

presumably the kind of checking allowed in an Advanced Qualification program under SFAR No. 58 for certificate holders operating under parts 121 and 135. This kind of program is not available to persons operating under part 91 and this issue was not focused on by the FOARC or by the FAA before the NPRM was issued. Therefore, the FAA believes it is beyond the scope of this rulemaking.

*Section 91.1071 Crewmember Tests and Checks, Grace Provisions and Training to Accepted Standards*

PASS believes that additional language should be added to proposed § 91.1071 that states that if an airman fails a check and is currently an employee of another certificate holder (that is, parts 121, 125, 135), he or she must notify that company and not be allowed to function in a commercial capacity as an airman, until the check failed is subsequently passed.

*FAA Response:* The final rule has been changed to add the notification requirement; however, the FAA cannot address qualifications as an airman under parts 121 or 135 in this rulemaking.

*Section 91.1073 Training Program: General*

EJA states that proposed § 91.1073 should be clarified so that the grace period applies to all tests, flight checks, and proficiency checks, and not just to recurrent training.

*FAA Response:* The grace period that applies to tests, flight checks, and proficiency checks appears in § 91.1071(a).

*Section 91.1075 Training Program: Special Rules*

Alpha Flying states that proposed § 91.1075(b) could lead to an interpretation that only a part 142 certificated training center could be used as a contractor for training. The Pilatus PC-12 is one aircraft for which there is no part 142 training center. Alpha believes that it was not the intent of the FOARC to prohibit the program manager from conducting training (under subparagraph (a)), using the services of a professional training center for portions of the training, if approved by the FAA inspector with jurisdiction over the management specifications. It would be in the interest of air safety to have a recognized professional program fulfill the requirements of § 91.1075 even if not part 142 certificated, if equivalent training effectiveness could be demonstrated to the satisfaction of the FSDO.

*FAA Response:* The FAA agrees with this commenter and has changed the final rule to add a deviation clause that allows for the use of a training center that is not certificated under part 142 if approved by the Administrator. The FAA has made other changes in the final rule to clarify that a program manager may also use the services of another program manager or of a part 119 certificate holder.

*Section 91.1087 Approval of Aircraft Simulators and Other Training Devices*

Flexjet notes that, if a program manager or its affiliate also conducts parts 121 or 135 operations and has an approved training manual with approvals for aircraft simulators or other training devices, those same approvals should be carried over to meet the part 91 subpart K requirements.

*FAA Response:* The FAA agrees with this comment. The changes to § 91.1075 in the final rule will allow for this.

*Sections 91.1089, 91.1091, 91.1093, 91.1095 Qualifications and Initial and Transition Training and Checking: Check Pilots and Flight Instructors*

EJA believes that proposed §§ 91.1089 and 91.1091 should have a provision similar to that in § 91.1063 that would allow a check pilot or flight instructor used by a program manager who is also a certificate holder under part 121 or 135 to be used under subpart K without additional training or testing. Flexjet makes a similar comment.

*FAA Response:* The FAA agrees that a check pilot or flight instructor used by a program manager who is also a certificate holder under part 121 or 135 may be used in subpart K operations. The language of § 91.1063 is broad enough to cover these sections as well. However, the FAA would want to ensure that the training and testing program elements are the same for both the fractional program and the part 121 or 135 operation. Where there are differences in the training and testing provisions of these programs, the check pilot or flight instructor must be trained and tested with respect to those differences.

*Section 91.1101 Pilots: Initial, Transition, and Upgrade Ground Training*

EJA states that proposed § 91.1101 was adopted from current § 135.345, but that § 91.1101 does not include the requirement that initial, transition, and upgrade ground training must include training on "the approved Aircraft Flight Manual or equivalent." EJA believes this phrase should be added to § 91.1101.

*FAA Response:* The commenter is correct. The phrase has been added to § 91.1101(b)(11) in the final rule.

*Section 91.1109 Aircraft Maintenance: Inspection Program*

PASS believes that a new section should be added to delineate the responsibility for the airworthiness of the aircraft, specifying that the responsibility for the airworthiness of the aircraft should be shared by each fractional owner and the program manager. Also, this commenter believes that no program manager should use any person to perform required inspections or maintenance unless the person performing the inspection or maintenance is appropriately certificated, trained, qualified, and authorized to do so.

EJA and an individual commenter believe that as written, proposed § 91.1109 could be interpreted to require the development of a completely new inspection program. They believe that the final rule should clarify that the intent is to allow program managers to develop their inspection programs from portions of existing manufacturers' or certificate holders' inspection programs, or to use a manufacturer's or certificate holder's program in total. Similarly, it should make clear that compliance with current § 91.409 is also acceptable, as well as that currently used forms would still be acceptable.

Thus, this commenter states that when the program manager derives the inspection program from the manufacturer or certificate holder, it would then become the program manager's inspection program and require approval from the FAA for both the program and the use of the program. However, if the program manager elected to use the manufacturer's or certificate holder's inspection program in total, the program manager would request approval from the FAA to use the inspection program, but the inspection program itself would remain controlled by the manufacturer or certificate holder. To clarify this intent, "derived" should be replaced with "derived or adopted." For clarity, "area in which the aircraft is based" should be replaced with "program manager." Program managers will manage the aircraft inspection programs.

NATA and Flexjet state that it was the FOARC's intent to allow the use of continuous airworthiness maintenance programs and continuous airworthiness inspection programs under proposed subpart K. To make this clear they recommend a total rewrite of proposed § 91.1109 and also amendment of