

60480

Date: 7/11/99 10:13 PM
Sender: <skydive@magpage.com>
To: 9-NPRM-CMTS
Priority: Normal
Subject: Docket #: FAA-1 999-5483 -44

Enclosed are our comments to the NPRM. One attachment is a Word document and the other is a text document.

Sincerely,

William D. Spangler Vice President, Skydive Delmarva, Inc.
P.O. Box 1391
Lexington Park, MD 20653

(301)
737-2351



OFFICE OF THE
CHIEF COUNSEL
RULES DOCKET
1999 JUL 15 P 4: 27

Comments to NPRM Docket No. FAA-1999-5483; Notice No. 99-03

**Author: William D. Spangler
Vice-president Skydive DelMarVa, FAA Senior Rigger, USPA D-13096, AFF/SLI-99
Previous Vector and Strong rated Tandem Instructor**

1. Page 18303. The term "passenger parachutist" is introduced. I believe the term would more accurately be described as "student tandem parachutist". The use of the word "passenger" implies that the person is simply gaining a service only and could be construed to bring on other regulations which I hope are not intended. Legal ramifications could seriously impact the tandem program. Tandem participants could be viewed simply as persons going for a ride without taking an active role in the parachute operation. This would then leave interpretations by the legal system open to voiding existing waivers. Tandem is and always will be a method of instruction. The manufacturers designed the programs to be used for instructional purposes and the existing Federal Aviation Administration (FAA) exemption recognized that as well.
2. Page 18303. The proposal refers to "a separate approved forward harness". It should be changed to "a separate manufacturers approved **forward** harness". As currently written it implies a separate Technical Standards Order (TSO) for the forward harness.
3. Page 18303. The terms "serious injury" and "fatal injury" are introduced. I don't believe the FAA is the proper authority to be analyzing injury reports resulting from parachuting. This reporting should be deleted. Parachuting and its' methods of instruction are a sporting activity and therefore should not be required to report injuries to the FAA. It is a sport whose participants are fully aware of the risks. Parachuting is a sport and not a commercial industry for the transportation of the public therefore no further reporting responsibilities should be required. The FM proposes this reporting based on recommendations from the National Transportation Bureau (NTSB). These recommendations are not identified; therefore a complete response to the NTSB cannot be made. The United States Parachute Association (USPA) currently collects detailed data on fatal injuries and serious injury data through its annual membership renewal applications. USPA evaluates this data and publicly publishes their findings throughout the year and summarizes the data in an annual report published publicly yearly. By the FAA requesting to evaluate this data without USPA participation seriously undermines USPA ability to self-regulate the sport. If it were felt that this information must be obtained, USPA would be better suited to receive and analyze this data and then report results to the FAA.
4. Page 18303. Whereas I appreciate the effort to define "supervision", the entire issue with packing "main" parachutes is not adequately addressed. First, even with the proposed, a first jump student, with no knowledge of packing parachutes, could be permitted to pack his own main parachute provided he was the one to use it. Obviously this is a ludicrous situation that no rational person would permit. Currently USPA license requirements can be used to address this issue by requiring, as they currently do, to have an "A" license (recognized by the Federation Aeronautique Internationale (FAI)) which requires and establishes their ability to pack a main parachute without supervision. Secondly, the issue of professional packers is not addressed in a manner, which is conducive to safe or efficient parachute packing. There are many professional packers in the field that do not have a FAA rigger certificate. They are very knowledgeable in packing main parachutes and often provide students with instruction. Rather than require a FAA certificated rigger to supervise them in packing main parachutes require them to obtain authorization from a certificated rigger to pack main parachutes. This would not place an undue burden on riggers in the field. A written authorization that is held on file at the drop zone where they perform those duties could handle it. This would not require the FAA to initiate or maintain a new rating program, but simply allow riggers to identify those people with sufficient knowledge to pack main parachutes. The practice of utilizing

professional packers has been ongoing for years with no indications of a compromise in safety.

5. Page 18303 (Radio Communications). I agree with the need to keep Air Traffic Control (ATC) facilities apprised of parachuting activities, but we should continue with the requirement to additionally notify the FSS in order to adequately disseminate **NOTAMs** to the aviation community. Historically there has been poor communications between ATCs and FSSs and requiring notification to the ATCs only would be a compromise in safety.
6. Page 18305. (Tandem Parachute Operations) Delete the requirements for the “parachutist in command”. The FAA does not currently regulate jumpmasters or instructors and therefore should not regulate tandem “parachutists in command”. **USPA** and the equipment manufacturers have a proven ability to regulate the “parachutist in command”. They are the ones with the most knowledge and ability to define the requirements. Reference should be made to require the “parachutist in command” to comply with current **USPA** and the applicable manufacturers guidelines and regulations.
7. Page 18307 (Parachute Operations Over or Onto Airports) Use of the word “approval” has been retained from previous regulations but conveys too much authority to airport management and degrades from FAA authority. It additionally conveys to all airports private, public non-federally funded and federally funded that approval rests solely with them. Past litigation has proven this to be false in a number of cases, and will allow for future litigation, which could be avoided by clarifying that parachuting is a legitimate aeronautical activity. Clarification on the granting of approval needs to be made so that it is clear that denial should be predicated on safety and not on a disregard for a legitimate aeronautical activity.
8. Page 18306 (Equipment and Packing for Foreign Parachutists). There is a typographical error in the second paragraph. Change “Part 105 does not except foreign parachutists.. .” to “Part 105 does not exempt foreign parachutists.. .”
9. Page 18306 (Equipment and Packing for Foreign Parachutists). This section does not adequately address the foreign parachutist’s reserve parachute. It is unclear and unspecified as to how the foreign parachutist’s reserve parachute should be packed. Recommend specifying that the foreign parachutist’s **reserve** parachute to be packed in accordance with the civil aviation authority of the foreign parachutist’s country or by a FAA certificated rigger. Additionally, include reference to the discussions in item # 4 above concerning packing of the main parachute.
10. Page 18308 (**Paperwork** Reduction Act). I can find no rationale for the numbers used in calculating the expense of the reporting of “serious injuries”. The number of fatalities this year was 44. One would logically assume the number of “serious injuries” to be much larger. Therefore the numbers used to calculate the financial impact must be in error and cannot be used to determine the impact. Additionally, the amount and format of the data that would be requested was not defined and therefore it is impossible to validate the time or effort required obtaining the appropriate data.
11. Page 18308 (Paperwork Reduction Act). In the last paragraph it is stated that there will be a minimal cost impact on the FAA due to this proposal. Based on the information discussed in item #9 above that cannot be determined. I feel that if appropriate numbers were used that the impact to collect and analyze the data would be significant.
12. Page 18309 (Sec. 65.111 Certificate required). Referring to item #4 replace paragraphs (b)(l) through (b)(4) with the following:

