

vulnerable to HIRF external to the airplane.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electronics and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Cessna Model 680 Sovereign airplane. These special conditions require that new avionics/electronics and electrical systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications coupled with electronic command and control of the airplane, the immunity of critical digital avionics/electronics and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraph 1 or 2 below:

1. A minimum threat of 100 volts rms (root-mean-square) per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the field strengths indicated in the following table for the frequency ranges indicated. Both peak and average field strength components from the table are to be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to the Cessna Model 680 Sovereign airplane. Should Cessna Aircraft Company apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of 14 CFR § 21.101(a)(1), Amendment 21–60, effective September 16, 1991.

Conclusion

This action affects only certain design features on the Cessna Model 680 Sovereign airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for these airplanes has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. Because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. The FAA is requesting comments to allow interested persons to

submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and record keeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Cessna Model 680 Sovereign airplane.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions:* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on September 18, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2590

RIN 1210–AA62

Interim Final Amendment for Mental Health Parity

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Interim final amendment to regulation.

SUMMARY: This document contains an interim final amendment to modify the sunset date of interim final regulations under the Mental Health Parity Act

(MHPA) to be consistent with legislation passed during the 107th Congress.

DATES: *Effective date.* The interim final amendment is effective September 30, 2001.

Applicability dates. The requirements of the interim final amendment apply to group health plans and health insurance issuers offering health insurance coverage in connection with a group health plan beginning September 30, 2001.

The MHPA interim final amendment extends the original sunset date from September 30, 2001 to December 31, 2002. Pursuant to the extended sunset date, MHPA requirements do not apply to benefits for services furnished on or after December 31, 2002.

FOR FURTHER INFORMATION CONTACT:

Mark Connor, Pension and Welfare Benefits Administration, Department of Labor, at (202) 693-8335. *Customer Service Information:* Individuals interested in obtaining additional information on the Mental Health Parity Act and other health care laws may request copies of Department of Labor publications concerning changes in health care law by calling the PWBA Toll-Free Hotline at 1-866-275-7922. Information on the Mental Health Parity Act and other health care laws is also available on the Department of Labor's Web site (<http://www.dol.gov/pwba>).

SUPPLEMENTARY INFORMATION:

A. Background

The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (Pub. L. 104-204, 110 Stat. 2944). MHPA amended the Employee Retirement Income Security Act of 1974 (ERISA) and the Public Health Service Act (PHS Act) to provide for parity in the application of annual and lifetime dollar limits on mental health benefits with dollar limits on medical/surgical benefits. Provisions implementing MHPA were later added to the Internal Revenue Code of 1986 (Code) under the Taxpayer Relief Act of 1997 (Pub. L. 105-34, 111 Stat. 1080).

The provisions of MHPA are set forth in Part 7 of Subtitle B of Title I of ERISA, Chapter 100 of Subtitle K of the Code, and Title XXVII of the PHS Act.¹ The Secretaries of Labor, the Treasury, and Health and Human Services share jurisdiction over the MHPA provisions. These provisions are substantially similar, except as follows:

¹ Part 7 of Subtitle B of Title I of ERISA, Chapter 100 of Subtitle K of the Code, and Title XXVII of the PHS Act were added by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. 104-191.

- The MHPA provisions in ERISA generally apply to all group health plans other than governmental plans, church plans, and certain other plans. These provisions also apply to health insurance issuers that offer health insurance coverage in connection with such group health plans. Generally, the Secretary of Labor enforces the MHPA provisions in ERISA, except that no enforcement action may be taken by the Secretary against issuers. However, individuals may generally pursue actions against issuers under ERISA and, in some circumstances, under State law.

- The MHPA provisions in the Code generally apply to all group health plans other than governmental plans, but they do not apply to health insurance issuers. A taxpayer that fails to comply with these provisions may be subject to an excise tax under section 4980D of the Code.

- The MHPA provisions in the PHS Act generally apply to health insurance issuers that offer health insurance coverage in connection with group health plans and to certain State and local governmental plans. States, in the first instance, enforce the PHS Act with respect to issuers. Only if a State does not substantially enforce any provisions under its insurance laws will the Department of Health and Human Services enforce the provisions, through the imposition of civil money penalties. Moreover, no enforcement action may be taken by the Secretary of Health and Human Services against any group health plan except certain State and local governmental plans.

B. Overview of MHPA

The MHPA provisions are set forth in section 712 of ERISA, section 9812 of the Code, and section 2705 of the PHS Act. MHPA applies to a group health plan (or health insurance coverage offered by issuers in connection with a group health plan) that provides both medical/surgical benefits and mental health benefits. MHPA's original text included a sunset provision specifying that MHPA's provisions would not apply to benefits for services furnished on or after September 30, 2001. On December 22, 1997 the Departments of Labor, the Treasury, and Health and Human Services issued interim final regulations under MHPA in the **Federal Register** (62 FR 66931). The interim final regulations included this statutory sunset date.

On January 10, 2002, President Bush signed H.R. 3061 (Pub. L. 107-116, 115 Stat. 2177), the 2002 Appropriations Act for the Departments of Labor, Health

and Human Services, and Education.² This legislation extends MHPA's original sunset date under ERISA, the Code, and the PHS Act, so that MHPA's provisions will not apply to benefits for services furnished on or after December 31, 2002. Like MHPA, the amendment to MHPA applies to a group health plan (or health insurance coverage offered by issuers in connection with a group health plan) that provides both medical/surgical benefits and mental health benefits.³ As a result of the statutory amendment, and to assist employers, plan sponsors, health insurance issuers, and workers, the Department of Labor has developed this amendment of the interim final regulations, in consultation with the Departments of the Treasury and Health and Human Services, conforming the regulatory sunset date to the new statutory sunset date.

