

June 21, 1974

person may allow "an object to be dropped * * * if such action creates a hazard to persons or property." The FAA agrees with this comment. This amendment omits the second sentence.

One commentator suggested that § 101.7 as written might preclude military air drops because of possible hazard to military property. The intent of this proposal was not to prevent a hazard to the property of the regulated person himself but rather to protect the property of other persons. Paragraph (b) of § 101.7, as added by this amendment, therefore, is reworded to specifically refer to hazards to "other persons, or to their property." This would further clarify the intent of the amendment to allow an operator to accept personal risk while limiting that right so as to prevent possible risk to others. At the same time paragraph (a) of § 101.7 is amended to be consistent with this amendment. This revision includes deletion of the reference to "aircraft," since aircraft are covered by the word "property."

(Secs. 307, 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

In consideration of the foregoing, Part 101 of the Federal Aviation Regulations is amended as follows, effective August 20, 1974.

1. Section 101.7 is amended to read as follows:

§ 101.7 Hazardous operations.

(a) No person may operate any moored balloon, kite, unmanned rocket, or unmanned free balloon in a manner that creates a hazard to other persons, or their property.

(b) No person operating any moored balloon, kite, unmanned rocket, or unmanned free balloon may allow an object to be dropped therefrom, if such action creates a hazard to other persons or their property.

§ 101.17 [Amended]

2. Section 101.17(a) is amended by striking out the words "during the night" and inserting the words "between sunset and sunrise" in place thereof.

3. Section 101.17(b) is amended by striking out the words "by day" and inserting the words "between sunrise and sunset" in place thereof.

§ 101.23 [Amended]

4. Section 101.23(h) is amended by striking out the words "at night" and inserting the words "between sunset and sunrise" in place thereof.

5. Section 101.35(b) is amended to read as follows:

§ 101.35 Equipment and marking requirements.

(b) No person may operate an unmanned free balloon below 60,000 feet standard pressure altitude between sunset and sunrise (as corrected to the altitude of operation) unless the balloon and its attachments and payload, whether or not they become separated during the

operation, are equipped with lights that are visible for at least 5 miles and have a flash frequency of at least 40, and not more than 100, cycles per minute.

§ 101.35 [Amended]

6. Section 101.35(d) is amended by striking out the words "during the day" and inserting the words "between sunrise and sunset" in place thereof.

Issued in Washington, D.C., on June 13, 1974.

ALEXANDER P. BUTTERFIELD,
Administrator.

[FR Doc.74-14215 Filed 6-20-74;8:45 am]

[Docket No. 12800; Amdt. 101-4]

PART 101—MOORED BALLOONS, KITES, UNMANNED ROCKETS AND UNMANNED FREE BALLOONS

Objects Dropped from Certain Balloons, Kites, and Rockets

The purpose of these amendments to Part 101 of the Federal Aviation Regulations is to add a provision governing the dropping of objects under that Part and to make other minor amendments.

Notice 73-15 was published in the FEDERAL REGISTER on May 7, 1973 (38 FR 11354), stating that the Federal Aviation Administration was considering an amendment to Part 101 of the Federal Aviation Regulations to include a provision governing the dropping of objects from moored balloons, kites, unmanned rockets, and unmanned free balloons, similar to the provisions in § 91.13 governing the dropping of objects from piloted aircraft.

In addition, it was proposed to amend Part 101 by changing the reference to "night" and "day" to read in terms of "sunset" and "sunrise." It was also proposed to amend § 101.35(b) to make it clear that the visibility requirements of that paragraph apply to lights and do not apply to a balloon and to its attachments.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments.

One commentator suggested that the second sentence of the proposed amendment to § 101.7 be deleted since it was vague and unclear and tended to lessen the effect of the first sentence. The second sentence, as proposed, stated that "this section does not prohibit the dropping of any object if reasonable precautions are taken to avoid injury or damage to persons or property." The commentator stated that this language had the effect of diminishing the clear intent of the first sentence which stated that no

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