

Similarly, a pilot comments on the expense of the line check, which he believes does not effectively check competency. He proposes that it either be abolished or that the focus of the check is shifted away from basic airmanship to quantifiable human factors issues with the opportunity to provide a somewhat non-threatening environment where the pilot being checked has the chance to enhance his understanding of, and proficiency with, company standard operating procedures, human factors skills, *etc.*

FAA Response: While there is some merit to the arguments presented on the line check requirements under part 135, this issue was not addressed in the NPRM process and therefore is beyond the scope of the proposed changes and cannot be resolved in the final rule.

Miscellaneous

EJA states that throughout part 61, individual pilots are allowed to satisfy basic training, checking, proficiency check, and other similar requirements by satisfying requirements completed under air carrier training programs. EJA recommends that these sections should be amended to give comparable credit for satisfying parallel requirements under part 91, subpart K. The sections that EJA cites are §§ 61.55(d), 61.57, 61.58, 61.63, 61.157, and 61.159.

Similarly, EJA recommends that §§ 91.189 and 91.191 should be amended so that category II and III operations will be approved through Management Specifications and training and manual requirements will be met through part 91, subpart K.

This commenter also points out that if another rulemaking becomes final, first it will be necessary to include references to the "Decision Altitude" in proposed §§ 91.1039(c) and 91.1101(a)(7).

FAA Response: The FAA agrees with these comments because the training, testing, manuals, and approval processes in subpart K of part 91 are equivalent to those in parts 121 and 135. The FAA has made changes to the final rule to insert references in part 61 (except for § 61.57) to give credit for training and checking requirements accomplished under part 91, subpart K, and in §§ 91.189 and 91.191 to allow for approval of category II and III operations through part 91, subpart K, Management Specifications. Also the term "Decision Altitude" has been substituted for "decision height" wherever it appears. The FAA did not change § 61.57 because subpart K does not contain recent experience requirements and therefore, subpart K pilots must follow the § 61.57 requirements.

Beyond the Scope

An individual commenter recommends that the complete text of §§ 135.89, 135.93, and 135.100 should be included within new subpart K.

NATA recommends that a new section be added (§ 91.1043 Aircraft requirements) to allow the use of aircraft registered in other countries but are legally permitted to operate in this country in fractional owner programs. This commenter proposes language that would require the aircraft to be registered in a country that is a party to the convention on International Civil Aviation and to meet other requirements.

Eclipse Aviation notes that scheduled operations under part 135 require, pursuant to part 119, part 25 certificated aircraft for turbo-fan operations. This is in contrast to the fact that piston propeller and turboprop aircraft, that are not certified under part 25, may be utilized in scheduled part 135 operations. Certainly, when part 119 and its related safety concerns were formulated, aircraft such as the Eclipse 500 did not exist. Clearly, this commenter believes, the equipment and performance safety considerations that influenced the part 25 requirement for turbo-fan aircraft utilization in scheduled part 135 operations have merit. However, the level of safety that is available from a turbo-fan aircraft, featuring state-of-the-art digital avionics, offers an order of magnitude improvement in safety over most, if not all, of the piston propeller and turboprop aircraft that may currently be utilized in scheduled part 135 operations. Eclipse requests that part 119 requirements concerning scheduled part 135 operations be evaluated in light of the new generation of personal turbo-fan aircraft that will appear on the aviation market over the next few years.

FAA Response: All of the issues above merit consideration, but they were not addressed in the NPRM, and therefore are beyond the scope of issues that can be addressed in the final rule without additional notice and comment.

Fractional owner program managers are encouraged to follow the standards in §§ 135.89, 135.93, and 135.100 for the use of oxygen and autopilots and for crewmember duties, especially if the program manager also conducts operations under part 135. However, it needs to be clearly specified in the manual and training program which regulations and procedures are being followed.

NATA's proposal to allow foreign registered aircraft to be operated in fractional owner programs has

implications relating to citizenship and registration requirements that would require further study and future rulemaking, if warranted.

The FAA agrees that the introduction of the Eclipse 500 will require the agency to reevaluate which operating requirements would be most appropriate for that airplane. At that time FAA will determine whether rulemaking is necessary.

Minor Conforming Changes

The FAA finds it necessary to make minor changes by adding two rule sections not presented in the NPRM: Sections 21.197 (ferry flights) and 91.401 (applicability). In the case of 21.197, the change gives program managers the same authority, to conduct ferry flights for the purpose of maintenance, as is currently held by part 121 and 135 operators who operate under continuous airworthiness maintenance programs. The change to section 91.401 will add part 91, subpart K management specifications holders to those who operate under a continuous airworthiness maintenance program and thus do not have to comply with certain maintenance sections of part 91.

Paperwork Reduction Act

The amendment to 14 CFR part 91 contains information collection requirements. In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, the information collection requirements associated with this rule were submitted to the Office of Management and Budget (OMB) for review.

According to the regulations implementing the Paperwork Reduction Act of 1995, (5 CFR 1320.8(b)(2)(vi)), an agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection will be published in the **Federal Register** after it is approved by the Office of Management and Budget.

Regulatory Evaluation Summary

Overview

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade