

the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**Privacy:** We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit <http://DocketsInfo.dot.gov>.

**Docket:** To read background documents or comments received, go to <http://www.regulations.gov> at any time or to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this proposed rule contact Loran Haworth, FAA, Airplane and Flightcrew Interface Branch (ANM–111), Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW, Renton, Washington 98057–3356; telephone (425) 227–1133; facsimile 425–227–1232; e-mail [Loran.Haworth@faa.gov](mailto:Loran.Haworth@faa.gov).

For legal questions concerning this proposed rule contact Doug Anderson, FAA, Office of the Regional Counsel (ANM–7), 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2166; facsimile 425–227–1007; e-mail [Douglas.Anderson@faa.gov](mailto:Douglas.Anderson@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written

comments, or if you are filing comments electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

##### **Proprietary or Confidential Business Information**

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD-ROM, mark the outside of the disk or CD-ROM and also identify electronically within the disk or CD-ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

##### **Availability of Rulemaking Documents**

You can get an electronic copy using the Internet by:

- (1) Searching the Federal eRulemaking Portal at <http://www.regulations.gov>;
- (2) Visiting the Office of Rulemaking's Web page at <http://www.faa.gov/avr/arm/index.cfm>; or
- (3) Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice

number, or amendment number of this rulemaking.

##### **Background**

On July 9, 2009, (74 FR 32810) Notice No. 09–05, “Flightcrew Alerting” that would amend the airworthiness standards for flightcrew alerting was published in the **Federal Register**. The comment period closed September 8.

By requests dated August 28, 2009, from The Boeing Company; September 2, 2009, from the Air Line Pilots Association, International (ALPA); September 3, 2009, from Airbus; and September 4, 2009, from the General Aviation Manufacturers Association (GAMA); the FAA was asked to extend the comment period by 60 days to permit a more careful review and consideration of the proposed rule.

The FAA considered the requests and has determined that reopening the comment period for an additional 15 days will allow The Boeing Company, ALPA, Airbus, GAMA and others, to complete their review and provide responsive comments on the NPRM. Reopening the comment period for the requested additional 60 days would adversely impact the FAA's harmonization efforts with the European Aviation Safety Agency.

The FAA finds it in the public interest to reopen the comment period for fifteen (15) days to give all interested persons additional time to complete their review and comments on the proposal.

Issued in Washington, DC, on September 11, 2009.

**Brenda D. Courtney,**

*Acting Director, Office of Rulemaking.*

[FR Doc. E9–22343 Filed 9–15–09; 8:45 am]

**BILLING CODE 4910–13–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Parts 71 and 93**

[Docket No. FAA–2009–0837; Airspace Docket No. 09–AWA–2; Notice No. 09–11]

**RIN 2120–AJ59**

#### **Proposed Modification of the New York, NY, Class B Airspace Area; and Proposed Establishment of the New York Class B Airspace Hudson River and East River Exclusion Special Flight Rules Area**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to make a minor modification to the New York,

NY, Class B airspace area by adjusting the floor of Class B airspace above a portion of the Hudson River to 1,300 feet above mean sea level (MSL). Additionally, this action proposes to establish a Special Flight Rules Area (SFRA) over the Hudson River and East River to mandate certain pilot operating practices for flight within the Hudson River and East River Class B airspace Exclusions. The FAA is proposing this action to enhance the safety of flight operations in the New York Class B airspace Exclusion areas.

**DATES:** Comments must be received on or before October 16, 2009.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2009–0837 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202–493–2251.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Privacy:* We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the electronic form of all comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit <http://DocketsInfo.dot.gov>.

*Docket:* To read background documents or comments received, go to <http://www.regulations.gov> at any time and follow the online instructions for accessing the docket, or, the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this proposed rule, contact Paul Gallant, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

For legal questions concerning this proposed rule, contact Lorelei Peter, Office of the Chief Counsel, AGC–220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3134.

#### **SUPPLEMENTARY INFORMATION:**

Later in this preamble under the Additional Information section, we discuss how you can comment on this proposal and how we will handle your comments. Included in this discussion is related information about the docket, privacy, and the handling of proprietary or confidential business information. We also discuss how you can get a copy of related rulemaking documents.

