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**Monday  
December 9, 1985**

**14  
CFR  
Part  
93  
Marine Corps  
Air Station  
El Toro  
CA  
Special Air  
Traffic Rules**

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**Part III**

**Department of  
Transportation**

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**Federal Aviation Administration**

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**14 CFR Part 93**

**Marine Corps Air Station (MCAS) El Toro  
CA; Special Air Traffic Rules**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 93****[Docket No. 24117; Amdt. No. 93-48]****Marine Corps Air Station (MCAS) El Toro, CA, Special Air Traffic Rules****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

**SUMMARY:** This action establishes special air traffic rules for aircraft operations in the vicinity of MCAS El Toro, CA. This action being promulgated simultaneously with a final rule establishing an Airport Radar Service Area (ARSA) at MCAS El Toro, CA. The special air traffic rules will require pilots to establish and maintain two-way radio communication, in the affected airspace adjacent to the ARSA, with the FAA Coast Terminal Radar Approach Control Facility. Aircraft operations affected by this rule will be provided the same ATC services received by aircraft operating in the ARSA. Ultralight vehicle and parachute jump activity will be required to be conducted under an ATC authorization. The procedures adopted are expected to reduce the midair collision risk and promote the efficient control of air traffic.

**EFFECTIVE DATE:** 0901 G.m.t., January 16, 1986.

**FOR FURTHER INFORMATION CONTACT:** William C. Davis, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8783.

**SUPPLEMENTARY INFORMATION:****Background**

A Terminal Radar Service Area (TRSA) is currently in effect at MCAS El Toro. A TRSA identifies an area surrounding a specified airport where ATC provides radar sequencing and separation not only to aircraft operating under instrument flight rules (IFR) but also to participating aircraft operating under visual flight rules (VFR). TRSA's are not established by regulation, and participation by pilots operating under VFR is voluntary, although pilots are urged to participate.

In 1978, the Commander of MCAS El Toro requested the FAA to replace the terminal radar service area (TRSA) in use at MCAS El Toro with a terminal control area (TCA) to exercise greater control of air traffic in the area around MCAS El Toro. This request was

repeated in 1979 and 1981. Each request sought to improve the operating environment for military aircraft operating to and from MCAS El Toro and MCAS Tustin and for civil aircraft operating to and from John Wayne-Orange County Airport. The latter airports are located within 6 nautical miles of MCAS El Toro. Particular concern was expressed over the mix of dissimilar types of military and civil aircraft in the vicinity of Dana Point, California, with respect to the final approach course to Runway 34 at MCAS El Toro.

In each instance the FAA reviewed the information supplied by the United States Marine Corps (USMC) and concluded that establishment of a TCA was not warranted, although less restrictive measures were not ruled out.

The FAA recognizes and shares the USMC concern for the mix of aircraft operating in proximity to MCAS El Toro and has either taken or recommended to the USMC a number of actions to enhance the safety of the various flight operations. The FAA, with the cooperation of the USMC, published a Letter to Airmen focusing on the operations in the El Toro area, made revisions to Terminal Area and VFR Sectional Charts, published the Los Angeles/San Diego VFR Terminal Area Chart as two separate charts, initiated a thorough review of the instrument arrival procedures in use at MCAS El Toro, revised the southern California VFR Flight Reference Guide, and developed an aggressive Accident Prevention Program. In spite of these efforts, 26 near midair collisions were reported in the MCAS El Toro area in 1982.

In a meeting conducted between the FAA and the USMC to determine the effectiveness of these efforts, it was concluded that while some progress had been made, the need to enhance safety in the area remained; e.g., in 1983, 13 more near midair collisions were reported. Toward that end, the FAA published Notice No. 84-9, an advance notice of proposed rulemaking (ANPRM) (49 FR 24982; June 18, 1984), which sought comments on the establishment of a special airport traffic area at MCAS El Toro.

