

ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket and amendment number of this rulemaking.

List of Subjects in 14 CFR Part 1

Air transportation.

The Amendments

In consideration of the foregoing, the Federal Aviation Administration amends part 1 of Title 14, Code of Federal Regulations, as follows:

PART 1—DEFINITIONS AND ABBREVIATIONS

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

- 2. Amend the definition of “light-sport aircraft” in § 1.1 by revising paragraph (8) to read as follows:

§ 1.1 General definitions.

* * * * *

Light-sport aircraft * * *

(8) A fixed or feathering propeller system if a powered glider.

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Issued in Washington, DC on December 22, 2010.

J. Randolph Babbitt,
Administrator.

[FR Doc. 2010-33082 Filed 12-30-10; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 65

[Docket No.: FAA-2010-0567; Amendment No. 65-55]

RIN 2120-AJ66

Modification of the Process for Requesting a Waiver of the Mandatory Separation Age of 56 for Air Traffic Control Specialists

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA amends its regulation concerning the process for requesting a waiver of the mandatory separation age of 56 for Air Traffic Control Specialists in flight service stations, enroute or terminal facilities, and the David J. Hurley Air Traffic Control System Command Center. Under this final rule, Air Traffic Control Specialists will no longer be required to certify they have not been involved in

an operational error (OE), operational deviation (OD), or runway incursion in the past 5 years. The rule will streamline the waiver process and bring it into conformance with current FAA OE and OD reporting policy.

DATES: This amendment becomes effective March 4, 2011.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this final rule contact Kelly J. Neubecker, Airspace, Regulations, and ATC Procedures Group, Office of Airspace Services, AJV-11, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9235; facsimile (202) 267-9328, e-mail Kelly.Neubecker@faa.gov. For legal questions concerning this final rule contact Anne Moore, Office of Chief Counsel, AGC-240, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3123; facsimile (202) 267-7971, e-mail Anne.Moore@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 to issue, rescind, and revise regulations. Under this authority, we are amending Special Federal Aviation Regulation No. 103 in 14 CFR part 65 (SFAR 103) by removing paragraph 5.b.vii. The change is within the scope of our authority and is a reasonable and necessary exercise of our statutory obligations.

I. Background

On January 23, 2004, H.R. 2673, Consolidated Appropriations 2004, became Public Law 108-199. Within the appropriations bill, there was a mandate that “not later than March 1, 2004, the Secretary of Transportation, in consultation with the Administrator of the Federal Aviation Administration, shall issue final regulations, pursuant to 5 U.S.C. 8335, establishing an exemption process allowing individual Air Traffic Controllers to delay mandatory retirement until the employee reaches no later than 61 years of age.” On January 7, 2005, the FAA published the final rule in the **Federal Register**, 14 CFR part 65 (Docket No. FAA-2004-17334; SFAR No. 103, 70 FR 1634).

The process for an Air Traffic Control Specialist (ATCS) to request a waiver from the mandatory separation age of 56 is currently codified in SFAR 103 and

reflected in the Human Resources Policy Bulletin 35, Waiver Process to Mandatory Separation at Age 56. This policy applies to all ATCSs and their first-level supervisors in flight service, enroute and terminal facilities, and at the David J. Hurley Air Traffic Control System Command Center covered under the mandatory separation provisions of 5 U.S.C. 8335(a) and 8425(a).

The regulation contains information contrary to air traffic policy under amended FAA Order JO 7210.56C, Change 2, effective July 20, 2009. Specifically, paragraph 5.b.vii. of SFAR 103 requires a controller to provide a statement that they have not been involved in an operational error (OE), operational deviation (OD), or runway incursion in the last 5 years while in a control position. This requirement is inconsistent with current air traffic orders developed specifically to foster a safety culture that encourages full and open reporting of safety information and focuses on determining why events occur, rather than placing blame. In support of this culture, FAA Order JO 7210.56C, Change 2 removed all references to employee identification, training record entries, performance management, and return-to-duty actions that were historically tied to reported OE or OD events. Due to this change in policy, the reporting requirements of SFAR 103 5.b.vii. became unverifiable.

II. Summary of the NPRM

The FAA published the NPRM on June 2, 2010. (75 FR 30742, Docket No. FAA 2010-0567) The proposed rule invited comments on the proposal to remove paragraph 5.b.vii of SFAR 103, since current practice made those provisions unverifiable. The proposed rule would amend only the requirement for controllers to provide a statement that they have not been involved in an operational error (OE), operational deviation (OD), or runway incursion in the last 5 years while in a control position. The proposal did not affect any other requirements for Air Traffic Controllers who request a waiver.

III. Summary of Comments

The comment period for the NPRM closed on July 2, 2010. The FAA received comments from two individuals on the proposal to amend the exemption process allowing ATC to delay mandatory retirement age. Both commenters supported waivers to extend the retirement age in general, and one commenter was also in favor of the specific proposal to remove documentation of any occurrences within the preceding 5 years. The other commenter suggested removing the

mandatory retirement age completely and focusing on the controller's ability to concentrate and do their job properly. This suggestion, however, was outside the scope of the current rulemaking.

IV. Discussion of the Final Rule

The FAA is adopting as final the proposed rule published on June 2, 2010. The final rule will become effective March 4, 2011.

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 is no new information collection requirement associated with this rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform 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 regulations.

V. Regulatory Evaluation, Regulatory Flexibility Determination, International 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 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. The FAA has made such a determination for this rule.

