re: New Part 38 + CAM-43

FEDERAL AVIATION AGENCY
FLIGHT STANDARDS SERVICE
Washington 25, D. C.

April 24, 1962

CIVIL AIR REGULATIONS DRAFT RELEASE NO. 62- 19

SUBJECT: Proposed New Part 38 of the Civil Air Regulations, "Nonemergency Parachute Jumping"

The Flight Standards Service of the Federal Aviation Agency has under consideration a new Part 38 of the Civil Air Regulations to prescribe rules applicable to nonemergency parachute jumping. The reasons therefor are set forth in the explanatory statement of the attached proposal which is being published in the Federal Register as a notice of proposed rule making.

The Flight Standards Service desires that all persons who will be affected by the requirements of this proposal be fully informed as to its effect upon them and is therefore circulating copies in order to afford interested persons ample opportunity to submit comments as they may desire.

Because of the large number of comments which we anticipate receiving in response to this draft release, we will be unable to acknowledge receipt of each reply. However, you may be assured that all comments will be given careful consideration.

It should be noted that comments should be submitted, preferably in duplicate, to the Docket Section of the Federal Aviation Agency, and in order to insure consideration must be received on or before June 30, 1962.

George C. Pill

Director,
Flight Standards Service

1114

FEDERAL AVIATION AGENCY
FLIGHT STANDARDS SERVICE

[14 CFR Part 38, 43]
[Regulatory Docket No. 1176; Draft Release No. 62–19]

NOTICE OF PROPOSED RULE MAKING

Nonemergency Parachute Jumping

Pursuant to the authority delegated to me by the Administrator (14 CFR 405.27), notice is hereby given that there is under consideration a proposal to adopt a new Part 38 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted, preferably in duplicate, to the Docket Section of the Federal Aviation Agency, Room C–226, 1711 New York Avenue, N.W., Washington 25, D.C. All communications received on or before June 30, 1962, will be considered by the Administrator before taking action on the proposed rules. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Docket Section for examination by interested persons at any time.

Nonemergency parachute jumping has expanded rapidly within the past five years. Most of the expansion has been due to the large and growing number of exhibition and sport parachute jumps. In the year 1956, the number of such jumps was estimated to be 238. By 1958, they had increased to over 5,000. In 1960, there were an estimated 60,000 jumps. In addition, a large number of jumps were made that year by military personnel. The number of sport parachute or "sky diving" clubs has also grown rapidly; in 1961, an estimated 217 of them were active.

About 80 percent of sport parachute jumps are made within an altitude range from 2,500 to 7,200 feet above the ground. Some jumps, however, are made at altitudes above 20,000 feet. Many of the high jumps involve free falls and include "sky diving" activities during the descent.

Sections 43.47(b) of Part 43 and section 25.80 of Part 25 of the Civil Air Regulations are the only current rules which apply to nonemergency parachute jumping. Their application is limited to civil aircraft in the United States. Section 43.47(b) provides that no person piloting an aircraft shall permit a parachute jump to be made over the congested areas of cities, towns, or settlements, or an open-air assembly of persons, except in an emergency or under the terms of an authorization issued by the Administrator.

Section 25.80 applies to the packing, repair, maintenance, alteration, and inspection of parachutes. Experience with these rules has shown that they are no longer adequate to provide the proper control of nonemergency parachuting which the Agency believes necessary for the protection of air traffic, persons or property on the surface, and the parachutists themselves. Therefore, the Agency believes that a new part of the Civil Air Regulations should be issued containing the present nonemergency parachute jumping rules and additional rules considered necessary.

The rules proposed herein would, in some respects, apply to pilots and parachutists of the United States military services. For example, the rules would apply to parachute jumps made by members of the armed forces at civil airports. However, jumps by members of the armed forces at military facilities, such as an airbase or station, or within a restricted area controlled by a military agency, would not, unless the jumps were made in controlled airspace. The proposed rules would not apply to any parachute equipment of the armed forces when used by members of the armed forces.

The proposed rules encompass three main subjects of nonemergency parachute jumping. The first concerns jumps made over or within the congested areas of cities, towns, or settlements, or an open-air assembly of persons; the second concerns jumps made within controlled airspace; and the third concerns parachute equipment requirements. The rules are discussed in the following paragraphs.

1. *Responsibility of the parachutist.* Section 43.47(b) of Part 43 prohibits the pilot of an aircraft from permitting a parachute jump to be made under certain conditions, but does not apply to the parachutist himself. When jumps are made to a target, the jumper often determines the best position of the aircraft in relation to the target for making the jump, and gives directional guidance to the pilot to such position during the final approach to the target. Thus, the parachutist is responsible for the aircraft's loca-

tion when the jump is made. Moreover, after opening his parachute, he has considerable directional control over it to maneuver to his selected target. A skilled parachutists also has a large degree of control during a free fall. For these reasons the jumper, as well as the pilot, should be responsible for not creating a hazard to other aircraft in the area and to persons and property on the surface.

