

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 91

[Docket No. FAA-2018-0926; Notice No. 18-02A]

RIN 2120-AL09

#### Removal of the Date Restriction for Flight Training in Experimental Light Sport Aircraft; Withdrawal

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

**ACTION:** Notice of proposed rulemaking (NPRM); withdrawal.

**SUMMARY:** The FAA is withdrawing a previously published notice of proposed rulemaking that proposed to amend the regulations governing the operating limitations for certain experimental light-sport aircraft. The rulemaking proposed to remove the date restriction that currently prevents flight training on these aircraft and add language to permit training in certain experimental light-sport aircraft for compensation or hire through existing deviation authority. The FAA is withdrawing this action because the FAA is concurrently publishing a notice of proposed rulemaking to address the framework of flight training in certain aircraft holding special airworthiness certificates, which will include experimental light-sport aircraft.

**DATES:** The NPRM published on October 24, 2018, at 83 FR 53590 is withdrawn, as of June 23, 2023.

**FOR FURTHER INFORMATION CONTACT:** Jabari Raphael, General Aviation and Commercial Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-1088; email [jabari.raphael@faa.gov](mailto:jabari.raphael@faa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background

On October 24, 2018, the FAA published a notice of proposed

rulemaking (NPRM) titled “Removal of the Date Restriction for Flight Training in Experimental Light Sport Aircraft” in the **Federal Register**<sup>1</sup> (ELSA NPRM). In the NPRM, the FAA proposed to revise regulations concerning the operation of experimental light-sport aircraft (ELSA). The rulemaking proposed to amend § 91.319(e)(2) of Title 14 of the Code of Federal Regulations (14 CFR) to add language to explicitly permit training in ELSA for compensation or hire through existing deviation authority provided in § 91.319(h). Through § 91.319(h), the FAA may issue a letter of deviation authority (LODA) providing relief from § 91.319(a) for the purpose of conducting flight training; accordingly, the NPRM proposed to add relief from paragraph (e)(2) through this established process. The FAA proposed this change to increase safety to facilitate the increased availability of aircraft with similar performance and handling characteristics to light-sport aircraft and ultralights to be used for training.

The NPRM comment period closed on November 23, 2018. The FAA received a total of 99 comments to the NPRM, submitted by individuals and the Experimental Aircraft Association (EAA). All of the comments expressed general support for the proposed changes in the NPRM, with some comments requesting that the FAA consider additional regulatory revisions, which were out of scope of the proposed rule. These comments are no longer applicable given the scope of the subsequently discussed rulemaking, which is intended to address the framework of flight training in ELSA.

#### Withdrawal of the NPRM

After publication and comments to the ELSA NPRM were considered, the FAA noted a discrepancy between the plain language of § 91.319 and FAA guidance to its inspectors on the approach to flight training in aircraft holding special airworthiness certificates<sup>2</sup> when no compensation is provided for the use of the aircraft. This discrepancy resulted in an inability for owners of experimental aircraft, including ELSA, to receive and provide compensation for specialized flight

training and checking without holding a LODA from the FAA. This development prompted the FAA to propose a rule change that would resolve the discrepancy and better serve the public interest. The FAA recognizes that additional regulatory clarification, which is outside the scope of the ELSA proposed rule, is necessary to more sufficiently define both the permissions and the limitations of flight training for compensation or hire in certain aircraft that hold special airworthiness certificates.

The FAA notes that, for experimental aircraft, the discrepancy between the regulation and FAA guidance was resolved in section 5604 of the James M. Inhofe National Defense Authorization Act for 2023 (Pub. L. 117-263). That section directs that flight training, testing, and checking in experimental aircraft does not require a LODA from the FAA if certain conditions set forth in the legislation are met. The FAA has concurrently published an NPRM titled “Public Aircraft Logging of Flight Time, Training in Certain Aircraft Holding Special Airworthiness Certificates, and Flight Instructor Privileges,”<sup>3</sup> intended to codify the legislation for experimental aircraft and expand the terms of the legislation to flight training, testing, and checking in other aircraft holding special airworthiness certificates. The expanded scope of the concurrently published proposed rulemaking will more comprehensively address the parameters of flight training in aircraft that hold certain special airworthiness certificates including light-sport aircraft and will create a consistent flight training framework for limited category aircraft and experimental aircraft, respectively.<sup>4</sup> Therefore, the FAA is withdrawing the ELSA NPRM, and flight training in ELSA will be more appropriately incorporated in the aforementioned rulemaking.

The FAA notes that comments received to the ELSA NPRM will not be addressed in the “Public Aircraft Logging of Flight Time, Training in Certain Aircraft Holding Special Airworthiness Certificates, and Flight Instructor Privileges” rulemaking because the concurrently published NPRM will more comprehensively

<sup>1</sup> 83 FR 53590.

<sup>2</sup> Special airworthiness certificates are primary, restricted, limited, light-sport, and provisional airworthiness certificates, special flight permits, and experimental certificates. See § 21.175.

<sup>3</sup> RIN 2120-AL61.

