DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AAL–24]

Establishment of Class E Airspace; Yukon-Kuskokwim Delta, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace over the Yukon-Kuskokwim (Y–K) Delta area in southwest Alaska in support of the Capstone Research and Development (R&D) project. Specifically, this action establishes controlled airspace extending from 1,200 feet above ground level (AGL) upwards to the base of the existing Class E airspace of 14,500 feet above mean sea level (MSL) within an area bounded by lat. 58°25′36″ N long. 158°00′W, to lat. 57°50′ N long. 158°00′ W, to lat. 57°50′ N long. 156°00′ W, to lat. 64°00′ N long. 156°00′ W, to lat. 64°00′ N long. 161°41′ 24″ W, then via the 12 nautical mile limit to the point of beginning. This rule will (1) provide adequate controlled airspace for commercial air carriers conducting Instrument Flight Rules (IFR) operations over southwest Alaska and (2) validate new operational procedures and equipment in the IFR environment.

EFFECTIVE DATE: 0901 UTC, August 10, 2000.

FOR FURTHER INFORMATION CONTACT: Bob Durand, Operations Branch, AAL–531, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: Bob.Durand@faa.gov. Internet address: http://www.alaska.faa.gov/at.

SUPPLEMENTARY INFORMATION:

History

On February 24, 2000, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace over the Yukon-Kuskokwim Delta area in southwest Alaska was published in the **Federal Register** (65 FR 9227). The purpose of this rule is to create adequate controlled airspace and infrastructure for IFR operations in the Yukon-Kushkokwim Delta area where uncontrolled airspace currently exists. This controlled airspace is needed to validate new operational procedures and equipment in the IFR environment in support of the Capstone R&D project. Additionally, this rule will enhance flight safety, reduce the potential for midair collisions, improve operational efficiencies, and better manage air traffic operations.

The establishment of Class E airspace in this rule will impact on pilots' flight visibility and cloud avoidance requirements while flying under Visual Flight Rules (VFR), during the day above 1,200 feet AGL and below 10,000 feet MSL. The pilot's flight visibility requirement increases to three (3) statute miles. VFR weather minimums are shown in the following table extracted from 14 CFR 91.155 Basic VFR weather minimums:

BASIC VFR WEATHER MINIMUMS

	Flight visibility (statute mile(s))	Distance from clouds
Class G (uncontrolled):		
1,200 feet or less AGL, Day	1	Clear of clouds.
1,200 feet or less AGL, Night	3	500 feet below. 1,000 feet above. 2,000 feet horizontal.
1,200 feet or more and less than 10,000 feet MSL, Day	1	500 feet below. 1,000 feet above. 2,000 feet horizontal.
1,200 feet or more and less than 10,000 feet MSL, Night	3	500 feet below. 1,000 feet above. 2,000 feet horizontal.
More than 1,200 feet AGL and at or above 10,000 feet MSL	5	1,000 feet below. 1,000 feet above. 1 statute mile horizontal.
Class E (controlled):		
Less than 10,000 MSL	3	500 feet below. 1,000 feet above. 2,000 feet horizontal.
At or above 10,000 MSL	5	1,000 feet below. 1,000 feet above. 1 statute mile horizontal.

Environmental Review

On February 25, 1999, the FAA initiated an environmental review, 99–AAL–024–NR, seeking public comment on the proposal to establish Class E airspace to encompass the Capstone Demonstration Area. In the environmental review solicitation, the FAA stated the desire to design and establish Class E airspace that will facilitate the development of the Capstone Demonstration and the transition to the future National Airspace System (NAS) Architecture with minimal impact on the environment. Significant environmental issues were not identified during the scoping process. Thus, this activity falls within a category of actions normally categorically excluded from documentation in an Environmental Assessment (EA) or Environmental Impact Statement (EIS).

On April 7, 1999, the FAA conducted a Preliminary Environmental Review. This review was conducted in accordance with policies and procedures in Department of Transportation Order 5610.1C, Procedures for Considering Environmental Impacts, Order 1050.1, and is in compliance with the National Environmental Policy Act of 1969 and in accordance with the regulations promulgated by the Council on Environmental Quality, 40 CFR 1500 *et seq.* Thus, on April 13, 1999, the FAA signed the Categorical Exclusion Declaration. This review enabled the

FAA to exclude this proposed action from further environmental documentation according to Order 1050.1, Policies and Procedures for Considering Environmental Impacts.

Comments Received on the Proposal

Interested parties were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. The State of Alaska, Department of Fish and Game, Habitat and Restoration Division along with Larry's Flying Service wrote letters in support of the proposal. Larry's Flying Service requested clarification on some issues which the FAA deemed beneficial to address in the final rule.

