(3) Has satisfactorily completed the proficiency or competency checks that are required to serve as a pilot in command in operations under this subpart;
(4) Has satisfactorily completed the applicable training requirements of § 91.1093;
(5) Holds at least a Class III medical certificate unless serving as a required crewmember, in which case holds a Class I or Class II medical certificate as appropriate; and
(6) Has been approved by the Administrator for the check airman duties involved.
(c) No program manager may use a person, nor may any person serve as a check airman (simulator) in a training program established under this subpart unless, with respect to the aircraft type involved, that person meets the provisions of paragraph (b) of this section, or-
(1) Holds the applicable airman certificates and ratings, except medical certificate, required to serve as a pilot in command in operations under this subpart;
(2) Has satisfactorily completed the appropriate training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this subpart;
(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command in operations under this subpart;
(4) Has satisfactorily completed the applicable training requirements of § 91.1093; and
(5) Has been approved by the Administrator for the check airman (simulator) duties involved.
(d) Completion of the requirements in paragraphs (b)(2), (3), and (4) or (c)(2), (3), and (4) of this section, as applicable, shall be entered in the individual's training record maintained by the program manager.
(e) Check airmen who do not hold an appropriate medical certificate may function as check airmen (simulator), but may not serve as flightcrew members in operations under this subpart.
(f) A check airman (simulator) must accomplish the following-
(1) Fly at least two flight segments as a required crewmember for the type, class, or category aircraft involved within the 12-month period preceding the performance of any check airman duty in a flight simulator; or
(2) Satisfactorily complete an approved line-observation program within the period prescribed by that program and that shall precede the performance of any check airman duty in a flight simulator.
(g) The flight segments or line-observation program required in paragraph (f) of this section are considered to be completed in the month required if completed in the calendar month before or the calendar month after the month in which they are due.

§ 91.1091 Qualifications: Flight instructors (aircraft) and flight instructors (simulator).
(a) For the purposes of this section and § 91.1095:
(1) A flight instructor (aircraft) is a person who is qualified to instruct in an aircraft, in a flight simulator, or in a flight training device for a particular type, class, or category aircraft.
(2) A flight instructor (simulator) is a person who is qualified to instruct in a flight simulator, in a flight training device, or in both, for a particular type, class, or category aircraft.

(3) Flight instructors (aircraft) and flight instructors (simulator) are those instructors who perform the functions described in §§ 91.1073(a)(4) and (c).
(b) No program manager may use a person, nor may any person serve as a flight instructor (aircraft) in a training program established under this subpart unless, with respect to the type, class, or category aircraft involved, that person-
(1) Holds the airman certificates and ratings required to serve as a pilot in command in operations under this subpart or part 121 or 135;
(2) Has satisfactorily completed the training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this subpart;
(3) Has satisfactorily completed the proficiency or competency checks that are required to serve as a pilot in command in operations under this subpart;
(4) Has satisfactorily completed the applicable training requirements of § 91.1095; and
(5) Holds at least a Class III medical certificate.
(c) No program manager may use a person, nor may any person serve as a flight instructor (simulator) in a training program established under this subpart, unless, with respect to the type, class, or category aircraft involved, that person meets the provisions of paragraph (b) of this section, or-
(1) Holds the airman certificates and ratings, except medical certificate, required to serve as a pilot in command in operations under this subpart or part 121 or 135;
(2) Has satisfactorily completed the appropriate training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this subpart;
(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command in operations under this subpart; and
(4) Has satisfactorily completed the applicable training requirements of § 91.1095.
(d) Completion of the requirements in paragraphs (b)(2), (3), and (4) or (c)(2), (3), and (4) of this section, as applicable, shall be entered in the individual's training record maintained by the program manager.
(e) An airman who does not hold a medical certificate may function as a flight instructor in an aircraft if functioning as a non-required crewmember, but may not serve as a flightcrew member in operations under this subpart.
(f) A flight instructor (simulator) must accomplish the following-
(1) Fly at least two flight segments as a required crewmember for the type, class, or category aircraft involved within the 12-month period preceding the performance of any flight instructor duty in a flight simulator; or
(2) Satisfactorily complete an approved line-observation program within the period prescribed by that program and that must precede the performance of any check airman duty in a flight simulator.
(g) The flight segments or line-observation program required in paragraph (f) of this section are considered completed in the month required if completed in the calendar month before, or in the calendar month after, the month in which they are due.