Concurrent with much of the foregoing the National Airspace Review (NAR), an advisory group specifically formed to review and make recommendations to the FAA on all airspace matters, was reviewing the national TRSA program. The NAR recommended that most TRSA's, including the one at MCAS El Toro, be replaced with an airport radar service area (ARSA). The FAA adopted this recommendation (50 FR 9252; March

6, 1985) and is establishing an ARSA at MCAS El Toro under separate action in this issue. However, the El Toro ARSA does not include all of the airspace originally proposed for inclusion in the special air traffic rules area in Notice No. 84-9. It is the FAA policy to limit the dimensions of an ARSA to the airspace within 10 nautical miles of the primary ARSA airport. Beyond the 10-mile edge of the ARSA, FAA procedures require that controllers provide participating pilots the same aircraft separation and traffic advisory procedures that are provided within the ARSA; however, pilot participation in this additional service is voluntary. VFR aircraft may traverse the area without contracting the air traffic control facility.

Due to several factors unique to the MCAS El Toro situation, it is important to protect traffic in a small area outside of the standard ARSA boundary to the same extent as within the ARSA. These factors are: (1) The natural VFR route along the southern California coast crosses the MCAS El Toro Runway 34 approach course just outside of the ARSA 10-mile outer boundary; and (2) there is a high level of general aviation activity in the southern California area, and traffic along the coastline route near MCAS El Toro is very heavy. Adoption of the standard ARSA at MCAS El Toro, without similar action for airspace to the south of that ARSA, would continue to permit an undesirable mix of controlled military turbojet aircraft on approach to MCAS El Toro with uncontrolled general aviation aircraft operating under VFR along the coastline.

**Analysis of Comments**

The Southern California Association of Governments commented that the proposed rules represent a reasonable action to promote aviation safety. The Experimental Aircraft Association and John Wayne Airport Chief of Airport Operations and Facilities also expressed support for the proposal. One commentor suggested that the effect of the proposed special rules would be to force general aviation traffic into denser traffic areas as pilots attempt to avoid the proposed airspace with its associated proposed rules. In the interest of streamlining the flow of general aviation traffic in the vicinity of Dana Point, CA, this commentor offered an alternative to the proposed special rule which would mandate specific VFR routes and altitudes along the coastline between Abalone Point, CA, and San Clemente, CA. The commentor's alternative would have northbound traffic routed along the coastline, but over the land, at 1,800 feet MSL, 4,500

feet MSL, 6,500 feet MSL, etc., and the southbound traffic would also be routed along the coastline, but over water, at 2,300 feet MSL, 5,500 feet MSL, 7,500 feet MSL, etc. The FAA has adopted final rules which, when viewed in conjunction with the direction of flight requirements of § 91.109, effectively accomplish the commentor's recommendation.

The National Business Aircraft Association (NBAA) commented that the proposed rules represent rules that are more restrictive to en route aircraft than all but the very busiest civilian terminal areas and suggested that the proposal be revised to propose ARSA-like rules for the subject airspace. The FAA agrees with the NBAA and is establishing the special rules in conjunction with the MCAS El Toro ARSA. Additionally, since the affected areas are in the airspace referred to as the ARSA "outer area," the ATC services that are provided on a mandatory basis in an ARSA outer area will be provided in the airspace included within the special air traffic rules area.

Another individual commentor suggested that nonparticipating traffic avoiding the airspace by flying above it at altitudes above 4,000 feet MSL is currently subjected to the potential for a midair collision with military turbojet aircraft also operating above 4,000 feet MSL in the VFR "overhead" traffic pattern at MCAS El Toro. This commentor, in expressing support for the proposal, suggested that the ceiling of the special airspace be raised to 4,400 feet MSL to include the VFR military traffic. The ARSA being implemented simultaneously with these special air traffic rules has been raised to 4,400 as this altitude represents the standardized ARSA ceiling policy of 4,000 feet above the airport elevation. The ceiling of the special air traffic rules area abutting the ARSA at the 10-nautical-mile limit is also being established at 4,400 feet MSL to maintain consistency between the two areas.

