

November 11, 1964

The AOPA also claimed that the rule, as proposed, would have the same effect as a joint-use restricted area. This contention is not completely true. Joint-use restricted areas are normally used by the using agency, except when it advises that such areas are temporarily available to nonparticipating aircraft. However, at no time will this rule deny use of the airspace under consideration to civil aircraft pilots.

The AOPA further objected to the proposal on grounds that such a regulation would breed confusion, inadvertent disregard of regulations, and the possible derogation of safety. However, the Agency feels that the amendment would decrease a potentially hazardous condition if it is adequately publicized and clearly depicted, with appropriate explanation, on aeronautical charts. Distinct consideration is being given to this problem by the FAA.

Finally, the AOPA contended that civil operations cannot reasonably accept restrictions because of inadequate planning of Government agencies and recommended that the military bear the responsibility of corrective action. Originally, high speed test activities were confined to the restricted areas in the vicinity of Eglin AFB. However, technological advances resulting in highly sophisticated weapons delivery systems, as well as aircraft propelled at supersonic speeds, precipitated the requirement for more airspace. In order to achieve the most efficient use of existing restricted airspace, crossings over the corridor separating the restricted areas were commenced in the ensuing years. The increase of military activities in the vicinity of Valparaiso has been a natural evolution which started at a time when civil operations in the area were exceptionally light. Further, the Air Force has been extremely cooperative in helping to develop a reasonable and acceptable method for sharing the airspace with civil users; e.g., the FAA facilities involved are provided with operations schedules with sufficient advance notice to insure that information pertaining to altitude crossings not in use will always be available to civil users. In the event military operations will congest the area in an unsafe manner, such operations will be cancelled in deference to civil operations. However, situations of this nature are not anticipated since the military will never use more than two altitudes in crossing the corridor at any given time. For the majority of times, only one crossing altitude will be used.

Different objections to the proposal were raised by the National Business Aircraft Association, Inc. (NBAA). One objection was that the economic impact on civil aircraft and interests was not estimated and considered in the proposal. The economic impact on civil operations was considered and it was determined that such economic degradation would be negligible if it occurred at all. Under the terms of the agreement with the Air Force civil aircraft can use the corridor at all times. The only inconveniences would be the necessity of contacting the controlling agency, receiving an advisory, and the possibility of a non-mandatory changing of altitudes, usually encompass-

ing a difference of not more than 1,000 feet. When the public has a thorough understanding of this, facilitated by extensive publicizing, very few, if any, civil users will be deterred from utilizing the corridor. Aircraft executing operations without a radio (NORDO aircraft) will be burdened to the extent that some form of communication with the controlling facility, other than by aircraft radio, would be required. However, this burden would be minimal in light of the fact that only two NORDO aircraft operated into Destin Airport, Florida, during 1962, as opposed to a total of 1,300 operations by different aircraft during that year.

The NBAA also contended that the "joint-use" concept requires the using agency to obtain a clearance to use a restricted area, and that utilization of a restricted area for extended periods is a violation of Part 73. A proper interpretation of the pertinent regulation is that a using agency is not required to obtain a clearance to use a restricted area. Utilization of a restricted area for "extended periods" is not a violation of Part 73 unless it is used at times not consistent with the official time of designation. However, it should be noted that the rule is consistent with the concept that the FAA has the ultimate authority over all aircraft movements in the corridor.

The NBAA recommended (1) that unrestricted use of altitudes normal to general aviation throughout the corridor be retained in order to avoid an economic impact on the area, and (2) that if no limitation of Air Force activities is possible, the corridor should be designated as a joint-use restricted area. Previous response to both of these recommendations has been made in the discussions above.

The Air Line Pilots Association (ALPA) opposed the proposed rule on the basis that it removes responsibility from the military operation and that the military should either conduct its activities in an established restricted area or move to a suitable restricted area. Under the rule, civil operations should comply with the traffic advisories issued by air traffic control (ATC). The military operations, by agreement, will be required to comply with the limitations imposed by ATC. Neither the military nor the FAA seeks to avoid responsibility for operations conducted in the corridor; rather, the intent is to have the Air Force and civil users share safely the airspace presently available with minimal inconvenience in accordance with the procedures imposed by this rule.

The ALPA also questioned the safety value of the proposal, and finally recommended withdrawal of the notice of proposed rule making. It has been determined that since FAA facilities will advise civil pilots of altitudes being used by the military, and if these altitudes are avoided, the safety value of the proposal will be patent from the dispelling of the potential hazard. Withdrawal of the notice would only permit the continuation of a recognized, potential hazard.

The Air Transport Association of America (ATA) contended that it was difficult to reconcile the rocket activity with the proposed rule; i.e., giving prior-

[Docket No. 4085; Amdt. 93-5]

## PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS [NEW]

### Subpart F—Valparaiso, Florida, Terminal Area

The purpose of this amendment to Part 93 of the Federal Aviation Regulations is to provide special air traffic rules for the terminal area at Valparaiso, Fla.

