

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 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 establishes controlled airspace at Magee Municipal Airport, Magee, MS.

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.

Lists 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 Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO MS E5 Magee, MS [New]

Magee Municipal Airport, MS
(Lat. 31°51'46" N., long. 89°48'02" W.)

That airspace extending upward from 700 feet above the surface within a 6.3- mile radius of Magee Municipal Airport.

Issued in College Park, Georgia, on November 20, 2013.

Kip B. Johns,

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

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instruction 2 and the geographic coordinates listed in the airspace designation of the Class E airspace for Umatilla Municipal Airport, Umatilla, FL, as published in the **Federal Register** of August 23, 2013, (78 FR 52425), FR Doc. 2013-20512, are corrected as follows:

PART 71 [AMENDED]

- 1. On page 52425, column 3, revise amendatory instruction 2 to read: The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

ASO FL E5 Umatilla, FL [Corrected]

- 2. On page 52425, column 3, line 59, remove, "lat. 28°55'27" N., long. 82°39'07" W.", and insert "lat. 28°55'27" N., long. 81°39'07" W".

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Kip B. Johns,

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 460

Interpretation Concerning Involvement of NASA Astronauts During a Licensed Launch or Reentry

AGENCY: Federal Aviation Administration, DOT.

ACTION: Interpretation.

SUMMARY: This interpretation responds to a request from the National Aeronautics and Space Administration (NASA) regarding whether the space transportation regulations of the Federal Aviation Administration (FAA) would restrict NASA astronauts from performing operational functions during a commercial space launch or reentry under license from the FAA.

DATES: Effective December 2, 2013.

FOR FURTHER INFORMATION CONTACT: For technical questions, contact Pam Underwood, Deputy Manager, Operations Integration Division; *pam.underwood@faa.gov*. For legal questions, contact Alex Zektser, Office of the Chief Counsel, International Law, Legislation, and Regulations Division, Federal Aviation Administration; email *alex.zektser@faa.gov*.

SUPPLEMENTARY INFORMATION:

History

On August 23, 2013, the FAA published a final rule in the **Federal Register** establishing Class E airspace at Umatilla Municipal Airport, Umatilla, FL (78 FR 52425). After publication, the FAA found that the geographic coordinates of the airport were incorrect. The longitude coordinate is corrected from "long. 82°39'07" W." to "long. 81°39'07" W."

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, amendatory

SUPPLEMENTARY INFORMATION:**Background**

On July 3, 2013, NASA asked the FAA whether the FAA would restrict NASA astronauts, who are U.S. Government employees, from engaging in operational functions during an FAA-licensed launch or reentry. NASA noted that all NASA astronauts undergo extensive training and must meet rigorous medical and training requirements. NASA will also ensure astronauts complete training specific to each launch and reentry operator's vehicle and operations.

Specifically, NASA asked whether, under the FAA's statute and regulations, a NASA astronaut flying as a space flight participant could engage in "all nominal and off-nominal operational functions," including "the conduct of aborts, emergency response, and monitoring and operating environmental controls and life support systems." NASA also asked the FAA whether NASA's astronauts could "perform operational activities up to and including flight." In response to NASA's question, the FAA examined the launch and reentry scenarios currently envisioned, and concludes that NASA astronauts may perform these functions in FAA-licensed launches and reentries.

Scenarios

The FAA understands that the following scenarios are likely, but not definite. It is the FAA's understanding that a NASA astronaut's interaction with the controls of a launch or reentry vehicle may vary depending on a launch or reentry operator's designs and operational procedures, which are currently under development. During a nominal launch, a launch operator under an FAA license would most likely conduct the ascent using a flight computer as the primary means of controlling the flight path of the vehicle. Any persons on board would not likely affect the flight path of the launch vehicle. If an emergency situation arose, a NASA astronaut could override the launch operator's flight computer to initiate an abort from the launch vehicle and take manual control of the spacecraft atop the launch vehicle. NASA astronaut emergency operations could include manually initiating an abort, using thrusters to orient a capsule to support chute deployment, and subsequent deployment of any parachutes. Emergency operations could also include the NASA astronaut manually piloting a vehicle to a water or runway landing.

