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Dennis R. Pratte,

Acting Director, Office of Rulemaking.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 91

[Docket No. FAA-2011-0628]

#### Clarification of Prior Interpretations of the Seat Belt and Seating Requirements for General Aviation Flights

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

**ACTION:** Notice of proposed clarification of prior interpretations.

**SUMMARY:** This action proposes to clarify prior interpretations of the seat belt and seating requirements of 14 CFR 91.107(a)(3). These prior interpretations state that the shared use of a single restraint may be permissible. The proposed clarification states that the use of a seat belt and/or seat by more than one occupant is appropriate only if: The seat belt is approved and rated for such use; the structural strength requirements for the seat are not exceeded; and the seat usage conforms with the limitations contained in the approved portion of the Airplane Flight Manual. The proposed clarification also emphasizes that the proper restraint method for children during operations conducted under part 91 relies on the good judgment of the pilot, who should be intimately aware of the capabilities and structural requirements of the aircraft that he or she is operating.

**DATES:** Comments must be received on or before August 22, 2011.

**ADDRESSES:** You may send comments identified by docket number FAA-2011-0628 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, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- **Hand Delivery:** 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:** (202) 493-2251.

**FOR FURTHER INFORMATION CONTACT:** Alex Zektser, Attorney, Regulations Division, Office of Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-3073; email: [Alex.Zektser@faa.gov](mailto:Alex.Zektser@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

The FAA invites interested persons to submit written comments, data, or views concerning this proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

The FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposal. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments and any late-filed comments if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of comments received.

##### Availability of This Proposed Clarification of Prior Interpretations

You can get an electronic copy 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/](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 docket number or notice number of this proposal.

##### Background

On March 22, 2009, a Pilatus PC-12/45 descended and impacted the ground near the approach end of a runway at Bert Mooney Airport in Butte, Montana. After investigating this incident, the National Transportation Safety Board (NTSB) determined the following.

At the time of the impact, the Pilatus PC-12/45 airplane was operating as a personal flight under the provisions of 14 CFR part 91. The pilot and the 13 airplane passengers were killed, and the airplane was destroyed by impact forces and the postcrash fire. Among the 13 passengers were six adults and seven children. Because the flight was a single-pilot operation, eight seats in the cabin and one seat in the cockpit were available to the 13 passengers. Thus, the number of passengers exceeded the number of available seats. The NTSB was unable to determine the original seating position for most of the occupants, but the bodies of four children, ages 3 to 9 years, were found farthest from the impact site, indicating that these children were likely thrown from the airplane because they were unrestrained or improperly restrained. The NTSB noted that if the accident had been less severe and the impact had been survivable, any unrestrained occupant or occupants sharing a single restraint system would have been at a much greater risk of injury or death.

As a result of the March 22, 2009 incident described above, the NTSB has requested that the FAA withdraw its prior interpretations of 14 CFR 91.107(a)(3), which permit the shared use of a single restraint system.

##### Discussion of the Proposal

In response to the NTSB's request, the FAA proposes to clarify its prior interpretations of 14 CFR 91.107(a)(3) as follows.

For part 91 operations, section 91.107(a)(3) requires that "each person on board a U.S. registered civil aircraft \* \* \* must occupy an approved seat or berth with a safety belt and, if installed, shoulder harness, properly secured about him or her during movement on the surface, takeoff, and landing." Children under the age of two may be held by an adult who is occupying an approved seat or berth and no restraining device for the child is used. In contrast, for commercial operations under part 121, section 121.311 requires that each person "occupy an approved seat or berth with a separate safety belt properly secured about him."

When § 121.311 and § 91.107 (previously § 91.14) were first promulgated in 1971, the FAA clarified that the separate use provision for safety belts under part 121 was not intended to apply to part 91 operations. Rather, part 91 "requires only that each person on board occupy a seat or berth with a safety belt properly secured about him." 36 FR 12511 (July 1, 1971). The FAA has previously interpreted this provision as not requiring separate use

of safety belts. See Legal Interpretation 1990–14. At the time, this allowance was permissible because seat belts were generally rated in terms of strength and some were rated for more than one occupant to accommodate side-by-side seating arrangements (i.e., bench seats) in certain aircraft that are commonly used in operations conducted under part 91. Thus, use of a seat belt and seat by more than one occupant may have been appropriate only if: (1) The belt was approved and rated for such use; (2) the structural strength requirements for the seat were not exceeded; and (3) the seat usage conformed with the limitations contained in the approved portion of the Airplane Flight Manual (14 CFR § 23.1581(j)). See 36 FR 12511; see also 14 CFR 23.562, 23.785; Legal Interpretation 1990–14; Legal Interpretation to Mr. C.J. Leonard from Hays Hettinger, Associate Counsel (July 26, 1966). Under the FAA's proposed clarification, seating arrangements that do not comply with the above conditions would not be able to use the FAA's prior interpretations of § 91.107(a)(3) to justify the shared use of a single restraint system.

