

May 26, 1970

[Docket No. 10320; Amdt. 101-3]

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

Hazardous Operations

The purpose of these amendments to Part 101 of the Federal Aviation Regulations is to prescribe additional regulations governing moored balloon and kite operations currently excepted from the application of Part 101 by virtue of size, capacity, or weight.

At the present time, Part 101 is applicable only to (1) moored balloons that exceed 6 feet in diameter or contain a gas capacity in excess of 115 cubic feet; (2) kites that weigh more than 5 pounds and which are intended to be flown at the end of a rope or cable; (3) all unmanned rockets except aerial fireworks displays and certain small rockets; and (4) certain unmanned free balloons.

Recently, the FAA has been made aware of certain developments and uses of moored balloons and kites, that are not within the scope of the present regulations, but which, nevertheless, impose an immediate danger to the operation of aircraft and a hazard to persons and property.

An airplane kite company is presently manufacturing kites that are capable of flights at altitudes ranging from 1,000 to 1,500 feet AGL. These kites do not come within the purview of Part 101 since each kite weighs less than 5 pounds.

Another manufacturer produces a multiple kite train weighing less than 2 pounds capable of reaching heights in excess of 1 mile and distances greater than 3 miles from where the operator is standing.

As recently as December 1969, it was reported to the FAA that 70 jet aircraft were forced to detour from the path of a high flying kite at San Francisco International Airport. Because of this, it became necessary to request a change in the airport traffic pattern so that the kite would not be ingested into a jet engine.

Of even greater moment is the effect certain moored balloons, currently excepted from the provisions of Part 101, are having upon the safety of aircraft in flight.

At Inglewood, Calif, a balloon operation was conducted for the purpose of interfering with air navigation to protest noise caused by "low-flying aircraft" utilizing the Los Angeles International

Airport. After being prevented from using a balloon of 6 feet, or greater in diameter, the operator resorted to the use of a smaller balloon to avoid the applicability of Part 101. The FAA has been advised that legally it is extremely difficult to prevent balloon operations such as this, even though they present an immediate danger to aircraft, in flight, unless appropriate amendments are made to Part 101.

Even though a moored balloon is less than 6 feet in diameter or has a gas capacity less than 115 cubic feet, the derogation to safety may be as great as if the moored balloon falls within the present regulation.

Although moored balloons may be operated free from regulatory constraint if less than 6 feet in diameter or 115 cubic feet gas capacity, the limited size of these objects makes it all the more difficult for a pilot to either detect the balloon and avoid striking it, or to see it in sufficient time to avoid the necessity of taking radical evasive action. In the latter case, injuries could result to passengers and crew, as well as placing excessive stresses upon the aircraft structure. Possible loss of control of the aircraft by the pilot is also a potential hazard. The latter possibility involves a major safety problem, since an incident of this type will occur during the approach or take-off phase of flight when the aircraft is being operated much closer to stalling speeds and relatively close to the ground.

By reason of the foregoing, a situation exists that demands immediate regulatory action involving moored balloons and kites. Because this regulatory action is needed immediately to correct an unsafe condition, it has been determined that in the public interest, notice and public procedure hereon are impracticable and for this reason good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, Part 101 of the Federal Aviation Regulations is amended, effective May 26, 1970, as follows:

1. By amending § 101.1(a) (1) and (2), and the introductory language of § 101.1(a) (4), to read as follows:

§ 101.1 Applicability.

(a) * * *

(1) Except as provided for in § 101.7, any balloon that is moored to the surface of the earth or an object thereon and that has a diameter of more than 6 feet or a gas capacity of more than 115 cubic feet.

(2) Except as provided for in § 101.7, any kite that weighs more than 5 pounds and is intended to be flown at the end of a rope or cable.

(4) Except as provided for in § 101.7, any unmanned free balloon that—

2. By inserting a new § 101.7 following § 101.5, to read as follows:

§ 101.7 Hazardous operations.

No person may operate any moored balloon, -kite, unmanned rocket, or un-

manned free balloon in a manner that creates a hazard to persons, property, or other aircraft.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958; 40 U.S.C. 1348, 1354(a); sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on May 19, 1970.

J. H. SHAFFER,
Administrator.

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