

that an aircraft that has already had proving tests (for example, under part 121 or part 135) need not undergo further proving tests.

Jet Sales & Services, Inc., states that proving tests are not efficient and are not appropriate because they are nonproductive expenditures of funds.

Kaiser Air, Inc., is strongly in favor of the proposed change to § 135.145. Likewise, NWJ and an individual applaud the efforts of the FOARC committee and the FAA to provide qualified part 135 operators relief from costly proving runs under the provision of § 135.145(b).

FAA Response: Proving tests are necessary to evaluate each applicant's ability to conduct operations safely and in accordance with the applicable regulations. Proving tests consist of a demonstration of the applicant's ability to operate and maintain an aircraft new to the operator's fleet or the applicant's ability to conduct a particular kind of operation such as part 121 domestic, flag or supplemental. Current § 135.145 requires an applicant to successfully complete proving tests before the FAA may authorize the operation of each type of turbojet aircraft or each type of aircraft for which two pilots are required for operations under visual flight rules (VFR). The FAA disagrees with the comment that proving tests are not efficient or productive. The basic principle is that each company has the responsibility to show that it can operate each aircraft safely and in compliance with the requirements.

Proving tests are necessary for operations being approved under subpart K, even if the aircraft has already had proving tests under part 121 or part 135 operations, because the procedures and requirements are different and the program manager needs to prove that it can conduct subpart K operations safely and within the regulations. Where there are

similarities between the operations, the FAA will consider modifying the test requirements, including the use of non-flight table-top exercises. The FAA will consider on a case by case basis how extensive the proving tests need to be for companies that have previously approved aircraft under part 121 or 135, or for companies that have been operating safely under part 91.

In the final rule, the FAA has added language requiring validation tests for both subpart K of part 91 and part 135, codifying what is currently described in the Air Transportation Operations Inspectors Handbook (Order 8400.10, Volume 3, Chapter 9). That chapter of the Handbook describes how FAA inspectors conduct proving and validation tests to evaluate an applicant's ability to conduct operations safely and in accordance with the applicable regulations before issuing an operating certificate, adding a new aircraft to the applicant's fleet, or authorizing a new area or route. Validation tests are specifically used to evaluate requests for authorization to operate outside U.S. airspace, to add a long-range navigation system or flight navigator, to operate into a new area, to add special or unique navigation procedures, or for special performance or operational authorizations.

For fractional ownership programs under subpart K, it is necessary to add specific language on validation tests to § 91.1041, in addition to the proposed language on proving tests, in order to specify how the FAA will determine under § 91.1014 that the applicant is properly and adequately equipped and is able to provide program management services. For part 135, the new language is primarily a codification of the procedures they already go through to obtain various authorizations.

An addition to the validation test requirements has been added in final §§ 91.1041(d) and (e) and 135.145(d)

and (e) to require validation tests when a program manager or part 135 certificate holder adds to its operations an aircraft that is a new make or is of similar design to a previously approved aircraft. As a result of this final rule, such aircraft are no longer required to have proving tests. However, the FAA has determined that a validation test should be conducted to determine that the operator is capable of conducting operations safely with that aircraft and in compliance with the applicable regulatory standards. In most cases the applicant will not be required to conduct an actual flight to validate the aircraft. However, the FAA will conduct an in-depth review of the applicant's proposed procedures, training programs, manuals, facilities, and maintenance programs relevant to the new aircraft.

The FAA will determine the level of demonstration required, depending on the similarity between the previously approved airplane and the new make and model. For example, the FAA may develop scenarios for different types of conditions or events and ask the program manager or certificate holder to show how it would follow the proper procedures in reacting to such conditions or events.

For both proving tests and validation tests, the Administrator may authorize deviations from this section if the Administrator finds that special circumstances make full compliance with this section unnecessary. Also, proving tests and validation tests may be conducted simultaneously when appropriate.

The following table summarizes the differences between the current proving test and validation test requirements for part 135 and the final rule requirements for fractional ownership programs under subpart K and certificate holders under part 135:

Comparison of current and final proving and validation test requirements	Current requirements for part 135	Final rule requirements for part 135 and part 91, subpart K
Aircraft (except turbojets) for for which 2 pilots are required under VFR.	Proving test required for each aircraft unless operator has previously proved that make and similar design aircraft under part 135. Deviation authority for proving test requirement.	One time proving test required for an aircraft, except turbojets, for which 2 pilots are required under VFR. Validation test required for each additional make and similar design aircraft, unless operator has previously proved that make and similar design aircraft under applicable part. Deviation authority for proving and validation test requirement.
Turbojet aircraft	Proving test required for each turbojet aircraft unless operator has previously proved that make and similar design turbojet aircraft under part 135. Deviation authority for proving test requirement.	One time proving test required for a turbojet aircraft. Validation test required for each additional turbojet aircraft, unless operator has previously proved that make and similar design turbojet aircraft under applicable part. Deviation authority for proving and validation test requirement.