



**Transportation
Security
Administration**

OCT 29 2004

Docket No. TSA-2004-19147

Flight Schools Subject to 49 CFR part 1552

RE: Applicability of 49 CFR part 1552 to certain types of aircraft

SUMMARY:

This submission is in response to comments received from flight schools that provide instruction in the operation of airships, balloons, and gliders, and associations representing such flight schools. The Transportation Security Administration (TSA) is exempting flight schools that provide, and individuals who apply for, instruction in the operation of airships, balloons, or gliders from the requirements of 49 Code of Federal Regulations (CFR) part 1552.

BACKGROUND:

On September 20, 2004, TSA published an interim final rule (IFR) that prohibits a flight school from providing flight training to an alien unless the flight school notifies TSA that the alien has requested flight training, the alien provides certain information to TSA, and TSA determines that the alien does not pose a threat to aviation or national security. (69 FR 56324, May 5, 2003). The IFR implements statutory mandates under Section 612 of Vision 100 – Century of Aviation Reauthorization Act (Public Law 108-176, December 12, 2003, 117 Stat. 2490), which transferred responsibility for this program from the Department of Justice (DOJ) to TSA. The DOJ program applied only to flight training on aircraft with a maximum certificated takeoff weight (MTOW) of 12,500 pounds or more. It did not apply to flight training on aircraft with an MTOW of less than 12,500 pounds.

TSA requested and received comments from flight schools and trade associations representing flight schools, general aviation, and air carriers. In addition, TSA held a meeting with several major stakeholder groups who represent the flight training industry on September 30, 2004, to discuss stakeholder concerns and requests for clarifications of the IFR. Based on the comments received and meetings with the stakeholders, TSA has decided to take the action detailed below.

EXEMPTION:

Under 49 U.S.C. 114(r), TSA may grant an exemption from a regulation prescribed in carrying out the agency's duties if the agency determines that the exemption is in the public interest.

As noted above, 49 CFR part 1552 prohibits a flight school from providing flight training to an alien unless the flight school notifies TSA that the alien has requested flight training, the alien provides

certain information to TSA, and TSA determines that the alien does not pose a threat to aviation or national security. "Flight training" is defined as "instruction received from a flight school in an aircraft or aircraft simulator." This definition could include instruction in the operation airships, balloons, and gliders.

However, after further considering the comments, TSA has determined that airships, balloons, and gliders pose a minimal threat to aviation and national security. Balloons and gliders are non-motorized and extremely slow-moving. In addition, because they are non-motorized, they do not carry any fuel. Airships, though motorized, are extremely slow-moving and carry little fuel. Furthermore, airships, balloons, and gliders are not capable of carrying significant payloads. For these reasons, TSA believes that airships, balloons, and gliders would not be capable of inflicting significant damage if they were used in suicide attacks. In addition, learning to operate one of these types of aircraft would not provide a person with the skills needed to operate rotary or fixed-wing aircraft that are motorized and capable of carrying larger payloads and amounts of fuel.

Accordingly, TSA is granting an exemption from 49 CFR part 1552 to flight schools that provide, and individuals who apply for, instruction in the operation of airships, balloons, or gliders, as those terms are defined at 14 CFR 1.1. This exemption includes the security awareness training requirements in Subpart B of 49 CFR part 1552. This exemption is subject to the following conditions and limitations:

1. If a flight school provides instruction in the operation of other types of aircraft, in addition to instruction in the operation of airships, balloons, or gliders, the flight school must comply with the requirements in Subpart A of 49 CFR part 1552 for instruction in types of aircraft other than airships, balloons, and gliders.
2. If a flight school provides instruction in the operation of other types of aircraft, in addition to instruction in the operation of airships, balloons, or gliders, the flight school must comply with the security awareness training requirements in Subpart B of 49 CFR part 1552.
3. This exemption will remain in effect until superseded.

If you have any questions regarding this notice, please contact Mike Derrick, Office of Aviation Security Policy, Transportation Security Administration Headquarters, East Building TSA-9, 601 South 12th Street, Arlington, VA 22202-4220; telephone (571) 227-1198; e-mail Michael.Derrick@dhs.gov.

Sincerely,


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for Transportation Security Policy