

Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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 amends the Class E airspace extending upward from 700 feet above the surface at Roben-Hood Airport, Big Rapids, MI, to support IFR operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 11005; February 26, 2020) for Docket No. FAA-2020-0142 to amend the Class E airspace extending upward from 700 feet above the surface at Roben-Hood Airport, Big Rapids, MI. 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 7400.11D, dated August 8, 2019, and effective September 15, 2019, 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.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the Class E airspace extending upward from 700 feet above

the surface within a 6.6-mile radius (decreased from a 6.7-mile radius) of Roben-Hood Airport, Big Rapids, MI; removing the White Cloud VORTAC and associated extensions from the airspace legal description; and updating the geographic coordinates of the airport to coincide with the FAA's aeronautic database.

This action is the result of an airspace review caused by the cancellation and revision of the instrument procedures at this airport.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5-6.5.a. 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(f), 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 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

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

* * * * *

AGL MI E5 Big Rapids, MI [Amended]

Roben-Hood Airport, MI
(Lat. 43°43'22" N, long. 85°30'15" W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Roben-Hood Airport.

Issued in Fort Worth, Texas, on May 4, 2020.

Steven T. Phillips,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

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LIBRARY OF CONGRESS

U.S. Copyright Office

37 CFR Part 202

[Docket No. 2017-8]

Secure Tests

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Interim rule with request for comments.

SUMMARY: The U.S. Copyright Office is issuing an interim rule amending its regulations governing the registration of copyright claims in secure tests in order to address a disruption caused by the COVID-19 pandemic. The Office has become aware that certain examinations that normally would qualify for registration as secure tests may be ineligible for this option because they currently are being administered remotely rather than at specified testing centers. The interim rule allows otherwise-eligible tests that are administered online during the national emergency to qualify as secure tests,

provided the test administrator employs sufficient security measures. In addition, the Office is requesting public comment on the technological requirements needed for examination of secure test claims via secure teleconference. Finally, the Office is announcing its intention to issue guidelines according to which parties may request *ex parte* meetings with the Office in this proceeding.

DATES: Effective May 8, 2020. Comments must be made in writing and must be received by the U.S. Copyright Office no later than June 8, 2020.

ADDRESSES: For reasons of government efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through *regulations.gov*. Specific instructions for submitting comments are available on the Copyright Office website at <https://copyright.gov/rulemaking/securetests>. If electronic submission of comments is not feasible due to lack of access to a computer and/or the internet, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Regan A. Smith, General Counsel and Associate Register of Copyrights, regans@copyright.gov; Robert J. Kasunic, Associate Register of Copyrights and Director of Registration Policy and Practice, rkas@copyright.gov; Kevin R. Amer, Deputy General Counsel, kamer@copyright.gov; or David Welkowitz, Attorney Advisor, dwelkowitz@copyright.gov. They can be reached by telephone at 202-707-3000.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 408 of the Copyright Act, the U.S. Copyright Office is responsible for registering copyright claims.¹ In so doing, the Office is obligated to obtain a registration deposit that is sufficient to verify the claim and to provide an archival record of what was examined and registered.² Deposits of unpublished material must be kept for the full term of copyright protection,³ and deposits are available for public inspection.⁴ The Act, however, authorizes the Office to issue regulations establishing “the nature of the copies . . . to be deposited” in specific classes of works and to “permit,

for particular classes, the deposit of identifying material instead of copies or phonorecords.”⁵

Pursuant to that authority, the Office has long provided special registration procedures for “secure tests” that require the maintenance of confidentiality of their contents. These include tests “used in connection with admission to educational institutions, high school equivalency, placement in or credit for undergraduate and graduate course work, awarding of scholarships, and professional certification.”⁶ Current regulations define a secure test as “a nonmarketed test administered under supervision at specified centers on scheduled dates, all copies of which are accounted for and either destroyed or returned to restricted locked storage following each administration.”⁷

On June 12, 2017, the Office issued an interim rule (the “June 2017 Interim Rule”) that memorialized certain aspects of its secure test procedure and adopted new processes to increase the efficiency of its examination of such works.⁸ Under this rule, applicants must, among other things, submit an online application, a redacted copy of the entire test, and a brief questionnaire about the test through the electronic registration system.⁹ This procedure allows the Office to prescreen an application to determine whether the work appears to be eligible for registration as a secure test. If the test appears to qualify, the Office will schedule an in-person appointment for examination of an unredacted copy of the test.¹⁰

During the in-person meeting, the examiner will review the redacted and unredacted copies in a secure location in the presence of the applicant or his/her representative.¹¹ If the examiner determines that the relevant legal and formal requirements have been met, he or she will register the claim(s) and add an annotation to the certificate reflecting that the work was examined under the secure test procedure. The registration is effective as of the date that the Office received in proper form the application,

⁵ *Id.* 408(c)(1).

