

Issued in Fort Worth, TX, on December 8, 1999.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-ASW-31]

Revision of Class E Airspace; Del Rio, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises the Class E Airspace at Del Rio, TX. Insufficient controlled airspace to conduct aircraft recoveries during Instrument Flight Rules (IFR) operations for the United States Air Force (USAF) has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for Instrument Flight Rules (IFR) operations to Laughlin Air Force Base (AFB), Del Rio, TX.

DATES: Effective 0901 UTC, April 20, 2000. Comments must be received on or before January 31, 2000.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 99-ASW-31, Fort Worth, TX 76193-0520. The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9:00 AM and 3:00 PM, Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193-0520, telephone 817-222-5593.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 revises the Class E airspace at Del Rio, TX.

Insufficient controlled airspace to conduct aircraft recoveries during IFR operations for the USAF has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for IFR operations to Laughlin AFB, Del Rio, TX.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR § 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and

determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99-ASW-31." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various level of government. Therefore, it is determined that this final rule will not have federalism implications under Executive Order 13132.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 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; AIRWAYS; 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 the Federal Aviation Administration Order 7400.9G, *Airspace Designations and Reporting Points*, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

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

* * * * *

ASW TX E5 Del Rio, TX [Revised]

Del Rio, Laughlin AFB, TX
(lat. 29°21'36"N., long. 100°46'39"W.)
Laughlin VORTAC
(lat 29°21'39"N., long. 100°46'18"W.)
Del Rio International Airport, TX
(lat 29°22'19"N., long. 100°55'23"W.)

That airspace extending upward from 700 feet above the surface within a 8-mile radius of Laughlin AFB and within 8 miles east and 6.5 miles west of the 149° radial of the Laughlin VORTAC extending from the 8-mile radius to 16 miles southeast of the VORTAC and within 8 miles north and 4 miles south of the 305° radial of the Laughlin VORTAC extending from the 8-mile radius to 16 miles northwest of the VORTAC and within a 12.3-mile radius of the Del Rio International Airport excluding that airspace in Mexico.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

Changes in Permissible Stage 2 Airplane Operations

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of statutory changes.

SUMMARY: The FAA is notifying operators of Stage 2 airplanes of recent changes to the Airport Noise and Capacity Act that except certain

airplanes from the law and allow other Stage 2 airplanes to operate past the statutory deadline for certain operations. This notice explains the effect of the law and provides a procedure for operators to use to obtain a special flight authorization allowing nonrevenue flight of Stage 2 airplanes.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Connor, Manager, Noise Division (AEE–100), Office of Environment and Energy, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8933, fax (202) 267–5594, email Thomas.Connor@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Airport Noise and Capacity Act (ANCA) of 1990 prohibits the operation of civil subsonic turbojet Stage 2 airplanes over 75,000 pounds in the contiguous United States after December 31, 1999. The original version of the law did not distinguish airplanes by type of certification or operation. The waiver provisions of the original law are very limited, and address only limited revenue operation of Stage 2 airplanes by U.S. air carriers.

On November 29, 1999, the President signed into law certain changes to ANCA that effect operators of Stage 2 airplanes. The prohibition on revenue operations of Stage 2 airplanes after December 31, 1999, remains in effect. The FAA was not granted any new authority to allow anyone to operate a Stage 2 airplane in revenue service after December 31, 1999. The changes to the law are summarized as follows:

Conflicting Regulations in 14 CFR Part 91

The changes described below may appear to conflict with various portions of the noise transition regulations currently codified at 14 CFR 91.801 through 91.877. However, the new provisions state that the regulations are to be considered modified where they conflict with any new statutory provisions. The FAA is aware that the statutory change is not apparent to anyone reading the regulations, and plans to change the regulations through appropriate rulemaking within the next year.

Experimental Certificates

Turbojet airplanes over 75,000 pounds that operate under an experimental airworthiness certificate have been excepted from the law. The requirement that aircraft over 75,000 pounds meet Stage 3 noise levels no longer applies to airplanes with experimental airworthiness certificates.

These airplanes may continue to be flown after December 31, 1999, without further action by the operator or by the FAA. The prohibition on non-Stage 3 operation continues to apply to all airplanes operating under any other type of airworthiness certificate.

Hawaiian Operators

Certain operators of Stage 2 airplanes in Hawaii are now allowed to bring their Stage 2 airplanes to the contiguous United States for maintenance or major alterations. This change to the statute permits these flights without further action by the operators or by the FAA.

Nonrevenue Stage 2 Operations

The revised law now permits a range of nonrevenue Stage 2 operations to occur after December 31, 1999. Any operator of a Stage 2 airplane over 75,000 pounds may operate that airplane in the contiguous United States for the following purposes:

- Sell, lease or scrap the airplane
- Obtain modifications to meet Stage 3 noise levels
- Obtain scheduled heavy maintenance or significant modifications
- Deliver the airplane to a lessee or return it to a lessor
- Park or store the airplane
- Prepare the airplane for any of these events

With regard to these listed uses, operators are advised to note the following:

(1) Nonrevenue flight is a shorthand term. Whether you are a commercial or noncommercial operator, Stage 2 operations are restricted to the purposes listed above only. No “dual purposes” are allowed. For example, you may not operate a Stage 2 airplane for one of the listed purposes and also transport a company official or company goods, or accomplish any action in furtherance of company business. Nonrevenue service means that the flight does not generate any revenue for carrying passengers or cargo.

(2) Operators moving a Stage 2 airplane to location where Stage 3 modifications may be obtained must provide a copy of the modification contract to the FAA with the application for a special flight authorization. For the other purposes, documentation of the activity may be required depending on the circumstances presented.

(3) “Scheduled heavy maintenance” means a “C” or “D” check. The FAA interprets the statutory language to mean that operators of Stage 2 airplanes may not request a special flight authorization to accomplish routine