DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 135

[Docket No.: FAA–2014–0502; Amdt. No. 135–131]

RIN 2120–AK49

Departing IFR/VFR When Weather Reporting Is Not Available

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action will permit the pilot in command of a helicopter air ambulance to assess the weather at a departure point where current weather observations are not available and allow the pilot to depart if the observed ceiling and visibility is greater than certain weather minimums. This action will allow a pilot to utilize the minimum takeoff visibilities depicted in a published obstacle departure procedure, or in the absence of such a procedure, when the pilot observed ceiling and visibility is greater than the minimum ceiling and visibility limitations required by specific helicopter air ambulance rules. This change to the current regulation will permit helicopter air ambulance flights to enter the National Airspace System under Instrument Flight Rules when visibilities and ceilings are below Visual Flight Rules, thus increasing the safety of the flight.

DATES: Effective April 22, 2015.

Submit comments on or before September 26, 2014. If we receive an adverse comment or notice of intent to file an adverse comment, we will advise the public by publishing a document in the **Federal Register** withdrawing the direct final rule before the effective date of the final rule.

ADDRESSES: You may send comments identified by docket number FAA–2010–0982 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Andrew C. Pierce, Air Transportation Division, 135 Air Carrier Operations Branch, AFS–250, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone 202–267–8238; email *andy.pierce@faa.gov.*

For legal questions concerning this action, contact Nancy Sanchez, AGC–220, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone 202–267–7280 (office); email *nancy.sanchez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. This rulemaking is promulgated under the general authority described in 49 U.S.C. 106(f) and 44701(a), and the specific authority set forth in section 306, Safety of Air Ambulance Operations, of the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95), which is now codified at 49 U.S.C. 44730.

The Direct Final Rule Procedure

The FAA is adopting this direct final rule without prior notice and prior public comment as a direct final rule because this rule is not controversial, is not expected to result in the receipt of an adverse comment, and a notice of proposed rulemaking is not necessary. This change to the regulation provides greater opportunity for Helicopter Air Ambulance (HAA) operations to enter the National Airspace System (NAS) under Instrument Flight Rules (IFR) than previously permitted. Without this amendment, helicopter air ambulances will be unable to depart under IFR from landing sites lacking weather reporting, until Visual Flight Rules (VFR) appropriate to the class of airspace above prevail. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; February 26, 1979) provide that to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, the FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting this final rule.

A direct final rule will take effect on a specified date unless the FAA receives an adverse comment or notice of intent to file an adverse comment within the comment period. An adverse comment explains why a rule would be inappropriate, or would be ineffective or unacceptable without a change. It may challenge the rule's underlying premise or approach. Under the direct final rule process, we do not consider the following types of comments to be adverse:

(1) A comment recommending another rule change, in addition to the change in the direct final rule at issue. We consider the comment adverse, however, if the commenter states why the direct final rule would be ineffective without the change.

(2) A frivolous or insubstantial comment.

If we receive an adverse comment or notice of intent to file an adverse comment, we will advise the public by publishing a document in the **Federal Register** before the effective date of the final rule. This document may withdraw the direct final rule in whole or in part. If we withdraw a direct final rule because of an adverse comment, we may incorporate the commenter's recommendation into another direct final rule or may publish a notice of proposed rulemaking.

If we do not receive an adverse comment or notice of intent to file an adverse comment, we will publish a confirmation document in the **Federal Register**, generally within 15 days after the comment period closes. The confirmation document tells the public the effective date of the rule.

See the ''Additional Information'' section for information on how to comment on this direct final rule and

how the FAA will handle comments received. The ''Additional Information'' section also contains related information about the docket, privacy, the handling of proprietary or confidential business information. In addition, there is information on obtaining copies of related rulemaking documents.

I. Overview of the Direct Final Rule

This direct final rule will permit the pilot in command of a helicopter air ambulance to assess the weather at a departure point where current weather observations are not available and to depart if the pilot's observed ceiling and visibility is greater than certain weather minimums. Applicable weather minimums include minimums found in a published Obstacle Departure Procedure (ODP), or in the absence of such a procedure, when the pilot observed ceiling and visibility is greater than the minimum ceiling and visibility limitations required by specific HAA rules. This change to the current regulation will permit helicopter air ambulance flights to enter the NAS under IFR when visibilities and ceilings are below VFR based on pilot weather observations, thus increasing the safety of the flight. Without this action, helicopter air ambulances will be unable to depart under IFR from landing sites lacking weather reporting, until VFR appropriate to the class of airspace above prevail.