The Airline Pilots Association (ALPA) opposed the proposed rules on the grounds that it would duplicate, to a large extent, the existing requirements of §§ 91.85 and 91.87. ALPA also expressed concerns that any implementation of such a proposal, especially at a military airfield, would set a precedent for the establishment of similar rules at other military airfields. ALPA also commented that the proposal failed to address the issue of ATC services provided in the airspace of the proposed rules. ALPA also suggested that the proposed rules be set aside in

favor of a proposed ARSA for MCAS El Toro, CA. The Aircraft Owners and Pilots Association (AOPA) shared ALPA's concerns that a precedent would be set if special rules were to be adopted for MCAS El Toro, especially in view of the efforts of the National Airspace Review to standardize and simplify the various types of airspace. AOPA stated that it would be unacceptable for the FAA to utilize special airport traffic areas at other locations with similar traffic levels and mixes. The FAA partially agrees with these comments and has implemented an ARSA that encompasses the bulk of the proposed area that would have been covered by the special air traffic rules. However, the ARSA as it is being established does not fully provide the protection in the areas identified in the proposal that are outside the ARSA. As a result of the unique geographic and traffic conditions near MCAS El Toro, the FAA is adopting the proposed rules to the extent necessary to reduce the midair collision risk in the affected areas.

AOPA further objects to the proposal on the basis that extensive delays would result because of the high density traffic flows along the California southern coastline and the perceived inability of Coast TRACON to handle current traffic. AOPA bases this objection on numerous reports they have received of VFR pilots being unable to avail themselves of radar advisories through the current TRSA during moderately busy periods. AOPA also believes that the subject airspace is already complex and the installation of more special air traffic rules would reduce the efficiency of ATC service for John Wayne-Orange County Airport. The FAA reviewed the traffic flows in the John Wayne-MCAS El Toro area in conjunction with the ARSA and rules being adopted under this action. The review did not indicate any resulting increase in delays that would be caused by the adoption of these special air traffic rules.

AOPA suggested that traffic would be compressed at altitudes above and below, as well as into routings south and west, of the proposed airspace. AOPA believes this effect will increase the midair potential because the compression would tend to result in a mixture of opposing flows of traffic. Concerned with the survival aspects of ditching a single-engine aircraft, AOPA suggested that most general aviation type aircraft circumnavigating the proposed airspace via an over water route would be beyond the gliding distance to land. The FAA expects that the limitation of the special air traffic

rules to a relatively small area encompassing the final approach course to Runway 34 at MCAS El Toro, and the implementation of the procedures in conjunction with the ARSA, will encourage participation rather than avoidance. This is because the ATC services to VFR aircraft in the affected areas are primarily advisory and actual separation is only applied when an IFR aircraft is involved. Prior to the adoption of these rules, ATC was required to apply separation in all cases.

Another individual commentor suggested that the FAA adopt the proposed rules and if any additional controllers are required to provide ATC service in the affected area, then the USMC should pay for those additional controllers. The commentor also suggested that the adopted rules should require aircraft to be equipped with altitude encoding transponders when conducting operations in the affected airspace. The FAA does not foresee any need to increase controller staffing as a result of implementing special air traffic rules in the affected airspace. Further, the FAA did not propose to require the use of transponders with altitude encoding equipment in the proposed special airport traffic area and has not identified any compelling safety reason to require such equipment in this final rule.

#### Adoption of Proposal

The FAA has considered the comments received in response to the ANPRM and in response to Airspace Docket No. 85-AWA-2 proposing implementation of the ARSA at MCAS El Toro, CA. The ARSA at MCAS El Toro has been adopted. However, since the lateral limits of the ARSA are consistent with the FAA policy concerning the size of ARSA's, aircraft operating in a portion of the airspace originally proposed in the ANPRM would not be included in the adopted ARSA. Specifically, military turbojet aircraft between 5 and 10 miles south of MCAS El Toro, below 2,500 feet MSL, and between 10 and 15 miles south on final approach to Runway 34 and MCAS El Toro, would not be afforded the protection of the two-way radio communications rules associated with the ARSA. Accordingly, the FAA is adopting the proposed special air traffic rules only to the extent necessary to incorporate the airspace associated with the final approach course to MCAS El Toro not included in the ARSA.

