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NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150-AH88

Implementation of the Nuclear Export and Import Provisions of the Energy Policy Act of 2005; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; Correction.

SUMMARY: This document corrects a final rule appearing in the **Federal Register** on April 20, 2006 (71 FR 20336), that implemented provisions of the Energy Policy Act of 2005. This action is necessary to correct typographical errors that appeared in the codified text of the final rule.

DATES: *Effective Date:* July 14, 2006.

FOR FURTHER INFORMATION CONTACT:

Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-415-7163 or Toll-Free: 1-800-368-5642 or E-mail: MTL@NRC.Gov.

SUPPLEMENTARY INFORMATION: In 71 FR 20336, that appeared in the **Federal Register** on Thursday, April 20, 2006, the following corrections are made:

§ 110.42 [Corrected]

- 1. On page 20339, in the second column, in the second line of § 110.42(a)(9)(i), add the words “with respect to” between the words “section,” and “export” so the line reads “section, with respect to exports * * *.”
- 2. Also, on page 20339, in the second column, in the second line of § 110.42(a)(9)(i)(A), remove the word “tart” and add the word “target” in its place.
- 3. Lastly, on page 20339, in the third column, in the first and second lines of

§ 110.42(a)(9)(ii)(A) remove the words “has supplied” and add the words “that supplies” in their place.

Dated at Rockville, Maryland, this 10th day of July, 2006.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Federal Register Liaison Officer.

[FR Doc. E6-11116 Filed 7-13-06; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, 125, and 135

[Docket No. FAA-2006-25334; Amendment Nos. 91-292; 121-326; 125-51; and 135-106]

RIN 2120-AI76

Additional Types of Child Restraint Systems That May Be Furnished and Used on Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: The Federal Aviation Administration (FAA) is amending certain operating regulations to allow passengers or aircraft operators to furnish and use more types of Child Restraint Systems (CRS) on aircraft. This rule will allow the use of CRSs that the FAA approves under the aviation standards of Technical Standard Order C-100b, Child Restraint Systems. In addition, the rule will allow the use of CRSs approved by the FAA under its certification regulations regarding the approval of materials, parts, processes, and appliances. Current rules allow passengers and aircraft operators to furnish and use CRSs that meet Federal Motor Vehicle Safety Standard No. 213 (FMVSS No. 213), or the standards of the United Nations, or that are approved by a foreign government. The intended effect of this regulation is to increase the number of CRS options that are available for use on aircraft, while maintaining safe standards for certification and approval. In addition, more CRS options may increase the voluntary use of CRSs on aircraft and, in turn, improve children's safety.

DATES: This final rule is effective August 14, 2006. You must submit your comments on or before August 14, 2006.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2006-25334 at the beginning of your comments, and you should submit two copies of your comments.

You may also submit comments through the Internet to <http://dms.dot.gov>. You may review the public docket containing comments to these regulations in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT:

Nancy Lauck Claussen, Federal Aviation Administration, Flight Standards Service, Air Transportation Division (AFS-200), 800 Independence Avenue, SW., Washington, DC 20591; Telephone 202-267-8166, E-mail nancy.l.claussen@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA is adopting this final rule without prior notice and public comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; February 26, 1979), however, 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. Therefore, we invite interested persons to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. We also invite comments relating to environmental, energy, federalism, or international trade impacts that might result from this amendment. Please include the regulatory docket or amendment number and send two copies to the address above. We will file all comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, in the public docket. The

docket is available for public inspection before and after the comment closing date.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://dms.dot.gov>.

The FAA will consider all comments received on or before the closing date for comments. We will consider late comments to the extent practicable. We may amend this final rule in light of the comments received.

Commenters who want the FAA to acknowledge receipt of their comments submitted in response to this final rule must include a preaddressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket No. FAA–2006–25334." The postcard will be date-stamped by the FAA and mailed to the commenter.

Availability of Final Rule

You can get an electronic copy using the Internet by:

- (1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>);
- (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.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, notice number, or amendment number of this rulemaking.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBRFA on the Internet at

our site, http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

The FAA is issuing this rulemaking under the authority set forth in 49 U.S.C. 44701(a)(5). Under that section, the Administrator is charged with promoting safe flight of civil aircraft by, among other things, prescribing regulations that the Administrator finds necessary for safety in air commerce

Background

August 26, 2005 CRS Final Rule

On August 26, 2005, the FAA published a final rule that amended its operating regulations to allow the use of CRSs that are approved by the FAA through Type Certificate (TC), Supplemental Type Certificate (STC), or Technical Standard Order (TSO) (70 FR 50902). The August 26, 2005 final rule allows an operator to provide these CRSs. It does not allow passengers to furnish and use a CRS approved through TC, STC, or TSO. This is in contrast to CRSs that meet FMVSS No. 213 or the standards of the United Nations, or are approved by a foreign government, which passengers may furnish and use on aircraft.