§ 91.1093 Initial and transition training and checking: Check airmen (aircraft), check airmen (simulator).

(a) No program manager may use a person nor may any person serve as a check airman unless-
(1) That person has satisfactorily completed initial or transition check airman training; and
(2) Within the preceding 24 calendar months, that person satisfactorily conducts a proficiency or competency check under the observation of an FAA inspector or an aircrew designated examiner

employed by the program manager. The observation check may be accomplished in part or in full in an aircraft, in a flight simulator, or in a flight training device.
(b) The observation check required by paragraph (a)(2) of this section is considered to have been completed in the month required if completed in the calendar month before or the calendar month after the month in which it is due.
(c) The initial ground training for check airmen must include the following:
(1) Check airman duties, functions, and responsibilities.
(2) The applicable provisions of the Code of Federal Regulations and the program manager's policies and procedures.
(3) The applicable methods, procedures, and techniques for conducting the required checks.
(4) Proper evaluation of student performance including the detection of-
(i) Improper and insufficient training; and
(ii) Personal characteristics of an applicant that could adversely affect safety.
(5) The corrective action in the case of unsatisfactory checks.
(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the aircraft.
(d) The transition ground training for check airmen must include the approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the aircraft to which the check airman is in transition.
(e) The initial and transition flight training for check airmen (aircraft) must include the following-
(1) The safety measures for emergency situations that are likely to develop during a check;
(2) The potential results of improper, untimely, or nonexecution of safety measures during a check;
(3) Training and practice in conducting flight checks from the left and right pilot seats in the required normal, abnormal, and emergency procedures to ensure competence to conduct the pilot flight checks required by this subpart; and
(4) The safety measures to be taken from either pilot seat for emergency situations that are likely to develop during checking.
(f) The requirements of paragraph (e) of this section may be accomplished in full or in part in flight, in a flight simulator, or in a flight training device, as appropriate.
(g) The initial and transition flight training for check airmen (simulator) must include the following:
(1) Training and practice in conducting flight checks in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight checks required by this subpart. This training and practice must be accomplished in a flight simulator or in a flight training device.
(2) Training in the operation of flight simulators, flight training devices, or both, to ensure competence to conduct the flight checks required by this subpart.

§ 91.1095 Initial and transition training and checking: Flight instructors (aircraft), flight instructors (simulator).

(a) No program manager may use a person nor may any person serve as a flight instructor unless-
(1) That person has satisfactorily completed initial or transition flight instructor training; and
(2) Within the preceding 24 calendar months, that person satisfactorily conducts instruction under the observation of an FAA inspector, a program manager check airman, or an aircrew designated examiner employed by the program manager. The observation check may be accomplished in part or in full in an aircraft, in a flight simulator, or in a flight training device.

