

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 1**

[Docket No. 25767; Notice No. 95-16]

RIN 2120-AF92

**Definitions of Special Use Airspace**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to amend the Federal Aviation Regulations by adding the definitions of the various forms of special use airspace. Several categories of special use airspace currently are defined other than in the Regulations. This proposed action is needed to consolidate and define those categories in a single part, including the definitions of warning area and non-regulatory warning area found in Special Federal Aviation Regulation (SFAR) No. 53.

**DATES:** Comments must be received on or before December 27, 1995.

**ADDRESSES:** Comments on this NPRM should be mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-200), Docket No. 25767, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the following Internet address: mprmcmts@mail.hq.faa.gov. Comments delivered must be marked Docket No. 25767. Comments may be examined in Room 915G weekdays between 8:30 a.m. and 5 p.m., except on Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph C. White, Air Traffic Rules Branch, ATP-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8783.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested persons are invited to participate in the rule making process by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified

above. All comments received on or before the closing date for comments specified will be considered by the Administrator before acting on this proposed rulemaking. The proposals contained in this notice may be changed considering comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25767. The postcard will be date stamped and mailed to the commenter.

**Availability of NPRM's**

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed in a mailing list for future NPRM's should request from the above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

**Background**

The FAA has determined that for purposes of clarification and conformity, it would be appropriate to include in part 1, Definitions and Abbreviations, the definitions of all categories of special use airspace. Special use airspace is defined in 14 CFR Section 73.3(a) as airspace of defined dimensions wherein activities must be confined because of their nature, or wherein limitations are imposed upon aircraft operations that are not a part of those activities, or both. With the exception of "warning area," the definitions proposed are the same definitions provided for these categories of airspace in the Aeronautical Information Manual and in FAA Order 7400.2, Procedures for Handling Airspace Matters. The codification of these currently accepted definitions into part 1 does not in any way affect the provisions that apply to these areas that are contained in parts 73 and 91. Nor does the inclusion of the definitions in

part 1 impose any new operating restrictions.

In addition, this notice proposes to redefine the term "warning area," by consolidating the definitions of "warning area" and "non-regulatory warning area" found in SFAR 53 and codify that term in part 1. Warning areas are defined in SFAR 53 as airspace of defined dimensions, extending from 3 to 12 nautical miles from the coast of this United States, which contain activity that may be hazardous to nonparticipating aircraft. The purpose of such warning areas is to warn nonparticipating pilots of the potential danger. The FAA proposes to consolidate this definition with the definition of non-regulatory warning area found in SFAR 53. A non-regulatory warning area is an airspace of defined dimensions designated over *international* waters that contains activity which may be hazardous to nonparticipating aircraft. The FAA believes that combining the definition of warning area with the definition of a non-regulatory warning area into a single definition is appropriate since the procedures that apply to these two areas are the same.

Presidential Proclamation No. 5928, issued on December 27, 1988, extended the sovereignty of the United States, for international purposes, over the territorial seas from 3 to 12 nautical miles from the coast of the United States (including its territories). Prior to Presidential Proclamation No. 5928, warning areas were only designated in international waters. SFAR 53, promulgated in response to Proclamation No. 5928, designated warning areas in domestic airspace. This proposal would define a warning area as an area of airspace of defined dimension, extending from 3 nautical miles outward from the coast of the United States, that contains activity which may be hazardous to nonparticipating aircraft.

This proposal would not alter any of the existing warning areas. The FAA does not envision any future additional warning areas or enlargement of the existing warning areas in domestic airspace. If new airspace areas are needed in domestic airspace, the FAA will work with the proponent to establish the appropriate domestic special use airspace, i.e. military operations area (MOA), Restricted area, or Prohibited area.

**The Proposal**

The FAA is proposing to amend 14 CFR part 1, Definitions and Abbreviations, to include the definitions of all types of special use airspace.

