order) under 5 U.S.C. 7123(d), the General Counsel may make application for appropriate temporary relief (including a restraining order) in the district court of the United States within which the unfair labor practice is alleged to have occurred or in which the party sought to be enjoined resides or transacts business. Temporary relief may be sought if it is just and proper and the record establishes probable cause that an unfair labor practice is being committed. Temporary relief shall not be sought if it would interfere with the ability of the agency to carry out its essential functions.

(d) Actions subsequent to obtaining appropriate temporary relief. The General Counsel shall inform the district court which granted temporary relief pursuant to 5 U.S.C. 7123(d) whenever an Administrative Law Judge conducts the investigation has resulted in prejudicial error.

§ 2423.11 Determination not to issue complaint; review of action by the Regional Director.

(a) Opportunity to withdraw a charge. If the Regional Director determines that the charge has not been timely filed, the charge fails to state an unfair labor practice, or for other appropriate reasons, the Regional Director may request the Charging Party to withdraw the charge.

(b) Dismissal letter. If the Charging Party does not withdraw the charge within a reasonable period of time, the Regional Director will, on behalf of the General Counsel, dismiss the charge and provide the parties with a written statement of the reasons for not issuing a complaint.

(c) Appeal of a dismissal letter. The Charging Party may obtain review of the Regional Director’s decision to dismiss the charge by filing an appeal with the General Counsel within 25 days after service of the Regional Director’s decision. A Charging Party shall serve a copy of the appeal on the Regional Director. The General Counsel shall serve notice on the Charged Party that an appeal has been filed.

(d) Extension of time. The Charging Party may file a request, in writing, for an extension of time to file an appeal, which shall be received by the General Counsel not later than 5 days before the date the appeal is due. A Charging Party shall serve a copy of the request for an extension of time on the Regional Director.

(e) Grounds for granting an appeal. The General Counsel may grant an appeal when the appeal establishes at least one of the following grounds:

1. The Regional Director’s decision did not consider material facts that would have resulted in issuance of a complaint.
2. The Regional Director’s decision is based on a finding of a material fact that is clearly erroneous.
3. The Regional Director’s decision is based on an incorrect statement or application of the applicable rule of law.
4. There is no Authority precedent on the legal issue in the case.
5. The manner in which the Regional Director conducted the investigation has resulted in prejudicial error.

(f) General Counsel action. The General Counsel may deny the appeal of the Regional Director’s dismissal of the charge, or may grant the appeal and remand the case to the Regional Director to take further action. The General Counsel’s decision on the appeal states the grounds listed in paragraph (e) of this section for denying or granting the appeal, and is served on all the parties. Absent a timely motion for reconsideration, the decision of the General Counsel is final.

(g) Reconsideration. After the General Counsel issues a final decision, the Charging Party may move for reconsideration of the final decision if it can establish extraordinary circumstances in its moving papers. The motion shall be filed within 10 days after the date on which the General Counsel’s final decision is postmarked. A motion for reconsideration shall state with particularity the extraordinary circumstances claimed and shall be supported by appropriate citations. The decision of the General Counsel on a motion for reconsideration is final.

§ 2423.12 Settlement of unfair labor practice charges after a Regional Director determination to issue a complaint but prior to issuance of a complaint.

(a) Bilateral informal settlement agreement. Prior to issuing a complaint, the Regional Director may afford the Charging Party and the Charged Party a reasonable period of time to enter into an informal settlement agreement to be approved by the Regional Director. When a Charged Party complies with the terms of an informal settlement agreement approved by the Regional Director, no further action is taken in the case. If the Charged Party fails to perform its obligations under the approved informal settlement agreement, the Regional Director may institute further proceedings.

(b) Unilateral informal settlement agreement. If the Charging Party elects not to become a party to a bilateral settlement agreement, which the Regional Director concludes effectuates the policies of the Federal Service Labor-Management Relations Statute, the Regional Director may choose to approve a unilateral settlement between the Regional Director and the Charged Party. The Regional Director, on behalf of the General Counsel, shall issue a letter stating the grounds for approving the settlement agreement and declining to issue a complaint. The Charging Party may obtain review of the Regional Director’s action by filing an appeal with the General Counsel in accordance with § 2423.11(c) and (d). The General Counsel may grant an appeal when the Charging Party has shown that the Regional Director’s approval of a unilateral settlement agreement does not effectuate the purposes and policies of the Federal Service Labor-Management Relations Statute. The General Counsel shall take action on the appeal as set forth in § 2423.11(b), (c), (d), (f), and (g).

§§ 2423.13–2423.19 [Reserved]

Dated: January 26, 2010.

Julia Akins Clark,
General Counsel, Federal Labor Relations Authority.

[FR Doc. 2010–2047 Filed 1–29–10; 8:45 am]
BILLING CODE 6727–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71


Establishment of Class D and E Airspace; Panama City, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class D and E airspace at Panama City, FL, to accommodate new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAPs) for the new Northwest Florida-Panama City International Airport. This action would enhance the safety and management of instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before March 18, 2010.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–
The FAA has determined that this proposal would establish Class D and E airspace at Panama City, FL. Thus, pursuant to DOT Regulation 5-10-22.1, the FAA has decided to promulgate this rulemaking.

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to establish Class D and E airspace at Panama City, FL. Class D airspace extending upward from the surface to 2,500 feet MSL within a 7.2-mile radius of the Northwest Florida-Panama City International Airport, and Class E airspace extending from 700 feet above the surface within a 7.2-mile radius of the airport is necessary for the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would establish Class D and E airspace at Panama City, FL.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 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 will continue to read as follows:


   § 71.1 [Amended]

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

   Paragraph 5000 Class D Airspace.