(b) The observation check required by paragraph (a)(2) of this section is considered to have been completed in the month required if completed in the calendar month before, or the calendar month after, the month in which it is due.
(c) The initial ground training for flight instructors shall include the following:
(1) Flight instructor duties, functions, and responsibilities.
(2) The applicable Code of Federal Regulations and the program manager's policies and procedures.
(3) The applicable methods, procedures, and techniques for conducting flight instruction.
(4) Proper evaluation of student performance including the detection of-
(i) Improper and insufficient training; and
(ii) Personal characteristics of an applicant that could adversely affect safety.
(5) The corrective action in the case of unsatisfactory training progress.
(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the aircraft.
(7) Except for holders of a flight instructor certificate-
(i) The fundamental principles of the teaching-learning process;
(ii) Teaching methods and procedures; and
(iii) The instructor-student relationship.
(d) The transition ground training for flight instructors must include the approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the type, class, or category aircraft to which the flight instructor is in transition.
(e) The initial and transition flight training for flight instructors (aircraft) must include the following-
(1) The safety measures for emergency situations that are likely to develop during instruction;
(2) The potential results of improper or untimely safety measures during instruction;
(3) Training and practice from the left and right pilot seats in the required normal, abnormal, and emergency maneuvers to ensure competence to conduct the flight instruction required by this subpart; and
(4) The safety measures to be taken from either the left or right pilot seat for emergency situations that are likely to develop during instruction.
(f) The requirements of paragraph (e) of this section may be accomplished in full or in part in flight, in a flight simulator, or in a flight training device, as appropriate.
(g) The initial and transition flight training for a flight instructor (simulator) must include the following:
(1) Training and practice in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight instruction required by this subpart. These maneuvers and procedures must be accomplished in full or in part in a flight simulator or in a flight training device.
(2) Training in the operation of flight simulators, flight training devices, or both, to ensure competence to conduct the flight instruction required by this subpart.

§ 91.1097 Pilot and flight attendant crewmember training programs.

(a) Each program manager shall establish and maintain an approved pilot training program, and each program manager who uses a flight attendant crewmember shall establish and maintain an approved flight attendant training program, that is appropriate to the operations to which each pilot

and flight attendant is to be assigned, and will ensure that they are adequately trained to meet the applicable knowledge and practical testing requirements of §§ 91.1065 through 91.1071. However, the Administrator may authorize a deviation from this section if the Administrator finds that, because of the limited size and scope of the operation, safety will allow a deviation from these requirements.

(b) Each program manager required to have a training program by paragraph (a) of this section shall include in that program ground and flight training curriculums for-

(1) Initial training;
(2) Transition training;
(3) Upgrade training;
(4) Differences training; and
(5) Recurrent training.

(c) Each program manager required to have a training program by paragraph (a) of this section shall provide current and appropriate study materials for use by each required pilot and flight attendant.

(d) The program manager shall furnish copies of the pilot and flight attendant crewmember training program, and all changes and additions, to the assigned representative of the Administrator. If the program manager uses training facilities of other persons, a copy of those training programs or appropriate portions used for those facilities shall also be furnished. Curricula that follow FAA published curricula may be cited by reference in the copy of the training program furnished to the representative of the Administrator and need not be furnished with the program.

§ 91.1099 Crewmember initial and recurrent training requirements.

No program manager may use a person, nor may any person serve, as a crewmember in operations under this subpart unless that crewmember has completed the appropriate initial or recurrent training phase of the training program appropriate to the type of operation in which the crewmember is to serve since the beginning of the 12th calendar month before that service.

§ 91.1101 Pilots: Initial, transition, and upgrade ground training.

Initial, transition, and upgrade ground training for pilots must include instruction in at least the following, as applicable to their duties:

(a) General subjects-

(1) The program manager's flight locating procedures;
(2) Principles and methods for determining weight and balance, and runway limitations for takeoff and landing;
(3) Enough meteorology to ensure a practical knowledge of weather phenomena, including the principles of frontal systems, icing, fog, thunderstorms, windshear and, if appropriate, high altitude weather situations;
(4) Air traffic control systems, procedures, and phraseology;
(5) Navigation and the use of navigational aids, including instrument approach procedures;
(6) Normal and emergency communication procedures;
(7) Visual cues before and during descent below DH or MDA; and
(8) Other instructions necessary to ensure the pilot's competence.

(b) For each aircraft type-

(1) A general description;
(2) Performance characteristics;