This rule will moderately streamline the process for ATCSs who are requesting a waiver of mandatory separation at age 56 by eliminating a paperwork obstacle. Currently, ATCSs need to provide a statement to certify that they have not been involved with an operational error (OE), operational deviation (OD), or runway incursion within the previous 5 years when submitting a request for a waiver of the mandatory separation at age 56. This rule will eliminate this certification requirement by reducing the written information ATCSs must provide, resulting in a cost saving.

We estimate ATCSs submit an average of 54 statements per year. ATCSs need approximately 5 minutes to prepare each statement, whereas air traffic managers need approximately 15 minutes to review them. The ATCS's salary including benefits expressed as an hourly wage rate with benefits is estimated to be \$125 per hour;¹ and an air traffic manager's hourly rate with benefits is estimated to be \$155 per hour.

Using the preceding information, the FAA estimates that the total cost savings of this final rule will be about \$26,000 or \$18,000 present value, as shown in Table 1.

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Year	Cost Savings for controllers to prepare statements	Cost Savings for AT managers to review statements	Total	Discounted Total
1	\$560	\$2,018	\$2,578	\$2,409
2	\$560	\$2,018	\$2,578	\$2,252
3	\$560	\$2,018	\$2,578	\$2,104
4	\$560	\$2,018	\$2,578	\$1,967
5	\$560	\$2,018	\$2,578	\$1,838
6	\$560	\$2,018	\$2,578	\$1,718
7	\$560	\$2,018	\$2,578	\$1,605
8	\$560	\$2,018	\$2,578	\$1,500
9	\$560	\$2,018	\$2,578	\$1,402
10	\$560	\$2,018	\$2,578	\$1,311
Total	\$5,600	\$20,180	\$25,780	\$18,107

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FAA has, therefore, determined that this is not a "significant regulatory

action" as defined in section 3(f) of Executive Order 12866, and is not

"significant" as defined in DOT's Regulatory Policies and Procedures.

¹ This wage rate is based on 1657.7 hours. 2,080 hours (52 weeks times 40 hours per week) minus

422.3 hours (the number of hours a typical controller is not available to work) equals 1,657.7.

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 final rule will help extend the careers of experienced air traffic controllers and thus have no impact on private sector entities. Consequently, the FAA certifies that the 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 final rule and determined that it will not affect imports as it will have only a domestic impact and therefore is not subject to these Acts.

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 (in 1995 dollars) 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 \$143.1 million in lieu of \$100 million. This rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

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 Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the FAA, when modifying its regulations in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish appropriate regulatory distinctions. In the NPRM, we requested comments on whether the proposed rule should apply differently to intrastate operations in Alaska. We did not receive any comments, and we have determined, based on the administrative record of this rulemaking, that there is no need to make any regulatory distinctions applicable to intrastate aviation in Alaska.

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(d) and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this rule 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 regulatory action” under the executive order because it is not a “significant regulatory action” under Executive Order 12866, and DOT’s Regulatory Policies and Procedures, and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Availability of Rulemaking Documents

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (<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.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted 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 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://DocketsInfo.dot.gov>.

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. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the

beginning of the preamble. You can find out more about SBREFA on the Internet at http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects in 14 CFR Part 65

Air traffic controllers, Aircraft, Aviation safety.

The Amendment

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

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

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

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

SFAR 103 [Amended]

- 2. Amend SFAR 103 by removing and reserving paragraph 5.b.vii.

Issued in Washington, DC, on December 22, 2010.

J. Randolph Babbitt,

Administrator.

[FR Doc. 2010–33076 Filed 12–30–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–1096]

Drawbridge Operation Regulations; New Haven Harbor, Quinnipiac and Mill Rivers, New Haven, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Ferry Street Bridge across the Quinnipiac River, mile 0.7, at New Haven, Connecticut. The deviation allows the bridge to keep one lift span closed to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from 8 a.m. on January 3, 2011 through 5 p.m. on January 13, 2011.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–1096 and are available online at

<http://www.regulations.gov>, inserting USCG–2010–1096 in the “Keyword” and then clicking “Search”. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, judy.k.leung-yee@uscg.mil, or telephone (212) 668–7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Ferry Street Bridge, across the Quinnipiac River at mile 0.7, at New Haven, Connecticut, has a vertical clearance in the closed position of 25 feet at mean high water and 31 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.213.

The owner of the bridge, the City of New Haven, requested a temporary deviation from the regulations to facilitate scheduled bridge maintenance, replacing pinion couplings and brakes at the bridge.

Under this temporary deviation the Ferry Street Bridge may keep one lift span in the closed position from 8 a.m. on January 3, 2011 through 5 p.m. on January 6, 2011, and from 8 a.m. on January 10, 2011 through 5 p.m. on January 13, 2011. One lift span shall remain operational at all times.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 17, 2010.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2010–33118 Filed 12–30–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–1111]

RIN 1625–AA87

Security Zone; On the Waters in Kailua Bay, Oahu, HI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on the waters south of Kapoho Point and a nearby channel in Kailua Bay within the Honolulu Captain of the Port (COTP) Zone. This security zone is necessary to ensure the safety of the President of the United States, members of his official party, and other senior government officials.

DATES: This rule is effective from 10 a.m. (HST) on December 21, 2010 through 8 p.m. (HST) on January 5, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket USCG–2010–1111 are available online by going to <http://www.regulations.gov>, inserting USCG–2010–1111 in the “Keyword” box, and then clicking “Search”. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Lieutenant Commander Marcella Granquist, Waterways Management Division, U.S. Coast Guard Sector Honolulu; telephone 808–842–2600, e-mail Marcella.A.Granquist@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to