

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, DC 20591

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In the matter of the petition of \*  
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JOINT SPECIAL OPERATIONS \*  
COMMAND \*  
\*  
for an exemption from \*  
§§ 105.17, and 105.19(a) and (b) \*  
of Title 14, Code of \*  
Federal Regulations \*  
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Regulatory Docket No. FAA-2004-17087

GRANT OF EXEMPTION

By letter dated February 2, 2004, Ltc. Douglas P. Weitzel petitioned on behalf of the Joint Special Operations Command (JSOC), located at Fort Bragg, North Carolina 28308. The Lieutenant Colonel Weitzel petitioned the Federal Aviation Administration (FAA) for an exemption from §§ 105.17, and 105.19(a) and (b), Title 14, Code of Federal Regulations (14 CFR). The proposed exemption, if granted, would permit the JSOC forces to conduct night parachute operations using parachutes with no illumination, through clouds, outside of the special use airspace, at and below 1,500 feet above ground level (AGL). These operations would be conducted in Class B, C, D, or E airspace at airports closed to nonparticipating air traffic.

The petitioner specifically requests relief from the following regulations:

§105.17. Flight visibility and clearance from cloud requirements.

No person may conduct a parachute operation, and no pilot in command of an aircraft may allow a parachute operation to be conducted from that aircraft

(a) Into or through a cloud, or

(b) When the flight visibility or the distance from any cloud is less than that prescribed in the following table:

Altitude	Flight Visibility (statute miles)	Distance from clouds
1,200 feet or less above the surface regardless of the MSL altitude.	3	500 feet below, 1,000 feet above, 2,000 feet horizontal.
More than 1,200 feet above the surface but less than 10,000 feet MSL	3	500 feet below, 1,000 feet above, 2,000 feet horizontal.
More than 1,200 feet above the surface and at or above 10,000 feet MSL	5	1,000 feet below, 1,000 feet above, 1 mile horizontal.

Section 105.19 Parachute operations between sunset and sunrise.

(a) No person may conduct a parachute operation, and no pilot in command of an aircraft may allow a person to conduct a parachute operation from an aircraft between sunset and sunrise, unless the person or object descending from the aircraft displays a light that is visible for at least 3 statute miles.

(b) The light required by paragraph (a) of this section must be displayed from the time that the person or object is under a properly functioning open parachute until that person or object reaches the surface.

The petitioner supports its request with the following information:

The petitioner states that U.S. Military forces are required to train and exercise the capability to seize airfields in support of national objectives. A combination of military, joint-use and civilian airfields are used in this training. This training includes parachute and equipment drops which may occur in instrument meteorological conditions (IMC) to meet training objectives. Additionally, the training includes drops, which must occur at night in 'blacked out' conditions to enhance realism and to meet training requirements. Placing lights on individual jumpers does not enable required training for night vision goggle operations.

The petitioner states that currently Military forces are exempted from many parts of § 105, if the training is accomplished in a restricted area or in uncontrolled airspace. Few potential training airfields are covered by the military forces exemption. Therefore, an exemption would allow JSOC forces to train for mission essential tasks critical to maintaining national defense.

The petitioner contends that the current regulation allows unlit jump operations if the airfield/tower is closed reverting the airspace to uncontrolled status to either 700 feet or 1,200 feet AGL.

The petitioner states that the safety is maintained because all aircraft are under the control of air traffic control (ATC). The petitioner states that a notice to airmen (NOTAM) will be issued closing the impacted airports, that the ATC tower, where available, will remain open during these operations, and nonparticipating aircraft would be excluded from the airport traffic area. Furthermore, these operations are thoroughly briefed to regional FAA ATC.

A summary of the petition was published in the Federal Register on February 13, 2004 (68 FR 67504). One comment was received.