(3) Engines and propellers;
(4) Major components;
(5) Major aircraft systems (i.e., flight controls, electrical, and hydraulic), other systems, as appropriate, principles of normal, abnormal, and emergency operations, appropriate procedures and limitations;
(6) Knowledge and procedures for-
(i) Recognizing and avoiding severe weather situations;
(ii) Escaping from severe weather situations, in case of inadvertent encounters, including low-altitude windshear (except that rotorcraft aircraft pilots are not required to be trained in escaping from low-altitude windshear);
(iii) Operating in or near thunderstorms (including best penetrating altitudes), turbulent air (including clear air turbulence), icing, hail, and other potentially hazardous meteorological conditions; and
(iv) Operating airplanes during ground icing conditions, (i.e., any time conditions are such that frost, ice, or snow may reasonably be expected to adhere to the aircraft), if the program manager expects to authorize takeoffs in ground icing conditions, including:
(A) The use of holdover times when using deicing/anti-icing fluids;
(B) Airplane deicing/anti-icing procedures, including inspection and check procedures and responsibilities;
(C) Communications;
(D) Airplane surface contamination (i.e., adherence of frost, ice, or snow) and critical area identification, and knowledge of how contamination adversely affects airplane performance and flight characteristics;
(E) Types and characteristics of deicing/anti-icing fluids, if used by the program manager;
(F) Cold weather preflight inspection procedures;
(G) Techniques for recognizing contamination on the airplane;
(7) Operating limitations;
(8) Fuel consumption and cruise control;
(9) Flight planning;
(10) Each normal and emergency procedure; and
(11) The approved manual.

§ 91.1103 Pilots: Initial, transition, upgrade, and differences flight training.

(a) Initial, transition, upgrade, and differences training for pilots must include flight and practice in each of the maneuvers and procedures in the approved training program curriculum.
(b) The maneuvers and procedures required by paragraph (a) of this section must be performed in flight, except to the extent that certain maneuvers and procedures may be performed in an aircraft simulator, or an appropriate training device, as allowed by this subpart.
(c) If the program manager's approved training program includes a course of training using an aircraft simulator or other training device, each pilot must successfully complete-
(1) Training and practice in the simulator or training device in at least the maneuvers and procedures in this subpart that are capable of being performed in the aircraft simulator or training device; and
(2) A flight check in the aircraft or a check in the simulator or training device to the level of proficiency of a pilot in command or second in command, as applicable, in at least the maneuvers and procedures that are capable of being performed in an aircraft simulator or training device.

§ 91.1105 Flight attendants: Initial and transition ground training.

Initial and transition ground training for flight attendants must include instruction in at least the following-

(a) General subjects-

(1) The authority of the pilot in command; and

(2) Passenger handling, including procedures to be followed in handling deranged persons or other persons whose conduct might jeopardize safety.

(b) For each aircraft type-

(1) A general description of the aircraft emphasizing physical characteristics that may have a bearing on ditching, evacuation, and inflight emergency procedures and on other related duties;

(2) The use of both the public address system and the means of communicating with other flight crewmembers, including emergency means in the case of attempted hijacking or other unusual situations; and

(3) Proper use of electrical galley equipment and the controls for cabin heat and ventilation.

§ 91.1107 Recurrent training.

(a) Each program manager must ensure that each crewmember receives recurrent training and is adequately trained and currently proficient for the type aircraft and crewmember position involved.

(b) Recurrent ground training for crewmembers must include at least the following:

(1) A quiz or other review to determine the crewmember's knowledge of the aircraft and crewmember position involved.

(2) Instruction as necessary in the subjects required for initial ground training by this subpart, as appropriate, including low-altitude windshear training and training on operating during ground icing conditions, as prescribed in § 91.1097 and described in § 91.1101, and emergency training.

(c) Recurrent flight training for pilots must include, at least, flight training in the maneuvers or procedures in this subpart, except that satisfactory completion of the check required by § 91.1065 within the preceding 12 calendar months may be substituted for recurrent flight training.

§ 91.1109 Aircraft maintenance: Inspection program.

(a) Each program operator must ensure that each fractionally-owned aircraft is inspected in accordance with an inspection program approved by the administrator.

(b) The inspection program must be in writing and include at least the following information:

(1) Instructions and procedures for the conduct of inspections for the particular make and model aircraft, including necessary tests and checks. The instructions and procedures set forth in detail the parts and areas of the airframe, engines, propellers, rotors, and appliances, including survival and emergency equipment required to be inspected.

(2) A schedule for performing the inspections that must be performed under the inspection program expressed in terms of the time in service, calendar time, number of system operations, or any combination thereof.