#### **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 the airspace necessary to ensure the safety of aircraft and the efficient use of airspace.

#### **Background**

On August 8, 2009, a midair collision occurred between a helicopter and a single-engine, fixed-wing aircraft operating in accordance with visual flight rules (VFR) over the Hudson River near Hoboken, New Jersey. This accident prompted the FAA and the National Transportation Safety Board (NTSB) to examine the airspace configuration and pilot procedures that apply in the vicinity of the incident.

There are three major airports in the New York City area: John F. Kennedy International Airport (JFK); Newark Liberty International Airport (EWR); and LaGuardia Airport (LGA). The FAA has designated the airspace surrounding the three airports as Class B airspace. Class B airspace is designated to enhance safety around airports with high density air traffic operations. An air traffic control (ATC) clearance is required to

enter Class B airspace and, with limited exceptions, all aircraft operating in the area must be equipped with a two-way radio and an operational transponder. ATC provides separation to aircraft operating within the Class B airspace area.

The New York Class B airspace area originated in 1971 when the FAA issued a final rule establishing a terminal control area (TCA) around the above mentioned airports (36 FR 13376 July 21, 1971). In 1991, the term "TCA" was replaced with "Class B airspace" as part of the Airspace Reclassification rule (56 FR 65638, December 17, 1991) which harmonized United States airspace classifications with the terminology used by the International Civil Aviation Organization (ICAO). The original TCA airspace configuration for these airports was developed with considerable public input. Concerns were expressed to the FAA regarding the impact of the new airspace on operations by general aviation users, police, fire and Coast Guard rescue activities, helicopter operators and seaplane operators. A workgroup was formed to address these concerns and as a result, the FAA decided to raise the floor of certain subareas near EWR and LGA to 1,100 feet MSL over the Hudson River and the East River to provide more accessible airspace for the above-described operations. These areas are commonly referred to as the Hudson River Exclusion and the East River Exclusion. The configuration of the New York Class B airspace area has essentially remained the same since designated as a TCA in 1971. The volume of air traffic in the area, however, has grown significantly since that time.

The Hudson River Exclusion extends along the Hudson River between the vicinity of the George Washington Bridge, on the north, and the Verrazano-Narrows Bridge on the south. The exclusion extends from the surface of the Hudson River up to the base of the overlying New York Class B airspace area. Currently, the floor of Class B airspace along the Hudson River varies between an altitude above 1,100 feet MSL and 1,500 feet MSL. The exclusion effectively is a "cutout" from the New York Class B airspace area and permits pilots to fly through the area without an ATC clearance.

The East River Class B Exclusion extends between the east and west banks of the East River from Governors Island to the north tip of Roosevelt Island. The exclusion extends from the surface of the river up to the base of the overlying Class B airspace. This proposal would not alter or amend the

configuration of the East River Exclusion.

Aeronautical charts that depict the New York Class B airspace area carry a note advising pilots that a high density of uncontrolled helicopter and fixed wing traffic operate in the Hudson River and East River Class B Exclusions. The note also requests that all aircraft self-announce their positions on the appropriate radio frequency as noted on the charts. The charts alert pilots to the heavy concentration of air tour operations in the vicinity of the Statue of Liberty and Ellis Island. Additionally, the charts provide voluntary procedures that are in effect for aircraft operating in the Hudson and East River exclusions. These procedures request that aircraft operating in the area:

- Not exceed 140 knots indicated airspeed;
- Turn on anticollision, position, navigation and/or landing lights; and
- Self announce on frequency 123.075 for the East River and 123.05 for the Hudson River.

These recommended procedures do not relieve pilots of compliance with applicable Federal regulations, including regulations covering minimum safe altitudes.