Comments on the August 26, 2005 CRS Final Rule

The FAA received 16 comments on the August 26, 2005 final rule. Commenters included individuals, a CRS manufacturer, and the American Academy of Pediatrics (AAP). The overwhelming majority of commenters requested that the FAA amend the August 26, 2005 final rule to allow passengers, in addition to aircraft operators, to furnish and use CRSs approved by the FAA. Many individuals stated that passengers should be able to obtain and use the AmSafe CARES CRS, which received an STC from the FAA on April 15, 2005 and was referenced in the final rule.

In the August 26, 2005 rule the FAA stated that we may amend the final rule in light of the comments received. After reviewing those comments, the FAA has decided to amend its operating rules to allow both passengers and aircraft operators to furnish and use CRSs that the FAA has approved under § 21.305(d) and TSO C–100b. This is similar to

provisions in the current rules that allow passengers and aircraft operators to furnish and use CRSs that meet FMVSS No. 213 or the standards of the United Nations, or are approved by a foreign government. Because TCs and STCs are aircraft-specific, the FAA has determined it is very unlikely a manufacturer would use the STC process if it wanted to allow CRSs to be widely available to the public.

It could be confusing to passengers if they were allowed to furnish CRSs approved by STC since the approval would only be for specific aircraft. For example, if passengers furnished CRSs approved by STC, they might be able to use them on one leg of a trip, but if they were on a different type aircraft for another leg of the trip, they would not be able to use the CRS unless it had been tested and approved for use on the second aircraft. Passengers could not furnish CRSs approved by TC since such CRSs are integrated into the aircraft design.

AAP supported our August 26, 2005 modification to the child restraint rule and made three recommendations. First, it urged us to continue to emphasize flight attendant training regarding the use of CRSs. The FAA regulations and associated guidance, such as Advisory Circular 120–87, *Use of Child Restraint Systems on Aircraft* (http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf), continue to address flight attendant training in this area and other areas of cabin safety. Overall, the operator has the responsibility to ensure the proper use of CRSs.

Second, AAP suggested that the FAA establish a unified process to allow FAA approval of a CRS for use on all seats and aircraft in addition to the FAA's STC process, which is tied to specific aircraft. The FAA's TSO process will allow manufacturers, or others, to develop CRSs that meet the standards of the TSO and obtain FAA approval for use on a wide variety of aircraft. Likewise, manufacturers, or others, may seek FAA approval of a CRS through § 21.305(d) of the regulations. In either case, aircraft operators, passengers, and certificate holders will be able to furnish and use the CRSs on an aircraft without additional FAA installation approval. This should encourage the development and use of new types of CRSs.

Third, the AAP recommended use of an appropriate size anthropomorphic test dummy (ATD) to evaluate the safety and effectiveness of a proposed CRS device. AAP stated that testing should include the range of flight conditions including turbulence. TSO C–100b

incorporates testing that is specific to the flight environment. The TSO also requires that the CRS and its integral restraints be designed to be compatible with classification standards developed by the AAP. In addition, the TSO requires that one or more ATD representing the child categories for which the CRS is intended for use be used to simulate the child-occupant in the dynamic testing required by the TSO. TSO C-100b is available on our website at (http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgTSO.nsf/MainFrame?OpenFrameSet). Likewise, FAA approvals of CRSs under § 21.305(d) will use TSO C-100b as a benchmark standard and require an equivalent level of safety.

Individuals criticized our August 26, 2005 rule, because the FAA did not require all airlines to install CRSs to protect children when it is known that carrying car seats on board aircraft is difficult for passengers. As stated in prior rulemakings, the FAA is not requiring airlines to install or provide CRSs. Use of CRSs on aircraft will continue to be voluntary for the reasons discussed in previous rulemakings. This amendment, however, should encourage the manufacture of portable, easy-to-use child restraint systems that can be purchased and used by passengers and aircraft operators. Another individual stated that the parents should have received prior notice and an opportunity to comment before the FAA issued the August 26, 2005 rule because the safety of children is a significant issue. Like the majority of the commenters, this individual stated that parents should have the option of purchasing and using a CRS approved through additional FAA certification processes. In response, the FAA is amending our operating rules to allow parents who purchase CRSs approved by the FAA under TSO C-100b or § 21.305(d) to actually secure their children in those CRSs during any phase of aircraft operation.