<sup>4</sup> The expanded scope will also address flight training in primary category aircraft.

address the flight training in ELSA due to the expanded scope. Therefore, while the concurrently published NPRM contains some similar provisions, proposed amendments to § 91.319 are significantly different from the changes proposed in ELSA and comments to the ELSA NPRM are no longer applicable. The public may view and provide comments on the concurrently published “Public Aircraft Logging of Flight Time, Training in Certain Aircraft Holding Special Airworthiness Certificates, and Flight Instructor Privileges” NPRM.

### Conclusion

Withdrawal of Notice No. 18–02 does not preclude the FAA from issuing rulemaking on the subject in the future or commit the agency to any future course of action. The FAA will make necessary changes to the Code of Federal Regulations through an NPRM with opportunity for public comment in the new rulemaking project.

Therefore, the FAA withdraws Notice No. 18–02, FR Doc. 2018–23270, published at 83 FR 53590 on October 24, 2018.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC.

**Wesley L. Mooty,**

*Acting Deputy Executive Director, Flight Standards Service.*

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## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Chapter II

[Docket No. CPSC–2022–0017]

### Notice of Availability of Updated ASTM Standard Under the Portable Fuel Container Safety Act

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notification of availability and request for comment.

**SUMMARY:** In January 2023, the U.S. Consumer Product Safety Commission determined under the Portable Fuel Container Safety Act of 2020 (PFCSA) that ASTM F3429/F3429M–20 is a mandatory consumer product safety rule that impedes the propagation of flames into pre-filled portable fuel containers covered by the standard. ASTM has since notified the Commission that it has revised this voluntary standard. CPSC seeks comment on whether the revision meets the requirements of the PFCSA.

**DATES:** Comments must be received by July 7, 2023.

**ADDRESSES:** Submit comments, identified by Docket No. CPSC–2022–0017, by any of the following methods:

*Electronic Submissions:* Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. CPSC typically does not accept comments submitted by electronic mail (email), except as described below.

*Mail/Hand Delivery/Courier/Confidential Written Submissions:* CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479.

*Instructions:* All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to <https://www.regulations.gov>. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov).

*Docket:* For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC–2022–0017, into the “Search” box, and follow the prompts.

#### FOR FURTHER INFORMATION CONTACT:

Scott Ayers, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: 301–987–2030; email: [sayers@cpsc.gov](mailto:sayers@cpsc.gov).

**SUPPLEMENTARY INFORMATION:** The PFCSA<sup>1</sup> requires the Commission to promulgate a final rule to require flame mitigation devices in portable fuel containers that impede the propagation of flame into the container. 15 U.S.C. 2056d(b)(1), (2). However, the

Commission is not required to promulgate a final rule for a class of portable fuel containers within the scope of the PFCSA if the Commission determines at any time that:

- There is a voluntary standard for flame mitigation devices for those containers that impedes the propagation of flame into the container;
- The voluntary standard is or will be in effect not later than 18 months after the date of enactment of the PFCSA; and
- The voluntary standard is developed by ASTM International or such other standard development organization that the Commission determines to have met the intent of the PFCSA.

15 U.S.C. 2056d(b)(3)(A). Any such Commission determinations regarding applicable voluntary standards must be published in the **Federal Register**, and the requirements of such a voluntary standard “shall be treated as a consumer product safety rule.” 15 U.S.C. 2056d(b)(3)(B) and (b)(4).

Under this authority, on January 13, 2023, the Commission published a document determining that three voluntary standards for portable fuel containers meet the requirements of the PFCSA and will be treated as consumer product safety rules: ASTM F3429/F3429M–20 (prefilled containers), ASTM F3326–21 (containers sold empty), and section 18 of UL 30:2022 (safety cans). 88 FR 2206.

Portable fuel containers sold pre-filled are within the scope of ASTM F3429/F3429M, *Standard Specification for Performance of Flame Mitigation Devices Installed in Disposable and Pre-Filled Flammable Liquid Containers*. ASTM lists the standard as a dual standard in inch-pound (F3429 designation) and metric (F3429M designation) units. ASTM F3429/F3429M was first published in 2020. ASTM published a revised version of ASTM F3429/F3429M–20 in May 2023, as ASTM F3429/F3429M–23. On June 12, 2023, ASTM notified the Commission that it had approved and published ASTM F3429/F3429M–23.

Under section (b)(5) of the PFCSA, if the requirements of a voluntary standard that meet the requirements of section (b).

(3) are subsequently revised, the organization that revised the standard shall notify the Commission after the final approval of the revision. Any such revision to the voluntary standard shall become enforceable as a consumer product safety rule not later than 180 days after the Commission is notified of a revised voluntary standard that meets the conditions of section (b)(3) (or such

<sup>1</sup> Portable Fuel Container Safety Act of 2020, codified at 15 U.S.C. 2056d, as stated in Public Law 116–260, div. FF, title IX, § 901, available at: <https://www.govinfo.gov/content/pkg/PLAW-116publ260/pdf/PLAW-116publ260.pdf>.