

current. PASS further comments that, contrary to § 91.1023(h), the program-operating manual should be carried on every aircraft in case the aircraft has to divert to another destination or flies into an airport that does not have approved maintenance services or personnel.

FAA Response: The FAA agrees with the recommendation by EJA that paragraph (h) should reference "approved aircraft inspection program" and has changed paragraph (h) accordingly. The FAA also agrees that the term "stations" should be changed to "facilities." The FAA agrees with EJA's comment that program managers certificated under part 119 should be able to use the general operations manual from a part 119 certificated operation if procedures are applicable to subpart K and if any differences are clearly stated. Use of a single manual for different types of operations must be authorized by the FAA in the management specifications.

The FAA agrees with the comment by EJA that manuals that are "accepted" sometimes contain certain portions that must be "approved." The FAA does not think any change to the rule is needed. The details of the procedures will be addressed in guidance documents.

The FAA agrees with PASS that the program operating manual must be acceptable to the Administrator and kept current. The FAA agrees that appropriate portions of the program operating manual must be carried on the aircraft when it is away from the principal operations base. This is reflected in §§ 91.1023(a) and (f).

Section 91.1025 Program Operating Manual Contents

NWJ and an individual state that the program operating manual should also contain the name or names of persons responsible for updating the manuals.

FAA Response: Section 91.1023(a) requires the program manager to keep the manual current. While the names of persons delegated to perform this function may be included in the manual, the FAA does not believe this should be mandatory.

Section 91.1027 Recordkeeping

PASS believes that the program manager should be responsible for keeping a list of qualified mechanics and repair facilities acceptable to perform maintenance and should identify and notify the Administrator of those required to follow an FAA approved drug testing program.

FAA Response: The program manager is required to ensure that persons who perform maintenance are qualified. The final rule allows an exception for

emergency maintenance for those otherwise qualified personnel who do not meet the drug and alcohol education provisions of § 91.1047 or the testing provisions of §§ 135.251 and 135.255.

The FAA believes it would be an administrative burden for the program manager to maintain a list of all qualified mechanics and repair facilities and to notify the Administrator of those mechanics or facilities that follow an FAA approved testing program. Instead the program manager must notify the FAA of all persons who perform emergency maintenance who do not meet the applicable drug and alcohol education or testing requirements.

In the final rule § 91.1027(a) is amended to make the terminology consistent with § 91.1015.

Section 91.1029 Flight Scheduling and Locating Requirements

PASS believes that all flights should be required to file a flight plan for all operations, visual flight rules (VFR) or IFR.

FAA Response: The requirement in § 91.1029 was derived from the existing requirement in part 135. The program manager must have a process for flight locating and a flight plan is one way to facilitate flight locating. In most situations subject to subpart K, additional procedures will exist. For turbo-jet operations it is expected that an IFR flight plan will be filed. The program manager must have an adequate system in place and the FAA expects that most companies will meet this requirement by filing a flight plan. For clarification the final rule § 91.1029 has been amended to add the word "adequate" to paragraphs (a) and (b).

Section 91.1035 Passenger Awareness

A flight operations manager recommends deletion of the proposed requirement that passengers be advised of the name of the entity in operational control of the flight since proposed §§ 91.1009—91.1013 have already clearly established that "the owner be advised and sign a document defining the implications of operational control."

PASS believes that if additional passengers are picked up separately, they should be briefed on emergency procedures and that all briefings should be in languages spoken by the passengers.

Atlantic Aviation Flight Services comments on what it believes is a disparity between the current part 135 regulations regarding passenger briefings and the proposed changes in the subpart K revision. Atlantic believes that these regulations should be the same regarding the content of this

regulation and when the briefings need to be accomplished. The commenter believes there is an assumption in proposed § 91.1035(g) that there is no need for a passenger to listen more than once to a briefing since he or she would be familiar with the safety aspects after one briefing. The commenter believes that if this is the case, it should apply to the part 135 regulation.

Flexjet recommends that a provision be added to authorize delegation to a flight attendant or other crewmembers of the responsibility to brief passengers.

FAA Response: The FAA disagrees with the commenter who recommends deletion of the proposed requirement that passengers be advised of the name of the entity in operational control of the flight. The identification of the entity having operational control is a critical aspect of the fractional ownership concept. However, paragraph (c) of § 91.1035 also requires the briefing to state whether the flight is conducted as a program flight or a commercial operation under part 121 or 135 of the regulations. The FAA is deleting this provision because there is no regulatory requirement under part 121 or 135 to state the operating rules under which the flight is being conducted.

In response to the comments on when the briefing is conducted the FAA agrees that there is an ambiguity as to whether briefings must be done before each take-off, or before a previous flight on the aircraft. The FAA is deleting proposed paragraph (g) and requiring that prior to each take-off the pilot in command must ensure that all passengers have been briefed.

The FAA does not agree that language comparable to § 91.1035(g) should be added to part 135. While there are minor language differences, both rules require that all passengers receive a briefing.

The FAA disagrees with the comment that all briefings should be conducted in languages spoken by the passengers. Briefing cards are used to supplement the oral briefing. Briefing passengers in all languages is impractical and is not required for operations under part 121 or 135.

One commenter recommends that a provision be added to allow delegating the responsibility to brief passengers. This change is not necessary because the rule already provides in paragraphs (d) and (e) that the briefing can be given by a pilot, another crewmember, or a recording.

Section 91.1041 Aircraft Proving Tests (Also § 135.145)

EJA recommends several amendments, primarily to make it clear