The special air traffic rules proposed in the ANPRM have been adopted without issuance of a further notice of proposed rulemaking (NPRM) in

consideration of the benefits of simultaneous implementation of the rules and the MCAS El Toro ARSA. Because the special air traffic rules area adopted was specifically proposed in the ANPRM, and because all issues relevant to this action have been considered in this docket and in the ARSA rulemaking, the FAA believes that sufficient notice and opportunity for comment have been provided and that issuance of a final rule is appropriate.

The area within which the adopted special air traffic rules apply is between the MCAS El Toro Airport 164° and 189° true bearings, beginning at the 5-nautical-mile arc of the airport and extending southward to the 15-nautical-mile arc of the airport, from the surface to 2,500 feet MSL between the 5-nautical-mile and 10-nautical-mile arcs, and from 2,500 feet MSL up to and including 4,400 feet MSL between the 10-nautical-mile and the 15-nautical-mile arcs. The adopted air traffic rules require all aircraft operating within the proposed airspace to establish and maintain two-way radio communications with Coast Approach Control and all aircraft operations to be conducted in accordance with air traffic control instructions. The special air traffic rules and special airspace area are effective daily from 0600 to 2400 local time. Additionally, ultralight and parachute jumping operations are required to obtain an ATC authorization to conduct operations within the proposed special airspace area.

The FAA is implementing air traffic control procedures coincidentally with the implementation of the ARSA. These procedures will apply to aircraft operations within the special air traffic rules area and are identical to those mandatory procedures applied to aircraft operations within the MCAS El Toro ARSA and to participating aircraft within the Coast TRACON approach control delegated airspace within radar and two-way radio communications coverage of that facility. Specifically, ATC will provide safety advisories to all aircraft, separation between all aircraft operating under IFR, conflict resolution between an aircraft operating under VFR and any aircraft operating under IFR, and traffic advisories to all aircraft operating under VFR.

#### Regulatory Evaluation

The FAA expects that implementation of the Part 93 special air traffic rules for MCAS El Toro, CA, can be accomplished with little adverse impact on general aviation activity in that area. These special air traffic rules will supplement the MCAS El Toro ARSA that is simultaneously being established and

will affect a relatively small amount of additional airspace. Potential impacts which may result from this special air traffic rules action are similar to those discussed in the regulatory evaluation of the proposed MCAS El Toro ARSA (50 FR 31472, August 2, 1985).

The FAA does not expect any appreciable delay, circumnavigation, or overflight costs to result from establishments of the special air traffic rules. As previously stated in the "Analysis of Comments," the FAA review of traffic flows in the MCAS El Toro area indicated that the delay problems anticipated by a commentator would not result from the adoption of these special air traffic rules. Local ATC personnel have estimated that only about 5 single-engine piston aircraft daily might elect to overfly or deviate approximately 4 nautical miles to avoid the special air traffic rules airspace. Applying the same variable operating cost and value of passenger time figure used to estimate delay costs in the MCAS El Toro ARSA NPRM (\$83.64 per hour for single-engine piston aircraft), the FAA estimates that the total annual circumnavigation or overflight costs that might be incurred by general aviation operators would not exceed \$5,000 per year. Further, local ATC personnel do not expect that additional controller staffing or equipment will be required to implement the special air traffic rules, and that aircraft owners will not need to install any additional equipment as a result of these new rules.

The FAA does not expect to incur any additional charting costs because the minor revisions reflecting this rule change will be made during regularly scheduled charting cycles. Further, because pilots are required to use current charts, they also will not incur any additional costs. Information on the special air traffic rules will be disseminated in the same letter to airmen that disseminates information concerning the new MCAS El Toro ARSA. This information will be sent to all pilots living in the vicinity of MCAS El Toro, CA. This is a relatively minor one-time administrative expense, and should not exceed \$1,000. Information will also be disseminated during the regularly scheduled safety seminars conducted by the FAA, and will, therefore, not result in any additional expense attributable to the special air traffic rules implementation.

