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Part VIII

**Department of
Transportation**

Federal Aviation Administration

**14 CFR Part 93
Special Air Traffic Rules and Airport
Traffic Patterns; Revocation of VOR
Federal Airway No. 16, Phoenix, AZ; Final
Rule**

DEPARTMENT OF TRANSPORTATION

14 CFR Part 93

[Docket No. 28082, Amdt. No. 93-80]

RIN 2120-AC92

Special Air Traffic Rules and Airport Traffic Patterns; Revocation of VOR Federal Airway No. 16, Phoenix, AZ.**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final Rule; request for comments.

SUMMARY: This action rescinds a regulation that segregated uncontrolled general aviation aircraft from military turbojet aircraft operating under visual flight rules (VFR) within a segment of airspace west of Phoenix, AZ, south of Luke Air Force Base (AFB), and within the confines of a portion of VOR Federal Airway No. 16 (V-16). The regulation is no longer needed because the number of such aircraft operations has been significantly reduced and aircraft are required to have a transponder with automatic altitude reporting equipment (Mode C transponder) in the airspace within 30 nautical miles of the Sky Harbor International Airport, Phoenix, AZ. This action is coincident with the effective date of the establishment of the Phoenix Terminal Control Area (TCA), AZ.

DATES: Effective date: January 11, 1990. Comments must be received on or before January 11, 1990.

ADDRESSES: Comments may be mailed or delivered in triplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 28082, 800 Independence Avenue SW., Washington, DC 20591. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Steenson, Air Traffic Rules Branch, ATO-230, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-8783.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Even though this rule is final, interested persons are invited to submit written data, views, or arguments on any portion of the rule. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the

regulatory docket or notice number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 28082." The post card will be date/time stamped and returned to the commenter. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments.

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-200, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Requests must identify the docket number.

Related Regulatory Actions

On June 21, 1988, the FAA published Amendment No. 91-203, Transponder with Automatic Altitude Reporting Capability Requirements (53 FR 23356). That rule, in part, established requirements for an aircraft to have an operating transponder with automatic altitude reporting equipment when operating within 30 nautical miles of a TCA-primary airport. This airspace is commonly referred to as a "Mode C Veil." Effective January 11, 1990, a TCA is established at Phoenix, AZ, and Phoenix Sky Harbor International Airport is designated as the primary airport within the TCA.

Background**The Air Force Petition**

By way of letter dated June 24, 1987, the Chairman, Airspace and Support Management Division, U.S. Air Force, petitioned the FAA to rescind subpart E of part 93, §§ 93.71 through 93.75. In the request, the Chairman stated that the existence of a radar approach control service function at Luke AFB will, at the least, provide a level of safety equal to that provided by the regulations for Luke AFB aircraft operating within the designated airspace. In subsequent correspondence, the petitioner stated that the services provided to Luke AFB aircraft in the designated airspace, such as traffic advisories and vectors around nonparticipating traffic, also provide for the safety of nonparticipating aircraft in the affected airspace, and that the special air traffic rule is no longer needed.

Subpart E, Part 93

Subpart E of part 93 establishes special air traffic rules for operations in the vicinity of Phoenix, AZ and Luke AFB, AZ, and along a 16-by-8-mile segment of V-16 between 13 and 29 miles west of Phoenix, AZ. Certain aircraft operations conducted under VFR must comply with air traffic procedures contained in that rule. These procedures were designed to segregate uncontrolled general aviation aircraft operating along V-16 from military turbojet aircraft operating from/to Luke AFB. Specifically, military turbojet aircraft are restricted to altitudes at or above 2,500 feet mean sea level (MSL) and at or below 5,000 feet MSL. Other aircraft operations are restricted to altitudes at or below 2,000 feet MSL and at and above 5,500 feet MSL. Aircraft operating under instrument flight rules (IFR) are not affected by the regulation.

FAA Analysis of the Need for Subpart E, Part 93

At the time the regulation was established, neither a TCA nor an airport radar service area existed and approximately 1,200 military turbojet aircraft operations were conducted daily to/from Luke AFB which crossed V-16 within the designated airspace. All of these operations were conducted under VFR. Today, such operations are primarily conducted under IFR, with VFR operations limited to approximately 70 per day.

Other safety improvements have transpired since the rule was established. The amount of airspace under surveillance by air traffic control (ATC) radar systems has increased. Luke AFB now manages its own approach control function which previously was managed by the ATC facility at Sky Harbor Airport. This responsibility allows controllers at Luke AFB more time to provide traffic advisory service to participating aircraft concerning uncontrolled traffic operating in the designated airspace. Additionally, the aircraft at Luke AFB that would have been most affected by the regulation are F-15 or F-16 aircraft that have sophisticated airborne radar systems. Such radar systems are capable of not only detecting the range and distance of an aircraft posing a potential collision but also the altitude. Thus, an F-15 or F-16 pilot is better able to avoid a collision. Further, these aircraft have extremely high performance characteristics and, in the case of departing aircraft, can quickly

reach altitudes above those at which general aviation aircraft operate.

