

Applicability

(c) This AD applies to Model DHC-8-311 airplanes, serial numbers 202 through 298 inclusive, certificated in any category.

Unsafe Condition

(d) This AD was prompted by the discovery that a certain revision of the Maintenance Program Support Manual (PSM) omits several fuselage skin panels from a list of skin panels that must be inspected. We are issuing this AD to prevent disbonding of the subject skin panels, which could reduce the load-carrying capacity of the skin panels and result in reduced structural integrity of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Review of Maintenance Records

(f) Within 14 days after the effective date of this AD, review the airplane maintenance records or maintenance logbook to determine if the most recent bonding integrity inspection of the fuselage skin panels was done according to Bombardier Maintenance Program Support Manual (PSM) 1-83-7A, Revision 6, dated January 30, 2001.

(1) If it can conclusively be determined that the most recent bonding integrity inspection of the fuselage skin panels was done according to PSM 1-83-7A, Revision 5, dated April 30, 1999; or Revision 7, dated August 15, 2001: This AD requires no further action.

(2) If the most recent bonding integrity inspection of the fuselage skin panels was done according to PSM 1-83-7A, Revision 6, dated January 30, 2001, or if it cannot be conclusively determined what revision of

PSM 1-83-7A was used: At the applicable compliance time specified in paragraph (f)(2)(i) or (f)(2)(ii) of this AD, do a resonance frequency inspection of the fuselage skin panels listed in Table 1 of this AD, according to a method approved by either the Manager, New York Aircraft Certification Office (ACO), FAA; or Transport Canada Civil Aviation (TCCA) (or its delegated agent). PSM 1-83-7A, Revision 7, dated August 15, 2001, is one approved method.

(i) If no disbonding was found during any previous bonding integrity inspection: Within 1,000 flight hours or 6 months after the effective date of this AD, whichever is first.

(ii) If any disbonding was found during any previous bonding integrity inspection: Within 6 weeks after the effective date of this AD.

TABLE 1.—FUSELAGE SKIN PANELS

Engineering drawing	Skin panel description	PSM 1-83-7A figure sheet
85330204	Skin, Right Side, Bottom	Figure 4/(Sheet 2).
85330201	Skin, Right Side	Figure 4/(Sheet 5).
85330180	Skin, Right Side, Top	Figure 4/(Sheet 6).
85330181	Skin, Left Side, Top	Figure 4/(Sheet 7).
85330106	Skin, Left Side, Bottom	Figure 4/(Sheet 14).
85330105	Skin, Left Side	Figure 4/(Sheet 15).
85330101	Skin, Left Side, Bottom	Figure 4/(Sheet 16).
85330033	Skin, Bottom	Figure 4/(Sheet 17).
85330032	Skin, Right Side, Lower	Figure 4/(Sheet 18).
85330032	Skin, Right Side, Lower with Service Door	Figure 4/(Sheet 19).
85330031	Skin, Left Side, Lower	Figure 4/(Sheet 20).
85332750	Skin, Bottom, Center	Figure 4/(Sheet 25).
85332750	Skin, Bottom, Center	Figure 4/(Sheet 26).

Repair

(g) If any disbonding is found during the resonance frequency inspection required by paragraph (f) of this AD: Before further flight, repair per a method approved by the Manager, New York ACO; or TCCA (or its delegated agent).

Limitation on Future Inspections

(h) As of the effective date of this AD, no person may use PSM 1-83-7A, Revision 6, dated January 30, 2001, to inspect for disbonding of fuselage skin panels on any airplane having any serial number 202 through 298 inclusive.

Alternative Methods of Compliance (AMOCs)

(i) The Manager, New York ACO, has the authority to approve AMOCs for this AD, if an AMOC is requested in accordance with the procedures found in 14 CFR 39.19.

Related Information

(j) Canadian airworthiness directive CF-2002-08, dated January 25, 2002, also addresses the subject of this AD.

Issued in Renton, Washington, on August 25, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04-20204 Filed 9-3-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. 29334; Amendment No. 71-36]

Airspace Designations; Incorporation by Reference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends 14 CFR part 71 relating to airspace designations to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9M, Airspace Designations and Reporting Points. This action also explains the

procedures the FAA will use to amend the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points incorporated by reference.

DATES: *Effective Date:* These regulations are effective September 16, 2004, through September 15, 2005. The incorporation by reference of FAA Order 7400.9M is approved by the Director of the Federal Register as of September 16, 2004, through September 15, 2005.