(1) What is the intended meaning and understanding of ''validate new operational procedures and equipment in the IFR environment?'' Initially the Anchorage Air Route Traffic Control Center (ARTCC) controllers will provide ''radar like'' services to Capstone equipped aircraft. The controllers will use five (5) mile radar separation criteria with Automatic Dependent Surveillance—Broadcast (ADS–B) position reports. Initial evaluation of ADS data integrity indicates that smaller distance criteria may be attainable, however it is desirable to gain more experience with this technology before developing new procedures in this application. The ADS reports will be used to augment radar reports where radar coverage exists, and to supplement radar beyond and below existing radar coverage.

Validating new operational procedures and equipment includes the active participation by air carriers using the new equipment in their aircraft. Each air carrier, participating in the Capstone project, will work with the FAA to develop and incorporate new procedures into their general operations manuals and training programs. Each procedure developed will help validate whether the new equipment performs in a manner consistent with the manufacturers operating and performance specifications and safety. Adherence to newly developed procedures and providing feedback are vital elements of the validation process. Examples include evaluation of ADS–B generated traffic information as a collision avoidance tool in the instrument flight environment. Another example is the validation of ADS–B for ''radar like'' traffic management. Pilots and controllers alike will gain knowledge of ADS–B and learn how each group plans to use the information generated in order to integrate this technology as an effective element of the NAS.

(2) What is the view of the FAA at this time with respect to ''new GPS non-precision instrument approaches'' as pertaining to VFR Capstone equipped aircraft? Most Capstone equipped aircraft are not capable of operating IFR under part 121 or part 135 due to manufacturing or regulatory limitations, or equipment installed not meeting IFR requirements. The GPS installed with the Capstone avionics package is manufactured under TSO–129, and therefore fully capable of being operated in the IFR environment. It was the intention of the Capstone project to have the greatest positive impact on safety as possible by providing equipment to owner's that could be easily incorporated into VFR or IFR aircraft alike. Those carriers who wished to self equip their aircraft to meet IFR requirements could use Capstone GPS as a part of the required IFR equipment. The new GPS approaches and co-located AWOS sites, parts of the Capstone project, support safety and expand the IFR infrastructure in Alaska.

(3) How can an operator elect to support new operational procedures and new equipment for IFR operation if the procedures and equipment are not made known to the operator? IFR operations using the Capstone avionics will be supported by achieving Level C certification (needed for IFR operations). The ARTCC Air Traffic Control (ATC) automation system is being upgraded to provide aircraft position information to controllers to enable them to provide navigation assistance and separation from other radar and ADS identified aircraft after level C certification is achieved. The FAA will coordinate all new operational procedures before being implemented. All new equipment was coordinated with industry representatives in Alaska before final selection was made. Information on new equipment and procedures will be posted on the Capstone website (http://www.faa.gov/capstone) to aid in distribution.

(4) What is the rationale for the FAA's determination that this rule is a not a significant regulatory action and not a significant rule? The Department of Transportation (DOT) Order 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations (May 22, 1980), requires a regulatory analysis for each proposed regulation that will (1) result in an effect on the economy of $100 million or more; (2) result in a major effect on the general economy in terms of costs, consumer prices, or production; (3) result in a major increase in costs or prices for individual industries, levels of government, or geographic regions; (4) have a substantial impact on the U.S. balance of trade; or (5) be the result of the secretary or head of the initiating office determining a need for such analysis. In addition to the requirement in DOT Order 2100.5, Executive Order 12866 requires a regulatory analysis for significant proposed regulations that have an annual effect on the economy of $100 million or more or adversely effect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. Any regulation or other action that does not meet the above criteria and any regulation that is routine, frequent, or procedural may be issued by the FAA Administrator without review or approval by the DOT Secretary. The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires the FAA to consider the special needs and concerns of small entities. The FAA is required to prepare and publish an initial regulatory flexibility analysis describing the effect of a proposed rule on small entities for those proposed regulations that would have a significant economic impact on a substantial number of small entities. Where appropriate, the FAA must consider alternatives the would achieve its goals while minimizing the burdon on small entities. If the FAA determines that the proposed regulation would not have a significant economic impact, a factual basis for the determination must be provided.