With the implementation of the Phoenix TCA, it is now a requirement for most aircraft operating within 30 nautical miles of Sky Harbor International Airport to be equipped with a Mode C transponder. Therefore, radar displays at ATC facilities having jurisdiction over the designated airspace will depict the altitudes of detected uncontrolled aircraft. With this altitude information, controllers are better able to assist pilots in avoiding uncontrolled aircraft.

Based on the foregoing discussion, the FAA has determined that the special air traffic procedures contained in subpart E of part 93 are no longer necessary and the general see-and-avoid requirement of part 91 is sufficient to maintain the appropriate level of safety in the affected airspace. Accordingly, the FAA is rescinding subpart E to coincide with the effective date of the establishment of the Phoenix TCA and to avoid a period in which both the subpart E and TCA requirements would apply.

Reasons for No Notice and Immediate Adoption

While the proposal to establish a TCA at Phoenix did not specifically propose to revoke the special air traffic rules contained in part 93, subpart E, the notice did request comments generally on the subject of air traffic rules and procedures in the Phoenix area. Sixteen commenters specifically referred to the subpart E special procedure. Most of the commenters advocated the rescission of subpart E since it would no longer be needed with the establishment of the TCA. Additionally, some commenters questioned whether the FAA had considered the effect the rule would have on operations under the proposed TCA, with the implication that rescission of the rule would eliminate any potential conflict with the new TCA procedures. The FAA agrees and believes that an element of confusion for pilots would be created by the coexistence of the V-16 special procedures area, the Phoenix TCA, and the Mode C Veil.

The FAA is convinced that the issues associated with this action were considered by the public during the comment period associated with the Phoenix TCA proposal, and the majority of comments addressing the special air traffic procedures contained in part 93, subpart E specifically support this action. Therefore, in consideration of the need to avoid any confusion on the part of pilots operating within that portion of V-16 airspace which is contained within the newly established Mode C Veil for

the Phoenix TCA, the FAA finds it necessary to revoke part 93, subpart E coincident with the effective date of the Phoenix TCA. In order to promote the fullest opportunity for public discussion of this action, however, the FAA is requesting comments on the final rule to be used in any consideration of future changes to the rule. Comments on the rule must be received by January 11, 1990. Comments may be sent to the address listed under "ADDRESSES."

Economic Evaluation Summary

The FAA has reviewed the revocation of the special air traffic airspace and procedures contained in subpart E of part 93 in conjunction with the establishment of the Phoenix TCA to determine what, if any, economic impact the revocation would have on the users of the affected airspace. The FAA has determined that no significant economic impact will result from such action because aircraft will still be able to use airspace without having to alter their altitudes to comply with the altitude restrictions of the regulation.

The designated airspace is situated in the vicinity of the Phoenix TCA airspace and is substantially within the Mode C Veil of that TCA. Aircraft operating within the veil are required to be equipped with a Mode C transponder. This equipment provides the necessary information to controllers concerning each aircraft's position and altitude.

Controllers use this information in issuing advisories to pilots of aircraft under their jurisdiction to enable them to avoid such detected aircraft.

The portion of the designated airspace which is not included in the Mode C Veil is rarely used by Luke AFB or general aviation aircraft. The majority of Luke AFB aircraft operate under IFR and are unaffected by the part 93 regulation. Therefore, even without the establishment of the Phoenix TCA with its Mode C Veil, the FAA believes that the regulations would no longer be required.

To the extent that the part 93, subpart E procedures differ from the procedures which pilots will use in the affected airspace, the cost of operating within this airspace will be essentially the same under either procedure. Accordingly, the economic impact on aviation users will be minimal, and further regulatory evaluation is not warranted.

International Trade Impact Analysis

The revocation of special air traffic airspace and procedures in subpart E of part 93 in conjunction with the establishment of the Phoenix TCA will not impose any new regulation or

additional cost on the affected operators. Thus, it will not have any impact on trade opportunities for either U.S. firms doing business overseas or foreign firms doing business in the United States.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a regulatory flexibility analysis if a rule has a significant economic impact, either detrimental or beneficial, on large number of small business entities. As noted above, the revocation of special air traffic airspace and procedures in subpart E of part 93, in conjunction with the establishment of the Phoenix TCA, will not have any economic impact on the affected operators. Therefore, it is certified that, under the criteria of the RFA, a regulatory flexibility analysis is not required.

Federalism Determination

The amendment set forth herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12812, the FAA has determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, the FAA has determined that this amendment (1) is not a major rule under Executive Order 12291, and (2) is not considered significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11024; February 26, 1979).

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Alaska, Navigation (Air), Penalties, Reporting and recordkeeping requirements.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 93 as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

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

Authority: 49 U.S.C. 1302, 1303, 1348,
1354(a), 1421(a), 1434, 2402, and 2404; 49
U.S.C. 100(g) (Revised Pub. L. 97-448, January
12, 1983).

Subpart E—[Removed]

2. Subpart E, consisting of §§ 93.71
through 93.75, is removed.

Issued in Washington, DC, on December 8,
1989.

James B. Busey,
Administrator.

[FR Doc. 89-28661 Filed 12-8-89; 3:42 pm]

BILLING CODE 4910-12-01