(3) The name and address of the person responsible for scheduling the inspections required by the inspection program. A copy of the inspection program must be made available to the person performing inspections on the aircraft and, upon request, to the Administrator.

(c) Each person desiring to establish or change an approved inspection program under this section must submit the inspection program for approval to the local FAA Flight Standards district office

having jurisdiction over the area in which the aircraft is based. The inspection program must be based on one of the following:
(1) An inspection program currently recommended by the manufacturer of the aircraft, aircraft engines, propellers, appliances, and survival and emergency equipment;
(2) An inspection program that is part of a continuous airworthiness maintenance program currently in use by a person holding an air carrier operating certificate issued under part 121 or 135 of this chapter and operating that make and model aircraft under part 121 or 135 of this chapter;
(3) An aircraft inspection program approved under § 135.419 of this chapter and currently in use by a person holding a certificate issued under part 135 of this chapter; or
(4) An aircraft inspection program approved under § 125.247 of this chapter and currently in use by a person holding a certificate issued under part 125 of this chapter.
(d) The Administrator, in the interest of safety, may require revision of the inspection program approved under this section in accordance with the provisions of § 91.415.

§ 91.1111 Maintenance training.
The program manager shall ensure that all personnel who are employed by the program manager or fractional owner and responsible for safety-critical maintenance related to program aircraft undergo appropriate initial and annual recurrent training and are competent to perform those duties.

§ 91.1113 Maintenance recordkeeping.

Each fractional ownership program manager shall keep (using the system specified in the manual required in § 91.1025) the records specified in § 91.417(a) for the periods specified in § 91.417(b).

§ 91.1115 Minimum equipment lists and letters of authorization.
Any Minimum Equipment Lists, Letters of Authorization, Dispatch Deviation Guides, Deferred Discrepancy Lists or any other approvals covering the program aircraft must be issued to, and in the sole name of, the program manager on behalf of the fractional owners collectively. No Minimum Equipment Lists, Letters of Authorization, Dispatch Deviation Guides, and Deferred Discrepancy Lists shall be affected by any change in ownership of a program aircraft, as long as the aircraft remains a program aircraft in the program identified on the respective approval.

PART 119 CERTIFICATION: AIR CARRIERS AND COMMERCIAL OPERATORS

5. The authority citation for part 119 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1153, 40101, 40102, 40103, 40113, 44105, 44106, 44111, 44701-44717, 44722, 44901, 44903, 44904, 44906, 44912, 44914, 44936, 44938, 46103, 46105.

Subpart A-General

6. Amend § 119.1 by revising paragraph (d) to read as follows:

§ 119.1 Applicability.
(a) * * * * *

(d) This part does not govern operations conducted under part 91, subpart K or part 129, 133, 137, or 139 of this chapter.

* * * * *

PART 125 CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

7. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701-44702, 44705, 44710-44711, 44713, 44716-44717, 44722.

Subpart A-General

8. Amend § 125.1 by adding paragraph (b)(6) as follows:

§ 125.1 Applicability.
(b) * * * * *
(4) They are being operated under part 91 by an operator certificated to operate those airplanes under the rules of parts 121, 135, or 137 of this chapter, they are being operated under the applicable rules of part 121 or part 135 of this chapter by an applicant for a certificate under part 119 of this chapter or they are being operated by a foreign air carrier or a foreign person engaged in common carriage solely outside the United States under part 91 of this chapter;
(5) They are being operated under a deviation authority issued under Sec. 125.3 of this chapter;
(6) They are fractional ownership program aircraft, as defined in part 91, subpart K, operated by a fractional owner; or
(7) They are fractional ownership program aircraft, as defined in part 91, subpart K, operated by a fractional ownership program manager without a fractional owner or any fractional owner's employees or guests aboard.

* * * * *

PART 135 OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS

9. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 44113, 44701-44702, 44705, 44709, 44711-44713, 44715-44717, 44722.