Except for "warning areas," the proposed definitions are the same definitions of the categories of special use airspace found in the Aeronautical Information Manual and FAA Order 7400.2, Procedures for Handling Airspace Matters and are familiar to and accepted by the flying community. The inclusion of these definitions in part 1 does not affect any provision currently contained in parts 73 and 91. Further, the inclusion of these definitions does not add any requirement or operating restriction to these categories of special use airspace. This proposal also codifies the definition of warning area. As noted above, the proposed definition of warning area would consolidate the definitions in SFAR 53 into a single definition of a warning area that applies to domestic airspace located from 3 to 12 nautical miles from the U.S. coast, as well as international airspace beyond the 12 nautical mile boundary from the coast.

#### International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation organization Standards and Recommended Practices (SARP) to the maximum extent practicable. A difference will be filed with the International Civil Aviation Organization.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), there are no requirements for information collection associated with this proposed regulation.

#### Regulatory Evaluation

This proposed regulation does not alter the provision of air traffic control (ATC) services, nor does it have an impact on ATC system users. This proposed regulation merely adds a section of currently accepted definitions in 14 CFR part 1 without making any substantive revision to parts 73 and 91. Accordingly, because the costs of the rule are minimal or non-existent, a formal regulatory evaluation has not been prepared. Nevertheless, the FAA seeks comments from the public on any possible economic impact of this notice.

#### Regulatory Flexibility Act Determination

The Regulatory Flexibility Act of 1980 (RFA) ensures that government regulations do not needlessly and disproportionately burden small

businesses. The RFA requires the FAA to review each rule that may have a significant economic impact on a substantial number of small entities.

The proposed regulation will not alter the provision of air traffic control (ATC) services, nor will it have an impact on ATC system users. Hence, the proposed regulation will not impose a significant cost on a substantial number of small entities.

#### Federalism Implications

The proposed regulation set forth herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposed regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### International Trade Impact Assessment

The proposal would not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries and the import of foreign goods and services to the United States. This proposal would not impose costs on either U.S. or foreign operators. Therefore, a competitive trade disadvantage would not be incurred by either U.S. operators abroad or foreign operators in the United States.

#### Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Assessment, the FAA has determined that this proposed regulation is not a "significant regulatory action" under Executive Order 12866. In addition, the FAA certifies that this proposed regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposed regulation is not considered significant under DOT Order 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations. An Initial Regulatory Flexibility Determination and International Impact Assessment are set out above. Because the economic impact of this proposal are minimal or non-existent, no formal regulatory evaluation has been prepared.

#### List of Subjects in 14 CFR Part 1

Air transportation, Federal Aviation Administration.

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 1 as follows:

#### PART 1—[AMENDED]

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

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

2. Section 1.1 is amended by adding the following definitions to read as follows:

\* \* \* \* \*

#### § 1.1 General definitions.

\* \* \* \* \*

*Alert Area.* An alert area is established to inform pilots of a specific area wherein a high volume of pilot training or an unusual type of aeronautical activity is conducted.

\* \* \* \* \*

*Controlled Firing Area.* A controlled firing area is established to contain activities, which if not conducted in a controlled environment, would be hazardous to nonparticipating aircraft.

\* \* \* \* \*

*Military Operations Area.* A military operations area (MOA) is airspace established outside Class A airspace to separate or segregate certain nonhazardous military activities from IFR traffic and to identify for VFR traffic where these activities are conducted.

\* \* \* \* \*

*Prohibited Area.* A prohibited area is airspace designated under part 73 within which no person may operate an aircraft without the permission of the using agency.

\* \* \* \* \*

*Restricted Area.* A restricted area is airspace designated under Part 73 within which the flight of aircraft, while not wholly prohibited, is subject to restriction.

\* \* \* \* \*

*Warning Area.* A warning area is airspace of defined dimensions, extending from 3 nautical miles outward from the coast of the United States, that contains activity that may be hazardous to nonparticipating aircraft. The purpose of such warning areas is to warn nonparticipating pilots of the potential danger. A warning area may be located over domestic or international waters or both.

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Issued in Washington, DC on November 20, 1995.

Harold W. Becker,

*Acting Program Director for Air Traffic Rules and Procedures.*

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