



[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–1074; Airspace Docket No. 18–AWP–29]

RIN 2120-AA66

Amendment of Class E Airspace; Hawaiian Islands, HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Hawaiian Islands Class E airspace extending upward from 1,200 feet and 5,500 feet above the surface of the earth by removing that portion that extends beyond the Territorial Sea. This action supports the operation of Instrument Flight Rules (IFR) under standard instrument approach and departure procedures in the Hawaiian Islands, for the safety and management of aircraft within the National Airspace System.

DATES: Effective 0901 UTC, August 15, 2019. 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 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at

http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence

Avenue, SW, Washington, DC, 20591; telephone: (202) 267-8783. The Order is also available for inspection 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 <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

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

FOR FURTHER INFORMATION CONTACT: Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S. 216th Street, Des Moines, WA 98198; telephone (206) 231-2245.

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 Class E airspace extending upward from 1,200 feet and 5,500 feet above the surface for the Hawaiian Islands, HI, to correct an error in which US airspace extends into international airspace.

History

The FAA published a notice of proposed rulemaking in the Federal Register (84 FR 7837; March 5, 2019) for Docket No. FAA-2018-1074 to modify Class E airspace extending upward from 1,200 feet and 5,500 feet above the surface of the earth for the Hawaiian Islands, HI. 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 7400.11C, dated August 13, 2018, and effective September 15, 2018, 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.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the ADDRESSES section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace extending upward from 1,200 feet and 5,500 feet above the surface of the earth. The FAA identified that the Hawaiian Islands Class E airspace was established, in error, beyond the United States Territorial Sea and into international airspace. The Territorial Sea of the United States was defined by Presidential Proclamation number 5928, on December 27, 1988, as that area extending to 12 nautical miles beyond the land territory and internal waters of the United States and the airspace above it. This action will

modify the Class E Airspace extending upward from 1,200 feet above the surface of the earth by adjusting the airspace's outer boundary to coincide with the Hawaiian Islands' Territorial Sea and remove the Class E airspace that extends upward from 5,500 feet above the surface of the earth. This action removes references to the Hilo and South Kauai VORTACs in the legal description for the Class E airspace extending upward from 1,200 feet. The airspace is being redesigned without the use of these references. This legal description will establish the Hawaiian Islands as an archipelagic whole consistent with the definition established in the Constitution of the State of Hawaii. This designation includes all islands, together with their appurtenant reefs and territorial and archipelagic waters, included in the Territory of Hawaii on the date of enactment of the Admission Act, except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters; but this State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island) or Kingman Reef, together with their appurtenant reefs and territorial waters. This action is being submitted coincidental with an FAA proposal, submitted on April 11, 2018 (83 FR 15521), to establish Hawaiian Islands' High and Low Offshore Airspace Areas within international airspace. The Offshore Airspace would extend from the Hawaiian Islands' Territorial Sea outward to the boundary of the Flight Information Region. The offshore airspace will provide for the application of domestic air traffic control procedures, beyond the Territorial Sea, within areas of domestic radio navigational signal or Air Traffic Control radar coverage.

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, will 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 5-6.5a. 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 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

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

* * * * *

AWP HI E5 Hawaiian Islands, HI [Amended]

That airspace extending upward from 1,200 feet above the surface within 12 NM of the Hawaiian Islands shoreline Beginning at lat. 22° 06' 28" N., long. 159° 04' 39" W., to lat. 21° 46' 57" N., long. 158° 14' 41" W., to 12 NM from the shoreline of Oahu. Thence, clockwise along the line 12 NM from and parallel to the shoreline of the State of Hawaii, to lat. 20° 30' 29" N., long. 155° 53' 40" W., to lat. 20° 28' 08" N., long. 155° 52' 03" W., to 12 NM from the shoreline of Hawaii.

Thence, clockwise along the line 12 NM from and parallel to the shoreline of Hawaii to lat. 20° 03' 26" N., long. 156° 05' 30" W., to lat. 20° 22' 48" N., long. 156° 18' 51" W., to 12 NM from the shoreline of Maui.

Thence clockwise along the line 12 NM from and parallel to the shoreline of the State of Hawaii, to lat. 21° 25' 19" N., long. 158° 26' 08" W., to lat. 21° 44' 34" N long. 159° 15' 27" W., to 12 NM from the shoreline of Kauai.

Thence, clockwise along the line 12 NM from and parallel to the shoreline of the State of Hawaii to the beginning.

Issued in Seattle, Washington, on May 6, 2019.

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