

the costs involved, program managers will never make use of a third flight crewmember unless obligated by regulations to do so.

IBT believes the proposed definition is incomplete. This commenter concurs with the proposal provided that this term requires an augmented crew. Also, insert "cannot be scheduled" between "flight" and "unless."

FAA Response: The FAA is reviewing the research on pilot fatigue and the use of ultra-long range aircraft and has determined that it is premature to establish a standard for the use of such aircraft with a crew of only 2 pilots. Therefore the definition of planned expanded duty and the limits for such duty in §§ 91.1059 and 91.1061 do not appear in the final rule. Instead the FAA is applying limits for augmented crews in § 91.1061 that are similar to those in § 135.269 for unscheduled 3- or 4-pilot crews. Currently the rest and duty requirements in parts 121 and 135 do not address the use of ultra-long range aircraft. The FAA has decided to defer a decision on appropriate rest and duty requirements for the use of such aircraft by fractional ownership programs until standards for parts 121 and 135 are developed.

Reserve and Standby. Kaiser Air, Inc. notes that "reserve" and "standby" are defined but then do not appear elsewhere in the proposed rule language. EJA Master Executive Council Chairman and Teamsters ask how the definition of "standby" differs from "reserve" and who arbitrates the assured conflicts between pilot and program manager? Another commenter notes that these two definitions are ambiguous. Both terms require the flight crew to be in a state of readiness to fly. However the reserve status, with an unlimited time associated with it, leaves excessive room for abuse and subjects crews to unreasonable periods where the pilot must be ready to fly. This time is not counted as a duty status.

A commenter believes that time spent on standby should be considered duty time. It is impossible to ensure adequate rest while on extended periods of standby, sometimes reaching lengths of several days. Often after long periods of standby time, crews are called out at any hour of the night. This situation is dangerous.

The EJA Master Executive Council Chairman believes that reserve is duty, stating that requiring a crewmember to "hold himself or herself fit to fly," "remain within a reasonable response time of the aircraft," and "maintain a ready means whereby the flight crewmember may be contacted by the program manager" is, by definition,

duty. The commenter notes that FAA's own Chief Counsel's definition of duty reads, in part, "having a present responsibility for work." The three conditions contained in the proposed definition certainly add up to a present responsibility for work.

The Teamsters state that the reserve status definition is not adequate because it does not provide for a known, protected rest period. There is no way a pilot can be on a reserve schedule, never knowing when the call will come, and be free from fatigue at the end of a possible 16-hour duty period.

A commenter notes that these proposed rules define "reserve" as not being part of duty. What this means to a pilot is that he/she could get up at 8 AM and be on reserve all day. At the end of that day the pilot could be called and required to show up for duty and begin a 14-hour or longer duty day. In this example a pilot could be operating an aircraft with no sleep in 29 or more hours. The commenter believes that although a pilot can refuse a trip when he or she is too tired, the pilot's employer can also refuse to keep the pilot employed for turning down a "legal" trip. A commenter agrees that it is not enough to say it's the pilot's decision, when a pilot is under pressure from Chief Pilots and Directors of Flight Operations.

Three individual commenters, including a flight operations manager, propose removing the definition of reserve status. Two of these commenters note that even if reserve status is not eliminated, the amount of time that one can spend on reserve status must be defined.

The flight operations manager suggests removing "Reserve" from the proposed regulation for both 91.1057 and 135. As defined in the proposed rule "Reserve" meets the FAA definition of duty. If considered duty it defeats the intent of Reserve, and therefore should be removed. The FAA General Counsel's definitions of rest, duty and circumstances beyond the control of the operator are clear and concise and should continue to be part of this rulemaking.

According to an EJA pilot, FOARC's definition of "reserve status" needs to be changed to be included in one's duty period. This proposed definition says reserve status is considered a part of the pilot's rest period. Yet, at the same time they define rest as being "a period of time * * * that is free of all responsibility for work or duty prior to commencement of, or following completion of, a duty period, and during which the flight crew member

cannot be required to receive contact from the program manager * * *."

NWJ believes that incorporating the elements of extended and scheduled reserve as outlined in the NATA 135 On-Demand Concept Paper on Flight & Duty Time, would be of value. These elements empower the crew to refuse trips if they have not received sufficient sleep to safely conduct the flights.

IBT disagrees with the proposed definition and instead proposes that this term mean "the assignment of a crewmember by the program manager to a standby status from which the crewmember may be assigned to flight duty. While in such status, the crewmember has a present or prospective responsibility for flight duty assignment." Reserve standby preceding a duty period should be included in the duty period on an hour for hour basis.

FAA Response: As defined, the term "standby" refers to flight crewmembers who are on duty while awaiting an assignment for a flight. The requirements for standby pilots are the same as those for pilots with flight assignments. All rest and duty requirements apply to standby flight crewmembers and therefore adequate rest is ensured before the duty period begins and after the duty period is completed and the length of the duty period is limited. Reserve pilots, on the other hand, are not on assigned duty for a program manager. They are awaiting their next assignment from the program manager. The final rule clarifies that a reserve assignment is also not considered rest. Although the proposed definition evidently did not make this clear, the rest requirements apply to reserve pilots, as well as to pilots with regular flight assignments.

Rest period. IBT concurs with the proposed definition but would place a period after "manager" and delete the rest of the sentence.

A flight operations manager believes the proposed regulation as written is correct in that it provides that a pilot receives consecutive hours of rest rather than uninterrupted rest as mentioned in the preamble. It is very important not to define rest as an uninterrupted period so that 135 Air Carriers and Fractional Ownership Managers are able to at least contact flight crews while in rest to advise them of a future assignment.

The Teamsters believe that a good model for a definition of rest is the definition in part 135's Flight Attendant Limitations section, which is very reasonable and conforms to both scientific research and common sense. The commenter thinks that FOARC presents a definition that almost conforms to the accepted FAA