   ASO FL D Panama City, FL [New]

   Northwest Florida-Panama City International Airport, FL (Lat. 30°21′28″ N., long. 85°47′56″ W.)
That airspace extending upward from the surface up to and including 2,500 feet MSL within a 4.7-mile radius of the Northwest Florida-Panama City International Airport. This Class D airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6005 Class E Airspace Extending Upward From 700 Feet or More Above the Surface of the Earth.

ASO FL E5 Panama City, FL [New]
Northwest Florida-Panama City International Airport, FL
(Lat. 30°21′28″ N., long. 85°47′56″ W.)

That airspace extending upward from 700 feet above the surface of the Earth within a 7.2-mile radius of the Northwest Florida-Panama City International Airport.

Issued in College Park, Georgia, on January 21, 2010.

Michael Vermuth.
Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

I. Availability of Information
MSHA will post all comments on the Internet without change, including any personal information provided. Access comments electronically at http://www.msha.gov under the “Rules andRegs” link. Review comments in person at the Office of Standards, Regulations, and Variances, MSHA, at silvey.patricia@dol.gov (e-mail), 202–693–9440 (voice), or 202–693–9441 (Facsimile).

SUPPLEMENTARY INFORMATION:

A. Review of Proximity Detection

Proximity detection is a technology that uses electronic sensors to detect motion or the location of one object relative to another object. Although the technology is not new, application of this technology to mobile equipment in underground mines is new.

MSHA is requesting regulatory action and, if so, how. MSHA is also requesting information regarding whether the use of proximity detection systems would reduce the risk of accidents where mobile equipment pins, crushes, or strikes miners in underground mines and, if so, how. MSHA is also requesting information to determine if the Agency should consider regulatory action and, if so, what type of regulatory action would be appropriate.

D. Dates: Comments must be received by midnight Eastern Standard Time on April 2, 2010.

B. Addresses: Comments must be identified with “RIN 1219–AB65” and may be sent to MSHA by any of the following methods:

- Federal E-Rulemaking Portal:
  http://www.regulations.gov. Follow the on-line instructions for submitting comments.
- Electronic mail: zzMSHA-Comments@dol.gov. Include “RIN 1219–AB65” in the subject line of the message.
- Hand Delivery or Courier: MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Sign in at the receptionist’s desk on the 21st floor.

For further information contact:
Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, at silvey.patricia@dol.gov (e-mail), 202–693–9440 (voice), or 202–693–9441 (Facsimile).

I. Availability of Information

MSHA will post all comments on the Internet without change, including any personal information provided. Access comments electronically at http://www.msha.gov under the “Rules andRegs” link. Review comments in person at the Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Sign in at the receptionist’s desk on the 21st floor.

MSHA maintains a list that enables subscribers to receive e-mail notification when the Agency publishes rulemaking documents in the Federal Register. To subscribe, go to http://www.msha.gov/ subscriptions/subscribe.aspx.

Information on MSHA-approved proximity detection systems is available on the Internet at www.msha.gov/Accident_Prevention/NewTechnologies/ProximityDetection/ProximitydetectionSingleSource.asp.

II. Background

A. Review of Proximity Detection Technology and Proximity Detection Systems

Proximity detection is a technology that uses electronic sensors to detect motion or the location of one object relative to another object. Although the technology is not new, application of this technology to mobile equipment in underground mines is new.

MSHA conducted tests in collaboration with proximity detection manufacturers and mine operators at mine sites from 2002 to 2006. The National Institute for Occupational Safety and Health [NIOSH] has conducted research on proximity detection technologies independently at various times since the mid-1990s to present day. The technologies include radio, ultrasonic, radar, infrared, and electromagnetic field based systems.

After reviewing the different types of systems, MSHA determined that the electromagnetic field based system offers the greatest potential for reducing pinning, crushing, and striking hazards to: (1) Remote control continuous mining machine (RCCM) operators and (2) other miners working near RCCMs.

An electromagnetic field based system consists of a combination of electromagnetic field generators and field detecting devices. One example of an electromagnetic field based system uses electromagnetic field generators that are installed on an RCCM and electronic sensing devices that are worn by persons operating the RCCM or working near the RCCM. Another electromagnetic field based system uses field generators worn by the operator of the RCCM and persons working near the RCCM and the sensing devices are installed on the RCCM. These electromagnetic field based systems can be programmed to provide warnings to affected miners or stop the RCCM, or both, when the RCCM operator or other miners get within the predefined danger zone of the RCCM.

In 1998, MSHA studied accidents involving RCCMs and determined that a proximity detection system has the potential to prevent accidents that occur when an RCCM operator or another miner gets within the predefined danger zone of the RCCM. In 2002, in response to an increase in accidents involving RCCMs, MSHA initiated a project in cooperation with a proximity detection system manufacturer and an underground coal mine operator. The Agency’s goal was to have the manufacturer develop and test an electromagnetic field based system on an RCCM in an underground coal mine. In 2004, MSHA assisted a second manufacturer with the development of an electromagnetic field based system. The field tests of these two systems focused on addressing hazards to the RCCM operator, but the systems could be adapted to address hazards to other miners working near the RCCM.

MSHA approved both of these systems in 2006 and a third system in 2009 under existing regulations in 30 CFR part 18. These approvals ensure that the systems will not introduce an ignition hazard when operated in potentially explosive atmospheres. The three approved systems are: The Frederick Mining Controls, LLC, HazardAvert™ System,