

Section 91.1019 Conducting Tests and Inspections

PASS believes that the FAA needs the authority to conduct en route inspections in § 91.1019(b)(2) as in part 121 and 135. Crew coordination and safe-operating procedures are paramount for the safety of the passengers. The only way that the FAA can provide effective oversight and surveillance of these types of operations is by conducting en route inspections. PASS states that there continues to be problems with Crew Resource Management, especially with the newer "Glass Cockpit" aircraft and that information overload is a constant challenge to the pilots. Surveillance of the crews will allow an unbiased evaluation of the crew performance, which in turn will validate how effective the training program is working. This will provide valuable insights that can be used to improve future training requirements. PASS recommends that this paragraph should at least be changed to include en route inspections on aircraft that require two flight crewmembers for operation of the aircraft.

EJA states that proposed § 91.1019(c) requires that each employee of a program manager that is responsible for maintaining the program manager's records must make those records available to the FAA. EJA believes that FOARC intended this requirement to apply only to safety-related records, and not generally to all documents maintained by a program manager. In a similar provision of the NPRM, the FAA used the phrase "pertaining to operational safety of the program, including all program logbooks and maintenance records" to specify which program manager records an owner has the right to inspect. EJA recommends that the quoted phrase be added to § 91.1019(c).

NWJ and an individual object to proposed § 91.1019(c) because the paragraph does not specify which records are being referenced, for example, maintenance records, pilot records. Also, the commenters believe, if such responsibility exists, the person who maintains that responsibility should be named in the management specifications.

Flexjet states that § 91.1019(b)(1) should be clarified to state that the Management Specifications may be maintained not only at its principal base of operations, but also at a place approved by the Administrator, as is provided in §§ 91.1015(e) and 91.1027(a).

FAA Response: The FAA agrees with the concern raised by EJA but believes the language suggested by EJA is too narrow. The records that must be made available to the Administrator would be any records required by or necessary to demonstrate compliance with subpart K.

The FAA disagrees with the recommendation by PASS to require en route inspections for fractional program operations. The complexities of the operation precludes scheduling en route inspections. This is similar to the philosophy applied to on demand part 135 operations. En route inspections are only required for commuter operations and are not required as part of the national work program for on demand operations. Furthermore, the FAA has other means of effectively surveilling the operation, including acceptance and approval of procedures, manuals, and training programs. As part of its implementation strategy, the FAA is developing a work program for fractional ownership operations that mirrors the national guidelines for surveillance and inspection of part 135 on demand operations. The FAA also disagrees with the suggestion made by NWJ that a person responsible for the records should be named in the management specifications. The operations manual will define personnel responsibilities.

The FAA agrees with the suggestion by Flexjet and has modified the final rule so that paragraph (b)(1) permits the management specifications to be maintained at the program manager's principal place of business or at a place approved by the Administrator.

Section 91.1021 Internal Safety Reporting

PASS believes that fractional owners should be added to proposed § 91.1021(b) and required to respond to an aviation incident/accident.

Flexjet currently utilizes anonymous internal safety reporting procedures for its crewmembers. Flexjet strongly supports safety reporting, and supports an environment of safety without retribution. However, Flexjet recommends that FAA implementation guidance should clarify for the FAA and the industry that, although no retribution may be taken against an employee for filing a report in accordance with this section, such a filing cannot prevent the program manager from taking corrective action in response to the underlying safety issue.

FAA Response: The FAA disagrees with the recommendation by PASS. The NTSB regulations provide NTSB with broad authority to get information from all persons with knowledge related to an

incident or accident. The owner has responsibility under the NTSB regulations to notify the NTSB of an incident, accident, or overdue aircraft. The accomplishment of this notification can be delegated to a program manager. The procedures required by § 91.1021(b) and included in the program operations manual establish the means for the owners to fulfill their accident response responsibilities. Therefore, FAA believes no change to the regulatory language is required.

The FAA agrees with the comment by Flexjet and would expect such corrective action should take place in response to underlying safety issues.

Section 91.1023 Program Operating Manual Requirements

EJA states that in proposed § 91.1023(h), there is a reference to an "approved inspection program operations manual," a term that is not defined in the proposed rule. EJA thinks that this reference should be to an "approved 'aircraft inspection program,'" which is addressed in proposed § 91.1109. EJA recommends that the "approved aircraft inspection program" concept from § 91.1109 be incorporated into § 91.1023. Also in § 91.1023(h), the reference to "stations" may be confused with the term as used in part 121 or 135. EJA recommends that the term "stations" be replaced with the term "facilities."

EJA also states that program managers that are also certificated under part 121 or 135 should be able to use, for subpart K purposes, the general operations manual from those certificated operations, so long as the manual addresses differences between the operations under part 121 or 135 and the operations under part 91, subpart K. EJA recommends that §§ 91.1023 and 91.1025 be amended to provide this option.

EJA further comments that under proposed § 91.1023, the program operating manual is a document that is accepted by the FAA. However, some of the procedures contained in that manual, such as the destination airport analysis under proposed § 91.1037, must be approved by the FAA. EJA recommends that § 91.1037(c) be amended to clarify this.

PASS believes that the program operating manual should be accepted by the Administrator and the program management company held responsible for keeping it current and up-to-date. PASS also believes that if the operating manual is not in hard copy form, and is transmitted electronically, as provided under § 91.1023(g), a means must be made to ensure that the information is