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(b) An operator of an affected airplane may apply for a special flight authorization for one of the purposes listed in paragraph (a) of this section by filing an application with the FAA's Office of Environment and Energy. Except for emergency relief authorizations sought under paragraph (a)(7) of this section, applications must be filed at least 30 days in advance of the planned flight. All applications must provide the information necessary for the FAA to determine that the planned flight is within the limits prescribed in the law.

[Doc. No. FAA-2013-0503, 78 FR 39583, July 2, 2013, as amended by Docket FAA-2015-3782, Amdt. 91-349, 82 FR 46132, Oct. 4, 2017]

§§ 91.884–91.899 [Reserved]

Subpart J—Waivers

§ 91.901 [Reserved]

§ 91.903 Policy and procedures.

(a) The Administrator may issue a certificate of waiver authorizing the operation of aircraft in deviation from any rule listed in this subpart if the Administrator finds that the proposed operation can be safely conducted under the terms of that certificate of waiver.

(b) An application for a certificate of waiver under this part is made on a form and in a manner prescribed by the Administrator and may be submitted to any FAA office.

(c) A certificate of waiver is effective as specified in that certificate of waiver.

[Doc. No. 18334, 54 FR 34325, Aug. 18, 1989]

§ 91.905 List of rules subject to waivers.

Sec.

- 91.107 Use of safety belts.
- 91.111 Operating near other aircraft.
- 91.113 Right-of-way rules: Except water operations.
- 91.115 Right-of-way rules: Water operations.
- 91.117 Aircraft speed.
- 91.119 Minimum safe altitudes: General.
- 91.121 Altimeter settings.
- 91.123 Compliance with ATC clearances and instructions.
- 91.125 ATC light signals.
- 91.126 Operating on or in the vicinity of an airport in Class G airspace.

- 91.127 Operating on or in the vicinity of an airport in Class E airspace.
- 91.129 Operations in Class D airspace.
- 91.130 Operations in Class C airspace.
- 91.131 Operations in Class B airspace.
- 91.133 Restricted and prohibited areas.
- 91.135 Operations in Class A airspace.
- 91.137 Temporary flight restrictions.
- 91.141 Flight restrictions in the proximity of the Presidential and other parties.
- 91.143 Flight limitation in the proximity of space flight operations.
- 91.153 VFR flight plan: Information required.
- 91.155 Basic VFR weather minimums.
- 91.157 Special VFR weather minimums.
- 91.159 VFR cruising altitude or flight level.
- 91.169 IFR flight plan: Information required.
- 91.173 ATC clearance and flight plan required.
- 91.175 Takeoff and landing under IFR.
- 91.176 Operations below DA/DH or MDA using an enhanced flight vision system (EFVS) under IFR.
- 91.177 Minimum altitudes for IFR operations.
- 91.179 IFR cruising altitude or flight level.
- 91.181 Course to be flown.
- 91.183 IFR radio communications.
- 91.185 IFR operations: Two-way radio communications failure.
- 91.187 Operation under IFR in controlled airspace: Malfunction reports.
- 91.209 Aircraft lights.
- 91.303 Aerobatic flights.
- 91.305 Flight test areas.
- 91.311 Towing: Other than under §91.309.
- 91.313(e) Restricted category civil aircraft: Operating limitations.
- 91.515 Flight altitude rules.
- 91.707 Flights between Mexico or Canada and the United States.
- 91.713 Operation of civil aircraft of Cuban registry.

[Doc. No. 18334, 54 FR 34325, Aug. 18, 1989, as amended by Amdt. 91-227, 56 FR 65661, Dec. 17, 1991; Docket FAA-2013-0485, Amdt. 91-345, 81 FR 90175, Dec. 13, 2016; Docket FAA-2016-9154, Amdt. 91-348, 82 FR 39664, Aug. 22, 2017]

§§ 91.907–91.999 [Reserved]

Subpart K—Fractional Ownership Operations

SOURCE: Docket No. FAA-2001-10047, 68 FR 54561, Sept. 17, 2003, unless otherwise noted.

§ 91.1001 Applicability.

(a) This subpart prescribes rules, in addition to those prescribed in other subparts of this part, that apply to fractional owners and fractional ownership program managers governing—

(1) The provision of program management services in a fractional ownership program;

(2) The operation of a fractional ownership program aircraft in a fractional ownership program; and

(3) The operation of a program aircraft included in a fractional ownership program managed by an affiliate of the manager of the program to which the owner belongs.

(b) As used in this part—

(1) *Affiliate of a program manager* means a manager that, directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, another program manager. The holding of at least forty percent (40 percent) of the equity and forty percent (40 percent) of the voting power of an entity will be presumed to constitute control for purposes of determining an affiliation under this subpart.

(2) A *dry-lease aircraft exchange* means an arrangement, documented by the written program agreements, under which the program aircraft are available, on an as needed basis without crew, to each fractional owner.

(3) A *fractional owner or owner* means an individual or entity that possesses a minimum fractional ownership interest in a program aircraft and that has entered into the applicable program agreements; provided, however, that in the case of the flight operations described in paragraph (b)(6)(ii) of this section, and solely for purposes of requirements pertaining to those flight operations, the fractional owner operating the aircraft will be deemed to be a fractional owner in the program managed by the affiliate.

