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Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91 and 105

Parachute Equipment and Packing; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 105

[Docket No. FAA–2005–21829; Notice No. 07–12]

RIN 2120–AI85

Parachute Equipment and Packing

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA is considering rulemaking to change the packing interval for certain types of parachutes. Currently, the FAA requires that most parachutes may not be used or carried aboard an aircraft and available for emergency use unless they have been packed within the previous 120 days. New reliability data from the parachute industry and other sources indicate it is time to review the packing interval, and the FAA is asking for public comment on a proposal to lengthen the interval from 120 to 180 days. The effect of the proposal is to ensure the rules reflect the safest parachute packing interval.

In this rulemaking, we are also proposing several correcting amendments to the rules related to parachute operations.

DATES: Send your comments on or before August 20, 2007.

ADDRESSES: You may send comments [identified by Docket Number FAA–2005–21829] using any of the following methods:

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Fax:* 1–202–493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kim Barnette, AFS–350, Aircraft Maintenance Division, General Aviation and Avionics Branch, AFS–350, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 493–4922; facsimile (202) 267–5115, e-mail *kim.a.barnette@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Privacy Act: Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a preaddressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD–ROM, mark the outside of the disk or CD–ROM and also identify electronically within the disk or CD–ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/*; or

(3) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html.*

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in

Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart iii, Section 44701. Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards in the interest of safety for inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances. This rule is within the scope of that authority because it affects the airworthiness of parachutes used for airborne emergencies and sport applications.

Background

The majority of nonmilitary parachutes used in the United States are either sport parachutes or parachutes used for emergency purposes. Nearly all sport parachutes are used for skydiving and use a ''dual parachute system.'' Dual parachute systems contain a ''main'' parachute and a second parachute called a ''reserve'' parachute, to be used if the main parachute fails. The other commonly used parachute is a single-unit emergency parachute, often worn in case of emergency when operating special aircraft like gliders or aerobatic airplanes.

The FAA issued a rule in 1978 requiring that main and most reserve parachutes be packed every 120 days. Before 1978, the FAA required that all parachutes be packed every 60 days. The FAA extended the packing interval to 120 days because new synthetic parachute materials like nylon and Dacron were becoming commonplace. Parachutists had found the synthetic material was just as reliable after being packed for 120 days as it was after 60 days.

The rule still requires a 60-day packing interval for reserve parachutes that were composed of any amount of silk, pongee, or other natural fiber, or a material that was not nylon, rayon, or similar synthetic fiber. A similar requirement exists for emergency-use parachutes.

Recently acquired data from the U.S. military, foreign aviation authorities, and parachute industry representatives suggest the current 120-day packing interval may be too short. Experts assert modern parachute materials last longer when the packing interval is longer than 120 days, and that too-frequent packing may shorten the life of the materials. Those experts found the parachute's porosity was affected by handling and manipulation of the parachute while being packed. The FAA is proposing 180 days as a more suitable packing interval for modern parachute systems.

The FAA has granted several exemptions to foreign individuals who participate in parachute events in the United States. Those exemptions allowed the foreign parachutists to use their parachutes even if they had not been packed within the previous 120 days. We relied on the parachutist's compliance with the packing interval requirements of the aviation authority in the parachutist's own country.

In this NPRM we are also proposing several minor corrections to 14 CFR parts 91 and 105. We propose to remove the reference to ''chair type'' parachutes in § 91.307 because all parachutes, regardless of type, will have the same packing interval. We are also making two typographical corrections to errors we found in § 105.43.

We are not proposing any changes to the packing interval for parachutes made from natural fibers such as silk or pongee.

Statement of the Problem

The FAA has concluded it is time to reconsider our parachute packing interval requirements. The FAA has systems to collect data about incidents related to parachutes and the activity of FAA-certificated parachute riggers. We have not, however, been able to gather our own data about the effect of the packing interval on modern parachute materials. On July 8, 2005, the Parachute Industry Association petitioned the FAA (docket no. FAA–2005–21829–1) for an exemption from the 120-day packing interval, and provided some data that suggests a longer interval may be warranted. The petition indicated many foreign countries and military organizations were using longer packing intervals that did not adversely affect safety or parachute performance.

