

fractional ownership program managers to follow the applicable unscheduled part 121 or part 135 flight time limitations, duty period limitations, and rest requirements instead of the subpart K requirements. This would be particularly helpful for operators who conduct both subpart K and part 135 or part 121 operations because it would facilitate scheduling and recordkeeping for crewmembers who work under multiple types of operations. A fractional ownership program manager who wishes to follow part 135 or part 121 rules must obtain approval to do so and the approval must be included in the management specifications for that program manager.

*Section 91.1057 Flight, Duty and Rest Time Requirements*

*Section 91.1057(a)—Definitions*

**Augmented flight crew.** According to EJA, this definition does not specify the qualifications for the third pilot. This commenter uses, and believes that the FAA intends to require that program managers use, a qualified PIC on the flight deck at all times. This requires that two pilots in command be aboard the aircraft, resulting in an augmented crew that is composed of, at a minimum, a designated/qualified pilot in command, a qualified pilot in command, and a designated/qualified SIC. IBT concurs with the proposed definition, but would require a first class-type reclining chair for the pilot at rest.

**FAA Response:** The FAA agrees with these commenters. The FAA intended that the subpart K rule would treat augmented crews the same as in part 135. In the final rule, language from § 135.269 has been included to specify the crew qualifications for a three- or four-pilot crew and to provide that the aircraft must have adequate sleeping facilities.

**Calendar day.** Kaiser Air, Inc. believes the definition would be more clear using only Coordinated Universal Time and deleting “or local time.”

**FAA Response:** The FAA disagrees with this comment because the definition used in § 91.1057 is consistent with the definition for “calendar day” used in § 135.273. The main point is that the day should include 24 hours of elapsed time, regardless of time zone changes.

**Extension of normal duty.** IBT proposes that this definition be eliminated. The EJA Master Executive Council Chairman notes that this is an ambiguous definition, open to wide interpretation.

A Flight Operations Manager notes the end of the definition says “within

the planned flight time” when it should say “within the planned duty time.”

EJA extends this thought, noting that this definition in the NPRM appears to refer not only to an extension of normal duty time, but also to an extension of flight time. The phrase as defined, and as used in the flight, duty, and rest tables, should be changed to “extension of normal duty and flight time.” This commenter also suggests that the regulation provide additional examples of situations that would justify the increased duty period.

A flight operations manager notes that in published legal interpretations the FAA General Counsel consistently defines “circumstances beyond the control of the certificate holder/program manager” to include adverse weather, late passengers, mechanical delays, air traffic control delays, etc. These are all circumstances beyond the control of the operators or flight crews and should be included in the rule when implemented.

The Teamsters state that the FAA has been slowly making changes that are demanded by NTSB and researched by dozens of agencies, yet allows a definition that goes against common sense and its own recent enforcement policy.

EJA suggests “period of duty” (used in the definition of “extension of normal duty”) be changed to “duty period” (a defined term in the NPRM), to be consistent.

**FAA Response:** In response to these comments the FAA has reconsidered what flexibility is appropriate when, because of circumstances beyond the control of the program manager, a flight arrives late. The FAA has determined that program managers should be allowed to extend the flight time for a 2-pilot crew by up to 2 hours in such circumstances, but that it is not appropriate to extend the duty period or reduce the rest periods. The flight time for a 1-pilot crew operating under a deviation could be extended by 1 hour. The FAA believes that this solution provides the most flexibility for daily scheduling, while ensuring that adequate rest is provided and that duty periods of more than 14 hours are prohibited. Therefore, in the final rule, the defined term has been changed to “extension of flight time” and “period of duty” has been changed to “flight time.” The chart in § 91.1059 has been changed accordingly.

**Multi-time zone flight.** Kaiser Air, Inc. notes that this section needs more clarification. Does “crossing” include the time zone at take-off and landing? How many time zones are “crossed” from California to New York—2, 3, or 4?

What about flights that make fuel stops and are not “continuous?”

EJA mentions that “continuous” is undefined in this section. The commenter suggests including multi-time zone crossings in the same duty period, since it would be irrelevant whether a flight had been made non-stop, or with an intervening stop, where at the end of the duty day, the flight crew had crossed multiple time zones. This commenter recommends that the definition be changed to reflect this, with the suggested phrase, “a flight or multiple flights in a single duty period, the end result of which involves crossing five or more time zones in one direction.”

**FAA Response:** The FAA agrees with these commenters that the proposed definition was confusing. It has been redrafted to clarify that it is the time zone difference of 5 hours or more from the originating time zone that is of concern, because a time difference of that amount can affect a pilot’s circadian rhythm. The FOARC recommended this additional provision. The FAA notes this provision is more restrictive than part 121 and 135 and will add complexity to the matrix of flight time and rest requirements. It should also be noted that most circadian rhythm issues involve not only the number of time zones crossed, but the time of day that the duty period begins.

**Planned expanded duty.** EJA believes that this phrase appears to be used in the NPRM to refer not only to planned expanded duty, but also to an expansion of flight time. The phrase as defined, and as used in the flight, duty, and rest tables, should be changed to “planned expanded duty and flight time.” The phrase “long-range aircraft capable of exceeding 10 hours of flight” is found within “planned expanded duty,” which should be clarified to indicate long-range aircraft capable of exceeding 10 hours of non-stop flight flown in accordance with part 91. Since “planned expanded duty” is used not only in proposed § 91.1059, dealing with unaugmented crews, but also in proposed § 91.1061, dealing with augmented crews, the definition should not be limited by the phrase “unless the flightcrew is augmented by a third pilot.” That limitation is inherent in proposed § 91.1059, and would conflict with proposed § 91.1061.

The EJA Master Executive Council Chairman notes that by allowing a “planned” expansion of duty, the FAA is granting fractional program managers carte blanche approval to operate ultra-long range business jets to the limits of aircraft endurance without putting a third crewmember on board. Owing to