(5) What operational changes does an operator in this environment need to apply for as pertaining to the Operators Operations Specifications as approved and issued the Operator by the FAA? Operators intending to use ADS–B operationally will need to seek guidance from the FAA Certificate holding district office that's assigned. Active procedural use of cockpit displays of traffic information (requiring pilots to use targets generated on cockpit displays) for visual acquisition, in trail maneuvers; station keeping; enhanced see and avoid; reduced separation standards; long range conflict management; or conflict detection and avoidance may require operations specification issuance.

(6) Does the FAA propose additional training and if so what type of training and testing? Controllers have received training in the new ATC ADS target display capability. FAA technicians will receive training in ground equipment theory and function to enable them to ensure proper equipment operation and performance. Training programs have been developed and given to carriers participating in the Capstone project.

Carriers should adapt the training material provided to meet their individual needs and requirements, and coordinate with their assigned FAA inspector.

(7) Will this ''new operational procedures under IFR'' apply to all IFR operators and pilots under FAA supervision? When will these new operational procedures be implemented? New operational procedures will apply to those aircraft equipped to utilized these procedures. Government acceptance testing of the new ATC functional enhancements has been completed. Anchorage ARTCC will be able to begin Initial Operations Capability evaluation on June 15, 2000. At this point controllers will begin to provide VFR advisories and traffic alerts to participating aircraft on a limited basis to validate their ability to conduct these operations. In August 2000, the ARTCC will go to Operational Readiness Demonstration, during which time the controllers will have the new ADS functional capabilities available on a full time basis. This is a higher level of validation leading to commissioning. It is expected that full IFR services, the final commissioning step, will be accomplished when the avionics achieves level C certification in November 2000. Eleven new stand alone GPS approaches are presently found in government and industry publications. Eight more GPS approaches are scheduled to be published by the end of August 2000. Each airport upgrading from VFR to IFR status is being provided with an Automated Weather Observing System (AWOS) in support of the Part 121 and Part 135 operating rules regarding weather reporting.

Comments were received urging the proposal be withdrawn for the following rationale: (1) Increased visibility and distance from clouds requirement above 1,200 feet AGL will hinder aircraft movement. Pilots would drop below 1,200 feet AGL, congesting this airspace and risk controlled flight into terrain or a mid-air collision, rather than request an IFR clearance and mess with positive control. (2) Radio communications via Remote Communications Air/Ground (RCAG) is limited in this area even incorporating Remote Communications Outlets (RCO). Pilots may not be able to contact an Air Traffic Control facility. (3) The workload on controllers at Automated Flight Service Station (AFSS) facilities will increase via relaying IFR and Special VFR clearances and other services. AFSS are not staffed to handle the increased radio communications. (4) Since only commercial aircraft will be equipped with the Capstone avionics and general aviation (GA) will be unable or unwilling to obtain clearances, there will be a combination of IFR and VFR aircraft operating within the same airspace during IFR conditions. Capstone participants cannot be assured separation from VFR and IFR traffic. (5) Poor pilot judgment in weather conditions below minimums does not warrant establishing a procedure that is extremely restrictive and alienates the small engine, GA pilot over such a large area of Alaska. (6) Capstone is doomed to failure because the FAA does not have the budget to allow compliance by all, nor maintain the data link infrastructure necessary for consistent reliability and future upgrades.

FAA Response to Comments

The FAA disagrees with the comments for withdrawal of the proposal for the following reasons:

(1) The visibility requirement above 1200 feet AGL will increase from one (1) statue mile in Class G airspace to three (3) statue miles in Class E airspace, however, cloud clearance requirements above 1200 feet AGL remain unaffected. These visibility increases provide a safety buffer needed when IFR and VFR flights operate in the same airspace. Capstone is a joint FAA/industry project initiated to reduce the current Alaskan air taxi accident rate which is six (6) times the national average. The airports receiving new instrument procedures were selected by a group of industry representatives comprising a broad spectrum of both GA and commercial interests. The required airspace actions, with the resulting increase in visibility requirements, are a result of joint planning and coordinating with these industry groups.

(2) RCAG/RCO coverage—ADS–B ''radar-like'' services are being implemented in a manner to utilize known air to ground radio coverage capabilities. Where it becomes known, in the implementation of this service, that additional voice communications coverage is needed, projects will be initiated to accommodate that need.

(3) The installation of Capstone equipment into an aircraft does not change the Federal Aviation Regulations (FARs) under which the aircraft must be operated. Those aircraft properly equipped to conduct flight in instrument conditions with a rated crew may be expected to file for IFR services at any time the weather deteriorates below VFR minima. There will not be any waivers granted to Capstone equipped aircraft to operate VFR in IFR conditions as this would be a violation of the governing FARs. Capstone is a safety initiative. By introducing moving map terrain, NOTAM, and weather information to aircraft in flight, it is anticipated that accident rates may be reduced. Because aircraft will have increased access to information normally provided by flight service specialists through voice transmission, specialist workload may actually decrease in some areas.