We are issuing this notice to invite data from the public that will support or challenge our proposal to change the current parachute packing interval.

Section-by-Section Discussion of the Proposals

Section 91.307 Parachutes and Parachuting

One amendment to § 91.307 would remove an unnecessary reference to ''chair type'' parachutes. Another would change § 91.307 to increase the packing interval for emergency-use parachutes composed exclusively of nylon, rayon, or other similar synthetic fiber or materials from 120 days to 180 days.

Section 105.43 Use of Single-Harness, Dual-Parachute Systems

The amendment to § 105.43 would increase the packing interval for all main and most (those composed exclusively of nylon, rayon, or other similar synthetic fiber or materials) reserve parachutes from 120 days to 180 days. We also propose to correct two minor typographical errors in § 105.43.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no current or new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Parachute Equipment and Packing: Economic Assessment, Initial Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall 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 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of

$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule. We suggest readers seeking greater detail read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

In conducting these analyses, the FAA has determined that this proposed rule: (1) Has benefits that justify its costs, (2) is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, (3) is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (4) would not have a significant economic impact on a substantial number of small entities; (5) would not create unnecessary obstacles to the foreign commerce of the United States; and (6) would not impose an unfunded mandate on State, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

This proposed rule will result in no quantifiable costs, although the proposal may result in some minor loss of revenue to parachute riggers. Also, we believe that extending the packing requirement from 120 days to 180 days would not degrade the current level of safety afforded to parachutists, and the level of safety in an emergency situation may increase because the parachutes would not be handled as often. Repacking parachutes may cause some degradation in the strength of the parachute material. The FAA requests comments regarding the estimated population size and typical cost of packing a reserve parachute used in this analysis. We are also requesting that all comments be accompanied by clear documentation.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This rulemaking would result in some minor cost savings to parachutists. We consider parachutists to be individuals who are not subject to RFA. This proposed rule does not impose costs on any small entities; it may however, result in some minor loss of revenue to parachute riggers. Therefore, the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments regarding this determination.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and has determined that it would have only a domestic impact and therefore no affect on international trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $128.1 million in lieu of $100 million. This proposed rule does not contain such a mandate.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore would not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 312 and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects

14 CFR Part 91

General operating and flight rules, Special flight operations, Parachutes and Parachuting.

14 CFR Part 105

Parachute operations, Parachute equipment and packing.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Chapter I of Title 14, Code of Federal Regulations, as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and

29 of the Convention on International Civil Aviation (61 stat. 1180).

2. Amend § 91.307 to revise paragraph (a) to read as follows:

§ 91.307 Parachutes and parachuting.

(a) No pilot of a civil aircraft may allow a parachute that is available for emergency use to be carried in that aircraft unless it is an approved type and has been packed by a certificated and appropriately rated parachute rigger—

(1) Within the preceding 180 days, if its canopy, shrouds, and harness are composed exclusively of nylon, rayon, or other similar synthetic fiber or materials that are substantially resistant to damage from mold, mildew, or other fungi and other rotting agents propagated in a moist environment; or

(2) Within the preceding 60 days, if any part of the parachute is composed of silk, pongee, or other natural fiber or materials not specified in paragraph (a)(1) of this section.

* * * * *

PART 105—PARACHUTE OPERATIONS

3. The authority citation for part 105 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113–40114, 44701–44702, 44721

4. Amend § 105.43 to revise paragraph (a) and (b)(1) to read as follows:

§ 105.43 Use of single-harness, dual-parachute systems.

* * * * *

(a) The main parachute must have been packed within 180 days before the date of its use by a certificated parachute rigger, the person making the next jump with that parachute, or a non-certificated person under the direct supervision of a certificated parachute rigger.

(b) * * *

(1) Within 180 days before the date of its use, if its canopy, shroud, and harness are composed exclusively of nylon, rayon, or similar synthetic fiber or material that is substantially resistant to damage from mold, mildew, and other fungi, and other rotting agents propagated in a moist environment; or

* * * * *

Issued in Washington, DC, on May 11, 2007.

James J. Ballough,

Director, Flight Standards Service.

[FR Doc. E7–9875 Filed 5–21–07; 8:45 am]

BILLING CODE 4910–13–P