The Experimental Aircraft Association (EAA) had no objection to the proposed request from JSOC. However, they were concerned that JSOC has not defined what an "airport traffic area" is. EAA believes it to be critical in understanding the scope of airspace that will be effected by future Notices to Airmen that would close a targeted, specific airport, its traffic pattern and exclude nonparticipating aircraft from the airport traffic area. The commenter inquires if the definition of "Airport Traffic Area" means just the airport surface area, the airport traffic pattern, and/or the airports associated airspace as defined in FAA Order 7400.9.

The term "airport traffic area" is an obsolete term that was eliminated in 1993, as part of the airspace reclassification effort. The FAA believes that the petitioner used the term "airport traffic area" to identify the airspace within a 3-mile radius of the airport, including the airport surface area, the airport traffic pattern, and the airports associated airspace as defined in FAA Order 7400.9. Additionally, these operations may only be conducted at airports that are listed in the conditions and limitations and NOTAMs are required at least 72 hours in advance of the scheduled exercises allowing sufficient time for nonparticipating aircraft to make alternative plans.

The FAA's analysis/summary is as follows:

The FAA is giving special consideration to this petition because the proposed operations are conducted in the furtherance of our national security. This petition is unique and provides mitigating factors for consideration. The FAA recognizes the limited time within which the JSOC forces must be combat ready and prepared for deployment. The FAA has therefore favorably considered the following information in reaching its decision.

The unlighted parachute operations would be of such short duration from a lighted aircraft that in view of the conditions and limitations below, safety would not be compromised. For example, safety will not be compromised because advisory NOTAMs will be issued alerting pilots of nonparticipating aircraft about the time and location of the jumps and dedicated observers watching for potential conflicts with nonparticipating aircraft will be on duty. JSOC would provide advance notice to surrounding airports of its plan to conduct the operations and coordinate the planned operations with other sister agencies on a need to know basis. Also, the aircraft would be operated with lights-on throughout the operation. JSOC does not propose to operate the aircraft under lights-out conditions during the flight and only requests

that the parachutists be allowed to jump without illumination. As such, the aircraft would be highly visible to any aircraft operating in the vicinity. Moreover, the petitioner would provide personnel to conduct surveillance (from the air and from the ground) for the operation both prior to and during parachute deployment. Surveillance would be conducted from the air and the ground; the airborne observations will be done either by dedicated observers on each jump aircraft (at least two jump aircraft) or by at least a pilot on an escort airborne aircraft; and personnel would be on the ground at the drop zone to conduct surveillance from a different vantage point. As such, the jump aircraft would receive timely notice of conflicting traffic along with information on the position and speed of the nonparticipating aircraft.

The FAA believes that with adequate coordination among the governmental agencies, proper notification to the potential civil users of the airspace, and adequate surveillance of the drop zone area, both prior to and during parachute deployment can provide an equivalent level of safety. The low altitudes to be used, the short duration of the activity, and the limited size of the area proposed should not pose an undue hazard to persons or property either on the ground or in flight.

The JSOC personnel, operating solely over established drop zones at predetermined, closed airports, will have adequate support, surveillance, command and control to assure the maximum level of safety obtainable under the circumstances. Although the petitioner requested operations in Class B, C, D, and E airspace, the FAA determined that the airspace should be limited to Class B, C, and D only. Two-way radio communications are not required for operations in Class E airspace. It may be possible for nonparticipating traffic to enter the training area unannounced, where unlighted parachute activities are being conducted. The proposed concept of allowing unlighted parachute operations to be conducted through cloud cover with reported ceilings as low as 300 feet AGL is unique. The FAA believes that the JSOC must operate in hazardous conditions during combat and must therefore train under simulated combat conditions to be fully prepared for the assigned mission. The likelihood that a non-participating aircraft or a person would be near the drop zones or in the affected airspace, given the level of available and proposed security, is virtually nonexistent. The FAA therefore believes that no hazard exists to anyone, other than the participants in the training exercise who are under the direct control of the military.

