

FAA Response: In response to operator safety concerns, the FAA amended § 61.57(e) on April 30, 1999, to provide an alternate means of compliance for meeting FAA's night currency requirement. This alternative allows operators to maintain currency by using both the aircraft and part 142 approved training programs.

The applicability of the alternative is unclear, however, because in order to qualify for the alternate means of compliance, a pilot must "operate more than one type of aircraft." Under this definition, operators are uncertain how to determine if a pilot "operates" more than one type of aircraft.

The change to § 61.57(e) in this final rule clarifies the existing alternative and provides a second alternate means of compliance for pilots of turbine-powered aircraft that require more than one pilot and that meet additional experience requirements. The first alternative allows pilots to maintain night currency through the performance of three takeoffs and landings to a full stop over a 6-month period. The second alternative allows pilots to maintain night currency through the performance of 6 takeoffs and landings to a full stop in a simulator training program approved under part 142 of this chapter. The FAA believes these alternatives provide an equivalent level of safety for night flying operations and that because of the similar nature of operations and aircraft used, pilots used for on-demand part 135 operations also should be allowed to maintain night recency of experience using this alternate means of compliance.

In response to the question about the meaning of "requires more than one pilot," the FAA has changed the final rule to clarify that the requirements of §§ 61.57(e)(3) and 135.247(a)(3) apply to airplanes that are *type certificated* for more than one pilot crewmember and to pilots qualifying in each airplane *type*.

The FAA has not changed the time frame for the "preceding six month" requirement to "preceding seven months" because the grace period requirement (§ 135.301(a)) does not apply to requirements tied to a preceding number of months.

Security

NBAA, AOPA and several individual pilots point out that while FOARC and therefore the NPRM did not address security issues, this rule should make recommendations concerning potential security measures that might be adopted in the wake of September 11, 2001. NBAA recommends caution and restraint in the deployment of new security regulations. AOPA

recommends that any new security mandates for part 135 on-demand charter operations apply to operations covered under proposed subpart K.

With the focus on safeguarding commercial carriers, many experts believe that private charter and corporate aircraft are now more vulnerable than ever at small airports that have virtually no security. Small airports lack measures like security fences, lights or guards; there is no security to guard parked planes; small planes could be stolen and loaded with dangerous chemicals; small planes can also skim treetops and avoid radar detection. Yet the FAA wants to increase business operations at small airports with these new rule changes. Several other commenters also raise the security issue.

NATA does not think that this rulemaking is the appropriate situation for discussing security issues. According to the commenter, there needs to be an industry-wide, comprehensive examination of security issues.

FAA Response: No new security requirements were proposed in the NPRM and no security requirements have been added to the final rule, because that would be outside the scope of this rulemaking. However, the FAA is working with the Transportation Security Administration, aviation associations, and airports to improve security procedures for general aviation and in the areas of airports that serve general aviation. Any new security requirements that would apply to fractional ownership programs would be issued by the Transportation Security Administration.

International Operations

NATA and Flexjet describe a problem concerning international operations under fractional ownership when there has been a change in ownership requiring changes in aircraft registration. Because current rules prohibit operations outside the United States under a "pink slip" (temporary registration), these commenters recommend that a more formal temporary registration system be established that would allow international flight. This system could use aircraft registration designees who could function in a manner similar to Designated International Representatives and Designated Examiners.

FAA Response: The FAA does not agree that the registration function of the Aircraft Registry in Oklahoma City can be delegated to non-governmental persons as is done in other areas.

International law forbids the operation of an aircraft outside the U.S. without an official registration certificate, so a temporary certificate would not be acceptable. Fractional owners who wish to travel outside the U.S. must be aware of this obligation and ensure that the aircraft being used for such a flight is properly registered. There are private businesses located in Oklahoma City that assist those who need to obtain a new aircraft certificate because of a change in ownership. These services are often used when there are changes in ownership of aircraft operated by part 119 certificate holders.

FAA: Voluntary Disclosure Reporting Program

NATA and Flexjet recommend that the FAA amend AC No. 00-58 to clarify that the FAA's voluntary disclosure program "applies to fractional ownership program managers to the same extent that it applies to certificate holders, indirect air carriers, foreign air carriers, and production approval holders."

FAA Response: The FAA is considering changes to Advisory Circular 00-58, but any revision will not occur until after the publication of this final rule. This topic will also be addressed in the fractional ownership implementation planning.

Illegal Commercial Use

Marc Fruchter Aviation states that an issue not adequately addressed by the NPRM is the issue of share owners using their shares to provide illegal commercial aircraft travel for others. Fruchter Aviation suggests two additions to the rule language to address this problem. First, all solicitations for share purchases should be mandated to contain exact definitions of and explicit warnings about the legal and economic consequences of illegal commercial use of fractional share flights and the possibility of a forfeiture of insurance coverage should be detailed as well. Second, the rules should be strengthened to spell out penalties against the share owner and fractional provider should this activity occur. Significant penalties against both entities would go far to deter this practice.

FAA Response: The FAA agrees there is a potential for illegal commercial use of aircraft being operated under fractional ownership programs. Section 91.1005 addresses this issue. In the final rule we have retitled the section from "Owner's use of program aircraft" to "Prohibitions and limitations" and amended the text to more clearly state that a fractional owner may not use a