2. *Jumps requiring authorization.* Parachute jumps over the congested areas of cities, towns, or settlements, or an open-air assembly of persons, should continue to be prohibited except under the terms of an authorization issued by the Administrator or his authorized representative. Since the term "over" (an assembly of persons or congested area) has caused misunderstanding, it is defined in Subpart A of the new part. The proposed rule is not designed to prohibit jumps over congested areas or an open-air assembly of persons but to insure that only experienced jumpers make them, and under conditions which the Administrator determines will provide adequate safety.

3. *Parachute jumps in controlled airspace.* Where air traffic is congested, as in some metropolitan areas, the Agency believes that jumping cannot be carried on safely except under restrictions. Accordingly, jumps at airports or in control zones which have a functioning control tower should require authorization from the control tower operator. Jumps made in other controlled airspace, such as the Federal airways, should require authorization from the appropriate air traffic control facility. Where the appropriate air traffic control facility is not convenient to the jumping site or is unknown to the pilot or jumper, the request for authorization may be made to the nearest air traffic control facility or the nearest Flight Service Station of the Federal Aviation Agency. These requirements are not intended to discourage jumping in controlled airspace but will enable the Agency to achieve a higher level of safety.

4. *Jumps at airports.* Jumps at airports should not be made unless approved by the airport management. Jumping should not be permitted where it will interfere with or be a hazard to aircraft activities on the airport or in its traffic pattern.

5. *Visibility requirements for parachute jumps.* The Agency believes that the present visual flight rule requirements of Part 60 of the Civil Air Regulations for the operation of aircraft are generally satisfactory for nonemergency parachute jumping except the requirement of only one mile minimum flight visibility for flight in uncontrolled airspace. Accordingly, the minimum weather requirements in the proposed rules are similar to the VFR rules currently contained in Part 60, except that a minimum of three miles flight visibility is required. This requirement should not be an undue burden on parachutists.

6. *Jumps at night.* Between sunset and sunrise a parachutist should have a means for producing a light bright enough to be visible to pilots of aircraft operating in the vicinity. The rule, as proposed, is broad enough to include reflecting-type lights as well as those which can be seen from any direction. It is believed that such a light should be visible for at least three miles.

7. *Jumps through clouds.* The Agency believes that jumps from within or through clouds present a danger to aircraft which might be flying under the clouds and aircraft which might be flying IFR through the clouds. Consequently, jumps from within or through clouds are prohibited in the proposed rule.

8. *Parachute equipment requirements.* The proposed rules would apply to parachute equipment used by persons in making nonemergency jumps, other than members of the armed forces. The rules provide for the use of a single harness dual parachute pack assembly, consisting of either an approved or nonapproved main parachute and an approved auxiliary parachute. The Agency believes this combination represents the minimum equipment for safety in nonemergency jumping.

(a) *Main parachute.* The proposed rules provide that the main parachute may be packed by a certificated parachute rigger or master parachute rigger or the person making the jump but shall have been packed within 60 days prior to its use. The Agency believes that the provision for permitting the jumper to pack his own main parachute is desirable in the interest of sport parachuting activities, and that the requirement for packing within 60 days of jumping is necessary in the interest of safety.

(b) *Auxiliary parachute.* The proposed rule provides that the auxiliary parachute shall be packed only by a certificated and appropriately rated parachute rigger or master parachute rigger, within 60 days prior to its use. The Agency believes that the 60-day packing requirement is reasonable as it is the same as that required under § 43.49 of Part 43 for other than a chair-type (canopy in back) parachute.

9. *Parachute repairs, maintenance, alterations, and inspections.* The proposed rule in respect to parachute repairs, maintenance, alterations, and inspections, is similar to the present § 25.80 of Part 25 of the Civil Air Regulations. It provides that no individual shall repair, maintain, alter, or inspect any personnel-carrying parachute, whether it is for emergency or nonemergency use, unless he is a certificated parachute rigger or master parachute rigger.

The proposed new part includes rules applying to nonemergency parachute jumps over the congested areas of cities, towns, or settlements, or an open-air assembly of persons, which are somewhat different from the provisions of § 43.47(b) of Part 43. Accordingly, this paragraph should be amended to be compatible with the proposed new part.