Subpart A-General

10. Amend § 135.1 by adding paragraph (b) to read as follows:

§ 135.1 Applicability.
(a) * * * * *
(b) For the purpose of §§ 135.23, 135.225 and 135.385, qualified on-demand operator means an on-demand operator that meets the flight crew experience, pilot operating limitations and pairing requirements of §§ 91.1053 and 91.1055.

11. Amend § 135.21 by adding paragraph (f) to read as follows:

§ 135.21 Manual requirements.
(a) * * * * *
(f) Except as provided in paragraph (h) of this section, each aircraft shall have aboard the manual.
(g) For the purpose of complying with paragraph (d) of this section, a certificate holder may furnish the persons listed therein with all or part of its manual in printed form or other form, acceptable to the Administrator, that is retrievable in the English language. If the certificate holder furnishes all or part of the manual in other than printed form, it shall ensure there is a compatible reading device available to those persons that provides a legible image of the information and instructions, or a system that is able to retrieve the information and instructions in the English language.
(h) If a certificate holder conducts aircraft inspections or maintenance at specified stations where it keeps the approved inspection program manual, it is not required to carry the manual aboard the aircraft en route to those stations.

12. Amend § 135.23 by revising paragraph (r) and adding paragraph (s) to read as follows:

§ 135.23 Manual contents.
(a) * * * * *
(r) If required by § 135.385, an approved Destination Airport Analysis establishing procedures for establishing runway margins at destination airports, taking into account the following factors as supported by published aircraft performance data supplied by the aircraft manufacturer for the appropriate runway conditions -
(i) Pilot qualifications and experience;
(ii) Aircraft performance data to include normal, abnormal and emergency procedures as supplied by the aircraft manufacturer;
(iii) Airport facilities and topography;
(iv) Runway conditions (including contamination);
(v) Airport or area weather reporting; and
(vi) Appropriate additional runway margins, if required.
(s) Other procedures and policy instructions regarding the certificate holder's operations issued by the certificate holder.

Subpart C-Aircraft and Equipment

13. Amend § 135.145 by revising paragraph (a) to read as follows:

§ 135.145 Aircraft proving tests.
(a) No new certificate holder or a certificate holder adding a more complex category or new class of aircraft may operate a turbojet airplane, or an aircraft for which two pilots are required by this

chapter for operations under VFR, if it has not previously proved that aircraft or an aircraft of the same make and similar design in any operation under this part unless, in addition to the aircraft certification tests, at least 25 hours of proving tests acceptable to the Administrator have been flown by that certificate holder including-

* * * * *

14. Amend § 135.167 by adding paragraph (d) to read as follows:

§ 135.167 Emergency equipment: Extended overwater operations.

(a) * * * * *

(d) A person operating a pressurized turbine-powered aircraft certified to an altitude greater than 25,000 feet may, taking into consideration weather conditions, including water temperature and surface visibility, elect not to comply with the equipment requirements in paragraphs (a), (b) and (c) provided that the flight does not proceed more than 30 minutes or 100 miles from the nearest shore, whichever is greater.

Subpart D-VFR/IFR Operating Limitations and Weather Requirements

15. Revise § 135.225 to read as follows:

§ 135.225 IFR: Takeoff, approach and landing minimums.

(a) Except to the extent permitted by paragraph (b) of this section, no pilot may begin an instrument approach procedure to an airport unless-

* * *

(b) A pilot employed by a qualified on-demand operator may begin an instrument approach procedure to an airport if-

(1) Either that airport or the alternate airport has a weather reporting facility operated by the U.S. National Weather Service, a source approved by U.S. National Weather Service, or a source approved by the Administrator; and

(2) The latest weather report issued by the weather reporting facility includes a current local altimeter setting for the destination airport. If no local altimeter setting is available, the pilot may use alternate altimeter settings indicated on the approach chart.

(c) No pilot may begin the final approach segment of an instrument approaching procedure to an airport unless the latest weather reported by the facility described in paragraph (a)(1) of this section indicates that weather conditions are at or above the authorized IFR landing minimums for that procedure.