Purpose of Final Rule

Current §§ 91.107, 121.311, 125.211, and 135.128 allow passengers to furnish and use and aircraft operators to provide, CRSs that meet FMVSS No. 213, *Child restraint system* (49 CFR 571.213), or the standards of the United Nations, or are approved by a foreign government. Also, current regulations allow aircraft operators to provide CRSs that are approved by the FAA through a TC, STC, or TSO.

The FAA is using its regulatory authority to create a set of operating rules that can accommodate innovations in the development of CRS. Currently, if

an operator wants to furnish CRSs for passenger use that are approved under § 21.305(d), the operator must petition the FAA for an exemption from our operating rules. Current rules do not allow the use of a CRS approved under § 21.305(d) on aircraft during ground movement, take off, and landing. This amendment will allow CRSs with unique and novel design features to be used on aircraft.

In addition, current rules do not allow passengers to furnish and use CRSs approved by the FAA under § 21.305(d) or TSO C-100b. If an operator wants to allow its passengers to furnish and use such CRSs, the operator needs to petition the FAA for an exemption from our operating rules.

If the FAA did not go forward with this final rule, an aircraft operator would have to petition for an exemption to allow the use of CRSs that the FAA has already determined to be safe through these certification standards. By amending the rule to allow both aircraft operators and passengers to voluntarily furnish and use CRSs approved by the FAA under § 21.305(d) or TSO C-100b, the FAA will reduce an administrative burden on aircraft operators by eliminating the need to apply for exemptions to allow the use of these CRSs. Increasing the number of CRS certification options available for manufacturers and amending the operating rules to make these options administratively and economically viable should encourage the development of innovative CRSs. In addition, the FAA is ensuring safety through the approval standards in § 21.305(d) and TSO C-100b. For more information on how the FAA will ensure safety through the approval standards in § 21.305(d) and TSO C-100b, see the preamble discussion under "FAA Approval Process."

Detailed Discussion of Rule

The FAA is increasing the types of CRSs that passengers and aircraft operators are allowed to furnish and use to include CRSs approved by the FAA under § 21.305(d) and TSO C-100b. In 1992, the FAA increased the types of CRSs allowed on aircraft to include use of CRSs that meet the standards of the United Nations or are approved by a foreign government (57 FR 42662; September 15, 1992). This rule does not affect the use of CRSs that are already approved for use on aircraft. See www.faa.gov/passengers/childdtips.cfm for FAA recommendations on choosing the correct CRS for air travel.

Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks (April 21, 1997)

states, "children may suffer disproportionately from environmental health risks and safety risks" because "children's size and weight may diminish their protection from standard safety features." Properly restraining children on aircraft is difficult because there is a large variance in muscle development, height, weight, and upper body strength. While CRSs meeting the FMVSS No. 213 standard do not always fit well in an aircraft seat, CRSs meeting this standard markedly improve the safety of a child under 44 pounds who would otherwise use a lap belt, or be unrestrained on a parent's lap. However, because these CRSs are bulky, and sometimes difficult to install properly, many parents or guardians elect to use the standard aircraft lap belt for their child. The FAA has determined this final rule will help to make a wider variety of safe CRSs available for use by children on an aircraft, thereby increasing the safety of children.

One example of a CRS that the FAA is considering approving under § 21.305(d) is currently manufactured by AMSAFE. This CRS improves lap belt performance for children between 22 and 44 pounds who would otherwise use only the lap belt. Unlike the harness devices prohibited from use by our current rules (see discussion under Prohibition Against the Use of Certain CRS During Ground Movement, Take Off and Landing), the AMSAFE CAREs uses an additional belt and shoulder harness that encircles the seat back and attaches to the passenger lap belt, providing improved upper torso restraint.

