

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

14 CFR Parts 21, 61, 65, 77, 107, 109, 121, 135, 145, and 154

[Docket Nos. 23781, 25642, 26305, 27699, and FAA-2001-11172]

RIN 2120-AI02

Withdrawal of Proposed Rules: Miscellaneous Amendments; Improved Water Survival Equipment; Objects Affecting Navigable Airspace; Type Certificates for Some Surplus Aircraft of the Armed Forces; Procedures for Reimbursement of Airports, On-Airport Parking Lot and Vendors of On-Airfield Direct Services to Air Carriers for Security Mandates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rules; disposition of comments and withdrawal.

SUMMARY: The FAA is withdrawing several previously published Notices of Proposed Rulemaking (NPRMs). This action is necessary because the proposed actions have been overcome by events, are no longer relevant, or will be addressed in future rulemaking. This action is part of our effort to address recommendations of the Government Accounting Office and the Management Advisory Council to reduce the number of items in the Regulatory Agenda, and to accurately reflect agency initiatives.

FOR FURTHER INFORMATION CONTACT: Alicia K. Douglas, Office of Rulemaking (ARM-204), Federal Aviation Administration, 800 Independence Avenue, SW., Washington DC 20591, (202) 267-9681, alicia.k.douglas@faa.gov.

SUPPLEMENTARY INFORMATION:

Miscellaneous Amendments, RIN 2120-AA50

On October 3, 1983, the FAA published a Notice of Proposed Rulemaking (Notice No. 83-13, 48 FR 45214), entitled "Miscellaneous Amendments". This NPRM proposed to amend various sections of the regulations. Some of the changes were editorial corrections, including clarifications and reference corrections. Others included relaxing certain requirements. The proposal was in response to many complaints, suggestions, and petitions for exemptions from users of the National Airspace System concerning several regulations. These users stated that these regulations contained outdated references and vague, complex, and

inadequate language. Also, they suggested that, in some instances, the benefits gained would not justify the cost of compliance. The comment period closed on December 2, 1983.

Since 1983, when the document was published, all the affected sections of 14 CFR have been amended, with the proposed changes incorporated and comments dispositioned in the amendments. We are withdrawing Notice No. 83-13 (48 FR 45214, October 3, 1983) because the proposed changes have been accomplished or are no longer necessary and comments have been addressed.

Improved Water Survival Equipment, RIN 2120-AC72

On June 30, 1988, the FAA published a Notice of Proposed Rulemaking (Notice No. 88-11, 53 FR 24890). This NPRM, issued in response to the Airport and Airway Safety and Capacity Expansion Act of 1987, proposed new requirements for water survival equipment carried onboard aircraft for both 14 CFR parts 121 and 135 operators. The comment period closed on November 28, 1988.

The FAA received 118 comments in response to the proposal. More than half of the commenters supported the proposal. Forty-six commenters, most from part 135 air carriers, opposed the proposal. They suggested the costs associated with the proposal far exceeded any potential safety benefits, and that a 1984 FAA study had concluded that water survival equipment requirements for the U.S. air carrier fleet were satisfactory.

We have considered these comments in the light of the overall improvement in emergency safety equipment with the passage of time. We find the costs of proceeding with this rulemaking as proposed exceed the benefits to the public and that existing water survival equipment requirements are satisfactory. Accordingly, the FAA finds it is in the public interest to withdraw this proposal. Therefore, the FAA withdraws Notice No. 88-11 (53 FR 24890, June 30, 1988).

Objects Affecting Navigable Airspace (Part 77 Revision), RIN 2120-AA09

On August 3, 1990, the FAA published a Notice of Proposed Rulemaking (Notice No. 90-18, 55 FR 31722) proposing to amend 14 CFR part 77. This NPRM proposed amendments to the scope, notice requirements, and standards applicable to aeronautical studies detailed in 14 CFR part 77. Statutory mandates of Public Law No. 100-223 and recommendations from the National Airspace Review committee

triggered the proposed amendments. This notice was corrected in the following documents: 55 FR 32999, August 13, 1990; 55 FR 35152, August 28, 1990; and 55 FR 37287, September 10, 1990. The correction published on August 28, 1990, also changed Notice No. 90-18 to Notice No. 90-19. The comment period closed on December 31, 1990.