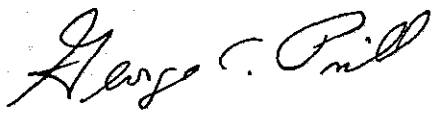
In consideration of the foregoing, it is proposed to promulgate the attached Part 38 of the Civil Air Regulations in its entirety and to amend § 43.47(b) of Part 43 of the Civil Air Regulations to read as follows:

43.47 *Dropping objects or persons.*

* * * * *

(b) Except in an emergency, no person piloting an aircraft shall permit a parachute jump to be made from the aircraft unless made in conformity with the provisions of Part 38 of the Civil Air Regulations.

These regulations are proposed under the authority of sections 307, 313(a), 601 of the Federal Aviation Act of 1958 (72 Stat. 749, 752, 775; 49 U.S.C. 1348, 1354, 1421).



Director,
Flight Standards Service.

Issued in Washington, D.C., on April 24, 1962.

PROPOSED PART 38—NONEMERGENCY PARACHUTE JUMPING

Sections:

Subpart A—Applicability and Definitions
38.1 Applicability.
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38.12 Authorization for jumps in controlled airspace.
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38.20 Parachute requirements.
38.21 Approved parachutes.
38.22 Repairs, maintenance, alteration, and inspection requirements.

Subpart A—Applicability and Definitions

38.1 *Applicability.* The provisions of this part apply to the following:

(a) Parachute jumps within the United States, except

(1) Jumps necessary because of an emergency in flight, and

(2) Jumps made by members of the armed forces of the United States over or within areas under the control of the armed forces, unless such jumps are made in controlled airspace, in which case the requirement in § 38.10 for obtaining prior authorization for jumps in controlled airspace shall be applicable; and

(b) Parachute equipment, but not including equipment used because of an emergency in flight and parachute equipment of the armed forces of the United States when used by members of the armed forces.

38.2 *Definitions.* "Administrator" means the Administrator of the Federal Aviation Agency or any person to whom he has delegated his authority in the matter concerned.

"Aircraft" means a device that is used or intended to be used for flight in the air.

"Airport" means an area of land or water that is used or intended to be used for the landing and takeoff of aircraft, and includes its buildings and facilities.

"Air traffic control" means a service operated to promote the safe, orderly, and expeditious flow of air traffic.

"Continental control area" means the airspace of the continental United States at and above 14,500 feet MSL but excludes: (1) the State of Alaska, (2) the airspace less than 1,500 feet above terrain, and (3) prohibited and restricted areas except those restricted areas specified in Part 601 of the Regulations of the Administrator.

"Control zone" means a zone extending upward from the surface. A control zone may include one or more airports and is normally a circular area of 5 statute miles in radius with extensions where necessary to include instrument approach and departure paths.

"Controlled airspace" means airspace of defined dimensions designated in Part 601 of the Regulations of the Administrator as continental control area, control area, control zone or transition area, within which air traffic control is exercised.

"FAA" means the Federal Aviation Agency.

"Flight visibility" means the average forward horizontal distance, from the cockpit of an aircraft in flight, at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Over" (a congested area or open-air assembly of persons) means a jumping location in the airspace where the jumper would fall into the congested area or open-air assembly of persons in the event his parachutes failed to open.

"Parachute" means a device used or intended to be used to retard the fall of a body or object through the air.

"Parachute jump" means the descent of a person to the surface from an aircraft in flight, using a parachute during all or part of the descent.

"Pilot in command" means the pilot responsible for the operation and safety of an aircraft during flight time.

"Positive control area" means the airspace, within the continental control area, as designated in Subpart J of Part 601 of the Regulations of the Administrator.

"Positive control route segment" means the airspace, within the continental control area, as designated in Subpart I of Part 601 of the Regulations of the Administrator.

"Sunset and sunrise" mean the solar times of sunset and sunrise as published in the Nautical Almanac converted to local standard time for the locality concerned, except within the State of Alaska.

NOTE.—The Nautical Almanac containing sunshine tables may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington 25, D.C. Information is also available from the sunshine tables in the offices of the Federal Aviation Agency or the United States Weather Bureau.

Subpart B—Parachute Jumping

38.10 *General.* A person shall not make a parachute jump from an aircraft, nor shall the pilot of an aircraft permit a jump to be made from the aircraft:

(a) Over or within the congested area of cities, towns, or settlements, or an open-air assembly of persons, or within controlled airspace, without prior authorization by the Administrator; and

(b) If over, or within the traffic pattern of, an airport, without prior approval of the management of such airport.