FOR FURTHER INFORMATION CONTACT: Christine Graves, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:**History**

FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, listed Class A, B, C, D and E airspace areas; air traffic service routes; and reporting points. Due

to the length of these descriptions, the FAA requested approval from the Office of the Federal Register to incorporate the material by reference in the Federal Aviation Regulations section 71.1, effective September 16, 2003, through September 15, 2004. During the incorporation by reference period, the FAA processed all proposed changes of the airspace listings in FAA Order 7400.9L in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings were published in full text as final rules in the **Federal Register**. This rule reflects the periodic integration of these final rule amendments into a revised edition of Order 7400.9M, Airspace Designations and Reporting Points. The Director of the Federal Register has approved the incorporation by reference of FAA Order 7400.9M in section 71.1, as of September 16, 2004, through September 15, 2005. This rule also explains the procedures the FAA will use to amend the airspace designations incorporated by reference in part 71. Sections 71.5, 71.31, 71.33, 71.41, 71.51, 71.61, 71.71, 71.79, and 71.901 are also updated to reflect the incorporation by reference of FAA Order 7400.9M.

The Rule

This action amends part 71 of the Federal Aviation Regulations (14 CFR part 71) to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9M, effective September 16, 2004, through September 15, 2005. During the incorporation by reference period, the FAA will continue to process all proposed changes of the airspace listings in FAA Order 7400.9M in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings will be published in full text as final rules in the **Federal Register**. The FAA will periodically integrate all final rule amendments into a revised edition of the order, and submit the revised edition to the Director of the Federal Register for approval for incorporation by reference in section 71.1.

The FAA has determined that this action: (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. This action neither places any new restrictions or requirements on the public, nor changes the dimensions or operation requirements of the airspace

listings incorporated by reference in part 71. Consequently, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Because this action will continue to update the changes to the airspace designations, which are depicted on aeronautical charts, and to avoid any unnecessary pilot confusion, I find that good cause exists, under 5 U.S.C. 553(d), for making this amendment effective in less than 30 days.

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 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.

■ 2. Section 71.1 is revised to read as follows:

§ 71.1 Applicability.

The complete listing for all Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points can be found in FAA Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552 (a) and 1 CFR part 51. The approval to incorporate by reference FAA Order 7400.9M is effective September 16, 2004, through September 15, 2005. During the incorporation by reference period, proposed changes to the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points will be published in full text as proposed rule documents in the **Federal Register**. Amendments to the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points will be published in full text as final rules in the **Federal Register**. Periodically, the final rule amendments will be integrated into a revised edition of the order and submitted to the Director of the Federal Register for approval for incorporation by reference in this section. Copies of FAA Order 7400.9M may be obtained from Airspace and Rules, Federal Aviation

Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–8783. Copies of FAA Order 7400.9M may be inspected in Docket No. 29334 at the Federal Aviation Administration, Office of the Chief Counsel, AGC–200, Room 915G, 800 Independence Avenue, SW., Washington, DC, weekdays between 8:30 a.m. and 5 p.m., or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. This section is effective September 16, 2004, through September 15, 2005.

§ 71.5 [Amended]

■ 3. Section 71.5 is amended by removing the words "FAA Order 7400.9L" and adding, in their place, the words "FAA Order 7400.9M."

§ 71.31 [Amended]

■ 4. Section 71.31 is amended by removing the words "FAA Order 7400.9L" and adding, in their place, the words "FAA Order 7400.9M."

§ 71.33 [Amended]

■ 5. Paragraph (c) of § 71.33 is amended by removing the words "FAA Order 7400.9L" and adding, in their place, the words "FAA Order 7400.9M."

§ 71.41 [Amended]

■ 6. Section 71.41 is amended by removing the words "FAA Order 7400.9L" and adding, in their place, the words "FAA Order 7400.9M."

§ 71.51 [Amended]

■ 7. Section 71.51 is amended by removing the words "FAA Order 7400.9L" and adding, in their place, the words "FAA Order 7400.9M."

§ 71.61 [Amended]

■ 8. Section 71.61 is amended by removing the words "FAA Order 7400.9L" and adding, in their place, the words "FAA Order 7400.9M."

§ 71.71 [Amended]

■ 9. Paragraph (b), (c), (d), (e), and (f) of § 71.71 are amended by removing the words "FAA Order 7400.9L" and adding, in their place, the words "FAA Order 7400.9M."

§ 71.79 [Amended]

■ 10. Section 71.79 is amended by removing the words "FAA Order 7400.9L" and adding, in their place, the words "FAA Order 7400.9M."

§ 71.901 [Amended]

■ 11. Paragraph (a) of § 71.901 is amended by removing the words “FAA Order 7400.9L” and adding, in their place, the words “FAA Order 7400.9M.”

Issued in Washington, DC, on August 24, 2004.

Reginald C. Matthews,

Manager, Airspace and Rules.

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DEPARTMENT OF THE TREASURY**31 CFR Part 1**

RIN 1505–AA97

Disclosure of Records in Legal Proceedings

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: This final rule makes several amendments to an interim final rule that amended Treasury’s regulations that govern access to information and records in connection with litigation, including litigation in which neither the United States nor the Department of the Treasury is a party. The amendments made by this rule are in response to comments received on the interim final rule.