As a result of the August 8, 2009 accident, the FAA issued Notice to Airmen (NOTAM) number 9/3952 encouraging pilots to follow the recommended procedures described above. The FAA also formed a task force to review current procedures for VFR flight operations in the New York City area. A goal of the review was to identify safety enhancements to flight operations in the Hudson River area. The proposals in this notice respond to recommendations of the FAA's task force, including recommendations to amend 14 CFR part 93 to establish an SFRA covering the Hudson River and East River Exclusions and to define operational procedures for use within the SFRA. Additionally, an NTSB investigation of the accident is currently ongoing. Based on preliminary findings, the NTSB issued a number of recommendations that are similar to those developed by the FAA task force. This notice also responds to those recommendations. A copy of the "Review of New York Visual Flight Rules Airspace: Task Force Report," dated August 28, 2009, has been placed in this rulemaking docket.

## Discussion of the Proposals

### 14 CFR Part 71

The FAA is proposing an amendment to title 14 Code of Federal Regulations (14 CFR) part 71 to modify portions of

the New York, NY, Class B airspace area in order to establish a uniform Class B airspace floor of 1,300 feet MSL above the Hudson River Class B Exclusion. The Hudson River Exclusion consists of that airspace overlying the Hudson River beginning near the Alpine Tower (a visual reference point north of the George Washington Bridge), south to the Verrazano-Narrows Bridge, from the surface up to the overlying floor of the New York Class B airspace area. Currently, the floor of Class B airspace above the Hudson River Exclusion varies between the altitudes of "above" 1,100 feet MSL and 1,500 feet MSL, at different points along the river. In order to change the Class B airspace floor to 1,300 feet MSL in that area, the FAA proposes to modify the legal description of Area D to remove two segments where the floor of Class B airspace extends from above 1,100 feet MSL over the Hudson River. The two segments to be removed from Area D are that airspace within a 6-mile radius circle of the LGA VOR/DME west of the east bank of the Hudson River; and that airspace within the 6.5-mile radius circle centered at lat. 40°41'30" N., long. 74°09'59" W. The modified Area D would only describe that airspace above 1,100 feet above that lies above the East River. A new Area K would be added to describe that Class B airspace extending upward from 1,300 feet MSL above the Hudson River. The Area E description would be modified to exclude that airspace contained in Area K. The purpose of this proposed change is to provide separate altitudes for aircraft conducting local operations within the Hudson River Exclusion and those overflight aircraft that are transiting through the area predominantly in level flight.

### 14 CFR Part 93

The FAA is also proposing to establish an SFRA in part 93 covering the New York Class B airspace Hudson River and East River Exclusions. The SFRA would mandate that pilots follow certain operating practices that at present are voluntary. In addition, pilots would need to comply with mandatory charted reporting points that would be established for position reporting in the Hudson River Exclusion. Lastly, the SFRA would incorporate restrictions for fixed wing aircraft operations in the East River Exclusion that are currently published in Flight Data Center NOTAM number 6/3495 and were imposed following an October 11, 2006 accident. This accident occurred when a fixed wing aircraft, attempting a 180° turn in the East River Exclusion, crashed into

an apartment building in Manhattan, New York City.

The following voluntary practices, applicable in both the Hudson River and East River Exclusions, would become mandatory for all pilots:

- Maintain an indicated airspeed not to exceed 140 knots.
- Turn on anti-collision, position/navigation, and/or landing lights.
- Self announce position on the appropriate radio frequency for the East River or Hudson as depicted on the New York VFR Terminal Area Chart (TAC) and/or New York Helicopter Route Chart.

In addition, the following new procedures would be adopted:

### *For Operations in Both the East River and Hudson River Exclusions*

- Pilots must have a current New York TAC chart and/or New York Helicopter Route Chart in the aircraft and familiarize themselves with the information contained therein.

### *For Hudson River Exclusion Operations*

- Pilots must self announce at the charted mandatory reporting points, the following information: aircraft type and color, current position, direction of flight and altitude.
- Pilots must fly along the West shoreline of the Hudson River when southbound, and along the East shoreline of the Hudson River when northbound.
- Aircraft overflying the area within the Hudson River Exclusion, but not landing or departing any of the Manhattan heliports, or landing facilities, or conducting any local area operations, must transit the Hudson River Exclusion at or above an altitude of 1,000 feet MSL up to, but not including the floor of the overlying Class B airspace.

