

### *Section 91.1045 Additional Equipment Requirements*

The Teamsters comment that as proposed, this section would not require any aircraft used in a fractional ownership program to add any equipment not already required by another current regulation, for example, the requirement for GPWS and TCAS already exists for most turbojet aircraft. The commenter asks whether this section has any useful purpose other than to ensure that certain program managers do not have to retrofit their 75 Citation V Ultra turbojets with TCAS.

Dassant Aviation recommends that the final rule include compliance dates to allow sufficient time for any newly required equipment to be ordered and installed. The compliance period should correspond to the stipulated period for such equipment in part 121/135.

**FAA Response:** The intention of § 91.1045 is to ensure that fractional program aircraft have the same equipment as for the same aircraft when used for part 121 supplemental operations or for part 135 on-demand operations. While it is true that part 91 addresses GPWS and TCAS, those rules are not as stringent as the part 121 and 135 requirements. For example, § 91.221 states that any TCAS system installed must be approved by the Administrator and that if it is installed, it must be turned on and operating while the aircraft is in flight; however, it does not require the installation of TCAS equipment. The final rule has been rewritten to clarify which equipment rules apply to fractional ownership aircraft. This delineation is based on the 121/135 dividing line for nonscheduled operations. Aircraft that have more than 30 seats or a payload capacity of more than 7,500 pounds must follow the same equipment standards and applicable regulations as for supplemental operations conducted under part 121. Aircraft that have a passenger-seat configuration of 30 seats or fewer, excluding each crewmember, and a payload capacity of 7,500 pounds or less, and any rotorcraft must follow the same equipment standards and applicable regulations as for on-demand operations conducted under part 135.

The only delayed compliance time provided in the part 121 and 135 rules is for the installation of terrain awareness and warning systems, which are required by March 29, 2005. For existing fractional ownership programs the other equipment must be installed on or before the compliance date for the final rule, which will be 15 months after the date of publication in the **Federal Register**. Since many of the aircraft

currently used in fractional ownership programs already meet the requirements, the FAA does not expect this to cause undue hardship. New entrant fractional ownership programs must have the other equipment installed before they receive their management specifications.

### *Section 91.1049 Personnel*

EJA recommends inclusion of language in proposed § 91.1049(e) to clarify that scheduling or flight release personnel “are able to perform their duties.”

EJA also answered FAA’s question concerning “whether this proposal is appropriate for a single pilot operation permitted under the deviation provision contained in proposed § 91.1049.” EJA recommends that single pilot operations be addressed in the rule because if this problem is handled under deviation authority there will be “wide variation in interpretation of the regulations by the different FSDO’s throughout the country.”

The Teamsters ask if the required “staffing level” of this section (3 pilots per aircraft) has to be full-time employees, or if they can be part-time help when needed.

**FAA Response:** In response to EJA’s comment on scheduling and flight release personnel, it is the responsibility of the program manager to ensure that all personnel are trained and qualified in accordance with the program manager’s training program. The training program for scheduling and flight release personnel must be appropriate for the size and complexity of the operation.

In response to EJA’s concern about the FAA granting inconsistent deviations for single-pilot operations, the FAA is developing guidance for subpart K implementation to ensure that there is uniformity among the FSDO’s for granting such deviations. The FAA needs to consider the size, complexity, and organizational structure of the new fractional owner programs that might exist in the future. The FAA needs to have the latitude and flexibility to grant deviations when appropriate.

In response to the questions about staffing levels, program managers may use either full or part time employees, who may be either direct or contract employees. In the final rule, the FAA has changed to requirement to employ “at least three pilots” to “an adequate number of pilots” because there are so many variables and differences among fractional ownership programs that it would be difficult to enforce and would lead to an excessive number of deviation requests. The number of

employees for a particular program manager would be determined by the need to have adequate staff available so that the program manager can meet other requirements of the subpart, such as the rest and duty rules. Also, the FAA will consider the needs of program managers during temporary situations, such as when hiring the initial cadre staff for startups and for companies adding new aircraft types, or, for small companies, the time between when one pilot leaves and another one is hired.

### *Section 91.1051 Pilot Safety Background Check*

NBAA, NATA, and Flexjet state that statutory authority is needed to give them access to motor vehicle driver records and other records that a program manager would be required to access in a safety background check. Such records are normally protected by the Privacy Act; however, in 1996 the Pilot Records Improvement Act provided air carriers with the responsibility and authority to check such records when hiring pilots.

**FAA Response:** The FAA deleted paragraph § 91.1051(c), which would have required a program manager to access motor vehicle driver records. This provision may be added when the necessary legislative authority is obtained. The other background safety check requirements of § 91.1051 do not require legislative authority and remain in the final rule.

### *Section 91.1053 Flight Crew Experience*

AOPA states that the NPRM includes a requirement for flight crew experience, but uses an industry standard applicable for multi-engine turbine-powered aircraft. The operational demands and missions of smaller aircraft are different from those of turbine-powered multi-engine aircraft, yet the NPRM does not make a distinction. AOPA believes the final rule must specifically address and delineate flight crew experience needs for non-turbine powered multi-engine and single-engine aircraft. Also, AOPA comments that all of the crewmember experience requirements would only apply to those operations flown by flight crewmembers of the fractional ownership program manager under subpart K, not owner-flown flights.

AOPA recommends that the FAA include a standard for non-turbine powered multi-engine engine aircraft similar to that used in part 135. The pilot in command requirement under proposed § 91.1053 for these aircraft should be 1,200 hours. In addition AOPA recommends that these smaller aircraft operations not require a second