

AD; therefore, providing notice and opportunity for public comment before the AD is issued is impracticable, and good cause exists to make this AD effective in less than 30 days.

#### Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2004-19017; Directorate Identifier 2004-NM-144-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you can visit <http://dms.dot.gov>.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications with you. You can get more information about plain language at <http://www/faa.gov/language> and <http://www.plainlanguage.gov>.

#### Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect 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.

For the reasons discussed above, I certify that the regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. 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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

##### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**2004-18-04 McDonnell Douglas:**  
Amendment 39-13782. Docket No. FAA-2004-19017; Directorate Identifier 2004-NM-144-AD.

##### Effective Date

(a) This AD becomes effective September 20, 2004.

##### Affected ADs

(b) None.

##### Applicability

(c) This AD applies to all McDonnell Douglas Model MD-10-10F, MD-10-30F, MD-11F, and 717-200 airplanes; certificated in any category.

##### Unsafe Condition

(d) This AD was prompted by a report of two violations of the selected flight control panel (FCP) altitude during flight management system (FMS) profile (PROF) descents. The FAA is issuing this AD to prevent, under certain conditions during the FMS PROF descent, the uncommanded descent of an airplane below the selected level-off altitude, which could result in an unacceptable reduction in the separation between the airplane and nearby air traffic or terrain.

##### Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

#### AFM Revision

(f) Within 90 days after the effective date of this AD, revise the Limitations section of the Airplane Flight Manual (AFM) to include the following statement. This may be done by inserting a copy of this AD in the AFM.

"Use of PROF mode for descent and/or approach operations is prohibited unless

1. The airplane is on path and the FMA indicates THRUST | xxx | PROF, or

2. The indicated airspeed is below Vmax for the airplane configuration by at least:

a. 10 knots at indicated altitudes below 10,000 feet, or

b. 15 knots at indicated altitudes of 10,000 feet or above, or

3. Basic autoflight modes (e.g., LVL CHG V/S, or FPA) are used to recapture the path when the PROF mode is engaged and the airplane is:

a. Above or below the path and the FMA indicates PITCH | xxx | IDLE, or

b. Below the path and the FMA indicates THRUST | xxx | V/S."

**Note 1:** When a statement identical to that in paragraph (f) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

#### Alternative Methods of Compliance (AMOCs)

(g) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

#### Material Incorporated by Reference

(h) None.

Issued in Renton, Washington, on August 25, 2004.

**Kevin M. Mullin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 04-20015 Filed 9-2-04; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 73

[Docket No. FAA-2001-17180; Airspace Docket No. 03-AWP-03]

RIN 2120-AA66

#### Amendment of Restricted Area 2306C, Yuma West, AZ

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

**ACTION:** Final rule.

**SUMMARY:** This action amends the designated altitudes and times of use for Restricted Area R-2306C (R-2306C), Yuma West, AZ. This action would raise the upper altitude of R-2306C from 17,000 feet mean sea level (MSL) to

40,000 feet MSL. This action also reduces the time of use from continuous, to 0600 to 2200 hours daily local time, other times by NOTAM. The U.S. Army requested the modification to better accommodate existing and future testing requirements at the Yuma Proving Ground, AZ. This modification does not alter the current lateral boundaries or activities conducted in R-2306C.

**EFFECTIVE DATE:** 0901 UTC, November 25, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ken McElroy, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On May 28, 2004, the FAA proposed to modify the designated altitudes and times of use for R-2306C (69 FR 30606). The U.S. Army requested this modification to better accommodate existing and forecasted training requirements at Yuma Proving Ground, AZ. Interested parties were invited to participate in this rulemaking by submitting written comments. No comments were received.

##### **The Rule**

This action amends 14 Code of Federal Regulations (14 CFR) part 73 (part 73) by changing the designated altitude and times of use for R-2306C, Yuma, AZ. Specifically, this action changes the designated altitudes from "Surface to 17,000 feet MSL," to "surface to 40,000 feet MSL". This amendment also reduces the times of use from "continuous," to "0600 to 2200 hours daily local time, other times by NOTAM." The U.S. Army requested this modification to better accommodate existing and forecast training requirements at Yuma Proving Ground, AZ. This action does not change the current lateral boundaries or activities conducted within R-2306C.

Section 73.23 of 14 CFR part 73 was republished in FAA Order 7400.8L, dated October 7, 2003.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3)

does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

##### **Environmental Review**

The FAA determined that this change applies to on-going military activities occurring between 17,000 feet MSL and 40,000 feet MSL, and not over noise-sensitive areas; that there will be no significant noise increase associated with this change; and no significant air quality impacts. The FAA further determined that this action does not trigger any extraordinary circumstances that would warrant further environmental review. The FAA concluded that this action is categorically excluded from further environmental analysis in accordance with FAA Order 1050.1E, Policies and Procedures for Considering Environmental Impacts, dated June 8, 2004.

##### **List of Subjects in 14 CFR Part 73**

Airspace, Navigation (air).

##### **Adoption of the Amendment**

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

##### **PART 73—SPECIAL USE AIRSPACE**

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### **§ 73.23 [Amended]**

■ 2. § 73.23 is amended as follows:

\* \* \* \* \*

##### **R-2306C Yuma, AZ [Amended]**

■ By removing "Designated altitude. Surface to 17,000 feet MSL," and "Times of use. Continuous," and substituting "Designated altitude. Surface to 40,000 feet MSL," and "Times of use. 0600 to 2200 daily local time, other times by NOTAM."

\* \* \* \* \*

Issued in Washington, DC on August 27, 2004.

**Reginald C. Matthews,**

*Manager, Airspace and Rules.*

[FR Doc. 04–20172 Filed 9–2–04; 8:45 am]

**BILLING CODE 4910–13–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 73**

[Docket No. FAA–2003–16722; Airspace Docket No. 03–AWP–19]

**RIN 2120–AA66**

#### **Establishment of Restricted Area 2503D; Camp Pendleton, CA**

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes a Restricted Area 2503D (R-2503D) at Camp Pendleton, CA. Specifically, this action converts the current San Onofre High and Low Military Operations Areas (MOAs) and the associated Controlled Firing Area (CFA) to R-2503D. The FAA is taking this action to assist the Camp Pendleton U.S. Marine Corps (USMC) Base, CA, mission to provide realistic fleet training requirements and enhance safety.

**EFFECTIVE DATE:** 0901 UTC, November 25, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ken McElroy, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

#### **SUPPLEMENTARY INFORMATION**

##### **History**

On March 26, 2004, the FAA published in the **Federal Register** a notice proposing to establish R-2503D at Camp Pendleton, CA (69 FR 15746). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. In response to the notice, the FAA received twenty written comments. All comments received were considered before making a determination on the final rule. An analysis of the comments received and the FAA's responses are summarized in the "Discussion of Comments" section.

##### **Discussion of Comments**

The Aircraft Owners and Pilots Association (AOPA) endorsed the proposal stating the overall impact of the proposed changes would be less severe than the impact of the current MOA for most general aviation (GA) pilots. However, if the use of the area exceeds the times of use stated in the proposal, no more than twenty days per year from 0600 to 2400, they would withdraw their support.