

definition, but then undermines that meaning with the definitions of reserve and standby.

**FAA Response:** The FAA agrees with the first commenter and has deleted the words “for purposes of program operations” from the definition. This change helps to clarify that the program manager may not contact the crewmember for any reason during the rest period, not even to advise them of a future assignment, as suggested by the second commenter. As explained under the discussion on reserve status, there is no conflict between the requirements for reserve and rest because a flight crewmember must be taken off reserve and given a rest period before reporting for an assignment involving flight time.

#### *Section 91.1057(c)*

According to EJA, this proposed section did not define “program duty.” This commenter recommends the paragraph be amended by removing “program” and inserting “required by the program manager” after “duty.”

EJA thinks that the NPRM does not address the impact of program manager-assigned non-flying activities on the duty and rest provisions. While it is likely that FOARC and the FAA intended that this period of work may not be considered part of any rest period, the final rule should make this clear. Section 91.1057 should be amended by adding a new paragraph to read as follows: § 91.1057(k) Assignments of duty made by the program manager that do not involve flight time will not be considered part of any required rest period.

**FAA Response:** The FAA agrees with these commenters and has changed “program duty” to “duty” to clarify that the program manager may not assign any kind of duty during a required rest period.

#### *Section 91.1057(d)*

EJA believes that while this section adequately addresses the issue of a program manager deadheading a flight crewmember at the start of the duty period, it does not address the deadheading of a flight crewmember to his home base at the completion of the duty period. Because of the unpredictability of airline schedules, the program manager should be given the flexibility to use the post-duty period to deadhead flight crewmembers to their home base. Since the flight, duty, and rest provisions are safety-related provisions, and since the flight crewmember's duty has concluded and the flight crewmember will be given all appropriate rest before the initiation of his next duty period, there are no

adverse safety consequences to excluding post-duty period deadheading to home base from these regulations.

An EJA Pilot believes the proposed definition of “local in character” needs to be qualified, so flight crewmembers are not subject to unsafe extensions to either side of their duty periods when traveling to/from the airport. Current interpretations vary greatly among supervisors as to what is considered “local,” suggesting a definitive time line. Driving to the hotel from the airport or vice versa has varied from 5 to 45 minutes.

**FAA Response:** Post-duty deadheading is included in § 91.1057(d). Program managers may deadhead flight crewmembers back to their home bases, but that time cannot be included as part of the rest period. Frequently pilots for fractional ownership programs are flown commercially to be in position for a flight assignment. Whether such a flight occurs before or after a duty period, it may not be counted as part of the rest period. The FAA is aware of the problem of “local” transportation to and from the airport to distant hotels and reminds program managers that they must allow time for crewmembers to obtain the required rest.

#### *Section 91.1057(h)*

EJA thinks that the phrase “extension of planned duty or flight time” may be confusing when used in connection with planned expanded duty.

**FAA Response:** Since the concept of planned expanded duty has been removed from the final rule, the words “duty or” have been removed from § 91.1057(h).

#### *Section 91.1059 Flight Time Limitations and Rest Requirements: One or Two Pilot Crews &*

#### *Section 91.1061 Augmented Flight Crews*

EJA states that some of the limitations in proposed §§ 91.1059 and 91.1061 should be amended to reflect the capabilities of newer, long-range business jets. For instance, while the proposed rule allows flight time up to 12 hours, the newer generation jets have a realistic range able to accommodate flight times in excess of 14 hours. To use safely the 14+ hours of potential flight time, the flight crew will conceivably require a 16–20 hour duty period. Similarly, to use safely the 16 hours of flight time, the flight crew will conceivably require up to a 20-hour duty period. To allow for this length of duty period, additional requirements must be satisfied. The minimum crew

rest period before any planned duty period of 16 or more hours should be increased from 10 hours to 18 hours. The flight crew would be limited to three scheduled landings during the 16 or more hour duty period, limiting exposure to the high workload environment of takeoffs and landings. Further, the minimum post-duty rest would be increased from 10 hours to 18 hours for 14–16 hours of flight time and 24 hours for 16 or more hours of flight time. Creating these additional requirements ensures that the flight crew will be adequately rested before and after the flight.

An EJA Pilot states that pilot fatigue has contributed to several aviation accidents, specifically American Airlines Flight 1420, which could have been avoided if the pilots had been more alert on the flight deck. The commenter believes the proposed flight, duty, and rest requirements are not safe and that we need to limit duty periods to 10 hours for a normal duty day and to 12 hours for an extended duty day. Similarly, a commenter believes that 16 hours is too long. He has worked many 14-hour days and believes that this is the maximum safe workday limit.

An individual commenter suggests rewriting § 91.1059(c) by limiting duty time to 12-hour with an extension to 14; by augmenting crews if there is more than 8 hours of flight time; and that for duty between 11 p.m. and 6 a.m., there should be a maximum flight time of 8 hours with 10 hours of duty.

IBT proposes in lieu of FOARC's recommendations that there be no extension of the 14-hour duty day and no extension of the 8-hour flight time limit.

A commenter makes the following suggestions. First, duty times should be a maximum of 12 hours extendable to 14 hours, instead of the proposed 14 hours extendable to 16 hours. Aircrews, currently operating under similar regulations, have stated that fatigue starts to set in insidiously after this period. Second, flight time should be a maximum of 10 hours or even reduced to 8 hours to meet FAA part 121 limitations. Fractional operators are often involved in flying into and out of unfamiliar airports which requires a consistently high state of alertness and readiness. To require or set such high duty times (14 hours or greater) and flight times (10 hours or greater) places an unrealistic burden on flight crews and may compromise safety.

Kaiser Air, Inc. notes that the duty time limits in § 91.1061 appear to be a range of 14–16 hours and 16–18 hours rather than a limit. This needs