

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

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. It, therefore—(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. Because this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 1, 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 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Platinum Airport and represents the FAA’s continuing effort to safely and efficiently use the navigable airspace.

#### 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, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

■ 1. The authority citation for 14 CFR 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 Federal Aviation Administration Order 7400.9U, *Airspace Designations and Reporting Points*, signed August 18, 2010, and effective September 15, 2010, is amended as follows:

*Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

#### **AAL AK E5 Platinum, AK [Revised]**

Platinum Airport, AK

(Lat. 59°00′57″ N., long. 161°49′31″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Platinum Airport, and the airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Platinum Airport.

\* \* \* \* \*

Issued in Anchorage, AK, on February 4, 2011.

**James M. Miller,**

*Acting Manager, Alaska Flight Services Information Area Group.*

[FR Doc. 2011–3250 Filed 2–14–11; 8:45 am]

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 77**

[Docket No.: FAA–2006–25002; Amendment No. 77–13]

**RIN 2120–AH31**

#### **Safe, Efficient Use and Preservation of the Navigable Airspace; OMB Approval of Information Collection**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; OMB approval of information collection.

**SUMMARY:** This document announces the Office of Management and Budget’s (OMB’s) approval of the information collection requirements in the final rule, published on July 21, 2010, entitled *Safe, Efficient Use and Preservation of the Navigable Airspace*.

**DATES:** The final rule published on July 21, 2010 with an effective date of January 18, 2011. The FAA received OMB approval for the information collection requirements in the final rule on January 14, 2011. The information collection requirements in the final rule will become effective on February 15, 2011.

**FOR FURTHER INFORMATION CONTACT:** For technical questions about the final rule,

contact Ellen Crum, Air Traffic Systems Operations, Airspace and Rules Group, AJR–33, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–8783; facsimile (202) 267–9328.

**SUPPLEMENTARY INFORMATION** On July 21, 2010, the final rule entitled *Safe, Efficient Use and Preservation of the Navigable Airspace*, was published in the **Federal Register**.<sup>1</sup> In that rule, the FAA amended the regulations governing objects that may affect the navigable airspace to incorporate case law and legislative action, and to simplify the rule language.

In section III<sup>2</sup> of the preamble to the final rule, the FAA noted that affected parties were not required to comply with the new information collection requirements until OMB approved the FAA’s request to collect the information.

In accordance with the Paperwork Reduction Act, the FAA submitted a copy of the new information collection requirements to OMB for its review. On January 14, 2011, OMB approved the FAA’s request under Control Number 2120–0745, which will expire January 31, 2013.

Today’s notice is being published to inform affected parties of OMB’s approval, and to announce that as of the effective date of this notice, affected parties must comply with the new information collection requirements in 14 CFR 77.7, 77.9, and 77.11.

As part of OMB’s approval, it advised the FAA that because the form<sup>3</sup> that will be used to collect the new information was previously approved under existing Control Number 2120–0001, the FAA must revise 2120–0001 to incorporate the new information collection requirements and submit the revision to OMB for approval. Accordingly, the FAA will prepare the revision and publish it in the **Federal Register** for public comment. The FAA will consider the comments it receives before finalizing the revision and sending it to OMB for approval. Meanwhile, affected parties must comply with the information collection requirements in the final rule, *Safe, Efficient Use and Preservation of the Navigable Airspace*, according to OMB’s approval under Control Number 2120–0745.

<sup>1</sup> 75 FR 42296; July 21, 2010.

<sup>2</sup> Paperwork Reduction Act.

<sup>3</sup> FAA Form 7460–1; Notice of Proposed Construction or Alteration.

Issued in Washington, DC, on February 9, 2011.

**Pamela Hamilton-Powell,**

*Director, Office of Rulemaking.*

[FR Doc. 2011-3312 Filed 2-14-11; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 440

[Docket No. FAA-2010-1150; Amendment No. 440-2]

RIN 2120-AJ85

#### Clarification of Reciprocal Waivers of Claims for Multiple-Customer Commercial Space Launch and Reentry

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

**ACTION:** Technical amendment.

**SUMMARY:** This action clarifies a reciprocal waiver of claims requirement for an FAA authorized launch or reentry in which a licensee or permittee has multiple customers. There has been confusion about whether all customers must sign or whether one customer can sign such an agreement on behalf of all customers. This action eliminates any confusion by clarifying that a reciprocal waiver of claims requires each customer to enter into a waiver with the U.S. Government and the licensee or permittee. However, this action does not change the existing practice for government customers, which is that the FAA signs on their behalf.

