

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 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010, is amended as follows:

Paragraph 2006 United States Area Navigation Routes

* * * * *

Q-37 FST, TX to PUB, CO [New]

FST VORTAC

(Lat. 30°57'08" N., long. 102°58'33" W.)

CAVRN Fix

(Lat. 31°49'31" N., long. 104°00'42" W.)

YORUB WP

(Lat. 32°55'52" N., long. 104°14'01" W.)

IMMAS Fix

(Lat. 34°54'18" N., long. 104°18'53" W.)

PUB VORTAC

(Lat. 38°17'39" N., long. 104°25'46" W.)

* * * * *

Issued in Washington, DC, on August 15, 2011.

Gary A. Norek,

Acting Manager, Airspace, Regulations and ATC Procedures Group.

[FR Doc. 2011–21290 Filed 8–19–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0378; Airspace Docket No. 11–AEA–11]

Establishment of Class E Airspace; Forest, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E Airspace at Forest, VA, to accommodate the new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures serving New London

Airport. This action enhances the safety and airspace management of Instrument Flight Rules (IFR) operations within the National Airspace System.

DATES: Effective 0901 UTC, October 20, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

History

On June 13, 2011, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish Class E airspace at Forest, VA (76 FR 34196) Docket No. FAA–2011–0378. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9U dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes the Class E airspace extending upward from 700 feet above the surface at Forest, VA, to provide the controlled airspace required to support the new RNAV GPS standard instrument approach procedures developed for New London Airport. This action is necessary for the safety and management of IFR operations at the airport.

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, is non-controversial and unlikely to result in adverse or negative comments. 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. 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 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 New London Airport, Forest, VA.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

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§ 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, dated August 18, 2010, effective September 15, 2010, is amended as follows:

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

* * * * *

AEA VA E5 Forest, VA [New]

New London Airport, VA

(Lat. 37°16'18" N., long. 79°20'9" W.)

That airspace extending upward from 700 feet above the surface within a 8.4-mile radius of the New London Airport, and within 2 miles either side of the 347° bearing from the airport extending from the 8.4-mile radius to 12.1 miles northwest of the airport.

Issued in College Park, Georgia, on August 9, 2011.

Mark D. Ward,

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 119, 125, 133, 137, 141, 142, 145, and 147

[Docket No. FAA-2008-1154; Amendment Nos. 91-325, 119-5, 125-61, 133-14, 137-16, 141-16, 142-8, 145-29, and 147-7]

RIN 2120-AJ36

Restrictions on Operators Employing Former Flight Standards Service Aviation Safety Inspectors

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will prohibit any person holding a certificate from knowingly employing, or making a contractual arrangement with, certain individuals to act as an agent or a representative of the certificate holder in any matter before the FAA under certain conditions. These restrictions will apply if the individual, in the preceding 2-year period directly served as, or was directly responsible for the oversight of, a Flight Standards Service Aviation Safety Inspector, and had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder. This rule will also apply to persons who own or manage fractional ownership program aircraft that are used to conduct operations under specific regulations described in this document. This rule will establish these restrictions to prevent potential organizational conflicts of interest which could adversely affect aviation safety.

DATES: *Effective Date:* This amendment becomes effective October 21, 2011.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this final rule, contact Nancy Lauck Claussen, Federal Aviation Administration, Air Transportation Division, AFS-200, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8166; e-mail Nancy.L.Claussen@faa.gov. For legal questions concerning this final rule, contact Paul G. Greer, Federal Aviation Administration, Office of the Chief Counsel, 800 Independence Avenue,

SW., Washington, DC 20591; telephone 202-267-3073; e-mail Paul.G.Greer@faa.gov.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator, to include the authority to issue, rescind, and revise regulations. 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, chapter 447, Safety Regulation. Under section 44701(a) the FAA is charged with promoting the safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security.

I. Background

On March 5, 2008, the FAA proposed a \$10.2 million civil penalty against a major airline for operating 46 airplanes without performing mandatory inspections for fuselage fatigue cracking. The FAA alleged that the airline operated 46 Boeing 737 airplanes on almost 60,000 flights from June 2006 to March 2007 while failing to comply with an existing FAA Airworthiness Directive (AD) that required repetitive inspections of certain fuselage areas to detect fatigue cracking.

Based on this event, on June 30, 2008, the Department of Transportation (DOT) Office of Inspector General issued a report on its review of the FAA's oversight of airlines and use of regulatory partnership programs. The report concluded that the FAA Certificate Management Office (CMO) overseeing the airline that failed to perform the required inspections had developed an overly collaborative relationship with the airline. The report recommended that the FAA should enhance management controls by implementing post-employment guidance that includes a "cooling-off" period to prohibit an air carrier from hiring an FAA Flight Standards Service Aviation Safety Inspector (AFS ASI) who previously inspected that air carrier from acting in any type of liaison capacity between it and the FAA. A full copy of the report is contained in the docket for this rulemaking.

On September 2, 2008, an independent review team, appointed by former Secretary of Transportation Mary E. Peters on May 1, 2008 to examine the

FAA's safety culture and its implementation of safety management systems, issued its report titled, "Managing Risks in Civil Aviation: A Review of the FAA's Approach to Safety." The report stated that "[t]he FAA, like all other regulators, faces the danger of regulatory capture. Capture occurs when a regulatory agency draws so close to those with whom it deals on a daily basis (*i.e.* the regulated) that the agency ends up elevating their concerns at the expense of the agency's core mission." A full copy of the report may be found in the docket for this rulemaking.

A. Summary of the NPRM

The NPRM was published in the **Federal Register** on November 20, 2009 (74 FR 60218) and the comment period closed on February 18, 2010. The NPRM proposed to prohibit any person holding a certificate to conduct operations under parts 121, 125, 133, 135, 137, 141, 142, 145 or 147 from knowingly employing, or making a contractual arrangement with, certain individuals to act as an agent or a representative of the certificate holder in any matter before the FAA under certain conditions. These restrictions would apply if the individual, in the preceding 2-year period: (1) Directly served as, or was directly responsible for the oversight of, an AFS ASI; and (2) had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder. The NPRM also proposed to apply to persons who own or manage fractional ownership program aircraft that are used to conduct operations under subpart K of part 91. The FAA proposed to establish these restrictions to prevent potential organizational conflicts of interest which could adversely affect aviation safety.

B. Discussion of the Comments

The FAA received five comments on the proposed rule, all from individual commenters. The FAA did not receive comments from airlines, trade associations, or labor organizations. The three adverse comments addressed the applicability of the rule, and the potential burdens the rule could create. Two comments expressed support for the rule. Commenters also suggested changes, as discussed more fully in this section.

1. Applicability of Employment Prohibition to Additional FAA Employees

Two individual commenters stated that the provisions in the proposed rule should be expanded to include FAA