For a reentry, a licensed operator's flight computer could serve as the

primary means of controlling the flight path of the vehicle during a nominal reentry. A NASA astronaut might manually initiate the reentry burn, and the flight computer could conduct the reentry of the vehicle during nominal operations. The NASA astronaut could also have the capability to take manual control over the reentry vehicle in an off-nominal or emergency situation. During an off-nominal or emergency situation, the NASA astronaut would, much of the time, be using procedures or training prepared by the reentry operator.

Discussion*A. Space Flight Participants Who are NASA Astronauts*

Based on the above scenarios, we conclude that, under 51 U.S.C. ch. 509 (Chapter 509), the FAA's space regulations at 14 CFR ch. III, and consistent with the FAA's discussion of its human space flight requirements,¹ a NASA astronaut may engage in operational functions, up to and including piloting the vehicle, the conduct of aborts, emergency response, and monitoring and operating environmental controls and life support systems, and the launch or reentry would remain under FAA jurisdiction.

Chapter 509 addresses crew and space flight participants, and, according to Chapter 509's definition, NASA astronauts are space flight participants. Chapter 509 defines "crew" as "any employee of a licensee or transferee, or of a contractor or subcontractor of a licensee or transferee, who performs activities in the course of that employment directly relating to the launch, reentry, or other operation of or in a launch vehicle or reentry vehicle that carries human beings." 51 U.S.C. 50902(2). Conversely, a "space flight participant" is "an individual, who is not crew, carried within a launch vehicle or reentry vehicle." *Id.*

§ 50902(17). Because a NASA astronaut is not an employee of a licensee or transferee, or of a contractor or subcontractor of a licensee or transferee, a NASA astronaut is not crew. Consequently, a NASA astronaut who is being carried within a launch or reentry vehicle is a space flight participant.

B. Limitations

Chapter 509 does not specify any limitations on a space flight participant's conduct or operations during a launch or reentry. Similarly, FAA regulations implementing Chapter

509 for space flight participants, codified at 14 CFR part 460, also do not specify any limitations on a space flight participant's conduct or operations during a launch or reentry. See 14 CFR 460.41, *et. seq.*² The only place where the FAA limits space-flight-participant conduct or operations is in the preamble to the Human Space Flight rule that created part 460. There the FAA states that:

For public safety reasons, the FAA will not allow space flight participants to pilot launch or reentry vehicles at this time. A space flight participant who wants to pilot a launch or reentry vehicle would have to become an employee or independent contractor of the operator to acquire vehicle and mission-specific training. The operator will be in a better position to evaluate the skills of an employee or independent contractor than of a space flight participant, particularly as those skills relate to the requirements of the operator's particular vehicle. The FAA acknowledges that this restriction may create a dilemma for someone who wishes to acquire training in order to become employed, but, while the technology is so new, it is important for public safety that pilots be highly skilled at the outset.³

As can be seen, the FAA's concern with space flight participants interacting with a launch or reentry vehicle was based on the possibility that space flight participants would not have the proper vehicle and mission-specific training. However, as NASA notes, NASA astronauts must meet rigorous medical and training requirements, which include training specific to each mission, launch vehicle, and reentry vehicle. Because NASA astronauts are not the untrained space-flight participants originally contemplated by the FAA, the considerations underlying the policy have, at best, a limited applicability to NASA astronauts. Thus, for the scenarios currently envisioned, NASA astronauts may engage in operational activities during a licensed launch or reentry to ensure safety and mission success.

C. Jurisdiction

We note that Chapter 509 does not apply to launches or reentries the U.S. Government carries out for itself. 51 U.S.C. 50919(g). Accordingly, NASA is not carrying out the launches or reentries that are subject to Chapter 509. In the event, not contemplated in this interpretation, that a NASA astronaut

² The pertinent FAA regulations simply require that space flight participants: (1) be informed of risk; (2) execute a waiver of claims against the U.S. Government; (3) receive training on how to respond to emergency situations; and (4) not carry any weapons onboard. See 14 CFR §§ 460.45–460.53.

³ *Human Space Flight Requirements Final Rule*, 71 FR at 75618.

¹ *Human Space Flight Requirements for Crew and Space Flight Participants, Final Rule*, 71 FR 75616 (Dec. 15, 2006) ("Human Space Flight Rule").

exercised sufficient operational control to carry out the launch or reentry, § 50919(g) would serve as a bar to FAA licensing the activity.