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator, the Joint Special Operations Command, is granted an exemption from the provisions of 14 CFR §§ 105.17, and 105.19(a) and (b) to conduct certain night operations in Class B, C, and D airspace, subject to the following conditions and limitations:

1. This exemption is limited to night parachute, combat readiness, training exercises of the Joint Special Operations Command, conducted over or onto the airports listed in Condition No. 8b.
2. Each airborne training operation:
  - a. Must be:
    - (i) Conducted in a flight of two or more aircraft with a dedicated observer on duty, who is not a pilot, aboard each aircraft (non-pilot airborne observers); or
    - (ii) Escorted by an aircraft serving as an observation platform dedicated to surveillance for non-participating traffic (pilot airborne observer) in the event the training operation only consists of a single concept from which parachutists jump.
  - b. In addition to the aerial observation, the operation must be conducted with personnel on the ground at the drop zone to conduct surveillance for potential conflicts with nonparticipating aircraft (ground observers).
  - c. The operation must be conducted in such a manner as to enable the airborne and ground observers to survey fully about for non-participating traffic and relay the findings to all participants so operations may be terminated while nonparticipating traffic is in the area.
3. Traffic notifications from the observers shall provide the flight crews with information about the position and speed of the observed non-participating traffic.
4. When non-participating traffic is in the area, the training exercise and parachute operations shall be terminated until the air traffic is no longer in the area.
5. Unlighted parachute operations may not be conducted above 1500 feet AGL and must be contained within the boundaries of the airports designated as potential and previously utilized zones as listed in Condition No. 8. This area must be established as an area of low air traffic, that does not infringe upon FAA-designated airspace areas, and has been coordinated with the appropriate FAA region's Air Traffic Division and Flight Standards Division offices.

6. In addition, unlighted parachute operations, through clouds, may be conducted only at airports listed in Condition No. 8, and only as necessary to meet the requirements of combat readiness training by members of the JSOC.
7. Each pilot who will conduct operations for the JSOC under this exemption must be thoroughly familiar with its provisions.
8. The holder shall advertise the proposed training operations, to operators at all airports within 50 miles of the area for 60 days preceding the initial use and 7 days preceding each subsequent use.
  - a. Airports to be used for the drop zones shall be closed by NOTAM to non-participating traffic. The tower shall remain appropriately staffed during the exercise to ensure that non-participating traffic remain excluded and clear of the airspace to be used.
  - b. The following airports are authorized for use with prior permission and agreement with the airport management, coordinated with Air Traffic Division and Flight Standards Division offices.
    1. Fairchild Air Force Base, Washington
    2. Gray Army Airfield, Washington
    3. Whidbey Island Naval Air Station, Washington
    4. Grant County/Moses Lake, Washington
    5. Great Falls, Montana
    6. Pendleton, Oregon
    7. Klamath Falls, Oregon
    8. Mount Home Air Force Base, Idaho
    9. Boise, Idaho
    10. Indian Springs, Nevada
    11. Roswell, New Mexico
    12. Biggs Army Air Field, Texas
    13. Ft. Campbell Army Air Field, Texas
    14. Lawson Army Air Field, Georgia
    15. Hunter Army Air Field, Georgia
    16. North Airfield, South Carolina
    17. McGhee Tyson, South Carolina
    18. McEntire Air National Guard Station, South Carolina
    19. North Airfield Auxiliary, South Carolina
    20. Duke Field, Florida
    21. Hurlburt Field, Florida
    22. Avon Park, Florida
    23. Cecil Field, Florida

9. The holder shall provide notice through the use of NOTAMs/Special Notices disseminated at least 72 hours in advance of scheduled exercises. The training airspace will be identified by name (if applicable) or by latitude/longitude. The NOTAMs will advise that during the course of flight planning, potential users of the operational area will be provided with information on the time and place of the proposed unlighted parachute operations. The NOTAMs must be made available to the civil aviation community and must be capable of being disseminated among civil users of the national airspace system.

This exemption terminates on February 28, 2006, unless superseded or rescinded.

Issued in Washington, DC, on FEB 20 2004 .

A handwritten signature in cursive script that reads "James J. Ballough". The signature is written in black ink and extends to the right with a long, thin horizontal stroke.

James J. Ballough  
Director  
Flight Standards Service