

The Amendment

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

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

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

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

■ 2. Amend § 121.312 by revising paragraph (e)(3) to read as follows:

§ 121.312 Materials for compartment interiors.

* * * * *

(e) * * *

(3) For airplanes with a passenger capacity of 20 or greater, manufactured after September 2, 2009, thermal/acoustic insulation materials installed in the lower half of the fuselage must meet the flame penetration resistance requirements of § 25.856 of this chapter, effective September 2, 2003.

Issued in Washington, DC, on January 4, 2007.

Marion C. Blakey,
Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 125 and 135

[Docket No. FAA–2004–18596; Amendment No. SFAR 106]

RIN 2120–AI30

Use of Certain Portable Oxygen Concentrator Devices Onboard Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; technical amendment.

SUMMARY: The Federal Aviation Administration (FAA) is making minor technical changes to a final rule published in the *Federal Register* on July 12, 2005 (70 FR 40156). That final rule created Special Federal Aviation Regulation 106 (SFAR 106). In that final rule the FAA inadvertently failed to make conforming amendments to additionally apply the SFAR to parts 125 and 135 as proposed, and to include references in those parts to the existence of SFAR 106 published in part 121.

EFFECTIVE DATES: Effective on February 12, 2007.

FOR FURTHER INFORMATION CONTACT: David L. Catey, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–3732.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) published SFAR 106, “Use of Certain Portable Oxygen Concentrator Devices onboard Aircraft,” in the *Federal Register* on July 12, 2005 (70 FR 40156). We inadvertently failed to attach notes to parts 125 and 135 of Title 14 of the Code of Federal Regulations (14 CFR) that would direct operators subject to those regulations to the body of SFAR 106. When the FAA published the notice of proposed rulemaking (NPRM) that offered the proposed SFAR to the public for comment, we clearly stated that the proposed regulation would apply to civil aircraft in parts 121, 125, and 135. The NPRM was published in the *Federal Register* on July 14, 2004 (69 FR 42324), and in the heading we noted that the proposal applied to 14 CFR Parts 121, 125, and 135. The applicability for an SFAR to a specific part of 14 CFR is not specifically cited in the Applicability section of the regulatory language, but rather cited in the heading of the SFAR and the parts affected contain an editorial note referring readers to the text of the SFAR. When the final rule was published, we failed to include those notes to parts 125 and 135. This technical amendment will add the editorial notes to parts 125 and 135 that direct the reader to the text of SFAR 106 and ensure that readers know the regulation applies to operations conducted under those parts. This amendment will not impose any additional restrictions on operators affected by these regulations.

SFAR 106 permits passengers to carry on and use certain portable oxygen concentrator devices (POCs) onboard aircraft if the aircraft operator ensures that the conditions specified in the SFAR for their use are met. Aircraft operators can now offer medical oxygen service as they did before SFAR 106 was enacted, or they can arrange for passengers to carry on and use one of the devices covered in SFAR 106. SFAR 106 is an enabling rule, which means that no aircraft operator is required to allow passengers to operate these devices onboard, but they may allow them to be operated onboard. If one of these devices is allowed by the aircraft operator to be carried on board, the conditions in the SFAR must be met. SFAR 106 allows for the use of five

specific POC devices the FAA has found to be acceptable.

Need for the Correction

As stated above, this correction is needed to make clear that the conditions and regulations of SFAR 106 are also applicable to operations conducted under parts 125 and 135, as proposed in the NPRM and intended in the final rule.

Technical Amendment

The technical amendment will correct the omission of the editorial notes that direct operators under parts 125 and 135 to SFAR 106 in part 121.

List of Subjects

14 CFR Part 125

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements

14 CFR Part 135

Air taxis, Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ Accordingly, Title 14 of the Code of Federal Regulations (CFR) parts 125 and 135 are amended as follows:

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.

■ 1. 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.

■ 2. Special Federal Aviation Regulation No. 106 is added to part 125 to read as follows:

SPECIAL FEDERAL AVIATION REGULATION NO. 106

Editorial Note: For the text of SFAR No. 106, see part 121 of this chapter.

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

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

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

■ 4. Special Federal Aviation Regulation No. 106 is added to part 135 to read as follows:

**SPECIAL FEDERAL AVIATION
REGULATION NO. 106**

Editorial Note: For the text of SFAR No. 106, see part 121 of this chapter.

Issued in Washington, DC, on January 4, 2007.

Rebecca B. MacPherson,

Assistant Chief Counsel for Regulations.

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**CONSUMER PRODUCT SAFETY
COMMISSION**

16 CFR Part 1407

**Portable Generators; Final Rule;
Labeling Requirements**

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) is issuing a final rule requiring manufacturers to label portable generators with performance and technical data related to performance and safety. The required warning label informs purchasers that: "Using a generator indoors CAN KILL YOU IN MINUTES;" "Generator exhaust contains carbon monoxide. This is a poison you cannot see or smell;" "NEVER use inside a home or garage, EVEN IF doors and windows are open;" "Only use OUTSIDE and far away from windows, doors, and vents." The warning label also includes pictograms. The Commission believes that providing this safety information will help reduce unreasonable risks of injury associated with portable generators.¹

DATES: This regulation becomes effective May 14, 2007 and applies to any portable generator manufactured or imported on or after that date.