⁶ 42 FR 59302, 59304 & n.1 (Nov. 16, 1977); see also 43 FR 763, 768 (Jan. 4, 1978) (adopting the definition of a secure test).

⁷ 37 CFR 202.13(b)(1).

⁸ 82 FR 26850 (June 12, 2017); see 37 CFR 202.13, 202.20(b)(3), (c)(2)(vi) (implementing the June 2017 Interim Rule).

⁹ 37 CFR 202.13(c)(2).

¹⁰ *Id.*

¹¹ The applicant must bring to the meeting, among other materials, a signed declaration confirming that the redacted copy brought to the meeting is identical to the redacted copy that was uploaded to the electronic registration system. *Id.* 202.13(c)(3)(iv).

questionnaire, filing fee, and the redacted copy that was uploaded to the electronic registration system.¹² The June 2017 Interim Rule thus gives publishers the benefit of establishing as their effective date of registration the date when those materials are submitted to and received by the Office electronically, rather than the later date when the in-person examination takes place.

On November 13, 2017, in response to concerns raised by stakeholders following the June 2017 Interim Rule, the Office issued a second interim rule (the “November 2017 Interim Rule”) to permit registration of a group of test items (*i.e.*, sets of questions and answers) stored in a database or test bank and used to create secure tests.¹³ For these works, the November 2017 Interim Rule adopted most of the same registration procedures that apply to secure tests under the June 2017 Interim Rule.

The Office invited public comment on both the June 2017 and the November 2017 Interim Rules. The Office received a total of thirty-nine responses from a wide variety of testing organizations and other interested parties.¹⁴

II. The Interim Rule

While the Office is continuing to evaluate the secure tests regulations as a whole to determine whether changes may be warranted before issuing a final rule, it is issuing an additional interim rule at this time to address a specific disruption currently affecting test publishers’ ability to exercise this option. The Office has become aware that, as a result of the COVID-19 pandemic, certain tests that normally are administered with test-takers physically assembled at one or more locations will instead be administered remotely, with test-takers completing the exam online from their homes. Publishers have expressed concern that this change may make the tests ineligible for registration as secure tests, as they will not be administered “at specified centers.”¹⁵ As a result, these publishers may be forced to choose between registering their tests under the normal procedure for literary works (thus forfeiting confidentiality) and either delaying registration until they can administer the test according to the existing rule or foregoing copyright

¹² 82 FR at 26853.

¹³ 82 FR 52224 (Nov. 13, 2017). See 37 CFR 202.4(b), (k), 202.13 (implementing the November 2017 Interim Rule).

¹⁴ The public comments in this proceeding may be accessed from the Office’s website at <https://www.copyright.gov/rulemaking/securetests/>.

¹⁵ 37 CFR 202.13(b)(1).

¹ 17 U.S.C. 408.

² *Id.* 408(b), 705(a).

³ *Id.* 704(d).

⁴ *Id.* 705(b).

registration altogether. If a publisher chooses to delay registration, it could lose the benefit of an earlier effective date of registration. Although the building that houses the Copyright Office is currently closed to the public and therefore staff are unable to conduct in-person examinations or issue registrations for secure tests, as noted above, an eligible secure test publisher can establish an effective date of registration during this time by electronically submitting an application, questionnaire, filing fee, and redacted copy to the Office.¹⁶

The interim rule amends the regulations to provide an accommodation for tests that would be eligible for secure test registration but for the pandemic. The rule provides that an otherwise-qualifying test shall be considered a secure test if it normally is administered at specified centers but is being administered online during the national emergency, provided the test administrator employs measures to maintain the security and integrity of the test that it reasonably determines to be substantially equivalent to the security and integrity provided by in-person proctors. The rule does not specify particular measures that are required to meet this standard, as the Office believes that publishers generally should have flexibility to tailor such processes to their specific needs. But as examples, the Office expects that sufficient measures typically would include some combination of video monitoring and/or recording, the disabling of certain functions on test-takers' computers (*e.g.*, copying and pasting), technological measures to prevent access to external websites and other prohibited materials, and identity verification of the individual taking the test. It also should be noted that the interim rule does not alter the requirement that a secure test be administered "under supervision," which means that "test proctors or the equivalent supervise the administration of the test."¹⁷

The rule also makes a clarifying change to the portion of the definition concerning the storage of secure tests. The current language requires all copies of a secure test to be "either destroyed or returned to restricted locked storage following each administration."¹⁸ To make clear that this provision does not preclude the retention of digital copies, the interim rule provides that copies

also may be returned to "secure electronic storage."