### *For East River Exclusion Operations*

- VFR flight operations by fixed wing aircraft (excluding amphibious fixed wing aircraft landing or departing the New York Skyports, Inc., Seaplane Base) in the East River Class B Exclusion (from the southwestern tip of Governors Island to the northern tip of Roosevelt Island) are prohibited unless authorized and being controlled by ATC. To obtain authorization, pilots must contact LaGuardia Airport Traffic Control Tower prior to Governors Island.

## Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses.

First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or Tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this proposed rule. The reasoning for this determination follows.

This rule merely sets a uniform ceiling in the Hudson River Exclusion to facilitate segregation of overflights from local traffic. Pilots would self-announce at the reporting points while in the Exclusion area. Pilot training regarding this change is voluntary. We are incorporating the existing NOTAM restricting certain fixed-wing operations in the East River Exclusion Area. Therefore, this rule does not change the quantity of flights, nor training requirements, and continues the existing safety restriction in the East River Exclusion Area. Pilots will be required to carry current charts, at a cost of \$5.25 each. As a result, the expected cost is minimal. In addition, these changes are expected to improve airspace safety. We request comments with supporting justification regarding the FAA determination of minimal impact.

FAA has, therefore, determined that this proposed rule is not a “significant regulatory action” as defined in section 3(f) of Executive Order 12866, and is not “significant” as defined in DOT's Regulatory Policies and Procedures.

#### **Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.” The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear. We agree the rule may well affect a substantial number of small entities. However, the FAA expects this rule to impose only minimal cost; therefore there is not a significant economic impact.

Therefore, the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments regarding this determination.

#### **International Trade Impact Assessment**

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of

international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and has determined that it would have only a domestic impact and therefore no effect on international trade.

#### **Unfunded Mandates Assessment**

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$136.1 million in lieu of \$100 million. This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

#### **Environmental Analysis**

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined that this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances. The FAA has further determined that the modification of the New York, NY Class B airspace area qualifies for the categorical exclusion identified in paragraph 311a and involves no extraordinary circumstances. Finally, the FAA determined the proposed SFAR and corresponding operational and pilot procedures qualify for the categorical exclusion identified in paragraph 311j and involve no extraordinary circumstances.

#### **Additional Information**

##### *Comments Invited*

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket

does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

#### *Availability of Rulemaking Documents*

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visiting the FAA's Regulations and Policies Web page at [http://www.faa.gov/regulations\\_policies](http://www.faa.gov/regulations_policies) or
3. Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

You may access all documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, from the Internet through the Federal eRulemaking Portal referenced in paragraph (1).

#### **List of Subjects**

##### *14 CFR Part 71*

Airspace, Incorporation by reference, Navigation (air).

##### *14 CFR Part 93*

Aircraft flight, Airspace, Aviation safety, Air traffic control, Aircraft, Airmen, Airports.

#### **The Proposed Amendments**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 and 14 CFR part 93 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(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 FAA Order 7400.9T, Airspace Designations and Reporting Points, dated and effective September 15, 2009, is amended as follows:

#### *Paragraph 3000 Class B Airspace*

\* \* \* \* \*

#### **AEA NY B New York, NY [Amended]**

\* \* \* \* \*

#### **Boundaries**

By removing the description of Area D and Area E and substituting the following; and by adding a new Area K as follows:

*Area D.* That airspace extending upward from above 1,100 feet MSL to and including 7,000 feet MSL within the area between the east and west banks of the East River southwest of the north end of Roosevelt Island.

*Area E.* That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within the area bounded by a line beginning at the intersection of the 20-mile radius circle of JFK VORTAC and the JFK VORTAC 208° radial, thence counterclockwise along the 20-mile arc to its intersection with the Long Island shoreline, thence southwest along the Long Island shoreline to and counterclockwise along the 13-mile radius circle of JFK VORTAC to and counterclockwise along the 11-mile radius circle of LGA VOR/DME to the LGA VOR/DME 351° radial, thence direct to the LGA VOR/DME 283° radial at the LGA VOR/DME 17-mile DME fix, thence counterclockwise along a 10-mile radius circle centered at lat. 40°41'30" N., long. 74°09'59" W., to its intersection with the Colts Neck VORTAC 005° radial, thence direct to the intersection of the Colts Neck VORTAC 034° radial and the New Jersey shoreline at Sandy Hook, thence south along the New Jersey shoreline to the point of beginning; and that airspace within 2 miles each side of the Newark ILS Runway 4L localizer course, extending from the CHESA outer marker to 6 miles southwest of the outer marker, excluding that airspace within and below Areas A, B, C, and D previously described; and excluding the airspace within and below Areas F, J and K hereinafter described.