FOR FURTHER INFORMATION CONTACT: Timothy P. Smith, Project Manager, Division of Human Factors, Directorate for Engineering Sciences, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, Maryland; telephone (301) 504-7691; or e-mail: tsmith@cpsc.gov.

SUPPLEMENTARY INFORMATION:

¹ Acting Chairman Nancy A. Nord and Commissioner Thomas H. Moore each filed a statement. The statements are available from the Office of the Secretary or on the Commission's Web site at <http://www.cpsc.gov>.

A. Background

The total yearly estimated non-fire related carbon monoxide (CO) deaths for each of the years 1999 through 2002 are 109, 138, 130 and 188, respectively. Since 1999, the percentage of estimated CO poisoning deaths specifically associated with generators has been increasing annually. In 1999, generators were associated with 7 (6%) of the total yearly estimated CO poisoning deaths for that year. In 2000, 2001 and 2002, they were associated with 19 (14%), 22 (17%) and 46 (24%) deaths out of the total estimates for each of those years.

On October 12, 2005, the staff was directed to undertake a thorough review of the status of portable generator safety. As part of this review, the staff was requested to assess the sufficiency of warning labels to address the CO poisoning hazard posed by portable generators that are used within or near residences. In response to this request, CPSC staff prepared a draft notice of proposed rulemaking (NPR), in which the staff proposed that manufacturers be required to label portable generators with a CO-poisoning warning label. On August 15, 2006, the Commission voted unanimously (2-0) to approve the publication of a **Federal Register** notice issuing an NPR for portable-generator labeling requirements. This notice was published August 24, 2006. 71 FR 50003.

B. The Product

Portable generators offer a means of providing electrical power to a location that either temporarily lacks it or is not provided with electrical service at all. A portable generator has an internal combustion engine to produce rotational energy, which is used to generate electricity. The engine may be fueled by gasoline, diesel, natural gas, or liquid propane. It is the engine that produces carbon monoxide as a byproduct of combustion.

Estimates of sales of portable generators for consumer use vary, but could be more than a million units annually. The most popular of these generators are gasoline-powered and are priced in the \$500 to \$800 range. The output of the majority of light duty generators sold to consumers in 2005 was in the 3.5 kW to 6.5 kW range. This is the size of most of the units involved in the fatal CO poisoning incidents CPSC staff investigated in which the rating of the involved generator was identified.

C. Relevant Statutory Provisions

Section 27(e) of the Consumer Product Safety Act (CPSA) authorizes

the Commission, by rule, to "require any manufacturer of consumer products to provide the Commission with such performance and technical data related to performance and safety as may be required to carry out the purposes of this Act, and to give such notification of such performance and technical data at the time of original purchase to prospective purchasers and to the first purchaser of such product for purposes other than resale, as it determines necessary to carry out the purposes of this Act." As provided in section 2(b)(1) of the Consumer Product Safety Act (15 U.S.C. 2051(b)(1)), one purpose of the CPSA is "to protect the public against unreasonable risks of injury associated with consumer products."

Failure to comply with a rule under section 27(e) is unlawful under section 19(a)(8) of the CPSA. 15 U.S.C. 2068(a)(8). Any person who knowingly violates this requirement is subject to a civil penalty of up to \$8,000 per violation. 15 U.S.C. 2069; 64 FR 51963.

D. Explanation of the Rule

In 2002, CPSC staff assessed the effectiveness of current CO poisoning warnings found on the product and within the owner's manuals of several models of portable generators found on store shelves. Staff found that the guidance provided for avoiding the hazard was typically twofold: (1) Do not use in a confined or enclosed space, and (2) provide proper ventilation. None of the evaluated warnings defined "confined or enclosed space" or "proper ventilation."

The Commission believes these instructions and warnings do not adequately advise users how to avoid the CO poisoning hazard. Furthermore, the incident data includes fatalities where it appears that the victims attempted to provide adequate ventilation, to open confined areas, or to do both by, for example, opening doors, opening windows, and running exhaust fans. Prior research has shown that tools with gasoline-powered engines produce CO that "can rapidly accumulate, even in areas that appear to be well-ventilated, resulting in dangerous and fatal concentrations within minutes."² Thus, evidence suggests that the methods consumers typically use to provide ventilation or to open confined areas are insufficient to prevent hazardous levels of CO buildup. Even locating a generator outdoors can be insufficient if the generator is near

² Earnest, G.S., Carbon Monoxide Poisonings from Small, Gasoline-Powered, Internal Combustion Engines: Just What is a "Well-Ventilated Area"?, American Industrial Hygiene Association Journal, November 1997.