

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

[Docket No. 25767; Amdt. 1-42]

RIN 2120-AF92

Definitions of Special Use Airspace

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

ACTION: Final rule.

SUMMARY: This rule amends 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 rule 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.

EFFECTIVE DATE: January 15, 1996.

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:**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 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 rule redefines the term "warning area," by consolidating the definitions of "warning area" and "non-regulatory warning area" found in SFAR 53 and codifies 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. This rule consolidates 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 a 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 rule defines 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 rule will 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.

I find that good cause exists, pursuant to 5 U.S.C. 553(d), for making this amendment effective in less than 30 days to avoid confusion on the part of pilots operating in these types of airspace.

Discussion of Comments

Two comments were received from the Air Line Pilots Association (ALPA) and the Air Traffic Control Association, Inc. (ATCA). ALPA and ATCA support the proposed amendment to part 1 as provided in the notice of proposed

rulemaking (60 FR 58494, Nov. 27, 1995).

The Rule

This amendment to 14 CFR part 1, Definitions and Abbreviations, to include the definitions of all types of special use airspace. Except for "warning areas," the 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 rule also codifies the definition of warning area. As noted above, the definition of warning area will 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.

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 regulation.

Regulatory Evaluation

This rule does not alter the provision of air traffic control (ATC) services, nor does it have an impact on ATC system users. This 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.

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

Federalism Implications

The rule 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 rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

International Trade Impact Assessment

This rule will 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 regulation will not impose costs on either U.S. or foreign operators. Therefore, a competitive trade disadvantage will 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 regulation is not a "significant regulatory action" under Executive

Order 12866. In addition, the FAA certifies that this 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 regulation is not considered significant under DOT Order 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations. A Regulatory Flexibility Determination and International Impact Assessment are set out above. Because the economic impact of this rule is 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 Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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 revising the definitions of *Prohibited area* and *Restricted area* and by adding the remaining definitions to read as follows:

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1.1 General definitions.

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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.

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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.

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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.

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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.

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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.

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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 January 18, 1996.

David R. Hinson,
Administrator.

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