**DATES:** This amendment becomes effective March 17, 2011.

**FOR FURTHER INFORMATION CONTACT:** Laura Montgomery, Senior Attorney for Commercial Space Transportation, Office of the Chief Counsel, Regulations Division, AGC-200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3150; facsimile (202) 267-7971; e-mail [laura.montgomery@faa.gov](mailto:laura.montgomery@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

The statute under which the Secretary of Transportation regulates commercial space transportation, 51 U.S.C. subtitle V, chapter 509, sections 50901-50923 (chapter 509), requires that, for each commercial space launch or reentry, the Department of Transportation (DOT) and, through delegation, the Federal Aviation Administration (FAA) enter into a reciprocal waiver of claims

agreement with “the licensee or transferee, contractors, subcontractors, crew, space flight participants, and customers of the licensee or transferee, and contractors and subcontractors of the customers \* \* \*” 51 U.S.C. 50914(b)(2). This requirement also applies to permittees under 51 U.S.C. 50906(i). This rule changes Title 14, Code of Federal Regulations (14 CFR) 440.17(c) to more clearly track Congress’ requirement that the reciprocal waiver of claims include all “customers of the licensee or transferee \* \* \*” *Id.* (emphasis added).

##### Prior Rulemakings

Enacted in 1998, § 440.17(c) requires that the U.S. Government, commercial space launch and reentry licensees, and the licensees’ customers enter into a reciprocal waiver of claims agreement with the government. *See Financial Responsibility Requirements for Licensed Launch Activities*, 63 FR 45592 (Aug. 26, 1998) (final rule); and *Financial Responsibility Requirements for Licensed Launch Activities*, 61 FR 38992 (Jul. 25, 1996) (notice of proposed rulemaking) (“Financial Responsibility NPRM”). The regulation was amended to require a waiver between the U.S. Government, permittees, and the permittees’ customers. *See Human Space Flight Requirements for Crew and Space Flight Participants*, 71 FR 75616 (Dec. 5, 2006) (final rule); and *Experimental Permits for Reusable Suborbital Rockets*, 70 FR 77262 (Dec. 29, 2005) (notice of proposed rulemaking).

##### Background

The FAA is required by 51 U.S.C. 50914(b)(2) and 50906(i) to enter into a reciprocal waiver of claims agreement with the customers of a licensee or permittee for commercial space flight. The pertinent part of the regulation for implementing this congressional requirement, § 440.17(c), currently mandates that the licensee or permittee and its customer enter into a three-party reciprocal waiver of claims agreement when conducting a licensed or permitted activity in which the federal government, any agency, or its contractors and subcontractors is involved. This requirement also applies to activities where property insurance is required under § 440.9(d).

Unfortunately, the FAA has found that this language has created confusion. The term “three-party reciprocal waiver,” in particular, has prompted some customers of commercial space launches to believe that only three parties were necessary to complete the waiver, even if there were multiple

customers; and so, under this interpretation, only one customer was considered necessary to sign the waiver. Further, Appendix B and Appendix C of part 440 define, “Customer” as the above-named Customer on behalf of the Customer and any person described in § 440.3 of the regulations. Again, customers sometimes read this language to suggest that one customer could sign on behalf of the other customers.

However, a plain language reading of the statute makes it clear that Congress intended the government to enter into a reciprocal waiver of claims with all customers. *See* 51 U.S.C. 50914(b)(2). Further, the notice of proposed rulemaking (NPRM) for § 440.17 shows that the regulation actually captures all customers within the reciprocal waiver requirement. As noted in the Financial Responsibility NPRM:

A question has been raised by a payload company as to the Office’s requirements when multiple customers contract with a launch operator for launch services or there is more than one customer’s payload on the launch manifest for a single launch. In those cases, executing a single waiver of claims agreement that includes each customer as a party to the agreement, or executing separate but appropriately modified agreements, would serve to ensure all parties have been included and protected as intended.

*See Financial Responsibility NPRM*, 61 FR at 39012. Also, in practice, the FAA has held the view that all customers must enter into the reciprocal waiver of claims and has ensured that each customer enter into the waiver of claims.

The changes to Appendix B and Appendix C of part 440 provide examples of waiver agreements for multiple-customer launches and reentries. These examples are included for the convenience of parties involved in commercial space activities. The FAA’s intent with these examples is to clarify that each customer must waive claims against all other customers, the U.S. Government, and the licensee or permittee. Each customer is also required to indemnify these other parties against claims by the customer’s own contractors and subcontractors.

Further, each customer must extend the reciprocal waiver of claims to its own contractors and subcontractors. However, in no case is any one customer required to indemnify against claims brought by another customer, or to extend the reciprocal waiver of claims to other customers or the contractors and subcontractors of any other customer. Thus, the definition of “customer” in the appendices has been clarified to ensure that one customer cannot sign on behalf of other