On October 16, 1995, the FAA issued a Supplemental Notice of Proposed Rulemaking (Notice No. 90-19A, 60 FR 53680), proposing an amendment to the application of obstruction standards for the construction or alteration of objects affecting the navigable airspace. This notice did not reopen the proposed action contained in Notice No. 90-19 or request further comments on its proposals. The comment period closed on November 30, 1995.

In response to these notices, we received over 70 comments from individuals, engineering and communications firms, and building associations. Because of advances in the telecommunications industry, many of the proposals, recommendations, and comments are no longer relevant. Further, the proposed regulations no longer completely reflect the needs of the FAA's obstruction evaluation program or the needs of the industry and the general public. Therefore, we are considering a new proposals which would reflect recent technology and update the current provisions. We will consider comments received in response to the earlier notices in preparing this new proposal, RIN 2120-AH31.

We believe withdrawal of these notices would best serve the public and the FAA. Therefore, we are withdrawing Notice No. 90-18 (55 FR 31722, August 3, 1990) and Notice No. 90-19A (60 FR 53680, October 16, 1995).

Type Certificates for Some Surplus Aircraft of the Armed Forces, RIN 2120-AE41

On April 21, 1994, the FAA published a Notice of Proposed Rulemaking (Notice 94-12, 59 FR 19114), entitled "Type Certificates for Surplus Aircraft of the Armed Forces". The NPRM proposed changes to remove certain regulations for issuing type certificates for surplus aircraft of the Armed Forces. Specifically, the amendment would remove references in 14 CFR 21.27 to obsolete airworthiness standards for type certification of surplus military aircraft that at the time the FAA considered no longer appropriate. The comment period closed on June 20, 1994.

Five hundred and ninety commenters responded to the NPRM. An

overwhelming majority of the commenters opposed elimination § 21.27. Opposing commenters stated that the proposal would have a negative economic impact, would provide inadequate safety and certification coverage, and was not justified from a safety perspective also, some commenters suggested the FAA should clarify the regulation.

Having considered the comments received to Notice No. 94-12, we have decided not to remove § 21.27 for the present. We may consider revisions to the language of the rule in a future rulemaking action when resources permit. If we do, we will consider all comments received to Notice No. 94-12 in any new rulemaking project. Therefore, we are withdrawing Notice No. 94-12 (59 FR 19114, April 21, 1994).

Procedures for Reimbursement of Airports, On-Airport Parking Lots and Vendors of On-Airfield Direct Services to Air Carriers for Security Mandates, RIN 2120-AH60

On December 21, 2001, the FAA published a Notice of Proposed Rulemaking (Notice No. 01-13, 66 FR 66238), entitled "Procedures for reimbursement of Airports, On-Airport

Parking Lots and Vendors of On-Airfield Direct Services to Air Carriers for Security Mandates".

Because of the terrorist events of September 11, 2001, Congress passed the Aviation and Transportation Security Act (S. 1447, Security Act) to improve aviation security. In response to the legislation, the FAA and TSA imposed new security requirements for airports, airline operators, and others. The Security Act also authorized funds to pay for some of the costs of the new security requirements. This notice proposed to reimburse airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers for direct costs incurred in complying with the security requirements. The comment period closed January 22, 2002.

Ten commenters responded to the NPRM. Seven of the commenters expressed concerns about the definitions. The remaining commenters expressed concerns with the limits of reimbursement, distribution of available funds, and the proof required for reimbursement.

We are withdrawing Notice No. 01-13 (66 FR 66238, December 21, 2001) because of funds for reimbursement of security costs have been appropriated.

Conclusion

The FAA withdraws the following proposed rules:

- Miscellaneous Amendments, RIN 2120-AA50
- Improved Water Survival Equipment, RIN 2120-AC72
- Objects Affecting Navigable Airspace (Part 77 Revision), RIN 2120-AA09
- Type Certificates for Some Surplus Aircraft of the Armed Forces, RIN 2120-AE41
- Procedures for Reimbursement of Airports, On-Airport Parking Lots and Vendors of On-Airfield Direct Services to Air Carriers for Security Mandates, RIN 2120-AH60

Withdrawal of these proposed rules does not preclude the FAA from issuing a notice on these subjects in the future or from committing to any future course of action.

Issued in Washington, DC, on July 11, 2003.

Marion C. Blakey,
Administrator.

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