

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Docket No. 6762; Amdt. 105-2]

PART 105—PARACHUTE JUMPING Requirements

The purpose of these amendments to Part 105 of the Federal Aviation Regulations is to (1) require a functioning two-way communications system in any aircraft from which a parachute jump is to be made in or into controlled airspace, the establishment of radio communications with ATC and the receipt of information about known air traffic in the vicinity before the jumping occurs, the maintenance of a continuous watch, and advice to ATC when the jumping has ended; (2) modify the required notification time elements (where presently required) for jumps in or into controlled airspace, and require notification of jumps in or into uncontrolled airspace; and (3) add to the required information (in a request for authorization or notice of jumping activity) notice of cancellation or postponement, and certain information relative to the jump zone.

On September 7, 1965, advance notice of proposed rule making and notice of public hearing (Notice 65-23) was issued inviting the views of all interested persons on certain requests for rule making presented by two associations, one representing air carriers and the other representing airline pilots. Those proposals principally would have prohibited non-emergency parachute jumps within federally controlled airspace and in or into approved off-airways routes outside of controlled airspace, and would have required notification of jumps in or into uncontrolled airspace (other than approved off-airways routes) and two-way radio and contact with the ATC facilities used. At the public hearing held on November 4, 1965, views were expressed both for and against those proposals.

The positions of all persons who filed comments in response to Notice 65-23 or appeared at the public hearing and all other available data were evaluated, and rule making was proposed in Notice 66-18 issued on May 6, 1966, and published in the FEDERAL REGISTER on May 12, 1966 (31 F.R. 6988). Disposition is now made of those proposals by these amendments.

(1) It was proposed in Notice 66-18 to require, for jumps within controlled airspace, a functioning two-way radio communications system in the jump aircraft appropriate to the ATC facilities to be used, unless otherwise authorized by ATC. As stated in the notice, under Part 105 there has been a gap in knowledge

relating to the probability of a jump or series of jumps taking place when a pilot passes through a jumping location identified by notification procedures, and dissemination of information thus obtained. Ability to supply useful, timely information depends on ability to communicate. The Agency has concluded that for jumps in or into controlled airspace two-way radio communications between the jump aircraft and ATC facilities are necessary to provide this information, unless ATC determines that in a particular situation other communications are appropriate.

Comments on Notice 66-18 generally approved the proposals that would require a two-way radio communications system, that the pilot in command of the jump aircraft have a continuous watch maintained on the appropriate radio frequency, and that the jumping activity be abandoned if the radio communications system becomes inoperative. Some comments would limit these requirements to "exhibition" or "demonstration" jumps only, and would refrain from imposing them in the case of regular jumping activities conducted in identified jumping areas or centers. However, no reasons were presented for a distinction of this character. A few comments objected to the two-way radio requirement because of the cost. The cost element of course is present, but the communications requirement is an essential element adopted for the achievement of the safety objectives sought by this rule making and a feasible and reasonable method of doing so.

These amendments adopt the radio equipment requirements proposed by Notice 66-18, as refined to set forth standard conditions that ordinarily could be expected to appear as communications requirements in authorizations that would have been issued under the original proposal. Thus, new § 105.14 requires the establishment of radio communications between the jump aircraft and ATC at least 5 minutes before the jumping activity is to begin, for the purpose of receiving information in the aircraft from ATC about known air traffic in the vicinity, and requires further the receipt of that information. Also, new § 105.14 requires the pilot in command of the jump aircraft to maintain or have maintained a continuous watch on the appropriate frequency from the time radio communications are first established until he advises ATC (as also required) that the jumping activity is ended for that flight.

(2) It was proposed in Notice 66-18 to require authorization for all non-emergency parachute jumps in or into controlled airspace, instead of notification where previously required under Part 105. Although some comment concurred with the notice in its entirety, this

proposal elicited strong objections from parachutists and their organizations, that basically translated "authorization" into a discriminatory prohibition to occupy a portion of the airspace not denied to other users. The notice clearly distinguished the proposed "authorizations" from formal written applications submitted for certificates of authorization required for jumps over or into congested areas. Yet a number of comments assumed that written authorizations would be required.

The arguments used against the authorization requirement included the assertions that this was something not now required, but presaging similar future requirement of other airspace users; that standards for authorization were not spelled out; that the Agency would be assuming a tort claim liability over which it has no real practical control if a collision occurs between a parachutist and an aircraft flying VFR (whose presence could be unknown to the Agency); and that authorization would add nothing to safety already present under notification procedures. The argument even was presented that ATC personnel, under pressure to make decisions, could arbitrarily refuse authorizations and thus effectively prohibit all parachuting activities. This invalidly assumed that Agency personnel would fail to perform their responsibility properly.