To reduce the administrative burden on industry while maintaining or increasing safety to children, the FAA is adding regulatory language in 14 CFR parts 91, 121, 125, and 135 that allows passengers and aircraft operators to furnish and use CRSs the FAA has approved under § 21.305(d) or TSO C-100b, and to use them during all phases of flight, even if such CRSs are booster-type or vest- and harness-type CRSs. Thus, although the rules will generally continue to ban the use of booster-type, vest-type, and harness-type CRSs, the new rule will allow the use of such CRSs if the CRS has been approved by the FAA under § 21.305(d) or TSO C-100b. The FAA anticipates that other manufacturers of CRSs not meeting FMVSS No. 213 will seek FAA approval under § 21.305(d) or TSO C-100b. As with the AMSAFE CAREs, the FAA will need to determine, through the appropriate approval process, if the CRS is a safe alternative to methods of restraint that are already approved for use on aircraft.

Prohibition Against the Use of Certain CRS During Ground Movement, Take Off, and Landing

Under the current rules, except for CRSs that are approved under TC, STC, or TSO, a booster-type child restraint, a vest-type child restraint system, a harness-type child restraint system, or a lap held child restraint system may not be used during ground movement, take off, and landing. In 1996, the FAA prohibited use of these CRSs (61 FR 28416).¹ However, the FAA also stated we would review our prohibition if a manufacturer designs a safe alternative (61 FR 28419). Again, in this final rule the FAA is amending the operating regulations to allow passengers and aircraft operators to voluntarily furnish CRSs approved under § 21.305(d) or TSO C-100b, and to use these CRSs during all phases of flight, even if the CRS is a booster-type child restraint, a vest-type child restraint system, or a harness-type child restraint system.

FAA Approval Processes

Under the changes we are making to the operating regulations, a passenger or operator will be able to furnish and use CRSs approved under § 21.305(d) or TSO C-100b. Passengers and aircraft operators will continue to be allowed to furnish and use CRSs that meet the requirements of FMVSS No. 213 or the standards of the United Nations, or are approved by a foreign government. The United Nations standards and most standards approved by foreign governments are similar to FMVSS No. 213. Foreign governments are responsible for determining whether to accept under their operating regulations CRSs approved by the FAA under § 21.305(d) or TSO C-100b. However, most countries automatically accept FAA approval without further review. By using § 21.305(d) or TSO C-100b for CRS approval, the FAA can address methods of CRS approval that encourage CRS innovation, while still ensuring safety through the approval processes. Each CRS manufacturer will have the ability to select the approval process that is most appropriate for its CRS, based on CRS design and proposed equivalent level of safety.

FAA Approval Under § 21.305(d)

Under the FAA's certification procedures rules, § 21.305(d) allows a material, part, process, or appliance to be approved in any manner approved by

the Administrator. One of the reasons that the FAA included this provision in § 21.305 over 40 years ago, was to address the unique challenges presented by certain types of equipment for use on aircraft. In the past, the FAA has approved portable equipment (e.g., portable fire extinguishers) for use on aircraft, in accordance with § 21.305(d), using the approval standards of Underwriter's Laboratories, Inc., Factory Mutual Research Corp., or the U.S. Coast Guard under Title 46 of the CFR.

When approving a CRS under the provisions of § 21.305(d), the FAA must ensure that the applicant meets an equivalent level of safety to that of the other approval processes. For a CRS, the FAA's technical experts will look at the benchmark (TSO C-100b) and identify the safety-critical features. They will ensure that each of these features adequately provides an equivalent level of safety. This will ensure that a CRS approved by the FAA under § 21.305(d) will meet a high level of safety regarding testing, quality, and performance standards.

To demonstrate an equivalent level of safety for a harness-type restraint, similar to the AMSAFE CARES discussed earlier, the FAA will look at things such as:

- Does the CRS retain the aircraft passenger seat lap belt's original functionality as the primary means of occupant restraint;
- Is the CRS designed so children using it correctly will not suffer serious injury when exposed to the inertia forces specified in 14 CFR 25.561 and 14 CFR 25.562;
- Does the CRS, when being used, impede the rapid egress for the CRS occupant and passengers in the same row;
- Is the performance of the CRS degraded by tray tables, phones, or other devices installed in the seat back;
- When used properly, does the CRS interfere with normal operation of the tray table or other seat-mounted devices? For example, under anticipated loading conditions, does the CRS cause the tray table to deploy?

To review a copy of the requirements applicable to a CRS that the FAA is currently considering approving under the § 21.305(d) approval process, see the docket for this rulemaking.

