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Issued in Burlington, Massachusetts, on July 30, 2010.

**Peter A. White,**

*Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2010-0187; Airspace Docket No. 09-AWP-10]

RIN 2120-AA66

#### Amendment of the Pacific High and Low Offshore Airspace Areas; California

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies the Pacific High and Low Offshore Airspace Areas to provide additional airspace in which domestic air traffic control procedures can be used to separate and manage aircraft operations in the currently uncontrolled airspace off the California coast. This change will enhance the efficient utilization of that airspace within the National Airspace System.

**DATES:** Effective date 0901 UTC, November 18, 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:** Ken McElroy, 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 Monday, June 7, 2010, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify the Pacific High and Low

Control Areas (75 FR 32119). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received. The proposed legal description contained the exclusion of active warning area airspace; it was brought to our attention that it was not necessary to exclude active warning areas in the description since active warning areas are excluded by policy. With this exception, this amendment is the same as that proposed in the NPRM.

#### The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying the Pacific High and Low Offshore Airspace Areas, by extending the present airspace boundaries further southeast of the current location to the Mexico FIR capturing pockets of uncontrolled airspace off the California coast. This modification will allow the application of domestic ATC separation procedures in lieu of ICAO separation and enhance system capacity and allow for more efficient utilization of that airspace.

Offshore airspace areas are published in paragraph 2003 and 6007, respectfully, 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 listed in this document will be published subsequently in the Order.

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 within the scope of that authority as it modifies the high and low offshore airspace areas off the coast of California.

#### ICAO Considerations

As part of this action relates to navigable airspace outside the United States, this notice is submitted in accordance with the 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 and Rules Group, 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, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

**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 2003 Offshore Airspace Areas*  
\* \* \* \* \*

**Pacific High, CA [Amended]**

That airspace extending upward from 18,000 feet MSL to and including FL 600 bounded on the north by the Vancouver FIR boundary, on the east by a line 12 miles from and parallel to the U.S. shoreline, and on the south by the Mexico FIR boundary, and on the west by the Oakland Oceanic CTA/FIR boundary.

\* \* \* \* \*

*Paragraph 6007 Offshore Airspace Areas*  
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**Pacific Low, CA [Amended]**

That airspace extending upward from 5,500 feet MSL bounded on the north by the Vancouver FIR boundary, on the east by a line 12 miles from and parallel to the U.S. shoreline, and on the south by the Mexico FIR boundary, and on the west by the Oakland Oceanic FIR boundary.

Issued in Washington, DC, on August 11, 2010.

**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–2010–0365; Airspace Docket No. 10–AAL–12]

**RIN 2120–AA66**

**Amendment of Colored Federal Airway B–38; Alaska**

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

**ACTION:** Final rule.

**SUMMARY:** This action amends Colored Federal Airway Blue 38 (B–38), in Alaska. Specifically, this action removes a segment of B–38 from Haines Non-directional Beacon (NDB) to the Whitehorse, Yukon Territories Canada (XY NDB). The FAA is taking this action in preparation of the eventual decommissioning of XY NDB by the Canadian Air Authority NAV CANADA.

**DATES:** Effective date 0901 UTC, November 18, 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:** Ken McElroy, 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 June 7, 2010, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Colored Federal Airway B–38 in Alaska, (75 FR 32117). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received. This amendment is the same as that proposed in the NPRM.

**The Rule**

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Colored Federal Airway B–38, Alaska, terminating the airway at the HNS NDB, AK, instead of the XY NDB, Canada. The Canadian Air Authority NAV CANADA recently conducted a study to determine the feasibility of keeping the XY NDB operational. NAV CANADA determined it is no longer feasible and will be decommissioning the XY NDB.

Blue Federal Airways are published in paragraph 6009(d) 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 Colored Federal Airway listed in this document will be published subsequently in the Order.

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 within the scope of that authority as it modifies a Colored Federal Airway in Alaska.

**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).