(4) A *fractional ownership interest* means the ownership of an interest or holding of a multi-year leasehold interest and/or a multi-year leasehold interest that is convertible into an ownership interest in a program aircraft.

(5) A *fractional ownership program or program* means any system of aircraft ownership and exchange that consists of all of the following elements:

(i) The provision for fractional ownership program management services by a single fractional ownership program manager on behalf of the fractional owners.

(ii) Two or more airworthy aircraft.

(iii) One or more fractional owners per program aircraft, with at least one program aircraft having more than one owner.

(iv) Possession of at least a minimum fractional ownership interest in one or more program aircraft by each fractional owner.

(v) A dry-lease aircraft exchange arrangement among all of the fractional owners.

(vi) Multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.

(6) A *fractional ownership program aircraft or program aircraft* means:

(i) An aircraft in which a fractional owner has a minimal fractional ownership interest and that has been included in the dry-lease aircraft exchange pursuant to the program agreements, or

(ii) In the case of a fractional owner from one program operating an aircraft in a different fractional ownership program managed by an affiliate of the operating owner's program manager, the aircraft being operated by the fractional owner, so long as the aircraft is:

(A) Included in the fractional ownership program managed by the affiliate of the operating owner's program manager, and

(B) Included in the operating owner's program's dry-lease aircraft exchange pursuant to the program agreements of the operating owner's program.

(iii) An aircraft owned in whole or in part by the program manager that has been included in the dry-lease aircraft exchange and is used to supplement program operations.

(7) A *Fractional Ownership Program Flight or Program Flight* means a flight under this subpart when one or more passengers or property designated by a fractional owner are on board the aircraft.

(8) *Fractional ownership program management services or program management services* mean administrative and aviation support services furnished in accordance with the applicable requirements of this subpart or provided by the program manager on behalf of the

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fractional owners, including, but not limited to, the—

(i) Establishment and implementation of program safety guidelines;

(ii) Employment, furnishing, or contracting of pilots and other crewmembers;

(iii) Training and qualification of pilots and other crewmembers and personnel;

(iv) Scheduling and coordination of the program aircraft and crews;

(v) Maintenance of program aircraft;

(vi) Satisfaction of recordkeeping requirements;

(vii) Development and use of a program operations manual and procedures; and

(viii) Application for and maintenance of management specifications and other authorizations and approvals.

(9) A *fractional ownership program manager or program manager* means the entity that offers fractional ownership program management services to fractional owners, and is designated in the multi-year program agreements referenced in paragraph (b)(5)(vi) of this section to fulfill the requirements of this chapter applicable to the manager of the program containing the aircraft being flown. When a fractional owner is operating an aircraft in a fractional ownership program managed by an affiliate of the owner's program manager, the references in this subpart to the flight-related responsibilities of the program manager apply, with respect to that particular flight, to the affiliate of the owner's program manager rather than to the owner's program manager.

(10) A *minimum fractional ownership interest* means—

(i) A fractional ownership interest equal to, or greater than, one-sixteenth ($\frac{1}{16}$) of at least one subsonic, fixed-wing or powered-lift program aircraft; or

(ii) A fractional ownership interest equal to, or greater than, one-thirty-second ($\frac{1}{32}$) of at least one rotorcraft program aircraft.

(c) The rules in this subpart that refer to a fractional owner or a fractional ownership program manager also apply to any person who engages in an operation governed by this sub-

part without the management specifications required by this subpart.

[Docket No. FAA-2001-10047, 68 FR 54561, Sept. 17, 2003, as amended by Docket No. FAA-2022-1355, Amdt. No. 91-366, 87 FR 75846, Dec. 9, 2022]

§91.1002 Compliance date.

No person that conducted flights before November 17, 2003 under a program that meets the definition of fractional ownership program in §91.1001 may conduct such flights after February 17, 2005 unless it has obtained management specifications under this subpart.

[Doc. No. FAA-2001-10047, 68 FR 54561, Sept. 17, 2003; 69 FR 74413, Dec. 14, 2004]

§91.1003 Management contract between owner and program manager.

Each owner must have a contract with the program manager that—

(a) Requires the program manager to ensure that the program conforms to all applicable requirements of this chapter.

(b) Provides the owner the right to inspect and to audit, or have a designee of the owner inspect and audit, the records of the program manager pertaining to the operational safety of the program and those records required to show compliance with the management specifications and all applicable regulations. These records include, but are not limited to, the management specifications, authorizations, approvals, manuals, log books, and maintenance records maintained by the program manager.

(c) Designates the program manager as the owner's agent to receive service of notices pertaining to the program that the FAA seeks to provide to owners and authorizes the FAA to send such notices to the program manager in its capacity as the agent of the owner for such service.

(d) Acknowledges the FAA's right to contact the owner directly if the Administrator determines that direct contact is necessary.

§91.1005 Prohibitions and limitations.

(a) Except as provided in §91.321 or §91.501, no owner may carry persons or property for compensation or hire on a program flight.