TSO Process

A TSO is a minimum performance standard issued by the FAA for specified materials, parts, processes, and appliances used on aircraft. These performance standards must be met for an applicant to receive TSO approval. The current listing of TSO information

contains a list of authorized manufacturers and articles produced by TSO Holders under a TSO Authorization or Letter of TSO Design Approval. The Web site also contains TSO C-100b, *Child Restraint System*. TSO C-100b tells people seeking a TSO Authorization or Letter of Design Approval what minimum performance standards their CRS must first meet to obtain FAA approval under the TSO process. For more information on TSOs, see http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgTSO.nsf/MainFrame?OpenFrameSet.

TSO C-100b contains standards for performance testing and evaluation, operating instructions, equipment limitations, installation procedures and limitations, and instructions for continuing maintenance of CRSs. The standards are those the FAA finds necessary to ensure that a CRS will operate satisfactorily in an aircraft passenger seat. These standards are not mandatory, and are one method of obtaining FAA approval for a CRS. An applicant can obtain approval to deviate from the TSO if it shows that the CRS design features provide an equivalent level of safety to the TSO under standard TSO review processes or under the § 21.305(d) approval process.

TSO C-100b is a specific aviation performance standard that is similar to the standard required by FMVSS No. 213. However, TSO C-100b requires testing that is representative of an aviation environment, so the chances of a CRS built to TSO C-100b standards performing "as tested" on an aircraft in an accident are greater than a CRS tested under FMVSS No. 213. TSO C-100b was published in the **Federal Register** on August 7, 2001, for public review and comment prior to its adoption (66 FR 41304).

In this final rule the FAA allows passengers and aircraft operators to voluntarily furnish and use CRSs approved under TSO C 100b, without a requirement for installation approval. This is the same standard of use provided to passengers and aircraft operators in the current rule regarding CRSs that meet the requirements of FMVSS No. 213.

FAA CRS Initiatives

Increasing the Voluntary Use of CRSs and Encouraging the Development of Innovative CRSs in the Aviation Environment

This final rule is part of a multi-faceted FAA initiative to encourage and increase the voluntary use of CRSs and to encourage the development of innovative CRSs that work well in the

¹ During the cruise portion of the flight, there is no regulatory prohibition regarding the use of any type of child restraint. This includes those CRSs prohibited from use during ground movement, takeoff, and landing.

aviation environment. The FAA is working to increase the types of CRS that are approved for use in aircraft and to reduce the administrative burden to aircraft operators and CRS manufacturers through this rulemaking and our August 26, 2005, final rule. In addition, the FAA is actively working with CRS manufacturers who are seeking FAA approval by STC, or TSO, for innovative CRS designs. The FAA also initiated a public education campaign, "Turbulence Happens", on

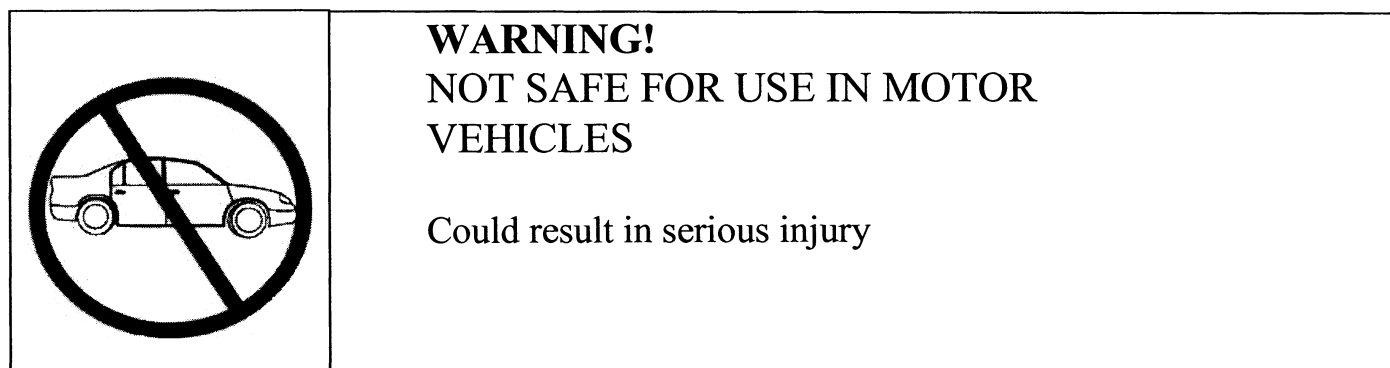
the effective use of CRS in the fall of 2005 and published Advisory Circular (AC) 120-87, Use of Child Restraint Systems on Aircraft, on November 3, 2005. See http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf for more information on AC 120-87.

