

(ii) For lavatories D and E: Airbus Service Bulletin A320-25-1365, dated February 18, 2005, references Airbus CMM Lavatory D 25-43-51; and Airbus CMM Lavatory E 25-43-52, as applicable, as an additional source of guidance for doing the replacement.

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Issued in Renton, Washington, on May 25, 2010.

Ali Bahrami,

*Manager, Transport Airplane Directorate,
Aircraft Certification Service.*

[FR Doc. 2010-13231 Filed 6-2-10; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 65

[Docket No. FAA-2007-28518, Amendment No. 65-54]

RIN 2120-AJ08

Clarification of Parachute Packing Authorization

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule (immediately adopted).

SUMMARY: This action amends the requirements for individuals who pack, maintain, or alter main parachutes of a dual-parachute system—those with main and “back up” parachutes—to be used for parachute jumping in connection with civil aircraft of the United States. It expressly limits the authority of a non-certificated person who is not under the supervision of an appropriate current certificated parachute rigger to only pack the main parachute of a dual-parachute system when that person will be the next jumper to use the parachute. This action is intended to correct a potentially unsafe condition of parachute operations created by changes to the 2001 revision of the current rule.

DATES: This action is effective June 3, 2010. 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://www.regulations.gov>, including any personal information you provide. 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 for an association,

business, labor union, *etc.*). You may review DOT’s complete Privacy Act Statement in the **Federal Register** (see 65 FR 19477-78, April 11, 2000), or you may visit <http://DocketsInfo.dot.gov>.

Docket: To read background documents or comments received, go to <http://www.regulations.gov> at any time or to Docket Operations in Room W12-140 of the West Building Ground Floor at 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, Aircraft Maintenance Division, AFS-300, Federal Aviation Administration, 950 L’Enfant Plaza North, SW., Washington, DC 20024; telephone (202) 385-6403; facsimile (202) 385-6474, e-mail kim.a.barnette@faa.gov.

SUPPLEMENTARY INFORMATION:

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.

The FAA is issuing this rulemaking under the authority set forth in 49 U.S.C. 44701(a)(2)(A). This regulation is within the scope of that authority because the Administrator is charged with promoting safe flight of civil aircraft by, among other things, prescribing regulations that the Administrator finds necessary for inspecting, servicing, and overhauling aircraft, aircraft engines, propellers and appliances.

Background

In 2001, the FAA amended Title 14, Code of Federal Regulations (14 CFR) § 65.111, Certificate required (see 66 FR 23543, May 9, 2001). The 2001 amendment was intended to: (1) Incorporate tandem parachute operations into the rule; (2) specify that a non-certificated person could pack, maintain, or alter a main parachute only if the individual was under the supervision of an appropriate current certificated parachute rigger; and (3) clarify that a non-certificated person, not under the supervision noted above, could pack a main parachute of a dual-parachute system, intended for tandem operation, only if that person was to be the next jumper to use that parachute. No other substantive changes to § 65.111 were discussed in that rulemaking, nor were any other changes intended.

In the 2001 amendment, however, the revised text of § 65.111(b) did not preserve the clarity of authority that existed in the prior rule regarding a non-certificated person. Before the 2001 amendment, the authority of a non-certificated person (who was not under the supervision of an appropriate current certificated parachute rigger) was expressly limited to packing a main parachute of a dual-parachute system for personal use; maintenance or alteration was not authorized. The parachute industry raised concerns that the resulting authority language in the 2001 amendment could be viewed as authorizing maintenance or alteration by non-certificated persons not under the supervision of an appropriate current certificated rigger. Those concerns pose significant safety concerns for the FAA and those regulated by § 65.111. Improperly performed maintenance or alteration could lead to parachute failure, which would have catastrophic results.

Only certificated riggers, or persons under their supervision, have the requisite knowledge and skill to safely perform maintenance and alteration. The FAA does not intend that the regulation be interpreted to authorize maintenance and alteration by those not qualified, nor otherwise appropriately supervised. The FAA’s intention is clearly supported in other parachute-related regulations (see 14 CFR 91.307, 105.43(a), and 105.45(b)(1)). All of those regulations support the FAA’s position that in all but “next jumper” situations, parachute packing must be accomplished by or overseen by an appropriate current certificated parachute rigger. Further, none of those sections authorize maintenance or alteration of parachutes by non-certificated persons.

The FAA is not aware of any unauthorized parachute maintenance or alteration performed as a result of any operators’ misunderstanding of the current rule. Nevertheless, we want to prevent any adverse consequences by ensuring that parachute operations are performed or overseen only by persons who know and understand the requisite techniques and practices. This rule clarifies that the FAA requires that a person must hold an appropriate current parachute rigger certificate or be under the supervision of an appropriate current certificated rigger to maintain or alter main parachutes.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Federal eRulemaking Portal at <http://www.regulations.gov>;

(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 amendment number or docket number of this rulemaking.