II. Discussion of the Direct Final Rule

A. Background

On February 21, 2014, the FAA published a final rule on Helicopter Air Ambulance, Commercial Helicopter, and Part 91 Helicopter Operations. 79 FR 9932 (Feb. 21, 2014). It contained a new provision, § 135.611, that allows HAA operators to conduct IFR operations at airports and heliports without a weather reporting facility if they can obtain weather reports from an approved weather reporting facility located within 15 nautical miles of the destination landing area and meet other pilot and equipment requirements.

B. Statement of the Problem

The recently published final rule did not provide a means for HAA flights with IFR clearances to depart from airports not served with current weather observation reports. The current language in the rule would not allow a pilot to utilize the minimum takeoff visibilities depicted in published ODP when these are available. As a result, IFR capable departing flights are not able to gain direct access into the IFR system when weather conditions are worse than the Class G VFR minimums published in § 135.609, but are better than or equal to the published ODP takeoff minimums when the ODP depicts a ''proceed visually'' transition to the Initial Departure Fix (IDF).

The departing flight must be on an IFR Air Traffic Control (ATC) Clearance, which in accordance with the published ODP, contains takeoff minimums, and has a ''proceed visually'' segment between the takeoff location and the initial departure fix. When an ODP is not available or is not contained in the clearance, or the ODP depicts a ''proceed VFR'' segment instead of a ''proceed visually'' segment, the minimum visibility and ceiling reverts to that which is appropriate for the class of airspace involved. This revision to the rule text recognizes the improved safety margins and technologies available with ODPs and is consistent with the original intent of the rule, which is to encourage safe entry into the IFR System.

III. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct 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, the 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 final 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 to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows:

The FAA is amending IFR operations at locations without weather reporting, in order to permit the pilot in command of a helicopter air ambulance to assess the weather at a departure point where current weather observations are not available and allow the pilot to depart if the observed ceiling and visibility is greater than certain weather minimums. This change to the regulation provides greater opportunity for HAA operations to enter the NAS under IFR than previously permitted. Without this action, helicopter air ambulances will be unable to depart under IFR from landing sites lacking weather reporting, until VFR minimums appropriate to the class of airspace above prevail.

This requirement will increase the use of IFR flight by HAA operators, which will result in more aircraft operating in a positively controlled environment and within the existing infrastructure resulting in unquantified net benefit gains, and a full regulatory evaluation was not prepared

The FAA has, therefore, determined that this direct final rule 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.

B. 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 direct final rule does not impose any additional costs on helicopter air ambulance operators. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

C. 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 direct final rule and determined that it will have only a domestic impact and therefore no effect on international trade.

D. 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 $151 million in lieu of $100 million. This direct final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. International Compatibility and Cooperation

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

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

F. 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 312f and involves no extraordinary circumstances.

IV. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency 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.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a ''significant energy action'' under the executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

VI. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the rulemaking action in this document. The most helpful comments reference a specific portion of the rulemaking action, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking. Before acting on this rulemaking action, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this rulemaking action in light of the comments it receives.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from 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.gpo.gov/fdsys/.*

Copies may also be obtained 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. Commenters must identify the docket or amendment number of this rulemaking.

All documents the FAA considered in developing this rulemaking action, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced in item (1) above.

List of Subjects in 14 CFR Part 135

Air transportation, Aircraft, and 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 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 1. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 41706, 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722, 44730, 45101–45105; Pub. L. 112–95, 126 Stat. 58 (49 U.S.C. 44730).

■ 2. Revise § 135.611(a)(3) to read as follows:

§ 135.611 IFR operations at locations without weather reporting.

(a) * * *

(3) In Class G airspace, IFR departures with visual transitions are authorized only after the pilot in command determines that the weather conditions at the departure point are at or above takeoff minimums depicted in the published Obstacle Departure Procedure or VFR minimum ceilings and visibilities in accordance with § 135.609.