Avoiding Consumer Confusion

Labeling. FAA-approved CRSs that do not meet FMVSS No. 213 are not safe for use in motor vehicles. Therefore, the

FAA is taking several steps to avoid consumer confusion regarding these devices. First, the FAA will require CRSs that are approved by TSO or § 21.305(d) to have a clear warning label that states the CRS is not safe for use in motor vehicles. Although not part of this rulemaking, the FAA also plans to require a similar warning label on CRSs that may be approved by the FAA through the STC process. See Figure 1 for a sample of the warning label the FAA will require.

Figure 1. Required Warning Label for Devices Approved by the FAA



Second, the FAA is revising existing educational material to advise aircraft operators and parents about the risks that a device approved solely for use in an aircraft can pose in an automotive environment. As part of this initiative, the FAA is revising the information on its website for passengers traveling with children. We are putting additional educational material on the site to remind people that FAA-approved devices are not safe for use in motor vehicles. Third, the FAA is revising its AC concerning Child Restraints to include specific information stating the differences between FAA-approved devices that can only be used in aircraft and CRSs that can be used in both aircraft and motor vehicles.

Aviation Child Safety Devices. The FAA recognizes that the term "Child Restraint System" originally was used to refer to child restraints that meet the requirements of FMVSS No. 213. However, in the 1992 and 2005 rulemakings the term "CRS" was used to describe devices that did not meet the requirements of FMVSS No. 213. The FAA will continue to use the general term "CRS" to refer to any approved seat or device used to restrain children on aircraft. However, in an additional effort to reduce consumer confusion regarding devices that meet the

requirements of FMVSS No. 213 and are safe for use in motor vehicles, and those devices that do not meet FMVSS No. 213, the FAA intends to introduce a new term in appropriate FAA documents and public education materials to refer to CRSs that are only approved for use in the aviation environment. The FAA will call these aviation-only restraints "Aviation Child Safety Devices" (ACSDs). The FAA is working with the National Highway Traffic Safety Administration to ensure that any labeling on ACSDs does not confuse consumers into thinking the devices meet the requirements of FMVSS No. 213.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this rule.

International Compatibility

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

Good Cause for Immediate Adoption

Section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(B)) authorizes agencies to dispense with certain notice procedures for rules when they find "good cause" to do so. Under section 553(b)(B), the requirements of prior notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest."

This final rule would allow passengers and aircraft operators to voluntarily furnish and use CRSs that have received FAA approval through § 21.305(d) or TSO C-100b. This is parallel to the current regulations that allow passengers and aircraft operators to voluntarily furnish and use CRSs that meet FMVSS No. 213, meet the standards of the United Nations, or are approved by a foreign government. Prior public comment is unnecessary because this amendment simply recognizes other processes by which a CRS can be approved for use on aircraft. TSO C-

100b and § 21.305(d), which uses TSO C-100b as a benchmark for CRS approval standards, were already subject to notice and comment. Moreover, the FAA has already obtained public comments regarding the August 26, 2005 final rule, and this final rule is responsive to those comments.

We do not anticipate significant public comment on this amendment, since it does not impose a requirement. This final rule simply recognizes that the FAA has additional approval processes to determine that a CRS is safe for use on aircraft and removes an administrative burden for an operator to apply for an exemption to allow a passenger or the operator to voluntarily furnish and use a CRS that the FAA has found safe through § 21.305(d) or TSO C-100b. In addition, there is already precedent for broadening the methods of approving CRSs for use on aircraft such as those CRSs showing approval from a foreign government or showing approval that the CRS was manufactured under the standards of the United Nations (57 FR 42662; September 15, 1992).

This final rule should not have an adverse safety impact, because it merely recognizes an alternative approval process for CRSs and makes CRSs more widely available for children by allowing passengers and aircraft operators to voluntarily furnish and use CRSs approved under § 21.305(d) and TSO C-100b on aircraft. In fact, it should provide safety benefits. As a result, the FAA has determined that good cause exists for making this rule effective 30 days after publication because notice and comment procedures are unnecessary.

Economic Evaluation, Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs 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, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis for 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).