The FAA also emphasizes that although § 91.107(a)(3) and § 91.205(b)(13), as previously interpreted by the agency, may allow for shared use of a single restraint in certain situations, whether a child should be held, or placed under a safety belt, or allowed to share a single restraint or seat with another occupant during part 91 operations, is a matter of prudent operating practice. The FAA has strongly advocated, and continues to advocate, the use of child restraints such as child safety seats for children who are within the weight restriction of the restraint. See 57 FR 42662, 42664 (Sept. 15, 1992) (allowing the use of child restraint systems in operations conducted under parts 91, 121, 125, 135, and recognizing that the "use of child restraints in an aircraft will provide a level of safety greater than that which would be provided if the young children were held in the arms of adults or if safety belts alone were used"); 70 FR 50902, 50903 (Aug. 26, 2005) (allowing use of child restraint systems that are approved by the FAA); 71 FR 40003, 40005 (July 14, 2006) (allowing use of more types of child restraint systems). The FAA recognizes that properly restraining children on aircraft is difficult because there is a large variance in muscle development, height, weight, and upper body strength. Thus, good judgment of the pilot, who should be intimately aware of the capabilities and structural requirements

of the aircraft he or she is operating, is critical in determining the proper method of restraint for children during operations conducted under part 91.

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 81

[Docket Number NIOSH–0209]

RIN 0920–AA39

#### **Guidelines for Determining Probability of Causation Under the Energy Employees Occupational Illness Compensation Program Act of 2000; Revision of Guidelines on Non-Radiogenic Cancers; Extension of Comment Period**

**AGENCY:** National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of proposed rulemaking; extension of comment period.

**SUMMARY:** On March 21, 2011, the Department of Health and Human Services (HHS) published a Notice of Proposed Rulemaking proposing to treat chronic lymphocytic leukemia (CLL) as a radiogenic cancer under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) of 2000. The public comment period was scheduled to end on June 20, 2011. We have received a request asking to extend the public comment period. In consideration of this request, HHS is extending the public comment period by 30 days to July 20, 2011.

**DATES:** The comment period for the proposed rule published March 21, 2011 (76 FR 15268), is extended. Written or electronic comments must be received on or before July 20, 2011. Please refer to **SUPPLEMENTARY INFORMATION** for additional information.

**ADDRESSES:** You may submit comments, identified by RIN 0920–AA39, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* [nioshdocket@cdc.gov](mailto:nioshdocket@cdc.gov). Include "RIN: 0920–AA39" and "42 CFR Part 81" in the subject line of the message.

- *Mail:* NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, OH 45226.

**Instructions:** All submissions received must include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking, RIN 0920–AA39. All comments received will be posted without change to <http://www.cdc.gov/niosh/docket/archive/docket209.html>, including any personal information provided.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.cdc.gov/niosh/docket/archive/docket209.html>.

#### **FOR FURTHER INFORMATION CONTACT:**

Stuart Hinnefeld, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS–C46, Cincinnati, OH 45226; telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to [dcas@cdc.gov](mailto:dcas@cdc.gov).

**SUPPLEMENTARY INFORMATION:** HHS published a proposed rule entitled "Guidelines for Determining Probability of Causation Under the Energy Employees Occupational Illness Compensation Program Act of 2000," on Monday, March 21, 2011 (76 FR 15268).

In the notice of proposed rulemaking, HHS would treat chronic lymphocytic leukemia (CLL) as a radiogenic cancer under the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA). Under current guidelines promulgated by HHS as regulations in 2002, all types of cancers except for CLL are treated as being potentially caused by radiation and hence, as potentially compensable under EEOICPA. HHS proposes to reverse its decision to exclude CLL from such treatment.

HHS received a request to extend the comment period. In consideration of that request, HHS is extending the comment period by 30 days, such that all comments must be received on or before July 20, 2011. This extended deadline will have provided commenters with 90 days for comment on the proposed rule while preserving the Agency's ability to make timely progress on this occupational health priority.

Accordingly, the comment period for the proposed rule published March 21, 2011 (76 FR 15268), is extended until July 20, 2011.