

Similarly, AOPA states that, while there is a presumption that subpart K operations include or require a professional flight crew provided by the program manager, this is not specifically stated in the regulation. Therefore, AOPA proposes that a sixth criteria be added under § 91.1001(b)(1) to state the requirement that professional flight crew services must be provided by the program manager. In support of this sixth criteria, AOPA also proposes that § 91.1001(b)(7) be further defined to include a provision for a professional flight crew. AOPA believes that the development of subpart K did not envision or intend to regulate smaller piston powered single- and multi-engine aircraft that otherwise meet the five criteria of § 91.1001, but do not use professional program pilots and that providing a flight crew is an important distinction between a multiple aircraft ownership arrangement versus a fractional ownership program.

The Lawyer Pilots Bar Association states that the NPRM clearly intends to apply to fractional programs in which paid professional crews are employed to fly the aircraft. This Association says that the NPRM was not intended to apply to limited co-ownership arrangements of small aircraft that do not involve a management company and in which one or more of the co-owners are commercial-pilots and provide the piloting. According to this commenter, the rule is not clear whether pilots may participate as owners-pilots in subpart K fractional programs without being subject to the increased crew requirements while they are piloting their co-owned aircraft for their own personal and business transportation. The commenter urges the FAA to make the final rules of subpart K clear so that a pilot co-owner may participate in a fractional ownership program without having to meet the additional crew requirements.

Eclipse Aviation mentions that proposed subpart K sets forth very specific crew pairing, experience, flight, duty and rest time requirements, and that for the owner-pilot, many of whom will be qualified to conduct single-pilot operations, the crew pairing requirements of proposed § 91.1055 are unnecessary. Further, for the single-pilot operator, or one who chooses to utilize a second in command (SIC), either by insurance or regulatory necessity, or simply for the sake of added safety, the experience, training and testing, proficiency, flight, duty, and rest time provisions of proposed §§ 91.1053, 91.1057, 91.1059, 91.1063, 91.1065, 91.1069, 91.1081, and other related sections are overly burdensome.

Clearly, these safety provisions are appropriate for true fractional program operations. The traditional experience, training, testing, proficiency, flight, duty and rest time provisions, as well as the other safety related provisions of part 91 are sufficient for owner-operated personal or business flights.

*FAA Response:* The FAA agrees that the proposed applicability section and definitions do not adequately delineate fractional ownership programs intended to be covered by subpart K from other shared aircraft programs or aircraft management programs conducted under part 91. These include operations such as traditional management companies providing services to aircraft owners absent the dry lease exchange provision of subpart K; joint ownership, time-share, or interchange operations under § 91.501; flying clubs; or other shared aircraft ownership options. Each shared ownership arrangement should be reviewed on a case by case basis to determine the appropriate regulatory requirements.

The FAA has amended § 91.1001 to more clearly define the elements of fractional ownership programs and the aviation services provided under those programs. This includes the provision, furnishing, or contracting of crews and the training and qualification of crews and other personnel, as suggested by some of the commenters.

The FAA disagrees with comments that a pilot co-owner should be allowed to participate in a fractional ownership program without having to meet the additional crew requirements. A fractional owner who desires to act as a flight crewmember on a program flight may do so only if the owner meets the pilot experience and qualification requirements of subpart K and is designated as a crewmember for that flight. These pilot requirements are necessary to maintain the safety and integrity of the fractional ownership programs and protect the property interests of all owners in the program.

Some of the commenters on this issue address a situation in a shared aircraft arrangement where the owners do pilot their own aircraft and may use management services for scheduling and maintaining the aircraft or providing occasional pilot services such as flight instruction. These types of programs might more appropriately fit the definition of a flying club or other ownership option not subject to this rule. Likewise, traditional management companies and other management arrangements may not meet all of the definitional elements of a fractional program under subpart K, i.e., dry lease aircraft exchange arrangement,

provision of pilots and other crewmembers, etc., and therefore would not be subject to regulation under subpart K.

The FAA recognizes that some entities have marketed or otherwise referred to themselves as "fractional ownership" programs prior to this rulemaking, but do not meet all of the elements of the new regulatory definition. The FAA recommends that such programs discontinue the use of the term "fractional ownership" to avoid confusion.

#### **Runway Length Required for Landing (§§ 91.1037 and 135.385)**

GAMA, NATA, Flexjet and an individual support the proposed rule changes, stating that they would not reduce the margin of safety for operations of fractionally owned aircraft under part 91 or operations under part 135. The proposed runway length requirements provide an adequate margin of safety for the reasons stated in the NPRM.

Spirit Aviation and NATA support the change from requiring the airplane to be capable of landing within 60 percent of the available runway length to 85 percent of the available runway length because of the advancements in technology. Spirit Aviation states that § 135.385 was promulgated before the development of pavement standards at airports and landing strips. In addition, the development of aircraft braking and other performance systems have made the 60 percent factored landing distance requirement antiquated and unnecessary. As reasons to change the requirement from 60 to 85 percent, NATA also mentions improvements in brake certification, changes in the method of calculating Aircraft Flight Manual (AFM) landing distances, and changes in landing distance information for different runway conditions contained in the AFM.

Spirit Aviation and NATA also state that the proposed changes to § 135.385 would enable part 135 operators to better compete with part 91 operators. Spirit Aviation, a part 135 operator, comments that the proposed changes would enable it to more effectively serve its clientele, as well as compete fairly with part 91 competitors. This operator argues that the experience of its pilots, as well as the quality of its training is equal if not superior to that of the corporate aviation community. Spirit Aviation claims that all aviation safety data covering the previous decade show that accident rates under part 91 and part 135 have been nearly identical.

NATA, a FOARC member, (as well as Flexjet) supports the justification