The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected cost impact is so minimal that a rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble; a full regulatory evaluation cost benefit evaluation need not, then, be prepared. Such a determination has been made for this rule. The reasoning for that determination follows.

This final rule will allow passengers and aircraft operators to voluntarily furnish and use CRSs approved by the FAA under § 21.305(d) or TSO C-100b on aircraft. This parallels current regulations that allow passengers and aircraft operators to voluntarily furnish and use CRSs that meet FMVSS No. 213, meet the standards of the United Nations, or are approved by a foreign government. Adding this language does not have an adverse safety impact, because the language merely recognizes the efficacy of alternative approval processes for CRSs. The intended effect of this regulation is to lessen the administrative burden to industry and increase the voluntary use of CRS on aircraft, while maintaining or increasing safety for children.

This final rule reduces the regulatory, or administrative, burden to industry by taking away the necessity for aircraft operators to individually seek an exemption from FAA operating rules in order for passengers, or for themselves, to furnish and use CRSs approved under § 21.305(d) or TSO C-100b.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. 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 proposed or final 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 proposed or final 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 final rule allows passengers and aircraft operators to voluntarily furnish and use CRS approved under 21.305(d) or TSO C-100b on aircraft. Its economic impact for aircraft operators is minimal and cost relieving. Therefore, as the FAA Administrator, I certify that this action will not have a significant economic impact on a substantial number of small entities. The FAA solicits comments about this determination.

Trade Impact Assessment

The Trade Agreements Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. 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 rulemaking and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act 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 (adjusted annually for inflation) 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 \$120.7 million in lieu of \$100 million.

This final rule does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action does not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore would not have federalism implications.

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 final rule qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a “significant energy action” under the executive order because it is not a “significant regulatory action” under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects

14 CFR Part 91

Aircraft, Aviation safety.

14 CFR Part 121

Air carriers, Safety, Transportation.

14 CFR Part 125

Aircraft, Aviation safety.

14 CFR Part 135

Air taxis, Aircraft, Aviation safety.

The Amendments

■ In consideration of the foregoing the Federal Aviation Administration amends Chapter I of Title 14 Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat.1180).

■ 2. Amend § 91.107 by revising paragraphs (a)(3)(iii)(B)(3)(iii), (a)(3)(iii)(B)(4), and adding (a)(3)(iii)(B)(3)(iv) to read as follows:

§ 91.107 Use of safety belts, shoulder harnesses, and child restraint systems.

- (a) * * *
- (3) * * *
- (iii) * * *
- (B) * * *
- (3) * * *

(iii) That the seat or child restraint device furnished by the operator was approved by the FAA through Type Certificate or Supplemental Type Certificate.

(iv) That the seat or child restraint device furnished by the operator, or one of the persons described in paragraph (a) (3) (iii) (A) of this section, was approved by the FAA in accordance with § 21.305(d) or Technical Standard Order C–100b, or a later version.

(4) Except as provided in § 91.107(a)(3)(iii)(B)(3)(iii) and § 91.107(a)(3)(iii)(B)(3)(iv), booster-type child restraint systems (as defined in Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213)), vest- and harness-type child restraint systems, and lap held child restraints are not approved for use in aircraft; and

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 45101–45105, 46105, 46301.

■ 4. Amend § 121.311 by revising paragraphs (b)(2)(ii)(C)(3), (b)(2)(ii)(D), and (c)(1), and adding paragraph (b)(2)(ii)(C)(4) to read as follows:

§ 121.311 Seats, safety belts, and shoulder harnesses.

- (b) * * *
- (2) * * *
- (ii) * * *
- (C) * * *

(3) That the seat or child restraint device furnished by the certificate holder was approved by the FAA through Type Certificate or Supplemental Type Certificate.

(4) That the seat or child restraint device furnished by the certificate holder, or one of the persons described in paragraph (b) (2) (i) of this section, was approved by the FAA in accordance with § 21.305(d) or Technical Standard Order C–100b, or a later version.

(D) Except as provided in § 121.311(b)(2)(ii)(C)(3) and § 121.311(b)(2)(ii)(C)(4), booster-type child restraint systems (as defined in Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213)), vest- and harness-type child restraint systems, and lap held child restraints are not approved for use in aircraft; and

(c) * * *

(1) Except as provided in § 121.311(b)(2)(ii)(C)(3) and § 121.311(b)(2)(ii)(C)(4), no certificate holder may permit a child, in an aircraft, to occupy a booster-type child restraint system, a vest-type child restraint system, a harness-type child restraint system, or a lap held child restraint system during take off, landing, and movement on the surface.