Good Cause for Immediate Adoption of This Final Rule on Parachute Repack Authorization

On the basis of the above information, I have determined that immediate action by the FAA is in the public interest because the rule only clarifies existing requirements and public comment is unnecessary. Further, I find that good cause exists for making this rule effective immediately upon issuance.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at our site, http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

Paperwork Reduction Act

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

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices

and has identified no differences with these proposed regulations.

Economic Evaluation, Regulatory Flexibility Act, Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to 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, the 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 final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this rule. The reasoning for this determination follows:

This rule clarifies that the FAA requires that a person must hold an appropriate current parachute rigger certificate or be under the supervision of an appropriate current certificated rigger to maintain or alteration of parachutes. This clarification is consistent with industry practice, as the revised § 65.111(b) in the 2001 amendment did not preserve the clarity of authority that existed in the prior rule regarding a non-certificated person. As the rule is consistent with industry practices, the rule is expected to impose minimal cost

and provide for a future higher level of safety.

Regulatory Flexibility Act

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 objective so 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.

While there are a substantial number of small parachute packing firms, the expected cost is minimal. This rule is consistent with industry practice and simply clarifies that separate from the requirement to pack parachutes, the FAA requires a person to be an appropriate current certificated parachute rigger, or to be under the supervision of an appropriate current certificated parachute rigger, to maintain or alter parachutes. Thus, the expected economic impact will be minimal with positive net benefits.

Therefore, I certify this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39), as amended by the Uruguay Round Agreements Act (Pub. L. 103-465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States.

Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. 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 determined that it has only a domestic impact and is not subject to the Trade Agreements Act requirements.

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 \$141.3 million.

This rulemaking action does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this regulation.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this final rule does 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 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 final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 18, 2001). We have determined that it is not a "significant regulatory action" under the 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 in 14 CFR Part 65

Air traffic controllers, Aircraft, Airmen, Airports, Alcohol abuse, Aviation safety Drug abuse, Reporting and recordkeeping requirements, Security measures.

The Amendment

■ Accordingly, the Federal Aviation Administration amends part 65 of the Federal Aviation Regulations (14 CFR Part 65) as follows:

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

■ 1. The authority citation for part 65 continues to read as follows:

Authority: 5 U.S.C. 8335(a); 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 44701-44703; 49 U.S.C. 44707; 49 U.S.C. 44709-44711; 49 U.S.C. 45102-45103; 49 U.S.C. 45301-45302.

■ 2. Amend § 65.111 by revising the introductory text of paragraph (b); redesignating existing paragraphs (c), (d) and (e) as paragraphs (d), (e) and (f), respectively; and adding a new paragraph (c) to read as follows:

§ 65.111 Certificate required.

* * * * *

(b) No person may pack any main parachute of a dual-parachute system to be used for intentional parachute jumping in connection with civil aircraft of the United States unless that person—

* * * * *

(c) No person may maintain or alter any main parachute of a dual-parachute system to be used for intentional parachute jumping in connection with civil aircraft of the United States unless that person—

- (1) Has an appropriate current certificate issued under this subpart; or
- (2) Is under the supervision of a current certificated parachute rigger;

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Issued in Washington, DC, on May 25, 2010.

J. Randolph Babbitt,
Administrator.

[FR Doc. 2010-13388 Filed 6-2-10; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF 17F; AG Order No. 3160-2010 (2008R-10P)]

Decision-Making Authority Regarding the Denial, Suspension, or Revocation of a Federal Firearms License, or Imposition of a Civil Fine

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice has adopted as final, without change, an interim rule that amended the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") to delegate to the Director of ATF the authority to serve as the deciding official regarding the denial, suspension, or revocation of federal firearms licenses, or the imposition of a civil fine. Under the interim rule, the Director has the flexibility to delegate to another ATF official the authority to decide a revocation or denial matter, or may exercise that authority himself. Because the Director can redelegate authority to take action as the final agency decision-maker to Headquarters officials, field officials, or some combination thereof, such flexibility allows ATF to more efficiently conduct denial, suspension, and revocation hearings, and make the determination whether to impose a civil fine. This gives the agency the ability to ensure consistency in decision-making and to address any case backlogs that may occur.

DATES: This rule is effective August 2, 2010.

FOR FURTHER INFORMATION CONTACT: James P. Ficareta, Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; U.S. Department of Justice; 99 New York Avenue, NE., Washington, DC 20226; telephone: 202-648-7094.

SUPPLEMENTARY INFORMATION: