

flight compartment, and all applicable corrective actions, by doing all actions in Part 1 of the Accomplishment Instructions of the service bulletin, except as provided by paragraphs (f)(1) and (f)(3) of this AD. Any applicable corrective action must be done before further flight.

**Note 1:** For the purposes of this AD, a detailed inspection is: "An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required."

#### Modification

(h) At the applicable time specified in paragraph (h)(1) or (h)(2) of this AD, modify wiring in the flight compartment by doing all actions in accordance with Part 2 of the Accomplishment Instructions of the service bulletin. Following accomplishment of the actions in Part 2 of the service bulletin, before further flight, do all actions associated with the functional test, including revising the Emergency Procedures section of the Raytheon Hawker 800XP Airplane Flight Manual to include the information in Temporary Change P/N 140-590032-0005TC7, in accordance with the Accomplishment Instructions of the service bulletin.

(1) If no damage was found during the inspection required by paragraph (g) of this AD: Do paragraph (h) within 300 flight hours or 180 days after the effective date of this AD, whichever is first.

(2) If any damage is found during the inspection required by paragraph (g) of this AD: Do paragraph (h) before further flight after the damage is found.

#### Alternative Methods of Compliance (AMOCs)

(i) The Manager, Wichita ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

#### Material Incorporated by Reference

(j) You must use Raytheon Service Bulletin SB 24-3555, Revision 1, dated June 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201-0085. To view the AD docket, contact the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, Nassif Building, Washington, DC. To review copies of the service information, contact the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on April 18, 2005.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate,  
Aircraft Certification Service.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 91

**[Docket No. FAA-2004-19947; Amendment No. 91-285]**

**RIN 2120-A142**

#### Pyrotechnic Signaling Device Requirements

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Disposition of comments on direct final rule.

**SUMMARY:** On December 27, 2004, the FAA published a direct final rule to remove the requirement for a pyrotechnic signaling device required for aircraft operated for hire over water and beyond power off gliding distance from shore for air carriers operating under part 121 unless it is a part of a required life raft. All other operators continue to be required to have onboard one pyrotechnic signaling device if they operate aircraft for hire over water and beyond power off gliding distance from shore. The rule was effective February 7, 2005.

**ADDRESSES:** The complete docket for the final rule on pyrotechnic signaling devices may be examined through the Department of Transportation's Docket Management System at <http://www.dms.dot.gov>. Use the Simple Search selection and type in the docket number, 19947.

**FOR FURTHER INFORMATION CONTACT:** Joe Keenan, AFS-200, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-9579.

#### SUPPLEMENTARY INFORMATION:

#### Background

The final rule, request for comment, was published in response to several requests that the FAA eliminate the requirement that aircraft that operate for hire, over water, and beyond power off gliding distance from shore, carry one pyrotechnic signaling device in addition to those signaling devices required as part of each required life raft. The FAA

considered petitioners arguments that the requirement of an additional pyrotechnic device, or flare gun, was unnecessary because other requirements, such as air traffic control, dispatch/flight following systems, and advanced communications provide an equivalent, if not greater, level of safety as that provided by the pyrotechnic signaling device. This requirement was limited to those operators conducting operations under Part 121 because all of the additional safety redundancies, such as dispatch/flight following, do not exist to the same extent in other operations.

#### Discussion of Comments

The FAA received seven comments on the pyrotechnic signaling device final rule. Three were from individuals, three were from air carriers (Southwest Airlines, American Airlines, and Net Jets), and one was from a trade association (the Regional Airline Association). Most comments favor the change. One individual commenter did not reflect support or opposition to the change. None of the comments reflect an adverse position to this final rule. The FAA's response to the comments follows:

#### Safety

All but one commenter expressed concerns about the safety and security of pyrotechnic signaling devices. One individual commenter stated that the devices were a high-pilferage item and pose a hazard of becoming a potential terrorist weapon. Another individual commenter expressed a general concern about a security hazard to the flight crew. Southwest Airlines and Net Jets inferred that pyrotechnic signaling devices are lethal weapons and constitute hazardous materials on the flight deck.

Three commenters, including American Airlines, inferred that these devices do not enhance safety. Southwest Airlines stated that the device would provide minimal value in locating an aircraft following a ditching at sea, assuming that a pilot could find it.

The FAA does not agree that pyrotechnic signaling devices are unsafe if stored and maintained in accordance with the manufacturer's instructions and personnel are properly trained in their use. Pyrotechnic signaling devices are still required whenever life rafts are required to be onboard. The FAA does not agree that a pyrotechnic signaling device might be hard to locate in a ditching emergency. FAA regulations require a passenger briefing composed of instructions to use in preparation for a ditching. Part of this preparation

includes use of emergency equipment, including life rafts and associated equipment (such as pyrotechnic signaling devices), before the actual ditching occurs. Crewmembers are required to be trained in the proper use of emergency equipment. Moreover, when pyrotechnic signaling devices are required as part of a life raft's survival equipment, they are generally inaccessible without removing the raft itself. In cases where the life raft's survival kit is stored separately from the raft, locations are typically not readily available for passenger access until actually needed.

### Part 135 Relief

An individual commenter, Net Jets, and the Regional Airline Association stated they are in favor of including relief for part 135 operations. An individual commenter stated that all of the justification for part 121 operations is true for part 135 operations, as well. Net Jets stated that similarly situated part 135 operators should be provided with the same relief as part 121 operators, and noted the similarities between part 121 dispatch/flight following systems and the flight locating requirements of part 135. Net Jets also stated that the Part 125/135 Aviation Rulemaking Committee (ARC) is addressing the issue as it applies to part 135 operations. Net Jets stated that a complete power loss of a part 25 certificated turbojet airplane is extremely low.

Although the requirements differ, the FAA agrees that similarities may exist between part 121 flight following requirements and part 135 flight locating requirements. Also, while some 135 operators conduct operations very similar to part 121 operators, many do not so it would not be appropriate to provide the same blanket relief to all 135 operators. However, if a particular part 135 operator's flight locating system meets all of the requirements of a part 121 flight following system, relief provided in this rule change may be sought by that operator and evaluated by the FAA through the exemption process.

The FAA agrees that complete engine failure of a part 25-certificated airplane is extremely low. However, engine failure is not the only precursor to a forced ditching. Onboard fires, flight control malfunctions, and fuel exhaustion have also resulted in ditching incidents.

The FAA looks forward to receiving recommendations from the Part 125/135 ARC when they are complete.

### Pyrotechnic Signaling Devices Required as Part of a Life Raft

An individual commenter stated that the rule should contain a requirement for positive proof that a pyrotechnic device required as part of a life raft is, in fact, onboard and goes on to question how an operator would determine that the device is installed in the life raft.

It is incumbent upon an operator to demonstrate compliance with any applicable requirements for a particular operation. For example, an operator may maintain an inventory of life raft-related equipment to satisfy this requirement when the equipment must be carried onboard for over-water operations.

### Conclusion

After consideration of the comments submitted in response to the final rule, the FAA has determined that no further rulemaking action is necessary. Amendment 91-285 remains in effect as adopted.

Issued in Washington, DC, on April 21, 2005.

Marion C. Blakey,  
Administrator.

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 172

[Docket Nos. 1998F-0052 and 1999F-0187 (formerly Docket Nos. 98F-0052 and 99F-0187)]

### Food Additives Permitted for Direct Addition to Food for Human Consumption; Neotame

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; response to objections and denial of requests for a hearing.

**SUMMARY:** The Food and Drug Administration (FDA) is responding to objections and is denying requests that it has received for a hearing on the final rule that amended the food additive regulations authorizing the use of neotame as a nonnutritive sweetener in food. After reviewing the objections to the final rule and the requests for a hearing, the agency has concluded that the objections do not raise issues of material fact that justify a hearing or otherwise provide a basis for revoking the amendment to the regulation.

### FOR FURTHER INFORMATION CONTACT:

Andrew J. Zajac, Center for Food Safety and Applied Nutrition (HFS-265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740-3835, 301-436-1267.

### SUPPLEMENTARY INFORMATION:

#### I. Introduction

FDA published notices in the **Federal Register** on February 10, 1998 (63 FR 6762), and February 8, 1999 (64 FR 6100), announcing the filing of food additive petitions, FAP 8A4580 and FAP 9A4643, respectively, by Monsanto Co. to amend the food additive regulations in Part 172 *Food Additives Permitted for Direct Addition to Food for Human Consumption* (21 CFR part 172) to provide for the safe use of neotame as a nonnutritive sweetener for tabletop use (FAP 8A4580) and for general-purpose use in food (FAP 9A4643) where standards of identity do not preclude such use. The rights to these petitions were subsequently sold to the NutraSweet Co. In the **Federal Register** of July 9, 2002 (67 FR 45300), FDA issued a final rule permitting the safe use of neotame as a sweetening agent and flavor enhancer in foods generally, except in meat and poultry. The preamble to the final rule advised that objections to the final rule and requests for a hearing were due within 30 days of the publication date (i.e., by August 8, 2002).

#### II. Objections and Requests for a Hearing

Section 409(f) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(f)) provides that, within 30 days after publication of an order relating to a food additive regulation, any person adversely affected by such order may file objections, specifying with particularity the provisions of the order "deemed objectionable, stating reasonable grounds therefore, and requesting a public hearing based upon such objections." FDA may deny a hearing request if the objections to the regulation do not raise genuine and substantial issues of fact that can be resolved at a hearing.

Under 21 CFR 171.110 of the food additive regulations, objections and requests for a hearing are governed by part 12 (21 CFR part 12) of FDA's regulations. Under § 12.22(a), each objection must meet the following conditions: (1) Must be submitted on or before the 30th day after the date of publication of the final rule; (2) must be separately numbered; (3) must specify with particularity the provision of the regulation or proposed order objected to; (4) must specifically state the