38.11 *Authorization for jumps over congested areas or an assembly of persons.*

(a) *Application.* Application for authorization to jump over congested areas of cities, towns, or settlements, or an open-air assembly of persons, is made on Form FAA–400, "Application for Certificate of Waiver." This form is obtained from any General Aviation District Office of the Federal Aviation Agency. Upon completion, the application is delivered to the district office having jurisdiction over the area where the jump is to be made, at least 7 days before the day the jump is to be made.

(b) *Issuance.* Upon application, and if the Administrator determines that the jump can be conducted safely and without hazard to air traffic and to persons or property on the ground, a certificate of authorization may be issued and may contain conditions and limitations necessary in the interest of safety.

(c) *Display of certificate.* The certificate of authorization shall be made available by the jumper or the pilot in command of the aircraft for inspection, upon request, by an authorized representative of the Administrator, or by any state or local official.

38.12 *Authorization for jumps in controlled airspace.*

(a) *In control zones with a functioning FAA air traffic control tower.* A request for authorization to make a parachute jump in a control zone in which there is a functioning FAA air traffic control tower is made to the control tower before takeoff of the aircraft from which the jump is to be made. The jump shall be made in accordance with any instructions given by the control tower.

(b) *In other controlled airspace.* A request for authorization to make a parachute jump in controlled airspace, other than a control zone in which there is a functioning FAA air traffic control tower, is made to the nearest FAA air traffic control facility or FAA Flight Service Station at least 24 hours before the intended time of making the jump.

(c) *Required information.* The request for authorization under paragraphs (a) and (b) of this section shall include at least the following information:

(1) Date and time the jumping will begin;

(2) Location of the jumping site or drop zone in reference to the nearest city or town, and airport;

(3) Altitudes above the surface where jumping will take place;

(4) Duration of jumping activity; and,

(5) Name, address, and telephone number of the person requesting the authorization.

38.13 *Weather conditions for parachute jumps.* A person shall not make a parachute jump from an aircraft nor shall the pilot of an aircraft permit a jump to be made from the aircraft in weather conditions contrary to the provisions of this section.

(a) *Clearance from clouds.*

(1) *Within continental control area.* A parachute jump shall not be made within the continental control area less than 1,000 feet vertically and 1 mile horizontally from any cloud formation.

(2) *Outside continental control area.* A parachute jump shall not be made outside the continental control area less than 500 feet vertically under, 1,000 feet vertically over, and 2,000 feet horizontally from any cloud formation.

(b) *Flight visibility.*

(1) *Within continental control area.* A parachute jump shall not be made within the continental control area when the flight visibility is less than 5 miles.

(2) *Outside continental control area.* A parachute jump shall not be made outside the continental control area when the flight visibility is less than 3 miles.

38.14 *Jumps through or from within clouds.* A person shall not make a parachute jump from an aircraft, nor shall the pilot of an aircraft permit a jump to be made from the aircraft, through or from within clouds.

38.15 *Parachute jumps at night.* A person shall not make a parachute jump from an aircraft, nor shall the pilot of an aircraft permit a jump to be made from the aircraft, between sunset and sunrise unless the jumper is equipped with a means for producing a light visible for at least 3 miles. The light shall be displayed between the time the parachute canopy is opened and the jump is completed.

38.16 *Inspection authority.* An authorized representative of the Administrator shall be permitted to make inspections, including inspections at the jump site, of any operations authorized by the provisions of this part, to determine compliance with the Civil Air Regulations and the terms and conditions of any certificate of authorization which may have been issued pursuant to § 38.11 of this subpart.

Subpart C—Parachute Equipment

38.20 *Parachute requirements.* A person shall not make a parachute jump from an aircraft, nor shall the pilot of an aircraft permit a jump to be made from the aircraft, unless the jumper is equipped with a single harness pack consisting of at least one approved or nonapproved main parachute and one approved auxiliary parachute, which shall have been

packed in accordance with the requirements of paragraphs (a) and (b) of this section.

(a) The main parachute shall have been packed by certificated parachute rigger or master parachute rigger, or by the person making the jump, within 60 days prior to its use.

(b) The auxiliary parachute shall have been packed by a certificated and appropriately rated parachute rigger or master parachute rigger within 60 days prior to its use.

38.21 *Approved parachutes.* The following parachutes are approved:

(a) Parachutes manufactured under the terms of a Type Certificate or Technical Standard Order No. C–23 series designation.

(b) Military personnel-carrying parachutes identified by an NAF, AAF, or AN drawing number, an AAF order number, or other military designation or specification number, except high-altitude, high-speed, or ejection types of parachutes.

38.22 *Repairs, maintenance, alternation, and inspection requirements.* All repairs, maintenance, alternations, or inspections of any personnel-carrying parachutes shall be performed only by certificated parachute riggers or master parachute riggers in accordance with the applicable requirements of Part 25 of this chapter.