- (1) Has an appropriate current certificate issued under this subpart; **or**
 - (2) Is under the supervision of a current certificated parachute rigger; **or**
 - (3) **Is a person authorized in writing by a certificated rigger to pack main parachutes without supervision. Said person must maintain proficiency by annual recertification in writing by a certificated rigger; or**
 - (4) Is the person making the next parachute jump with that parachute in accordance with section 105.43(a) of this chapter **and has obtained a parachute license issued by an organization recognized by the FAA; or**
 - (5) Is the parachutist in command making the next parachute jump with that parachute in a tandem parachute operation conducted under section 105.45(b)(1) of this chapter
13. Page 18310 (Sec. 105.3 Definitions.) As will be discussed later in paragraph xx no reference to an Automatic Activation Device (AAD) is required. Recommend deleting this definition.
 14. Page 18310 (Sec. 105.3 Definitions.) As was discussed in paragraph 3 and will be discussed further in paragraph 27 no reference to "fatal injury" is required. Recommend deletion of the definition of "fatal injury".
 15. Page 18310 (Sec. 105.3 Definitions.) As was discussed in paragraph 3 and will be discussed further in paragraph 27 no reference to "serious injury" is required. Recommend deletion of the definition of "serious injury".
 16. Page 18310 (Sec. 105.3 Definitions.) As was discussed in paragraph 1 change "passenger parachutist" to **"Student tandem parachutist"**.
 17. Page 18311 (Sec. 105.3 Definitions.) Supervision, as defined, needs further clarification to require direct personal contact by the certificated rigger. Recommend change the supervision definition to read: **"Supervision means that a certificated rigger personally observes a non-certificated person packing a main parachute to the extent necessary to ensure it is being done properly, and the rigger is readily available, in person, for consultation."**
 18. Page 18311 (Sec. 105.5 General.) Pilots need to be relieved of responsibilities outside their control. Pilots have been historically task with the responsibilities of parachutists even though the parachutists have been held accountable (and justifiably). Pilots often cannot be task with responsibilities for which they are not entirely familiar or places an undue burden and in some cases a compromise in the safety of the operation. Recommend change this paragraph to read: **"No person or parachutist may conduct a parachute operation, if that operation creates a hazard to air traffic or to persons or property on the surface. No pilot in command of an aircraft may allow a parachute operation to be conducted from that aircraft, unless all reasonable measures within the pilot's control are taken to ensure that a hazard is not created."**
 19. Page 18311 (Sec. 105.13 Radio Equipment and Use Requirement.) It is not practical for aircraft to maintain radio communications with several facilities simultaneously over airports where overlapping airspace exists. Additionally it is not practical to require the parachutist who has no radio available at his command to ensure radio communications. Recommend change paragraph (a)(1)(ii) to read: "Radio communications have been established between the aircraft and the air traffic control facility having jurisdiction over the ~~affected~~ **air space of intended exit altitude(s)** at least five minutes before the parachute operation begins. The pilot in command ~~and the parachutist~~ on that flight must have established radio

communications to receive information regarding air traffic activity in the vicinity of the parachute operation.”

20. Page 18311 (Sec. 105.13 Radio Equipment and Use Requirement.) Paragraph (a)(Z)(i) implies communications until parachutists have landed. With aircraft today this is impractical since many aircraft land prior to the parachutists. To keep in concert with the proposed paragraph (a)(2)(ii) where it was requested that the pilot report when the last parachutist or object exits the aircraft recommend paragraph be replaced with “Continuously monitor the appropriate frequency of the aircraft’s radio communications system from the time radio communications are first established between the aircraft and air traffic control, until the pilot advises air traffic control that the parachute operation has ended for that flight **has landed or is no longer able to maintain communications with air traffic control;** and”
21. Page 18311 (Sec. 105.13 Radio Equipment and Use Requirement.) To remain consistent with previous regulations that recognized that once approval was obtained the parachute operation may continue add paragraph (b)(1) “**If in flight radio communications become inoperative after receipt of required A TC authorization the parachute operation may continue.**”
22. Page 1831 land 18312 (Sec.105.17 Flight visibility and clearance from cloud requirements.) As was noted in paragraph 15 pilots need to be relieved of the responsibilities outside their control. Whereas pilots should take every precaution practicable to avoid parachutists leaving their aircraft and possibly entering clouds they cannot be held responsible for what occurs after parachutists exit. Parachutists today have acquired an ability to move horizontally covering large distances and as such should not place the entire responsibility for cloud avoidance on the pilot. Parachutists historically have been held responsible and if the pilot has taken reasonable precautions the responsibility still resides with the parachutist. Recommend replace the introductory sentence to read: “No person may conduct a parachute operation, and no pilot in command of an aircraft may allow a parachute operation to be conducted from that aircraft **unless reasonable precautions were executed such that the parachutist did not exit-**“
23. Page 18312 (Section 105.19 parachute operations between sunset and sunrise.) Parachutists have safely conducted night jumps with helmet mounted lighting. The requirement for 3 miles visibility in all directions is unreasonable since aircraft directly above pose no undue safety hazard. Aircraft directly below (which would be incapable of view the light) would already be eliminated either by ATC or the parachutists prior to exiting. Therefore recommend replacing “in all directions.” with “**in all directions in a horizontal plane**”.
24. Page 18312 (Sec. 105.23 Parachute operations over or onto airports.) We recognize the need to coordinate parachute operations and additionally airport managers need to recognize parachute operations as a legitimate aeronautical activity. Preface this paragraph with “**Parachute operations are recognized by the FAA as a legitimate aeronautical activity that can be safely accommodated on most airports. Coordination with airport management shall occur prior to parachute operations to ensure that all aeronautical users are safely and adequately accommodated. Denial of authority shall be based solely on legitimate safety considerations.**”
25. Page 18312 (Sec. 105.25 Parachute operations in designated air space.) For consistency on the concerns of communications and coordination with the proper ATC, as noted in paragraph 19, pilots should coordinate with the facility having jurisdiction at the actual exit altitude. Recommend change paragraph (a)(3) to read: “**Except as provided in paragraph (c) and (d) of this section, within or into Class E or G airspace area unless the air traffic control facility having jurisdiction over the affected airspace at the intended exit altitude(s) is notified of the parachute operation no earlier than 24hours...**