*Area K.* That airspace extending upward from 1,300 feet MSL, to and including 7,000 feet MSL north of LaGuardia Airport within the area beginning at the intersection of the LGA VOR/DME 11-mile DME arc and the west bank of the Hudson River (near Alpine Tower) thence south along the west bank of the Hudson River to intersect the Colts Neck VOR/DME 012° (T)/023° (M) radial, thence

southwest along the Colts Neck 012° (T)/023° (M) radial to the Hudson River shoreline, thence south along the shoreline to the Verrazano-Narrows Bridge, thence east along the Bridge to the east bank of the Hudson River, thence north along the east bank of the Hudson River to lat. 40°38'39" N., long. 74°02'03" W., thence north along a line drawn direct to the southwesternmost point of Governors Island, thence north along a line drawn direct to the southwest tip of Manhattan Island, thence north along the east bank of the Hudson River to the LGA VOR/DME 11–DME arc, north of LaGuardia Airport, thence counterclockwise along the 11-mile arc to the point of beginning.

\* \* \* \* \*

### **PART 93—SPECIAL AIR TRAFFIC RULES**

3. The authority citation for part 93 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

4. Add subpart W, consisting of §§ 93.350 through 93.353, to read as follows:

#### **Subpart W—New York Class B Airspace Hudson River and East River Exclusion Special Flight Rules Area**

Sec.

93.350 Definitions.

93.351 General requirements for operating in the East River and/or Hudson River Exclusions.

93.352 Hudson River Exclusion specific procedures.

93.353 East River Exclusion specific procedures.

#### **Subpart W—New York Class B Airspace Hudson River and East River Exclusion Special Flight Rules Area**

##### **§ 93.350 Definitions.**

For the purposes of this subpart: *New York Class B airspace East River Exclusion* is an area between the east and west banks of, and overlying, the East River from the southwestern tip of Governors Island to the north tip of Roosevelt Island, from the surface up to 1,100 feet MSL.

*New York Class B airspace Hudson River Exclusion* is an area from the surface up to but not including the overlying floor of the New York Class B airspace area, between the east and west banks of, and overlying, the Hudson River within the area beginning north of LaGuardia Airport at the intersection of the LGA VOR/DME 11-mile DME arc and the west bank of the Hudson River (near Alpine Tower) thence south along the west bank of the Hudson River to intersect the Colts Neck VOR/DME 012° (T)/023° (M) radial, thence southwest along the Colts Neck 012° (T)/023° (M) radial to the Hudson River shoreline,

thence south along the shoreline to the Verrazano-Narrows Bridge, thence east along the Bridge to the east bank of the Hudson River, thence north along the east bank of the Hudson River to lat. 40°38'39" N., long. 74°02'03" W., thence north along a line drawn direct to the southwesternmost point of Governors Island, thence north along a line drawn direct to the southwest tip of Manhattan Island, thence north along the east bank of the Hudson River to the LGA VOR/DME 11-DME arc, north of LaGuardia Airport, thence counterclockwise along the 11-mile arc to the point of beginning.

**§ 93.351 General requirements for operating in the East River and/or Hudson River Exclusions.**

Pilots must adhere to the following requirements:

(a) Maintain an indicated airspeed not to exceed 140 knots.

(b) Turn on anticollision, position/navigation, and/or landing lights.

(c) Self announce position on the appropriate radio frequency for the East River or Hudson River as depicted on the New York VFR Terminal Area Chart (TAC) and/or New York Helicopter Route Chart.

(d) Have a current New York TAC chart and/or New York Helicopter Route Chart in the aircraft and be familiar with the information contained therein.

