

clarification since a limit would not have a range.

EJA states that “assign”, as used in § 91.1059(c), should be changed to “permit” since it would not be possible to “assign” an extension of normal duty, which is, by definition, an unplanned event. For ease of use, the table should also be revised to include the one-pilot requirements addressed in paragraph (b)(1). Also, the final rule should include information in § 91.1061 on when and how an augmented rule would be used. Additionally, the table in proposed § 91.1061 should address an extension of normal duty, since this concept would apply to augmented crews, just as it applies to unaugmented crews (for example, in proposed § 91.1059).

The Teamsters suggest that § 91.1061 contain additional language to specify which aircraft can be augmented, establish per pilot limitations, and require adequate rest facilities onboard the aircraft.

IBT suggests that proposed § 91.1061 be changed to provide a maximum actual duty time of 14 consecutive hours and a maximum actual flight time of 12 hours.

FAA Response: As discussed above under “planned expanded duty,” the FAA has reviewed 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.

In addition the tables have been changed in other ways in response to the comments and to make the tables consistent with the other requirements. Also, additional language has been added to § 91.1061 to specify the requirements for augmented crews. These are based on the comparable requirements in § 135.269 for unscheduled 3- and 4-pilot crews.

The FAA believes that the flight, duty, and rest requirements in the final rule are comparable to the variations suggested by several of the commenters. Following the issuance of the final rule, the FAA will closely monitor the implementation of the flight, rest, and duty rules by fractional ownership program managers, will continue to review the scientific literature on fatigue in aviation operations, and will revisit the appropriateness of these rules at the time that the FAA considers revisions to

flight, rest, and duty rules for part 121 and part 135 operations.

Section 91.1063 Testing and Training

EJA comments that proposed § 91.1063(d)(8), which defines “requalification training” to include training required because of a lapse in recurrent pilot testing requirements and instrument proficiency requirements, should also include a lapse in recurrent pilot training requirements or competency check requirements.

The Teamsters state that proposed §§ 91.1063 through 91.1115 would not be needed if the FAA simply regulated fractional operators under part 135, where most of these sections are copied from.

FAA Response: The FAA agrees with EJA and has changed § 91.1063(d)(8) in the final rule to specify that requalification training is necessary for crewmembers who have become unqualified by failing to comply with recurrent training, proficiency checks, or tests for pilots and with flight attendant testing requirements, if applicable, within the appropriate time period.

Although it is true that the proposed training and testing requirements for fractional ownership programs are modeled on those for on-demand operators in part 135, it is important for them to appear in part 91, subpart K, where they can be tailored to be appropriate for fractional ownership programs. As discussed above under “General Opposition,” the FAA has determined that subpart K is the appropriate regulatory approach for this segment of aviation.

Sections 91.1065, 91.1067, 91.1069, 135.293 and 135.297 Initial and Recurrent Pilot and Flight Attendant Testing Requirements and Instrument Proficiency Check Requirements

NATA and Flexjet strongly support the NPRM’s provisions permitting the required flight training portion of any of the pilot training or check requirements of this subpart, including the initial, transition, upgrade, requalification, differences, or recurrent training, or the accomplishment of a competency check or instrument proficiency check, to be conducted in a simulator.

EJA states that proposed §§ 91.1065(a) and 91.1069(d) should be clarified to ensure that it is understood that a written test, an oral test, or a combination of both types of test will satisfy the requirements. EJA also recommends that proposed §§ 91.1065(b) and 91.1069(e) make clear that (1) not all of the maneuvers and procedures required for the original

issuance of the particular pilot certificate are required to be included on the competency check, (2) not all of the procedures required for an air transport pilot certificate must be included on the instrument proficiency check for a pilot in command of an aircraft, and (3) not all of the procedures required for a commercial pilot certificate must be included on the instrument proficiency check for a pilot in command of a rotorcraft or a second in command of an aircraft. In keeping with FAA Policy Memorandum #183, not all maneuvers required for the original issuance need to be accomplished during an instrument proficiency check.

PASS believes that the flight crew instrument proficiency check requirements in proposed § 91.1069 should be the same as those specified for part 121 or 135 operations.

A pilot comments that a basic premise of this NPRM is the adoption of industry best practices and equivalent levels of safety. Currently, part 121 air carriers and part 91 operators, but not part 135 operators, may conduct progressive checking. That is, a maneuver successfully accomplished during training need not be repeated during a separate checking event. This commenter states that it is unclear whether subpart K makes provision for progressive checks or not. This commenter believes that allowing progressive checking for part 135 and subpart K would embrace industry best practices (part 91), enhance pilot training and safety, and provide appropriate equivalent standards between parts 121 and 135.

FAA Response: The FAA agrees with the EJA comment on §§ 91.1065(a) and 91.1069(d) and has changed the final rule language in both sections to make it clear that the required tests can be either written or oral, or a combination of written or oral.

In response to PASS’s comment on instrument proficiency check requirements, the proposed and final rule language does impose the same instrument proficiency check requirements as for parts 121 and 135, except that the requirements for SIC’s are more restrictive under subpart K than for SIC’s under part 135. An editorial change is being made to the rule language to clarify that the requirements apply to a pilot in command of an aircraft that requires the PIC to hold an ATP and to a second in command of an aircraft that requires the SIC to hold a commercial pilot certificate.

The kind of progressive checking referred to by one commenter is