26. Page 18312 (Sec. 105.25 Parachute operations in designated air space.) For consistency with the preceding paragraph recommend change paragraph (a)(3)(b) to read: "Each request for a parachute operation authorization or notification required under this section must be submitted to the air traffic control facility having jurisdiction over the **affected airspace at the intended exit altitude(s)** and must include.. ."
27. Page 18312 (Sec. 105.27 Accident reporting requirements) As previously mentioned in paragraphs 3, 10, and 11 reporting of serious or fatal injuries to the FAA would do nothing to promote safety more than what is already being accomplished by USPA. It would place an undue burden on the FAA to assimilate and evaluate this data by personal that do not have a similar expertise as those in the USPA (not to mention the increased cost and expense to be incurred by tax payers). Costs to gather and assimilate this data have in this notice been grossly under estimated. The USPA already gathers all fatal injury data and gathers voluntarily injury data through annual membership renewal applications. The USPA has made this data publicly available and therefore no further reporting should be required. Recommend deletion of section 105.27 in its entirety.
28. Page 18313 (Sec. 105.43 Use of single-harness, dual-parachute systems.) These rules place too much responsibility on the pilot in command. Pilots are often not experts in parachuting equipment and therefore this tremendous amount of responsibility should not be placed on them. The inspection of the parachute equipment by the pilot would often require the removal of the equipment. This would possibly result in a compromise in safety if the equipment were then replaced incorrectly. This could easily be the case when the entire aircraft is waiting for the completion of the inspection. This will seriously impact the parachute operation if the pilot must inspect every parachutist's equipment. Currently this rule has not been adhered to exactly as worded and no safety has been compromised. Drop zone owners generally have riggers inspect parachutists' equipment and some often keep records of parachutists' reserve repack dates. Many drop zones often perform spot checks of equipment as well. The main responsibility lies with the parachutist. In addition to more efficiently accommodate tandem parachute operations by combining the definitions herein, recommend changing the first sentence to read "No person may conduct a parachute operation using a single-harness, dual-parachute system, and **the pilot in command of an aircraft should ensure to the best of his abilities that no parachute operations occur from that aircraft unless that person is wearing an approved harness attached to a parachute pack having at least one main parachute and one approved reserve parachute that are packed as follows:**"
29. Page 18313 (Sec. 105.43 Use of single-harness, dual-parachute systems.) To keep consistency with the changes recommended concerning supervision and main parachutes recommend changing paragraph (a) to read: "The main parachute must have been packed within 120 days before the date of its use by a certificated parachute rigger, or a non-certificated person under the direct supervision of a certificated parachute rigger, **or a person authorized in writing by a certificated rigger to pack main parachutes without supervision,** or the person making the next jump with that parachute **provided they have obtained a parachute license issued by an organization recognized by the FAA.**"
30. Page 18313 (Sec. 105.43 Use of single-harness, dual-parachute systems.) AADs are supplemental equipment that does not require FAA regulation. AADs are not approved reviewed or certificated and therefore should not be addressed here. Many questions concerning their use need not nor should not be open for FAA interpretation, as are aircraft service bulletins. USPA requires them for student use at member dropzones and hence has improved the safety of the sport. Experienced skydivers voluntarily use them. They are installed and serviced by certificated riggers according to manufacturer guidelines. Therefore safety is not enhanced by FAA regulation. Changes to any requirements for their use would be hindered by FAA regulations therefore recommend deleting section 105 (b)(3).