* * * * *

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44730 in Washington, DC, on July 17, 2014.

Michael P. Huerta,

Administrator.

[FR Doc. 2014–17729 Filed 7–25–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9683]

RIN 1545–BM23

Rules Regarding the Health Insurance Premium Tax Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to the health insurance premium tax credit enacted by the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010, as amended by the Medicare and Medicaid Extenders Act of 2010, the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011, and the Department of Defense and Full-Year Continuing Appropriations Act of 2011 and the 3% Withholding Repeal and Job Creation Act. These regulations affect individuals who enroll in qualified health plans through Affordable Insurance Exchanges (Exchanges) and claim the premium tax credit, and Exchanges that make qualified health plans available to individuals. The text of the temporary regulations in this document also serves as the text of proposed regulations set forth in a notice of proposed rulemaking (REG–104579–13) on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on July 28, 2014.

Applicability Date: For applicability dates, see §§ 1.36B–2T(d), 1.36B–3T(m), 1.36B–4T(c), and 1.162(l)–1T(c).

FOR FURTHER INFORMATION CONTACT: Arvind Ravichandran or Shareen Pflanz, (202) 317–4718 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final and temporary regulations that amend the Income Tax Regulations (26 CFR part 1) under section 36B relating to the premium tax credit and under section 162(l) relating to the deduction for health insurance costs for self-employed individuals. Section 36B was enacted by the Patient Protection and Affordable Care Act, Public Law 111–148 (124 Stat. 119 (2010)), and the Health Care and Education Reconciliation Act of 2010, Public Law 111–152 (124 Stat. 1029 (2010)) (collectively, the Affordable Care Act). Section 36B provides a refundable premium tax credit to help individuals and families afford health insurance purchased through an Exchange.

To be eligible for a premium tax credit under section 36B, an individual must be an applicable taxpayer. Section 36B(c)(1) provides that an applicable taxpayer is a taxpayer (1) with household income for the taxable year between 100 percent and 400 percent of the federal poverty line for the taxpayer's family size, (2) who may not be claimed as a dependent by another taxpayer, and (3) who files a joint return if married (within the meaning of section 7703).

Section 7703(b) allows certain married individuals to be considered not married for purposes of the Internal Revenue Code. Under section 7703(b), a married taxpayer who lives apart from the taxpayer's spouse for the last six months of the taxable year is considered unmarried if he or she files a separate return, maintains as the taxpayer's home a household that is also the principal place of abode of a dependent child for more than half the year, and furnishes over half the cost of the household during the taxable year.

Section 36B(b)(2) provides that a taxpayer's premium tax credit is the lesser of the premiums for the plan or plans in which the taxpayer and the taxpayer's family enroll or the excess of the premiums for the second lowest cost silver plan covering the taxpayer's family (the benchmark plan) over the taxpayer's contribution amount. A taxpayer's contribution amount is the product of the taxpayer's household income and an applicable percentage that increases as the taxpayer's household income increases.

Under section 1412 of the Affordable Care Act, eligible taxpayers may receive advance payments of the premium tax credit (advance credit payments). Section 36B(f) provides that taxpayers must reconcile any differences between the taxpayer's advance credit payments for a taxable year and the taxpayer's premium tax credit for the year. If the taxpayer's advance credit payments exceed the allowed premium tax credit, the taxpayer owes the excess as a tax liability, subject to a repayment limitation in section 36B(f)(2)(B).

Under section 162(l), a taxpayer who is an employee within the meaning of section 401(c)(1)—generally, a self-employed individual—is allowed a deduction for all or a portion of the taxpayer's premiums paid during the taxable year for health insurance for the taxpayer, the taxpayer's spouse, the taxpayer's dependents, and any child of the taxpayer under the age of 27. The deduction allowed under section 162(l) is limited to the taxpayer's earned income from the trade or business with respect to which the health insurance plan is established. In addition, section 280C(g) provides that no deduction is allowed under section 162(l) for the portion of premiums for a qualified health plan equal to the amount of the premium tax credit determined under section 36B(a) with respect to those premiums.