Upon reconsideration of the matter in light of the comments received, the Agency has concluded that the safety objectives of Notice 66-18 may be served by retaining the present notification provisions of § 105.23, as refined by these amendments, in conjunction with the new requirements on radio communications. The requirement for establishment of radio communications and receipt of information (instead of authorization) provides the safety measure sought by the notice, that stated the need for satisfactory information and arrangements for communications with respect to the time and place of contemplated jumps. Flexibility in this respect is preserved by the provision that ATC may authorize communications arrangements other than those spelled out in § 105.14. Also, a provision is added to § 105.23, to accommodate regular jumping activities of organizations in identified jump zones, as sought in one form or another by some comments. Under this provision, long-term scheduled jumping in a specified jump zone may be conducted after acceptance by ATC of written notification submitted by a parachute jumping organization at least 15 days, but not more than 30 days, before the jumping is to begin. The preamble of the notice stated that if a series of jumps is contemplated rather than a single jump, a single request and

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authorization would suffice. Section 105.25 as now amended clarifies this by providing the information required for an authorization or a notification may apply to either an individual or group activity.

A change introduced in § 105.23 is the reduction to 1 hour, instead of 6, as the minimum notification period. The need for so long a minimum period as 6 hours was questioned by a number of comments. Also, it was asserted that it was often not possible to know, 6 hours ahead of time, elements of required notice such as altitudes, and specific time of jumping. The Agency has concluded that a 1-hour notice is sufficient.

In this connection, the Agency also has concluded that the 24-hour minimum period for requesting authorization for jumps in or into positive control areas is not needed. This requirement therefore is eliminated by these amendments, along with the reference to "positive control route segments," that no longer exist.

(3) It was proposed in Notice 66-18 to require notification of parachute jumps in or into uncontrolled airspace. These amendments incorporate that proposal, on which the comment was favorable.

(4) It was proposed in Notice 66-18 to require notification of the cancellation of any contemplated jumping activity for which authorization has been requested or notification given. These amendments accomplish this in new paragraph (b) of § 105.25, including also the requirement (as suggested by comment) that notification be required in case of postponement of proposed jumping activity. The latter provision accommodates situations where, for instance, weather conditions delay jumping for an hour or two and a new notice would be impractical, or when notified schedules are altered. Section 105.25(a) also is clarified by requiring more precise description of the jump zone in terms of size and in relation to the nearest VOR facility 30 nautical miles or less from the jump zone, otherwise in relation to the nearest airport, town, or city.

(5) It was proposed in Notice 66-18 to prohibit parachute jumps by any person within 8 hours after the consumption of any alcoholic beverage. The proposal would have incorporated in Part 105 the 8-hour rule proposed by Notice 65-34 for Part 91 of the Federal Aviation Regulations (General Operating and Flight Rules), in order to retain conformity between the two Parts in the area of prohibitions concerning liquor and drugs. However, final action on Notice 65-34 has not been taken, and accordingly the proposed provision has been omitted from these amendments to Part 105, subject to later addition if the regulatory action proposed by Notice 65-34 is adopted.

A number of comments contained recommendations that went beyond the scope of the notice. Thus, it was recommended that in airspace, controlled or uncontrolled (other than control zones with functioning towers and positive control areas), the pilot in command of

the aircraft should be required to have a continuous listening watch maintained on MULTICOM (122.9) frequency to provide immediate advisories upon request by an aircraft, ATC facility, or flight service station; and that use of MULTICOM also should be required for in-flight coordination when more than one aircraft are involved in parachuting operations. The agency considers it preferable to retain what has been proposed, that is, "the appropriate frequency" (to the ATC facility to be used). However, it must be noted that in cases where local ATC agrees that these different communications are more practical or serve a better purpose for a particular location, it may authorize them under the new § 105.14. Other recommendations beyond the scope of the notice, and not considered at this time were that a jumper at night should be required to have a flashing red light visible for 5 miles (the present rule does not specify color, and requires visibility for 3 miles); and that flight visibility specified in § 105.31(b) be increased to 5 miles from 3 miles, as now required, outside of the continental control area. It also was recommended that there be published a standard definition of a parachuting drop zone in terms of area and altitude. However, the Agency believes the notifier should advise the dimensions required for his activity. Again, it was recommended that a VFR flight plan be used instead of the proposed authorization. However, a flight plan would not be appropriate, since the concern is with the jumping, not the flight of the aircraft. Several others of these recommendations were concerned with nonregulatory matters, such as charting jump sites, or requesting airfields not controlled by FAA towers but possessing UNICOM or MULTICOM capability to add the phrase "Parachuting operations in progress" to transmissions to aircraft entering their area when those operations are in progress.