As the wording of the interim rule makes clear, the modification of the definition of secure tests is temporary, lasting only until the COVID-19 emergency ends. The Office is providing this flexibility to ensure that test administrators can continue to offer socially valuable secure tests during the national emergency. This accommodation should not be seen as determinative of the final rule in this proceeding, which will be established on the basis of the overall rulemaking record. The Office recognizes, however, that the "specified centers" limitation was a concern for many test publishers even before the emergency, with several commenters in this proceeding urging the Office to amend that language to facilitate a broader range of testing models. The Office therefore will monitor the operation of the interim rule to help it evaluate whether and under what conditions remote testing should be permitted under the secure tests regulations once the emergency period ends.

In light of the ongoing national emergency, the Copyright Office finds good cause to publish these amendments as an interim rule effective immediately, and without first publishing a notice of proposed rulemaking, "because of the demonstrable urgency of the conditions they are designed to correct."¹⁹

III. Request for Comments

As noted, the Office is currently unable to conduct in-person examination of secure test applications. The Office is exploring possible options to provide such examinations via secure videoconference. The Office invites comments regarding the technological requirements that would be needed for test publishers to participate in such a process. In particular, the Office is interested in whether examination using the WebEx platform would be acceptable to publishers, as that program is currently supported by the Library of Congress. The Office requests that comments be limited to these topics.

IV. Ex Parte Communication

The Office has determined that informal communication with interested parties might be beneficial in this

rulemaking, including to discuss how the change implemented by the interim rule has operated in practice. The Office therefore intends to issue guidelines according to which parties may request *ex parte* meetings with the Office in this proceeding. Consistent with its practice in other rulemakings, the Office will establish requirements to ensure transparency, including that participating parties submit a list of attendees and a written summary of any oral communications, which will be posted on the Office's website. The *ex parte* guidelines will be made available at <https://www.copyright.gov/rulemaking/securetests> when the Office initiates the availability of such communications. No *ex parte* meetings in this proceeding will be scheduled before that time.

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List of Subjects in 37 CFR Part 202

Copyright, Preregistration and Registration of Claims to Copyright.

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR part 202 as follows:

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

■ 1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408(f), 702.

■ 2. Amend § 202.13 by revising paragraph (b)(1) to read as follows:

§ 202.13 Secure tests.

* * * * *

(b) * * *

(1) A *secure test* is a nonmarketed test administered under supervision at specified centers on scheduled dates, all copies of which are accounted for and either destroyed or returned to restricted locked storage or secure electronic storage following each administration. A test otherwise meeting the requirements of this paragraph shall be considered a secure test if it normally is administered at specified centers but is being administered online during the national emergency concerning the COVID-19 pandemic, provided the test administrator employs measures to maintain the security and integrity of the test that it reasonably determines to be substantially equivalent to the security and integrity provided by in-person proctors.

¹⁶ See 17 U.S.C. 412.

¹⁷ 37 CFR 202.13(b)(3).

¹⁸ 37 CFR 202.13(b)(1).

¹⁹ H.R. Rep. No. 1980, 79th Cong., 2d Sess. 26 (1946). See 5 U.S.C. 553(b)(3)(B) (notice and comment is not necessary upon agency determination that it would be "impracticable, unnecessary, or contrary to the public interest"); *id.* at 553(d)(3) (30-day notice not required where agency finds good cause).

Dated: May 4, 2020.

Maria Strong,

Acting Register of Copyrights and Director of the U.S. Copyright Office.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2020-09916 Filed 5-7-20; 8:45 am]

BILLING CODE 1410-30-P

POSTAL SERVICE

39 CFR Part 111

Seamless Changes for Detached Mail Unit (DMU) and Full-Service Mailings

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service™ is revising *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) to require Detached Mail Unit (DMU) mailers and mailers that enter full-service mailings at a Business Mail Entry Unit (BMEU) to participate in Seamless Parallel by June 1, 2020. In addition, the Postal Service provides advance notice of its intent: To require all mailers with an authorized Detached Mail Unit to enroll in the Seamless Acceptance Program by May 1, 2021; and to verify all BMEU-entered full-service mailings using only automated sampling and verification processes beginning July 1, 2021.

DATES: Effective June 1, 2020.

