

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 73**

[Docket No. FAA-2007-28632; Airspace  
Docket No. 07-ASW-3]

RIN 2120-AA66

**Modification of Restricted Area  
R-3404; Crane, IN**

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies Restricted Area R-3404 at Crane, IN, in support of U.S. Navy ordnance demolition activities. The FAA is taking this action to protect nonparticipating aircraft from blast fragments generated during the demilitarization and disposal of a variety of types of unexpended ordnance at the Naval Support Activity (NSA) Crane's Demolition Range.

**DATES:** Effective date 0901 UTC,  
September 23, 2010.

**FOR FURTHER INFORMATION CONTACT:**  
Colby Abbott, 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.

**SUPPLEMENTARY INFORMATION:****History**

On Tuesday, October 23, 2007, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify Restricted Area R-3404 at Crane, IN (72 FR 59971). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. There were six comments received during the NPRM comment period that raised two substantive concerns: (1) Impact to aircraft of a higher restricted area ceiling during icing conditions, and (2) lateral encroachment into VOR Federal Airway V-305.

Five commenters stated the proposal would impact users due to the ceiling of R-3404 being raised from 2,500 feet mean sea level (MSL) to 4,100 feet MSL along a major flyway between Evansville, IN, and Indianapolis, IN, when icing conditions force aircraft to lower altitudes. The FAA does not agree. The existing restricted area airspace is 1/2 nautical mile (NM) in radius and has a ceiling up to 2,500 feet MSL. The proposed modification increases the airspace to a 1 NM radius from the center of the restricted area's

existing center point, making the restricted area 2 NM in diameter, and increases the ceiling to and including 4,100 feet MSL. The aeronautical analysis of this proposal by the controlling air traffic control facilities determined that instrument flight rules (IFR) and visual flight rules (VFR) terminal operations would be minimally effected by this proposal, as well as minimum impact to public use or chartered private airports. In the event IFR aircraft should encounter icing conditions when R-3404 is activated, those IFR aircraft will be vectored by air traffic control to remain clear of the restricted area. If VFR aircraft should encounter icing conditions when the restricted area is activated, they can easily circumnavigate the 2 NM diameter of the expanded restricted area.

All six commenters expressed concern over the proposed expansion of R-3404, laterally and vertically, impacting the access to Federal Airway V-305 below 5,000 feet MSL. The FAA partially agrees. Although the proposed restricted area lies to the west of V-305 and does not interfere with the centerline of the airway, IFR aircraft flying on V-305 at 3,000 feet MSL and 4,000 feet MSL would be impacted when the proposed R-3404 is active. However, as mentioned previously, these aircraft could easily be vectored by air traffic control to remain clear of the proposed restricted area with minimal impact. With the 8 NM airway width of V-305, VFR aircraft following the Federal airway would not be required to leave the lateral confines of the airway to avoid the proposed expansion of R-3404. As mentioned above, they could easily circumnavigate the 2 NM diameter of the expanded restricted area to the east and still be following V-305. As a result, realignment of V-305 is also determined to be unnecessary.

**The Rule**

This action amends Title 14 Code of Federal Regulations (14 CFR) part 73 by modifying R-3404 near Crane, IN. The modification centers the restricted area over NSA Crane's blast area (lat. 38°49'30" N., long. 86°50'08" W.), enlarges the restricted area from a 1/2 NM radius to a 1 NM radius, making the restricted area 2 NM in diameter; increases the ceiling from 2,500 feet MSL to and including 4,100 feet MSL; and changes the name of the using agency from "Commanding Officer, Naval Ammunition Depot, Crane, IN" to "U.S. Navy, Crane Division, Naval Surface Warfare Center tenant of NSA Crane."

Section 73.34 of Title 14 CFR part 73 was republished in FAA Order 7400.8S, effective February 16, 2010.

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. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (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.

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. This regulation is within the scope of that authority as it modifies R-3404, Crane, IN., for the protection of nonparticipating aircraft during the disposal of a variety of types of ordnance.

**Environmental Review**

Pursuant to Section 102(2) of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR Parts 1500-1508), and other applicable law, the U.S. Navy prepared and published a Final Environmental Assessment (FEA) in June 2008 that analyzed the potential for environmental impacts associated with the proposed NSA Crane and Naval Surface Warfare Center (NSWC) Glendora Lake Test Facility requirements. In July 2009, the U.S. Navy issued a Finding of No Significant Impact (FONSI) based on the results of the FEA. In accordance with applicable CEQ regulations (40 CFR 1501.6) and the Memorandum of Understanding (MOU) between FAA and Department of

Defense (DOD) dated October 2005, the FAA was a cooperating agency on the FEA.