31. Page 18313 (Sec. 105.45 Use of tandem parachute systems). For consistency and due to the reasons noted in paragraphs 18 and 28, reword paragraph (a) to read “No person may conduct a parachute operation using a tandem parachute system, and **the pilot in command of an aircraft should ensure to the best of his abilities that no parachute operations occur from that aircraft** using a tandem parachute system, unless--”
32. Page 18313 (Sec. 105.45 Use of tandem parachute systems). Historically the FAA has relied upon the manufacturers to set the requirements for the operation of their respective equipment. This paragraph should be reworded to continue that philosophy. The manufacturers know best how the systems should be operated and what skills the operators should possess. USPA and the manufacturers have established equipment procedures, service, use, guidelines and requirements that already meet and exceed the intent and requirements of this section. USPA and the manufacturers have established a proven safety record, which is acknowledged in this NPRM. This section would seriously undermine the practices already in place as well as infringe on the concept of self-regulation. By using the practices of USPA and the manufacturers new and improved methods, requirements, and guidelines can more quickly and efficiently be instituted to improve safety. Recommend replacing paragraph (l)(l) with the following: **“Has met and maintains their proficiency in accordance with a program approved by the administrator and in accordance with the manufacturer of the system used.”** Replace paragraph (1)(ii) with the following: **Operates the tandem parachute system in accordance with a program approved by the administrator and in accordance with the manufacturer’s instructions of the system used.”**
33. Page 18313 (Sec. 105.47 Use of static lines.) Paragraph (b) allows the student to attach his own assist device if they are the ones to use it. This is absolutely ludicrous and I truly hope not the intent of this paragraph. Referring to paragraph 4 above, rewrite paragraph (b) to read: “No person may attach an assist device required by paragraph (a) of this section to any main parachute unless that person is a certificated parachute rigger, or **one who has been authorized within the past year by a certificated parachute rigger or a person who has obtained a parachute license issued by an organization recognized by the FAA.**”
34. Page 18313 (Sec. 105.47 Use of static lines.) Paragraph (c) needs to read: “An assist device is not required for parachute operations using directbag deployed, ram-air canopies.”
35. Page 18313 (Sec. 105.49 Foreign parachutists and equipment.) To keep consistency with the changes recommended concerning supervision and main parachutes recommend changing paragraph (a)(4)(a) to read: “The main parachute must be packed by the foreign parachutist making the next parachute jump with that parachute, or a certificated parachute rigger or **one who has been authorized within the past year by a certificated parachute rigger.**”
36. Page 18313 (Sec. 105.49 Foreign parachutists and equipment.) Paragraph (a)(4)(b) is unclear and needs clarification. It would be clearer if paragraph (a)(4)(b) read “The reserve parachute must be packed in accordance with the foreign parachutists civil aviation authority requirements, **or by a FAA certificated parachute rigger,** or any.. .”
37. Page 1831 (Sec 119.1 Applicability.) Many demonstration jumps originate at nearby dropzones but not within 25 statute miles. This requirement would hence unduly prevent their operation. Increasing the limit to 100 statute miles would not detract from the intent of the limitations therefore change paragraph (e)(6) to read: “Nonstop flights conducted within a **100-statute-mile** radius of the airport of takeoff carrying persons or objects for the purpose of conducting intentional parachute operations.”