FOR FURTHER INFORMATION CONTACT:

Lance Bell at (407) 782-2972, or Jacqueline Erwin at (202) 268-2158.

SUPPLEMENTARY INFORMATION:

Background

Seamless Acceptance leverages electronic documentation (eDoc) and the Intelligent Mail® barcodes (IMbs) on all containers, handling units, and mailpieces required under full-service. Mailpiece scans collected from mail processing equipment (MPE) and samples from hand-held scanning devices are reconciled to the mailer eDoc to confirm proper mail preparation for discounts claimed and confirm correct postage payment. This capability avoids the need for verification of mail at acceptance.

The Postal Service published a notice of proposed rulemaking on January 8, 2020 (85 FR 856-859), to require mailers with authorized Detached Mail Units (DMU) and mailers that enter full-service mailings at a Business Mail Entry Unit (BMEU) to participate in Seamless Parallel by March 1, 2020. In addition, the Postal Service provided

advance notice of its intent to require DMU mailers to enroll in the Seamless Acceptance Program by February 1, 2021. Moreover, the Postal Service provided advance notices of its intent to verify all full-service mailings entered at a BMEU using automated sampling and verification processes, beginning July 1, 2021.

The Postal Service received many insightful comments and questions from the mailing community in response to the proposed rule of January 8, 2020. In response to those comments, the Postal Service incorporates the following changes into this final rule, and notes that aside from these changes, Seamless Acceptance plans have not changed in substance from the proposed rule of January 8, 2020:

- Mailers with authorized DMUs and mailers entering full-service mailings at BMEUs must enroll in Seamless Parallel by June 1, 2020 (instead of March 1, 2020).

In addition, the Postal Service intends to propose the following regulatory changes in a future rulemaking:

- Mailers with authorized DMUs, as a condition of their DMU authorization, must participate in Seamless Acceptance by May 1, 2021;
- Full-Service mailings entered at BMEUs will begin to be verified using only automated sampling and verification processes on July 1, 2021.

Comments on Seamless Changes for Detached Mail Unit (DMU) and Full-Service Mailings and USPS Responses

The Postal Service received seven formal responses on the Seamless Changes for Detached Mail Unit (DMU) and Full-Service Mailings proposal. Six formal responses included comments on more than one issue.

Incentive for Mailers To Adopt Seamless Acceptance

Five comments encouraged the USPS® to provide an incentive for mailers to defray costs incurred from migrating to Seamless Acceptance. Respondents claim that there is a significant cost impact to business (above and beyond full-service IMb participation) to participate in Seamless Acceptance, and that the USPS should provide an incentive to offset the investment and ongoing costs incurred by mailers.

USPS Response

USPS will continue to work collaboratively with industry stakeholders to minimize any cost impact to mailers that adopt Seamless Acceptance. The Postal Service notes that new rates, including incentives,

must be authorized by the Governors of the Postal Service and reviewed by the Postal Regulatory Commission.

Piece Weights May Cause Assessments

Four comments stated that varying piece weights may cause a mailer to be susceptible to an assessment. Respondents claim this is especially true for flat-size pieces susceptible to environmental impacts (e.g., humidity).

USPS Response

USPS has initiated the creation of a Task Team (MTAC TT-30) to work collaboratively with industry stakeholders. USPS will consider recommendations from MTAC TT-30.

Images of Mailpieces To Assist With Undocumented Errors

Four comments encourage USPS to provide mailers with images of undocumented pieces and other mailer scorecard errors so they can identify the specific mailer or mailing to investigate and resolve mail quality issues.

USPS Response

USPS will continue to explore the feasibility of this proposal.

The Timeline for Mandating Seamless Acceptance for DMUs

Three comments had concerns that the intended February 1, 2021 date was too close to implementation of the January 2021 price change. Price changes require significant resources and commenters are concerned that their resources will be limited and will not be ready by February 1, 2021.

USPS Response

As previously indicated, the USPS recognizes the industry concern with the proposed dates and has made the following changes:

- Seamless Parallel enrollment must be completed by June 1, 2020.
- Intended date to require DMU sites to Seamless changed to May 1, 2021.
- Verification of BMEU full-service mailings intended to begin on July 1, 2021.

General Overall Timeline and Deadline To Adopt Seamless Acceptance

Three comments voice concerns on the general timeline in terms of USPS ability to provide the necessary education, training, and customer service needed for mailers to adopt Seamless Acceptance.

USPS Response

USPS has provided extensive internal and external training on the Streamlined Mail Entry Programs. The Mail Entry