(d) If a pilot has begun the final approach segment of an instrument approach to an airport under paragraph (c) of this section and a later weather report indicating below minimum conditions is received after the aircraft is-

* * *

(e) The MDA or DH and visibility landing minimums prescribed in part 97 of this chapter or in the operator's operations specifications are increased by 100 feet and 1/2 mile respectively, but not to exceed the ceiling and visibility minimums for that airport when used as an alternate airport, for each pilot in command of a turbine-powered airplane who has not served at least 100 hours as pilot in command in that type of airplane.

(f) Each pilot making an IFR takeoff or approach and landing at a military or foreign airport shall comply with applicable instrument approach procedures and weather minimums prescribed by the authority having jurisdiction over that airport. In addition, no pilot may, at that airport-
* * *
(g) If take off minimums are specified in part 97 of this chapter for the takeoff airport, no pilot may take off an aircraft under IFR when the weather conditions reported by the facility described in paragraph (a)(1) of this section are less than the takeoff minimums specified for the takeoff airport in part 97 or in the certificate holder's operations specifications.
(h) Except as provided in paragraph (i) of this section, if takeoff minimums are not prescribed in part 97 of this chapter for the takeoff airport, no pilot may takeoff an aircraft under IFR when the weather conditions reported by the facility described in paragraph (a)(1) of this section are less than that prescribed in part 91 of this chapter or in the certificate holder's operations specifications.
(i) At airports where straight-in instrument approach procedures are authorized, a pilot may take off an aircraft under IFR when the weather conditions reported by the facility described in paragraph (a)(1) of this section are equal to or better than the lowest straight-in landing minimums, unless otherwise restricted, if-

* * * * *

Subpart E - Flight Crewmember Requirements

16. Amend § 135.247 by adding paragraph (a)(3) to read as follows:

§ 135.247 Pilot qualifications: Recent experience.
(a) * * *
(3) Paragraph (2) of this section does not apply to a pilot in command who operates more than one type of an airplane that is type certificated for more than one pilot flight crewmember, provided the pilot-
(i) Holds at least a valid commercial pilot certificate with the appropriate type rating for each airplane that the pilot seeks to operate under this alternative;
(ii) Has logged at least 1500 hours total time as a pilot;
(iii) Has accomplished at least 15 hours of flight time in the type of airplane that the pilot seeks to operate under this alternative within the preceding 90 days prior to the operation of that airplane; and
(iv) Has accomplished -
(A) At least three takeoffs and three landings to a full stop, during the period beginning 1 hour before sunset and ending 1 hour before sunrise as the sole manipulator of the flight controls in at least one of the types of airplanes that the pilot seeks to operate under this alternative, within the preceding 90 days prior to the operation of any of the types of airplanes that the pilot seeks to operate under this alternative; or
(B) Completion of an approved training program under part 142 of this chapter within the preceding 12 calendar months prior to the month of the flight, which requires the performance of at least 6 takeoffs and 6 landings to a full stop as the sole manipulator of the controls in a flight simulator that is representative of at least one of the types of airplanes that the pilot seeks to operate under this alternative, and the flight simulator's visual system was adjusted to represent the period beginning 1 hour after sunset and ending 1 hour before sunrise.

17. Amend § 135.249 by revising paragraph (c) and by adding paragraph (d) to read as follows:

§ 135.249 Use of prohibited drugs.

(a) * * * * *

(c) Except as provided in paragraph (d) of this section, no certificate holder or operator shall knowingly use any person to perform, nor shall any person perform for a certificate holder or operator, either directly or by contract, any safety-sensitive function if the person has a verified drug test result on or has refused to submit to a drug test required by appendix I to part 121 of this chapter and the person has not met the requirements of appendix I to part 121 of this chapter for returning to the performance of safety-sensitive duties.

(d) If unanticipated maintenance is required, a certificate holder or operator may use persons not meeting the requirements of paragraph (c) of this section to provide such unanticipated required maintenance. A certificate holder or operator shall notify its Flight Standards District Office within 24 hours after being provided required line maintenance in accordance with this paragraph.

