

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 9322; Amdt. 3-7-8]

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

Reporting Requirements, and Aeronautical Studies

The purpose of these amendments to Part 157 of the Federal Aviation Regulations is to: (1) Separate the reporting

standards for heliport proposals from standards relating to fixed wing aircraft; (2) consider the effects that existing or proposed manmade objects and natural objects would have on the airport proposal; and (3) require notification to the FAA upon completion of an airport project.

These amendments are based on a notice of proposed rule making (Notice No. 69-21) published in the FEDERAL REGISTER on May 15, 1969 (34 F.R. 7657). A number of comments were received in response to the notice. Due consideration was given to all comments received.

Several of the comments contained objections to the proposal that the FAA consider, in aeronautical studies, the effect of existing or proposed manmade objects and natural objects.

One commentator argued that aeronautical studies must be based "exclusively" on considerations of the safe and efficient use of airspace by aircraft, and objected to the change of "exclusively" to "primarily," arguing this went beyond the intent of the Federal Aviation Act. This commentator stated that consideration of the effect of the airport proposal on existing and proposed manmade objects and natural objects within a predetermined area would extend Federal authority to ground facilities and would represent an unwarranted intrusion into the purview of State and local governments. The scope of this proposal of the FAA was somewhat misinterpreted. This change was intended to include, within an aeronautical study, a determination of what effect any manmade or natural object would have on the airspace utilization of the airport proposal. Existing or proposed ground objects near a proposed airport or airport extension could have serious effect on the airspace utilization and a study of such effects is necessary so the FAA can determine if it has an objection to the airport proposal on the basis of air safety. The FAA is not extending Federal authority to ground facilities but is concerned with the safety of aircraft operating from the airport under consideration. This change to § 157.7(a) has been reworded to make it clear that the determination will be based on considerations of the safe and efficient use of airspace by aircraft, and that the FAA will study the effect of ground objects on the proposed airspace utilization of the airport under consideration.

Another commentator stated that the standards in Part 77 of the Federal Aviation Regulations (Objects Affecting Navigable Airspace) along with the treatment of ground objects in documents concerning lighting and marking were adequate to assure safety in air commerce and that it was not necessary to study the effect of ground objects under Part 157. Since Part 77 deals only with the proposed construction or alteration of structures, no notice would be given for existing structures which may be near the site of a proposed expansion or construction of an airport. The FAA believes that it is necessary, in the interest of air safety, to study the effects manmade and natural

objects have on the proposed airspace utilization of an airport. Another comment raised a question about notice of a proposed ground structure. The FAA will consider the effect of proposed manmade objects when a previous filing has been made with the agency for the proposed structure. That same comment also suggested that the FAA should consider the beneficial effects of a project, such as the value that may accrue to the surrounding land. Such issues are not relevant to the kind of aeronautical study set forth in Part 157. The FAA is concerned with the effect of the proposed change to the airport, on the safe and efficient use of airspace by aircraft.

One of the comments suggested that § 157.5 should recognize Airport Layout Plans on file with the FAA which are required for development under the Federal aid to airports program, and are encouraged for the proper development of other airports. Part 157 expressly excludes from its notice requirements airports that have applied for Federal funds, so as not to impose a dual reporting requirement on such airports. If a sponsor who has not applied for Federal funds has an airport layout plan on file with the FAA that is current and not subject to change, then such a sponsor would not be required to attach a new plan with its notice under Part 157.

In § 157.5(b) (1) of the notice, the location of a heliport outside of a control zone, residential or business area was established as one criterion for submitting notice. Since there may be some question whether or not a business area includes an industrial area, the section has been rewritten to make it clear that an industrial area is encompassed in the requirements.

In consideration of the foregoing, Part 157 of the Federal Aviation Regulations is amended effective June 27, 1970, as follows:

1. Section 157.1 is amended to read as follows:

§ 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 in VFR weather conditions for a period of less than 30 consecutive days with no more than 10 operations a day.

2. Section 157.5 is amended to read as follows:

§ 157.5 Notice of intent.

Except as provided in paragraphs (a), (b), (d), and (e) of this section, the notice required by § 157.3 shall be submitted, in triplicate, on FAA Form 7480-1, 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,

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or when delay would result in an unreasonable hardship, a proponent may notify the FAA by telephone, or any other expeditious means, and send FAA Form 7485-1 within five days thereafter.

(a) Information concerning a personal or private use airport for fixed wing aircraft used solely in VFR weather conditions and located more than 20 nautical miles from any airport for which an instrument approach procedure is authorized, and more than five nautical miles from any airport open to the public, shall be submitted on FAA Form 7480-1 at least 30 days before work is to begin. After stating whether the project is one of alteration or establishment, only Items A, B, D, and I of the form need be filled out.

(b) Information concerning a personal or private use heliport for use solely in VFR weather conditions shall be submitted on FAA Form 7480-1 at least 30 days before work is to begin if the project is located—

(1) Outside of a control zone, or outside of a residential, a business, or an industrial area;

(2) More than 10 nautical miles from any airport for which an instrument approach procedure has been authorized;

(3) More than 3 nautical miles from any other airport, other than a heliport; and

(4) More than 1 nautical mile from any other heliport.

After stating whether the project is one of alteration or establishment, only Items A, B, D, and I of the form need be filled out.

(c) Information received under paragraphs (a) and (b) of this section is normally used only for record purposes unless the FAA determines that an aeronautical study is required.

(d) Except as provided in paragraph (e) of this section, information concerning the deactivation, discontinued use, or abandonment of an airport, runway, landing strip, or associated taxiway shall be submitted either by letter or on FAA Form 7480-1, and prior notice is not required. Any information received under this section will be used for record purposes only unless the affected property is subject to any agreement with the United States requiring that it be maintained and operated as a public airport.

(e) Information concerning the deactivation, discontinued use or abandonment of an airport, runway, or landing strip with an established instrument approach procedure shall be submitted at least 30 days prior to such deactivation, discontinued use, or abandonment on FAA Form 7480-1. Copies of FAA Form 7480-1 may be obtained from the nearest FAA Area Manager's Office or Regional Office.

3. Section 157.7 is amended to read as follows:

§ 157.7 FAA determination.

(a) The Federal Aviation Administration makes aeronautical studies of airport proposals and after consultations are held with interested persons, as appropriate, advises those concerned of the

FAA determination. This determination will be based on considerations of the safe and efficient use of airspace by aircraft. In making the determination, the FAA will consider matters such as the effects it would have on existing or contemplated traffic patterns of neighboring airports, the effects it would have on the existing airspace structure and projected programs of the FAA and the effects that existing or proposed manmade objects (on file with the FAA) and natural objects within the affected area would have on the airport proposal. These determinations will fall within one of the following categories:

(1) No objection to the proposal;

(2) No objection to the proposal if certain conditions are met, such as the execution of aircraft operations in VFR weather conditions only, the establishment of traffic patterns compatible with those of adjacent airports, the exclusive use of the airport by the owner, and such other conditions as the FAA may require; or

(3) Objectionable, including reasons for the objections.

(b) 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.

4. A new § 157.9 is added to read as follows:

§ 157.9 Notice of completion.

Within 30 days after completion of an airport project covered by this Part 157, the construction proponent shall notify the nearest FAA area manager's office or regional office by letter or post card of the fact of completion.

(Secs. 309 and 313(a) of the Federal Aviation Act of 1958, 49 U.S.C. 1350 and 1354, and of section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c))

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

Issued in Washington, D.C. on May 19, 1970.

J. H. SHAFFER,
Administrator.

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