DATES: This final rule is effective September 7, 2004.

FOR FURTHER INFORMATION CONTACT: Christian Furey, Attorney-Advisor, Office of the Assistant to the General Counsel for Legislation, Litigation and Disclosure, at (202) 622–5441 (not a toll-free number).

SUPPLEMENTARY INFORMATION:**I. Background**

Under 5 U.S.C. 301, heads of Executive or military departments may prescribe regulations for the custody, use, and preservation of the department’s records, papers, and property. Many departments and agencies have promulgated such regulations to provide procedures for the disclosure of official records and information. Generally, these are termed Touhy regulations, after the Supreme Court’s decision in *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951). In that case, the Supreme Court held that an agency employee could not be held in contempt for refusing to disclose agency records or information when following the instructions of his or her supervisor regarding the disclosure. As such, an agency’s Touhy regulations are the instructions agency employees are to

follow when those employees receive requests or demands to testify or otherwise disclose agency records or information.

Treasury’s Touhy regulations are codified in §§ 1.8 through 1.12 of title 31 of the Code of Federal Regulations. Generally, these regulations provide that employees of the Departmental Offices of the Department of the Treasury may not disclose documents or information in response to a demand or other order of a court or any other authority without first being authorized to do so. The purpose of these regulations is to conserve valuable agency resources, to protect Treasury employees from becoming enmeshed in litigation, and to protect sensitive government documents and decision making processes.

On March 17, 2003, Treasury published in the **Federal Register** an interim final rule (68 FR 12584) that amended its Touhy regulations. The interim final rule revised the regulations to prescribe the factors Treasury officials should consider when deciding whether to allow disclosure of documents and information in response to a demand or other order of a court, and which Treasury officials may make these decisions. The interim final rule also made a number of clarifying and technical amendments to the regulations and solicited public comment on Treasury’s revisions to its Touhy regulations.

II. Analysis of the Final Rule

This final rule adopts the provisions of the interim final rule with the following changes.

Section 1.11 Testimony or the Production of Records in a Court or Other Proceeding

This section sets forth the policies and procedures of the Department regarding the testimony of employees as witnesses in legal proceedings and the production or disclosure of Treasury documents for use in legal proceedings.

Paragraph (b) defines the terms used throughout the regulations. Paragraph (b)(5) defines “employee” to include “officers of the Department, including contractors and any other individuals who have been appointed by, or are subject to the supervision, jurisdiction or control of the Secretary.” We amended paragraph (b)(5) to clarify that the term “employee” also includes the Secretary of the Treasury. We also amended paragraph (b)(1) to clarify that the General Counsel may delegate his or her responsibilities as agency counsel with respect to the Departmental offices.

Paragraph (d) sets forth procedures applicable to requests for testimony or

the production of documents. Paragraph (d)(3) of the interim final rule provided that any request for testimony or the production of documents in litigation in which neither the Department nor the United States is a party be supported by an affidavit setting forth the nature of the litigation, describing the nature of the testimony and/or documents sought, and explaining why the testimony and/or documents are desired. Under paragraph (d)(3)(i) there had to be a “showing that the desired testimony or document is not reasonably available from any other source.”

One commenter suggested that the use of the terms “testimony” and “document” in paragraph (d)(3)(i) was misleading because it implied that unless a specific document or testimony from a particular person is not available from another source then the request should be granted. We agree with this comment. While government documents and testimony from specific individuals may be unique, the intent of this provision was to not grant requests if other documents and testimony could be obtained, thus ensuring that requesters have exhausted all other avenues to obtain the information sought. Accordingly, we are clarifying paragraph (d)(3)(i) to require a requester to show that information reasonably suited to the request is not available from any other source.

Paragraph (f)(1) provided that an “employee” may not provide expert testimony, except on behalf of the United States or a party represented by the Department of Justice, without written approval of agency counsel. Paragraph (f)(2) provided that agency counsel may approve a request for expert testimony from an “employee” or “former employee” upon a showing by the requestor of exceptional need or unique circumstances, provided that the testimony will not be adverse to the interests of Treasury or the United States. Paragraph (f)(3) provided expert or opinion testimony of a “former employee” is not subject to prohibition in paragraph (f)(1) if the testimony involves only general expertise gained while employed at the Department.

One commenter suggested that the term “former employee” be added to paragraph (f)(1) to clarify that the entirety of paragraph (f) applies to former employees. We agree that such an amendment is consistent with paragraph (f), and this final rule amends paragraph (f)(1) accordingly.

III. Procedural Requirements

Because this rule relates to agency management and personnel, and because it merely amends Treasury’s