In the scenarios described above, as currently under development by launch and reentry operators, the NASA astronaut would likely not affect the flight path of the vehicle during a nominal launch. During a launch, the astronaut would likely only manipulate the flight path of the vehicle if an emergency arose. Accordingly, section 50919(g) would not limit a NASA astronaut's ability to engage in operational functions during launch. Most of the conduct or operations would simply constitute the execution of emergency training required of space flight participants by § 460.51.

The analysis for a reentry is similar to that of a launch, with some additional consideration for the possible manual operation of the reentry vehicle by a NASA astronaut. Specifically, a NASA astronaut could initiate reentry manually, but because the scenarios have the reentry operator's flight computer directing the reentry, the NASA astronaut's interaction would not be sufficient to constitute NASA carrying out the reentry. Additionally, the NASA astronaut's exercise of manual control over the vehicle in an off-nominal situation would also not rise to NASA carrying out the reentry because, as discussed above, in an off-nominal situation, the astronaut would largely be implementing procedures created by a commercial launch or reentry operator for purposes of safety or mission success.

In conclusion, Chapter 509 and the FAA's regulations impose no operational constraints on NASA astronauts for the scenarios envisioned here.

Issued in Washington, DC, on November 21, 2013.

Mark W. Bury,

Assistant Chief Counsel for International Law, Legislation and Regulations.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA-374]

Schedules of Controlled Substances: Placement of Perampanel into Schedule III

AGENCY: Drug Enforcement Administration, Department of Justice.
ACTION: Final rule.

SUMMARY: With the issuance of this final rule, the Deputy Administrator of the Drug Enforcement Administration (DEA) places the substance perampanel [2-(2-oxo-1-phenyl-5-pyridin-2-yl-1,2-dihydropyridin-3-yl) benzonitrile], including its salts, isomers, and salts of isomers, into schedule III of the Controlled Substances Act (CSA). This scheduling action is pursuant to the CSA which requires that such actions be made on the record after opportunity for a hearing through formal rulemaking. This action imposes the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule III controlled substances on persons who handle (manufacture, distribute, dispense, import, export, engage in research, conduct instructional activities with, or possess) or propose to handle perampanel.

DATES: Effective Date: January 2, 2014.

FOR FURTHER INFORMATION CONTACT: Ruth A. Carter, Chief, Policy Evaluation and Analysis Section, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (202) 598-6812.

SUPPLEMENTARY INFORMATION:

Legal Authority

The DEA implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. Titles II and III are referred to as the "Controlled Substances Act" and the "Controlled Substances Import and Export Act," respectively, but they are collectively referred to as the "Controlled Substances Act" or the "CSA" for the purposes of this action. 21 U.S.C. 801-971. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR) parts 1300 to 1321. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while

providing for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, controlled substances are classified in one of five schedules based upon their potential for abuse, their currently accepted medical use, and the degree of dependence the substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c) and the current list of scheduled substances is published at 21 CFR part 1308.

Pursuant to 21 U.S.C. 811(a)(1), the Attorney General may, by rule, "add to such a schedule or transfer between such schedules any drug or other substance if he (A) finds that such drug or other substance has a potential for abuse, and (B) makes with respect to such drug or other substance the findings prescribed by [21 U.S.C. 812(b)] for the schedule in which such drug is to be placed. . . ." Pursuant to 28 CFR 0.100(b), the Attorney General has delegated this scheduling authority to the Administrator of the DEA, who has further delegated this authority to the Deputy Administrator of the DEA. 28 CFR 0.104.

The CSA provides that scheduling of any drug or other substance may be initiated by the Attorney General (1) on his own motion; (2) at the request of the Secretary of the Department of Health and Human Services (HHS),¹ or (3) on the petition of any interested party. 21 U.S.C. 811(a). This action is based on a recommendation from the Assistant Secretary of the HHS and on an evaluation of all other relevant data by the DEA. This action imposes the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule III controlled substances on persons who handle or propose to handle perampanel.

Background

Perampanel [2-(2-oxo-1-phenyl-5-pyridin-2-yl-1,2-dihydropyridin-3-yl) benzonitrile] is a new chemical entity with central nervous system (CNS)

¹ As set forth in a memorandum of understanding entered into by the HHS, the Food and Drug Administration (FDA), and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1995. In addition, because the Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations, for purposes of this document, all subsequent references to "Secretary" have been replaced with "Assistant Secretary."