For the reasons stated herein, it is believed that the issuance of these amendments, whose objective is to provide additional safeguards for both the jumper and other air traffic, is in the public interest.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all matter presented.

In consideration of the foregoing, Part 105 of the Federal Aviation Regulations is amended, effective March 24, 1967, as follows:

1. By inserting the following new section after § 105.13:

§ 105.14 Radio equipment and use requirements.

(a) Except when otherwise authorized by ATC—

(1) No person may make a parachute jump, and no pilot in command of an aircraft may allow a parachute jump to be made from that aircraft, in or into controlled airspace unless, during that flight—

(i) The aircraft is equipped with a functioning two-way radio communications system appropriate to the ATC fa-

cilities to be used;

(ii) Radio communications have been established between the aircraft and the nearest FAA air traffic control facility or FAA flight service station at least 5 minutes before the jumping activity is to begin, for the purpose of receiving information in the aircraft about known air traffic in the vicinity of the jumping activity; and

(iii) The information described in subdivision (ii) of this subparagraph has been received by the pilot in command and the jumpers in that flight; and

(2) The pilot in command of an aircraft used for any jumping activity in or into controlled airspace shall, during each flight—

(i) Maintain or have maintained a continuous watch on the appropriate frequency of the aircraft's radio communications system from the time radio communications are first established between the aircraft and ATC, until he advises ATC that the jumping activity is ended from that flight; and

(ii) Advise ATC that the jumping activity is ended for that flight when the last parachute jumper from the aircraft reaches the ground.

(b) If, during any flight, the required radio communications system is or becomes inoperative, any jumping activity from the aircraft in or into controlled airspace shall be abandoned. However, if the communications system becomes inoperative in flight after receipt of a required ATC authorization, the jumping activity from that flight may be continued.

2. By amending § 105.21 to read as follows:

§ 105.21 Jumps in or into positive control areas.

(a) No person may make a parachute jump, and no pilot in command of an aircraft may allow a parachute jump to be made from that aircraft, in or into a positive control area without, or in violation of, an authorization issued under this section.

(b) Each request for an authorization issued under this section must be submitted to the nearest FAA air traffic control facility or FAA flight service station and must include the information prescribed by § 105.25(a).

3. By amending § 105.23 to read as follows:

§ 105.23 Jumps in or into other airspace.

(a) No person may make a parachute jump, and no pilot in command of an aircraft may allow a parachute jump to be made from that aircraft, in or into airspace unless the nearest FAA air traffic control facility or FAA flight service station was notified of that jump at least 1 hour before the jump is to be made, but not more than 24 hours before the jumping is to be completed, and the notice contained the information prescribed in § 105.25(a).

(b) Notwithstanding paragraph (a) of this section, ATC may accept from a parachute jumping organization a written notification of a scheduled series of

jumps to be made over a stated period of time not longer than 12 calendar months. The notification must contain the information prescribed by § 105.25 (a), identify the responsible persons associated with that jumping activity, and be submitted at least 15 days, but not more than 30 days, before the jumping is to begin. ATC may revoke the acceptance of the notification for any failure of the jumping organization to comply with its terms.

(c) This section does not apply to parachute jumps in or into any airspace or place described in §§ 105.15, 105.19, or § 105.21.

4. By amending § 105.25 to read as follows:

§ 105.25 Information required, and notice of cancellation or postponement of jump.

(a) Each person requesting an authorization under § 105.19 or § 105.21, and each person submitting a notice under § 105.23, must include the following information (on an individual or group

basis) in that request or notice:

(1) The date and time jumping will begin.

(2) The size of the jump zone expressed in nautical mile radius around the target.

(3) The location of the center of the jump zone in relation to—

(i) The nearest VOR facility in terms of the VOR radial on which it is located, and its distance in nautical miles from the VOR facility when that facility is 30 nautical miles or less from the drop zone target; or

(ii) The nearest airport, town, or city depicted on the appropriate Coast and Geodetic Survey WAC or Sectional Aeronautical chart, when the nearest VOR facility is more than 30 nautical miles from the drop zone target.

(4) The altitudes above the surface at which jumping will take place.

(5) The time and duration of the intended jumping.

(6) The name, address, and telephone number of the person requesting the authorization or giving notice.

(7) The identification of the aircraft to be used.

(8) The radio frequencies, if any, available in the aircraft.

(b) Each person requesting an authorization under § 105.19 or § 105.21, and each person submitting a notice under § 105.23, must promptly notify the FAA air traffic control facility or FAA flight service station from which it requested authorization or which it notified, if the proposed or scheduled jumping activity is canceled or postponed.

(Secs. 307, 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1354, 1421)

NOTE: The recordkeeping and reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued in Washington, D.C., on December 20, 1966.

WILLIAM F. MCKEE,
Administrator.