The FAA has conducted an independent review of the FEA and is adopting the FEA for this action pursuant to 40 CFR 1506.3(a) and (c) and has issued an Adoption of FEA and FONSI/Record of Decision (ROD) dated May 2010. This final rule, which increases the vertical limit and lateral boundary of R-3404, will not result in significant environmental impacts. A copy of the FAA Adoption of FEA and FONSI/ROD has been placed in the public docket for this rulemaking.

#### List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

#### Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

#### PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 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.

#### § 73.34 [Amended]

■ 2. § 73.34 is amended as follows:

\* \* \* \* \*

#### R-3404 Crane, IN [Revised]

Boundaries. That airspace within a 1 NM radius of lat. 38°49'30" N., long. 86°50'08" W.

Designated altitudes. Surface to and including 4,100 feet MSL.

Time of designation. Sunrise to sunset, daily from May 1 through and including November 1. Other times by NOTAM 24 hours in advance.

Controlling agency. FAA, Terre Haute ATCT.

Using agency. U.S. Navy, Crane Division, Naval Surface Warfare Center tenant of NSA Crane.

Issued in Washington, DC, July 16, 2010.

**Edith V. Parish,**

*Manager, Airspace and Rules Group.*

[FR Doc. 2010-17951 Filed 7-21-10; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 234

[Docket No. DOT-OST-2007-0022]

RIN No. 2105-AE02

#### Posting of Flight Delay Data on Web Sites

**AGENCY:** Office of the Secretary (OST), Department of Transportation (DOT).

**ACTION:** Direct final rule; confirmation of effective date

**SUMMARY:** This document confirms the effective date of the direct final rule amending the time period for uploading flight performance information to a reporting air carrier's Web site from anytime between the 20th and 23rd day of the month to the fourth Saturday of the month.

**DATES:** This final rule is effective on July 21, 2010.

**FOR FURTHER INFORMATION CONTACT:** Blane A. Workie, Deputy Assistant General Counsel, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, 202-366-9342 (phone), 202-366-7152 (fax), [blane.workie@dot.gov](mailto:blane.workie@dot.gov) (e-mail).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department of Transportation's Office of the Secretary (OST) published a direct final rule with a request for comments in the **Federal Register** on June 21, 2010 (75 FR 34925). The direct final rule required that the reporting carriers (*i.e.*, certificated air carriers that account for at least 1 percent of domestic scheduled passenger revenues) load flight performance data onto their Web sites on Saturday, July 24, 2010, for June data, and all subsequent flight performance information on the fourth Saturday of the month following the month for which the data are that being reported. OST uses the direct final rulemaking procedure for a non-controversial rule where OST believes that there will be no adverse public comment. The direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment was received by July 6, 2010, the regulation would become effective on July 21, 2010. No adverse comments were received, and thus this notice confirms that the direct final rule will become effective on that date.

Issued July 16, 2010, in Washington, DC.

**Susan Kurland,**

*Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 2010-17859 Filed 7-21-10; 8:45 am]

**BILLING CODE P**

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 200

[Release No. 34-62520]

#### Technical Amendment to Rules of Organization; Conduct and Ethics; and Information and Requests

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Securities and Exchange Commission ("Commission") is making technical amendments to the rule by which authority is delegated to the Director of the Division of Enforcement. The amendments update references to the provision in the Securities Act of 1933 ("Securities Act") which authorizes the Commission to issue subpoenas in investigations under the Securities Act, and delete references to the Public Utility Holding Company Act of 1935 ("PUHCA").

**DATES:** Effective Date: July 22, 2010.

**FOR FURTHER INFORMATION CONTACT:** Kenneth H. Hall, Assistant Chief Counsel, 202-551-4936, Office of Chief Counsel, Division of Enforcement, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-6553.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Commission is authorized to conduct investigations of possible violations of the Securities Act. Specifically, section 19(c) of the Securities Act<sup>1</sup> provides that,

For the purpose of any investigations which, in the opinion of the Commission, are necessary and proper for the enforcement of this title, any member of the Commission or any officer or officers designated by it are empowered to administer oaths and affirmations, subpoena [sic] witnesses, take evidence, and require the production of any books, papers, or other documents which the Commission deems relevant or material to the inquiry. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States or any Territory at any designated place of hearing.

<sup>1</sup> 15 U.S.C. 77s(c).