* * * * *

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 5. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

■ 6. Amend § 125.211 by revising paragraphs (b)(2)(ii)(C)(3), (b)(2)(ii)(D), and (c)(1), and adding paragraph (b)(2)(ii)(C)(4) to read as follows:

§ 125.211 Seat and safety belts.

- (b) * * *
- (1) * * *
- (2) * * *
- (ii) * * *
- (C) * * *

(3) That the seat or child restraint device furnished by the certificate holder was approved by the FAA through Type Certificate or Supplemental Type Certificate.

(4) That the seat or child restraint device furnished by the certificate holder, or one of the persons described in paragraph (b)(2)(i) of this section, was

approved by the FAA in accordance with § 21.305(d) or Technical Standard Order C-100b, or a later version.

(D) Except as provided in § 125.211(b)(2)(C)(3) and § 125.211(b)(2)(C)(4), booster-type child restraint systems (as defined in Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213)), vest- and harness-type child restraint systems, and lap held child restraints are not approved for use in aircraft; and

(c) * * *

(1) Except as provided in § 125.211(b)(2)(ii)(C)(3) and § 125.211(b)(2)(ii)(C)(4), no certificate holder may permit a child, in an aircraft, to occupy a booster-type child restraint system, a vest-type child restraint system, a harness-type child restraint system, or a lap held child restraint system during take off, landing, and movement on the surface.

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS

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

Authority: 49 U.S.C. 106(g), 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

■ 8. Amend § 135.128 by revising paragraphs (a)(2)(ii)(C)(3), (a)(2)(ii)(D), and (b)(1), and adding paragraph (a)(2)(ii)(C)(4) to read as follows:

§ 135.128 Use of safety belts and child restraint systems.

(a) * * *

(2) * * *

(ii) * * *

(C) * * *

(3) That the seat or child restraint device furnished by the certificate holder was approved by the FAA through Type Certificate or Supplemental Type Certificate.

(4) That the seat or child restraint device furnished by the certificate holder, or one of the persons described in paragraph (b)(2)(i) of this section, was approved by the FAA in accordance with § 21.305(d) or Technical Standard Order C-100b, or a later version.

(D) Except as provided in § 135.128(a)(2)(C)(3) and § 135.128(a)(2)(C)(4), booster-type child restraint systems (as defined in Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213)), vest- and harness-type child restraint systems, and lap held child restraints are not approved for use in aircraft; and

(b) * * *

(1) Except as provided in § 135.128 (a)(2)(ii)(C)(3) and § 135.128

(a)(2)(ii)(C)(4), no certificate holder may permit a child, in an aircraft, to occupy a booster-type child restraint system, a vest-type child restraint system, a harness-type child restraint system, or a lap held child restraint system during take off, landing, and movement on the surface.

* * * * *

Issued in Washington, DC, on July 7, 2006.

Marion C. Blakey,

Administrator.

[FR Doc. E6-11112 Filed 7-13-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Ivermectin Paste

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Med-Pharmex, Inc. The ANADA provides for oral use of ivermectin paste in horses for treatment and control of various internal parasites or parasitic conditions.

DATES: This rule is effective July 14, 2006.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV-104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-0169, e-mail: john.harshman@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Med-Pharmex, Inc., 2727 Thompson Creek Rd., Pomona, CA 91767-1861, filed ANADA 200-390 for oral use of Ivermectin Paste 1.87% in horses for the treatment and control of various species of internal parasites or parasitic conditions. Med-Pharmex's Ivermectin Paste 1.87% is approved as a generic copy of Merial Ltd.'s EQVALAN Paste, approved under NADA 134-314. ANADA 200-390 is approved as of June 20, 2006, and 21 CFR 520.1192 is amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a

summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801-808.

List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. In § 520.1192, add paragraph (b)(4) to read as follows:

§ 520.1192 Ivermectin paste.

* * * * *

(b) * * *

(4) No. 054925 for use of a 1.87 percent paste as in paragraphs (e)(1)(i), (e)(1)(ii)(A), and (e)(1)(iii) of this section.

* * * * *

Dated: June 30, 2006.

Catherine P. Beck,

Acting Director, Center for Veterinary Medicine.

[FR Doc. E6-11073 Filed 7-13-06; 8:45 am]

BILLING CODE 4160-01-S