The FAA expects that the primary benefit of the special air traffic rules will be a reduction in the midair collision risk which now exists in the Dana Point, CA, area because of the mix of controlled military turbojet aircraft

approaching MCAS El Toro with uncontrolled general aviation aircraft operating along the natural VFR route created by the southern California coastline. The operating characteristics of many of these military aircraft require that they operate at relatively high airspeeds in the terminal environment, increasing the midair collision risk. The FAA estimates that the quantifiable benefits which will be achieved by the prevention of a fatal midair collision involving a light general aviation aircraft and a state-of-the-art tactical aircraft will be approximately \$25 to \$30 million per accident prevented. Clearly, the potential benefits of this action far outweigh its relatively minor implementation costs.

For the reasons stated above, the FAA has determined that this document involves regulations which are not considered to be major under the procedures and criteria prescribed by Executive Order 12291. Neither is this document considered to be significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained from the person identified as the contact for further information.

#### International Trade Impact Analysis

This proposed regulation will only affect airspace operating procedures at one location within the U.S. As such, it will have no effect on the sale of foreign aviation products or services in the U.S., nor will it affect the sale of U.S. aviation products or services in foreign countries.

#### Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

The small entities which potentially could be affected by the adoption of these special air traffic rules are any small entities which use aircraft in the course of their business (whether or not that business is aviation related). However, because only an extremely small portion of the total national airspace is affected by these special air traffic rules, and because the FAA does not expect any appreciable delay

problems to result from them, such small entities are expected to be only minimally impacted.

For these reasons, the FAA certifies that this amendment will not result in a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required under the terms of the RFA.

**List of Subjects in 14 CFR Part 93**

Aviation safety, Airspace, Air traffic control.

**The Amendment**

For the reasons set out in the preamble, Part 93 of the Federal Aviation Regulations (14 CFR Part 93) is amended as follows:

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

Authority: 49 U.S.C. 1303, 1348, 1354(a), 1421(a), 1424, 2402, and 2424; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. A new Subpart R is added to read as follows:

**PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS**

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**Subpart R—MCAS El Toro, CA, Special Air Traffic Rules**

Sec.

- 93.200 Applicability.
- 93.202 MCAS El Toro, CA, special air traffic rules area.
- 93.204 Communications.
- 93.206 Ultralight operations.
- 93.208 Parachute jumping.

**Subpart R—MCAS El Toro, CA, Special Air Traffic Rules**

**§ 93.200 Applicability.**

This subpart prescribes special air traffic rules for persons conducting aircraft operations in the area designated in this subpart.

**§ 93.202 MCAS El Toro, CA, special air traffic rules area.**

(a) The MCAS El Toro, CA, special air traffic rules area is designated as that airspace between the 164° and the 189° true bearings of the MCAS El Toro, CA, Airport (lat. 33°40'18" N., long. 117°43'30" W.), beginning at the 5-nautical-mile arc of the airport and extending southward to the 15-nautical-mile arc, from the surface to 2,500 feet MSL between the 5-and-10-nautical-mile arcs, and from 2,500 feet MSL to and including 4,400 feet MSL between the 10-and-15-nautical-mile arcs.

(b) The effective period of the MCAS El Toro, CA, special air traffic rules area of from 0600 to 2400 local time.

**§ 93.204 Communications.**

Unless otherwise authorized or required by ATC, no person may operate an aircraft in the MCAS El Toro, CA, special air traffic rules area unless two-way radio communication is established with the FAA Coast Terminal Radar Approach Control Facility prior to entering that area and is thereafter maintained with the facility while within that area.

**§ 93.206 Ultralight operations.**

No person may operate an ultralight vehicle within the MCAS El Toro, CA, special air traffic rules area unless that person has prior authorization from the FAA Coast Terminal Radar Approach Control Facility.

**§ 93.208 Parachute jumping.**

No person may make a parachute jump and no pilot in command may allow a parachute jump to be made from the aircraft in or into the MCAS El Toro, CA, special air traffic rules area unless that person has prior authorization from the FAA Coast Terminal Radar Approach Control Facility.

Issued in Washington, DC, on November 26, 1985.

Donald D. Engen,  
Administrator.

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