(4) One of the Capstone program objectives in support of the RTCA Free Flight Steering Committee is to provide participating aircraft the capability of ''enhanced see and avoid'' commonly referred to as Traffic Information Services (TIS). Initially, Capstone equipped aircraft will be able to display other similarly equipped aircraft, and in the foreseeable future radar tracked aircraft information will be uplinked to Capstone equipped aircraft as well. This information will be available to Capstone aircraft at all times, IFR or VFR, as long as they are within the service volume of a Capstone Ground Broadcast Transceiver. This should assist the pilot in performing their primary responsibility of ''seeing and avoiding'' other aircraft.

(5) The Capstone project cannot overcome all NAS infrastructure deficiencies and that is not the project's intent. Capstone project is a safety initiative implemented to demonstrate the advantages inherent in emerging technology and afford those benefits to Alaskans on a geographically expanding basis.

(6) The Capstone program is fully funded under the FAA's ''Facilities and Equipment'' budget process. The program is presently funded for three years with planning under way for at least two additional years. Current program projections are to expand the program to serve the entire State of Alaska. Capstone infrastructure enhancements include weather reporting stations and new GPS based approach development as well as increasing service to the public by providing ''radar like services'' using ADS–B. Capstone is a fully funded project designed to allow a real world validation of a mixture of equipment to improve safety. Newly installed AWOS sites fill the weather needs at previously unserved airports and close gaps in the present weather reporting areas allowing for better weather forecasting and real time weather dissemination to working flight crews. Ground based equipment installed in the field will be certified and maintained to appropriate NAS standards.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83.

The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9G, *Airspace Designations and Reporting Points,* dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be revised and published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 (part 71) establishes Class E airspace within the Yukon-Kushkokwim Delta area in southwest Alaska. The intended effect of this rule is to create adequate controlled airspace and infrastructure for IFR operations within the in the Yukon-Kushkokwim Delta area where uncontrolled airspace currently exists. This controlled airspace is needed to validate new operational procedures and equipment in the IFR environment in support of the Capstone R&D project. Additionally, this rule will enhance flight safety, reduce the potential for midair collisions, improve operational efficiencies, and better manage air traffic operations.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. 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.

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; 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 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 extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Yukon-Kuskokwim Delta, AK [New]

That airspace extending upward from 1,200 feet above the surface within the area bounded by lat. 58° 25′ 36″ N long. 158° 00′ W, to lat. 57° 50′ N long. 158° 00′ W, to lat. 57° 50′ N long. 156° 00′ W, to lat. 64° 00′ N long. 156° 00′ W, to lat. 64° 00′ N long. 161° 41′ 24″ W, then via the 12 nautical mile limit to the point of beginning.

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Issued in Anchorage, AK, on June 6, 2000.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 00–14861 Filed 6–12–00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 00–ASO–8]

RIN 2120–AA66

Amendment to Time of Designation for Restricted Area R–7104 (R–7104), Vieques Island, PR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the time of designation for Restricted Area R–7104 (R–7104), Vieques Island, PR., from ''Intermittent, 0600–2300 local time, daily; other times by NOTAM 24 hours in advance'' to ''As activated by NOTAM 24 hours in advance.'' The FAA is taking this action in response to a request from the United States Navy (USN) and the FAA Southern Regional Air Traffic Division.

EFFECTIVE DATE: 0901 UTC, August 10, 2000.

FOR FURTHER INFORMATION CONTACT: Terry Brown, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

As a result of a review of restricted area operations, the USN and the FAA Southern Regional Air Traffic Division requested to change the requirements for the activation of R–7104, Vieques Island, PR. This action will simplify the Times of Designation portion of FAA Order 7400.8.

The Rule

This amendment to 14 CFR part 73 changes the time of designation for R–7104, Vieques Island, PR, by removing the words ''Intermittent, 0600–2300 local time, daily; other times by NOTAM 24 hours in advance,'' and inserting the words ''As activated by NOTAM 24 hours in advance.''

Since this is an administrative change and does not affect the boundaries, designated altitudes, or activities conducted therein; I find that notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

Section 73.71 of part 73 was republished in FAA Order 7400.8G, dated September 1, 1999.

The FAA has determined that this action only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, 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) 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.

Environmental Review

In accordance with FAA Order 1050.1D, ''Polices and Procedures for Considering Environmental Impacts,'' and the National Environmental Policy