

[Regulatory Docket No. 6739]

PART 157—NOTICE OF CONSTRUCTION, ALTERATION, ACTIVATION, AND DEACTIVATION OF AIRPORTS

On June 30, 1965 the Agency published a notice of proposed rule making proposing a revision of Part 157 of the Federal Aviation Regulations (30 F.R. 8342) (Notice No. 65-14). The revision proposed to establish new reporting procedures, provide categories for airspace determinations, and to clarify the regulation in general.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. Due consideration was given to all material submitted.

Analysis of the comments indicated a general misunderstanding of the purpose of the regulation. It is not the purpose of the revision to deprive appropriate political bodies of their prerogatives with respect to approving the physical sites of airports or related matters. The FAA has always encouraged State and local governing bodies to actively develop civil aviation by planning and building an orderly system of airports and has recognized their authority in matters involving land use, zoning, and airport site selection. The FAA does not select airport sites nor does it approve them except in the case of requests for and under the Federal-Aid Airport Program. In the discharge of its statutory functions it studies airport proposals so as to advise proponents as to the effect on the safe and efficient use of airspace by aircraft. This regulation is the means by which the Agency acquires the necessary information to make these determinations. To clarify this point, certain editorial changes have been made in the final rule which indicate the limits of the Agency's interest.

Several commentators stated that the 90-day and 30-day notice requirements were excessive. The Agency does not consider these periods to be excessive in the light of the necessity for a 30-day comment period in those cases where the proposal is circularized and considering the time needed to conduct the required technical airspace studies. In this regard, it should be noted that provision has been made for emergency notice and expeditious handling in any case involving essential public services, public health, or public safety, or where delay would result in an unreasonable hardship.

In § 157.1, the statement that the part does not apply to projects for which Federal aid has been "allocated" has been changed to apply to those for which Federal aid has been "requested," under the Federal Airport Act, to eliminate the possibility of duplication of notice for these projects.

The State Departments of Aeronautics recommended that appropriate State aviation officials be notified of all FAA determinations under the revised part. In the interests of promoting more effective State airport programs and to provide for the exchange of aeronautical information, this recommendation has been adopted.

Two comments recommended that a finding of "no objection" under the rule should automatically qualify an airport for listing in the Airman's Information Manual (Airport Directory). The recommendation cannot be accepted, as the Agency's policy is to list only public use airports and the revision covers both personal use and private use airports.

Several comments indicated some doubts as to whether heliports are covered by the revision. The definition of "airport" in § 1.1 of the FARs states that "airport" means any area of land or water that is used or intended to be used for the landing or takeoff of "aircraft." Therefore, the revised part applies to areas used for any aircraft, including helicopters. However, at this time the Agency is making a further study to determine whether separate reporting standards are required for heliports.

In § 157.3(b), the word "activate" has been substituted for the word "reactivate" to make it clear that the construction of any new runway at an existing airport covered by this part falls within the meaning of the section. The word "activate" would also cover the reopening of former runway, landing strip, or associated taxiway.

Section 157.7 has been amended to provide that notices concerning certain personal use or private use airports used solely under VFR conditions and located more than 20 miles from an airport for which an instrument approach procedure is authorized and more than 5 miles from any airport open to the public will be submitted in abbreviated form and for record purposes only.

Several comments stated that taxiways not associated with runways would have little effect on the safe and efficient use of airspace and suggested that only those taxiways associated with runways be subject to the notice requirements. This suggestion has been adopted.

One comment suggested the combining of part 157 and part 77 relating to objects affecting navigable airspace, on the ground that there is a similarity in notice requirements. This suggestion was not adopted because the facts which are to be reported under each part differ considerably and would tend to confuse the public.

The reporting and/or recordkeeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

In consideration of the foregoing and for the reasons stated in Notice No. 65-14, part 157 of the Federal Aviation Regulations is revised to read as hereinafter set forth, effective March 2, 1966.

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The revision is made under the authority of sections 309, 313(a), and 314 of the Federal Aviation Act of 1958 (49 U.S.C. 1350, 1354(a), and 1355).

Issued in Washington, D.C., on January 27, 1966.

WILLIAM F. MCKEE,
Administrator.

- Sec.
157.1 Applicability.
157.3 Projects requiring notice.
157.5 Notice of intent.
157.7 FAA determination.

AUTHORITY: The provisions of this part 157 issued under sections 309, 313(a), 314, Federal Aviation Act of 1958 (49 U.S.C. 1350, 1354(a), 1355).

§ 157.1 Applicability.

This part applies to persons proposing to construct, alter, activate, or deactivate a civil or joint-use (civil-military) airport, and sets forth requirements for notice to the Administrator as prescribed in § 157.3. This part does not apply to any project for which Federal aid has been requested under the Federal Airport Act or to any project involving a temporary airport which is intended to be used solely under VFR conditions for a period of less than 30 consecutive days with no more than 10 operations a day.

§ 157.3 Projects requiring notice.

Except as provided in § 157.1, each person who intends to do any of the following shall notify the Administrator in the manner prescribed in § 157.5:

- (a) Construct or otherwise establish a new airport or activate an airport.
- (b) Construct, realign, alter, or activate any runway, landing strip, or associated taxiway.
- (c) Deactivate, discontinue using, or abandon an airport, runway, landing strip, or associated taxiway for a period of one year or more.
- (d) Change the status of an airport from personal use (exclusive use by the owner), or private use (use by the owner or other persons authorized by the owner), to an airport open to the public.

§ 157.5 Notice of intent.

Except as provided in paragraphs (a) and (b) of this section, the notice required by § 157.3 shall be submitted, in triplicate, on Form FAA 2681, to the nearest FAA Area Manager's Office or FAA Regional Office at least 90 days before work is to begin. However, in an emergency involving essential public service, public health, or public safety, or when delay would result in an unreasonable hardship, a proponent may notify the FAA by telephone, or any other expeditious means, and send Form FAA 2681 within 5 days thereafter.

(a) Information concerning a personal or private use airport used solely under VFR conditions and located more than 20 nautical miles from an airport for which an instrument approach procedure is authorized, and more than 5 nautical miles from any airport open to the public, shall be submitted on Form FAA 2681 for record purposes at least 30 days before work is to begin. After stating whether the project is one of altera-

tion or establishment, only Items A, B, D, and I of the Form need be filled out.

(b) Information concerning the deactivation, discontinued use, or abandonment of an airport, runway, landing strip, or associated taxiway may be submitted by letter, or on Form FAA 2681, and prior notice is not required. Copies of Form FAA 2681 may be obtained from the nearest FAA Area Manager's Office or Regional Office.

§ 157.7 FAA determination.

The Federal Aviation Agency makes aeronautical studies of airport proposals and after consultations are held with interested persons, as appropriate, advises those concerned of the Agency determination. This determination will be based exclusively on considerations of the safe and efficient use of airspace by aircraft. In making the determination, the Agency will consider matters such as the effects it would have on existing or contemplated traffic patterns of neighboring airports and the effects it would have on the existing airspace structure and projected programs of the Agency. These determinations will fall within one of the following categories:

- (a) No objection to the proposal.
- (b) No objection to the proposal if certain conditions are met, such as the execution of VFR operations only, the establishment of traffic patterns compatible with those of adjacent airports, and the exclusive use of the airport by the owner.
- (c) Objectionable, including reasons for the objections.

The FAA may establish void dates for certain determinations to permit orderly planning. Determinations are furnished to the proponent, aviation officials of the State concerned, and, when appropriate, local political bodies and other interested persons.

[F.R. Doc. 66-1171; Filed, Feb. 1, 1966; 8:47 a.m.]