18. Amend § 135.251 by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 135.251 Testing for prohibited drugs.

(a) * * * * *

(b) Except as provided in paragraph (c) of this section, no certificate holder or operator may use any contractor to perform a function listed in appendix I to part 121 of this chapter unless that contractor tests each employee performing such a function for the certificate holder or operator in accordance with that appendix.

(c) If unanticipated maintenance is required, a certificate holder or operator may use persons not meeting the requirements of paragraph (b) of this section to provide such unanticipated required maintenance. A certificate holder or operator shall notify its Flight Standards District Office within 24 hours after being provided required line maintenance in accordance with this paragraph.

19. Amend § 135.255 by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 135.255 Testing for alcohol.

(a) * * * * *

(b) Except as provided in paragraph (c) of this section, no certificate holder or operator shall use any person who meets the definition of “covered employee” in appendix J to part 121 to perform a safety-sensitive function listed in that appendix unless such person is subject to testing for alcohol misuse in accordance with the provisions of appendix J.

(c) If unanticipated maintenance is required, a certificate holder or operator may use persons not meeting the requirements of paragraph (b) of this section to provide such unanticipated required maintenance. A certificate holder or operator shall notify its Flight Standards District Office within 24 hours after being provided required line maintenance in accordance with this paragraph.

Subpart I-Airplane Performance Operating Limitations

20. Amend § 135.385 by revising paragraph (b) and adding paragraphs (f) and (g) to read as follows:

§ 135.385 Large transport category airplanes: Turbine engine-powered: Landing limitations: Destination airports.

(a) * * * * *

(b) Except as provided in paragraph (c), (d), (e), (f), or (g) of this section, no person operating a turbine engine-powered large transport category airplane may take off that airplane unless its weight on arrival, allowing for normal consumption of fuel and oil in flight (in accordance with the landing distance in the Airplane Flight Manual for the elevation of the destination airport and the wind conditions anticipated there at the time of landing), would allow a full stop landing at the intended destination airport within 60 percent of the effective length of each runway described below from a point 50 feet above the intersection of the obstruction clearance plane and the runway. For the purpose of determining the allowable landing weight at the destination airport the following is assumed:

* * * * *

(f) A qualified on-demand operator flying a turbine engine-powered large transport category airplane on an on-demand flight may not take off that airplane unless, on arrival at its destination or alternate airport, the airplane is able to come to a full stop landing within 85 percent of the effective length of the runway, from a point 50 feet above the intersection of the obstruction plane and the runway, considering the runway elevation, airplane weight, ambient temperature and wind conditions anticipated upon arrival at that airport. The computation of landing weight and stopping distance must be done in accordance with the Airplane Flight Manual for that airplane, assuming:

(1) The airplane is landed on the most favorable runway and in the most favorable direction, in still air.

(2) The airplane is landed on the most suitable runway considering the probable wind velocity and direction and the ground handling characteristics of the airplane, and considering other conditions such as landing aids and terrain.

(g) A qualified on-demand operator flying a turbine engine-powered large transport category airplane on an on-demand flight may take off that airplane at a weight in excess of that allowed by the runway margin in paragraph (f) of this section if such operation is permitted by an approved Destination Airport Analysis in that person's operations manual.

21. Revise § 135.387 to read as follows:

§ 135.387 Large transport category airplanes: Turbine engine-powered: Landing limitations: Alternate airports.

(a) No person may select an airport as an alternate airport for a turbine engine-powered large transport category airplane unless (based on the assumptions in § 135.385(b)) that airplane, at the weight anticipated at the time of arrival, can be brought to a full stop landing within 70 percent of the effective length of the runway for turbo-propeller-powered airplanes and 60 percent of the effective length of the runway for turbojet airplanes, from a point 50 feet above the intersection of the obstruction clearance plane and the runway.

(b) A qualified on-demand operator may select an airport as an alternate airport for a turbine engine-powered large transport category airplane if (based on the assumptions in § 135.385(b)) that airplane, at the weight anticipated at the time of arrival, can be brought to a full stop landing within 85 percent of the effective length of the runway from a point 50 feet above the intersection of the obstruction clearance plane and the runway.