On March 9, 2002, President Bush signed H.R. 3090, the Job Creation and Worker Assistance Act of 2002 (Pub. L. 107-147, 116 Stat. 21), that included an amendment to section 9812 of the Code (the mental health parity provisions). This legislation further extends MHPA's original sunset date under the Code to December 31, 2003. The Joint Committee on Taxation's technical explanation of H.R. 3090 (JCT Report) states that the January 10th amendment to MHPA restored the excise tax retroactively to September 30, 2001. Under H.R. 3090, the excise tax provision of MHPA is amended to apply to benefits for such services furnished on or after January 10, 2002 and before January 1, 2004. MHPA's parallel provisions contained in ERISA and the PHS Act were not amended regarding either the period between September 30, 2001 and January 10, 2002 or the extension of the sunset date beyond December 31, 2002. As indicated by the JCT Report, H.R. 3061 restored the

² During the 107th Congress, legislation was passed by the Senate to substantively amend and expand the provisions of MHPA already in place. This legislation was offered as an amendment to the provisions of H.R. 3061. The Conference Report accompanying the underlying provisions of H.R. 3061 states that instead of the amendment proposed by the Senate, the amendment to MHPA contained in H.R. 3061 extends the original sunset date of MHPA, so that MHPA's provisions will not apply to benefits for services furnished on or after December 31, 2002. H.R. Rep. 107-342, at 170 (2001).

³ The parity requirements under MHPA, the interim regulations, and the amendment to the interim regulations do not apply to any group health plan (or health insurance coverage offered in connection with a group health plan) for any plan year of a small employer. The term "small employer" is defined as an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

MHPA provisions retroactively to September 30, 2001. Therefore, the Department is making the effective date of this interim final amendment to the regulations effective September 30, 2001. The Department is also making conforming changes extending the duration of the increased cost exemption to be consistent with the new sunset date. Since the statute is retroactive, making the regulation retroactive limits confusion and disruption to employers, plan sponsors, and workers.

Since the extension of this sunset date is not discretionary, this amendment to the MHPA regulations is promulgated on an interim final basis pursuant to Section 734 of ERISA. This interim final amendment is also promulgated pursuant to Section 553(d)(3) of the Administrative Procedure Act, allowing for regulations to become effective immediately for good cause.

C. Executive Order 12866

Under Executive Order 12866, the Department must determine whether a regulatory action is "significant" and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule: (1) Having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, it has been determined that this action is not a "significant regulatory action" within the meaning of the Executive Order. This action is an amendment to the 1997 interim final regulations and merely extends the regulatory sunset date to conform to the new statutory sunset date added by H.R. 3061.

D. Paperwork Reduction Act

The information collection provisions of MHPA incorporated in the

Department's interim final rules are currently approved under OMB control numbers 1210-0105 (Notice to Participants and Beneficiaries and Federal Government of Electing One Percent Increased Cost Exemption), and 1210-0106 (Calculation and Disclosure of Documentation of Eligibility for Exemption). These information collection requests are approved through November 30, 2004 and October 31, 2004, respectively. Because no substantive or material change is made to the approved information collection provisions in connection with this interim final amendment, no submission for continuing OMB approval is required or made at this time.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*). Because this amendment to the 1997 interim final regulations is being published on an interim final basis, without prior notice and a period for comment, the Regulatory Flexibility Act does not apply.

F. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) (UMRA), as well as Executive Order 12875, this interim final amendment does not include any Federal mandate that may result in expenditures by State, local, or tribal governments, and does not include mandates that may impose an annual expenditure of \$100 million or more on the private sector.

G. Congressional Review Act

This interim final amendment is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) (SBREFA), and has been transmitted to Congress and the Comptroller General for review. This amendment to the 1997 interim final regulations is not a major rule, as that term is defined by 5 U.S.C. 804.

H. Federalism Statement

Executive Order 13132 (August 4, 1999) outlines fundamental principles of federalism and requires the adherence to specific criteria by federal agencies in the process of their formulation and implementation of policies that have substantial direct effects on the States, the relationship

between the States, the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This interim final amendment does not have federalism implications as it only conforms the regulatory sunset date to the new statutory sunset date added by H.R. 3061.

List of Subjects in 29 CFR part 2590

Employee benefit plans, Employee Retirement Income Security Act, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

Pension and Welfare Benefits Administration

29 CFR part 2590 is amended as follows:

PART 2590—RULES AND REGULATIONS FOR HEALTH INSURANCE PORTABILITY AND RENEWABILITY FOR GROUP HEALTH PLANS

1. The authority citation for Part 2590 is revised to read as follows:

Authority: Secs. 107, 209, 505, 609, 701-703, 711-713, and 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1169, 1181-1183, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c), as amended by HIPAA (Pub. L. 104-191, 110 Stat. 1936), MHPA (Pub. L. 104-204, 110 Stat. 2944, as amended by Pub. L. 107-116, 115 Stat. 2177), NMHPA (Pub. L. 104-204, 110 Stat. 2935), and WHCRA (Pub. L. 105-277, 112 Stat. 2681-436), section 101(g) of HIPAA, and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987; section 401(b) of CPSIA (Pub. L. 105-200, 112 Stat. 645).

2590.712 [Amended] (g)(2), and (i)

2. Amend § 2590.712 (f)(1), (g)(2), and (i) to remove the date "September 30, 2001" and add in its place the date "December 31, 2002".

Signed at Washington, DC this 17th day of September, 2002.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor
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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Parts 2700, 2701, 2702, 2704, 2705, 2706

Commission Address Change

AGENCY: Federal Mine Safety and Health Review Commission (FMSHRC)