**§ 93.352 Hudson River Exclusion specific procedures.**

In addition to the requirements in § 93.351, the following procedures apply:

(a) Pilots must self announce at the charted mandatory reporting points, the following information: Aircraft type and color, current position, direction of flight and altitude.

(b) Pilots must fly along the West shoreline of the Hudson River when southbound, and along the East shoreline of the Hudson River when northbound.

(c) Aircraft overflying the area within the Hudson River Exclusion, but not landing or departing any of the Manhattan heliports, or conducting any local area operations, must transit the Hudson River Exclusion at or above an altitude of 1,000 feet MSL up to, but not including the floor of the overlying Class B airspace.

**§ 93.353 East River Exclusion specific procedures.**

In addition to the requirements in § 93.351, VFR flight operations by fixed wing aircraft (excluding seaplane fixed wing aircraft landing or departing the New York Skyports, Inc. seaplane base) in the East River Class B Exclusion

extending from the southwestern tip of Governors Island to the north tip of Roosevelt Island are prohibited unless authorized and being controlled by ATC. To obtain authorization, pilots must contact LaGuardia Airport Traffic Control Tower prior to Governors Island.

Issued in Washington, DC, on September 11, 2009.

**Edith V. Parish,**

*Manager, Airspace and Rules Group.*

[FR Doc. E9-22344 Filed 9-15-09; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Parts 1 and 17**

**[REG-140492-02]**

**RIN 1545-BDO4**

**Definition of Solid Waste Disposal Facilities for Tax-Exempt Bond Purposes**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Withdrawal of notice of proposed rulemaking; Notice of proposed rulemaking; Notice of public hearing on proposed rulemaking.

**SUMMARY:** This document contains proposed regulations on the definition of solid waste disposal facilities for purposes of the rules applicable to tax-exempt bonds issued by State and local governments. These proposed regulations provide guidance to State and local governments that issue tax-exempt bonds to finance solid waste disposal facilities and to taxpayers that use those facilities. This document also withdraws the notice of proposed rulemaking that was published in the **Federal Register** on May 10, 2004, proposes to remove certain existing regulations that provide rules for determining whether a facility is a solid waste disposal facility, and contains a notice of public hearing on these proposed regulations.

**DATES:** Written or electronic comments must be received by December 15, 2009. Outlines of topics to be discussed at the public hearing scheduled for January 5, 2010 must be received by December 17, 2009.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-140492-02), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered to:

CC:PA:LPD:PR Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-140492-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-140492-02). The public hearing will be held in room 2615 at the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

Concerning the proposed regulations, Aviva Roth at (202) 622-3980; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, e-mail [Richard.A.Hurst@irscounsel.treas.gov](mailto:Richard.A.Hurst@irscounsel.treas.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

This document proposes to amend the Income Tax Regulations (26 CFR part 1) under section 142 of the Internal Revenue Code (Code) to provide rules for determining whether a facility is a solid waste disposal facility under section 142(a)(6). This document also proposes to remove certain existing regulations that provide rules for determining whether a facility is a solid waste disposal facility and contains a notice of public hearing on these proposed regulations. On May 10, 2004, the IRS published a notice of proposed rulemaking (REG-140492-02) in the **Federal Register** (69 FR 25856) regarding when a facility qualifies as a solid waste disposal facility under section 142 (2004 Proposed Regulations). The 2004 Proposed Regulations proposed a new § 1.142(a)(6)-1 of the Income Tax Regulations and would have removed existing § 1.103-8(f)(2) and § 17.1 of the temporary Income Tax Regulations on this subject (together, the Existing Regulations). Comments on the 2004 Proposed Regulations were received and a hearing was held on August 11, 2004. After consideration of the public comments, the IRS and the Treasury Department propose extensive changes to the 2004 Proposed Regulations. In order to allow the public an opportunity to comment with respect to these extensive changes, we are issuing these proposed regulations and holding a public hearing on these proposed regulations.

**Explanation of Provisions**

**1. Introduction and Existing Regulations**

In general, interest on State or local bonds is excludable from gross income