

to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, 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 upon issuance. 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 23

Aircraft, Aviation safety, Signs and symbols.

#### Citation

■ The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19.

#### The Special Conditions

■ Accordingly, the Federal Aviation Administration (FAA) issues the following special conditions as part of the type certification basis for the Embraer S.A. Model EMB-505 airplanes.

1. SC § 23.961:

Instead of compliance with § 23.961, the following apply:

Each fuel system must be free from vapor lock when using fuel at its critical temperature, with respect to vapor formation, when operating the airplane in all critical operating and environmental conditions for which approval is requested. For turbine fuel, the initial temperature must be the highest fuel temperature expected at the maximum outside air temperature for which approval is requested.

Issued in Kansas City, Missouri, on December 1, 2009.

**William J. Timberlake,**

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

[FR Doc. E9-29053 Filed 12-4-09; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2008-1170; Airspace Docket No. 08-AEA-27]

#### Amendment of the Atlantic Low Offshore Airspace Area; East Coast United States

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

**ACTION:** Final rule.

**SUMMARY:** This action lowers the altitude floor within a part of the Atlantic Low Offshore Airspace Area. This action provides additional controlled airspace to enable air traffic control (ATC) to more efficiently handle arriving instrument flight rules (IFR) aircraft at various coastal airports along the United States (U.S.) east coast.

**DATES:** *Effective Dates:* 0901 UTC, February 11, 2010. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

#### SUPPLEMENTARY INFORMATION:

#### History

On Wednesday January 21, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend the Atlantic Low Offshore Airspace Area (74 FR 3465). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. One comment was received. The commenter expressed support for the proposal.

Currently, ATC cannot vector arriving aircraft below 5,500 feet mean sea level (MSL) while operating within the Atlantic Low Offshore Airspace Area, limiting system efficiency and increasing operational complexity. Lowering the floor of the Atlantic Low Offshore Airspace Area provides additional controlled airspace to allowing ATC to use lower altitudes to vector arriving IFR aircraft at various airports along the U.S. east coast, such as those that receive approach control service from Atlantic City airport traffic control tower (ATCT). The change will increase National Airspace System

(NAS) efficiency and reduce operational complexity.

In the NPRM, the FAA proposed to lower the airspace floor from 5,500 feet MSL to 1,700 feet MSL throughout the entire Atlantic Low Offshore Airspace Area. Following consultations with the Department of Defense (DOD) and a review of ATC requirements, the FAA determined that a 1,700 foot MSL floor was only needed within an 8 nautical mile (NM) wide segment of airspace along the western boundary of the Atlantic Low Offshore Airspace Area. Based on this review, the airspace extending upward from 1,700 feet MSL will apply only to that portion of the Atlantic Low Offshore Airspace Area that lies between a line drawn 12 miles from and parallel to the U.S. shoreline and a line drawn 20 miles from and parallel to the U.S. shoreline. The floor in the remainder of the Atlantic Low Offshore Airspace Area outward from 20 NM from the shoreline will continue to extend upward from 5,500 feet MSL.

This action does not change the status of any warning areas contained within the Atlantic Low Offshore Airspace Area or affect DOD operations conducted therein. As with all warning areas, a letter of agreement between the controlling and using agencies is executed to define the conditions and procedures under which the controlling agency may authorize nonparticipating aircraft to transit the warning area.

With the exception of the change described above, and editorial changes, this amendment is the same as that proposed in the NPRM.

Offshore Airspace Areas are published in paragraph 6007 of FAA Order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Offshore Airspace Area listed in this document will be published subsequently in the order.

#### The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by lowering the floor in a portion of the Atlantic Low Offshore Airspace Area from 5,500 feet MSL to 1,700 MSL within an 8 NM wide band along the western boundary of the Atlantic Low Offshore Airspace Area. The amendment applies to that segment of the Atlantic Low that lies between a line drawn 12 miles from and parallel to the U.S. shoreline and a line drawn 20 miles from and parallel to the U.S. shoreline. The change provides additional controlled airspace allowing ATC to use lower altitudes to vectoring arriving aircraft to various airports along the U.S.

east coast, increasing NAS efficiency and reducing operational complexity.

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 Department of Transportation (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.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is with the scope of that authority as it provides additional controlled airspace for IFR aircraft operations at east coast airports.

#### ICAO Considerations

As part of this action relates to navigable airspace outside the United States, this notice is submitted in accordance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the FAA, Office of System Operations Airspace and AIM, Airspace & Rules, in areas outside the United States domestic airspace, is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of Article 12 and Annex 11 is to ensure that civil aircraft operations

on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply to airspace under the jurisdiction of a contracting state, derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty.

A contracting state accepting this responsibility may apply the International Standards and Recommended Practices that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the Convention, state-owned aircraft are exempt from the Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft. Since this action involves the designation of navigable airspace outside the United States, it has been reviewed by the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

#### Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### **PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

■ 1. The authority citation for part 71 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.

#### **§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009 is amended as follows:

*Paragraph 6007 Offshore Airspace Areas.*

\* \* \* \* \*

#### **Atlantic Low [Amended]**

That airspace extending upward from 5,500 feet MSL bounded on the east by the Moncton FIR and the New York Oceanic CTA/FIR, on the south by lat. 34°00'00"N., on the west and north by a line 12 miles from and parallel to the U.S. shoreline, excluding Federal airways and the East Coast Low offshore airspace area; and that airspace extending upward from 1,700 feet MSL within the portion of the Atlantic Low offshore airspace area that lies between a line drawn 12 miles from and parallel to the U.S. shoreline and a line drawn 20 miles from and parallel to the U.S. shoreline.

\* \* \* \* \*

Issued in Washington, DC, on November 23, 2009.

**Edith V. Parish,**

*Manager, Airspace and Rules Group.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 71**

[Docket No. FAA–2008–1167; Airspace Docket No. 08–ASO–16]

#### **Amendment of the South Florida Low Offshore Airspace Area; Florida**

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

**ACTION:** Final rule.

**SUMMARY:** This action lowers the altitude floor within a part of the South Florida Low Offshore Airspace Area. This action provides additional controlled airspace to enable air traffic control (ATC) to more efficiently handle arriving instrument flight rules (IFR) aircraft at various coastal airports bordering along the South Florida Low Offshore Airspace Area.

**DATES:** *Effective Dates:* 0901 UTC, February 11, 2010. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. **FOR FURTHER INFORMATION CONTACT:** Paul Gallant, Airspace and Rules Group,