On April 4, 1964, a notice of proposed rule making, 64-19, was published in the FEDERAL REGISTER (29 F.R. 4805) stating that the Federal Aviation Agency proposed to amend Part 93 of the Federal Aviation Regulations to require all pilots operating aircraft between Restricted Areas R-2914 and R-2915 in the vicinity of Valparaiso, Fla., to obtain prior authorization from air traffic control for each flight conducted during daylight hours, Monday through Saturday.

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

The Aircraft Owners and Pilots Association (AOPA) objected to the proposal on the ground that two isolated, undocumented incidents cannot adequately justify restricting civil use of the airspace involved. However, both military and civil flights are crossing the corridor with steadily increasing speeds and frequencies, rendering impotent the segregation of aircraft solely by pilot vigilance. The Air Force notified the FAA that a situation exists in the corridor which is pregnant with potential hazard. After several on-site inspections of military operations and coincident use of the corridor by civil aircraft, FAA personnel concurred with the Air Force in its opinion that a potential hazard exists. Therefore, the FAA has determined that action must be taken to prevent a serious or fatal incident from occurring. Two solutions are available: (1) promulgation of a specific regulatory provision, or (2) designation of restricted airspace. The former course of action has been selected since it is the least restrictive to civil users of the airspace.

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ity to the rocket operations which are conducted primarily outside of the domestic airspace. The FAA agrees with ATA in that rocket firing is of a very minor consequence to the proposed rule and would rarely, if at all, interfere with civil operations in the corridor. Further, ATA commented that it is presumed IFR traffic is provided for by ATC and that the benefits to VFR traffic are in doubt; that if such is true it is a reversal of procedures stated in the Airman's Guide. IFR traffic in the corridor is provided for by virtue of the fact that ATC does issue clearances which provide segregation from the test activities in process and other nonparticipating IFR traffic. As stated above, VFR traffic, upon contact with ATC, will be advised of altitudes in use by the military which should be avoided. The notice in the Airman's Guide stated, in part:

Advise all aircraft proposing transient [sic] of this area contact Crestview FSS or Eglin tower/rapcon for traffic info and recommend altitude for transient [sic].

The only significant difference in the substance of this notice, which has been discontinued, and the adopted rule is that the notice indicated no military or FAA control of the airspace involved. This rule incorporates the fact that use of the corridor airspace is controlled by ATC with the assurance that the corridor will always be available to civil users. Otherwise, the procedures in the rule and those in the notice formerly found in the Airman's Guide are the same. The only mandatory aspect pertaining to civil users is contact with ATC and the receiving of a pertinent advisory. Observance of the advisory is voluntary only.

The ATA commented that the proposed benefits to VFR traffic are sufficiently in doubt that adoption of a new concept should be withheld pending more specific information to the users. Adequate reconsideration of the concept indicates that further information cannot be made available until the program is actually implemented, progressively monitored and carefully evaluated. Retention, cancellation, or modification of the rule will depend upon pertinent observations. Responses to other objections by the ATA appear in the previous discussions above.

The ATA recommended either designating the corridor as a positive control route segment or as a positive control area. This action would appear unnecessary since there is no requirement to separate the civil VFR flights from one another. The problem is the intermingling of the high speed military crossings with VFR traffic transiting the corridor. The proposed regulation would insure that pilots of all VFR flights operating in the area would receive advisory information concerning the military operations. This would enable them to avoid the altitudes being used by the Air Force and, thereby, resolve the problem.

The Helicopter Association of America recommended that the lower airspace of the corridor be excluded from the proposed rule since obtaining a clearance would be an undue restriction upon heli-

copter flights which are operated VFR on no flight plan and at lower altitudes. This recommendation is not feasible since the Air Force occasionally must use 500 feet for a crossing altitude. However, due to the infrequency of such crossings and the minimal amount of time required for the completion of such (approximately two minutes or less), there should be slight inconvenience or disruption of normal helicopter operations in the area.

Subsequent to the issuance of the notice, Restricted Area R-2915 was subdivided into R-2915A and R-2915B in Airspace Docket No. 63-SO-18. Therefore, in § 93.81 as proposed, "thence along the eastern boundary of R-2915 at the point of beginning" should have read "thence along the eastern boundaries of R-2915B and R-2915A to the point of beginning." Since this change is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and pertinent action is taken herein to reflect the change.

In consideration of the foregoing, and for the reasons stated in the notice of proposed rule making, Part 93 [New] of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 10, 1964, as hereinafter set forth.

Part 93, Federal Aviation Regulations, is amended by adding a new Subpart to read as follows:

**Subpart F—Valparaiso, Florida, Terminal Area**

Sec.

93.81 Applicability.

93.83 Aircraft operations.

**AUTHORITY:** The provisions of this Subpart F issued under sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348).

**§ 93.81 Applicability.**

This subpart prescribes a special air traffic rule for aircraft operated between sunrise and sunset, Monday through Saturday, in the airspace extending upward from the surface to the base of the overlying positive control airspace, bounded by a line beginning at latitude 30°42'50" N., longitude 86°38'02" W.; thence to latitude 30°43'10" N., longitude 86°27'37" W.; thence along the W boundary of R-2914 to latitude 30°19'45" N., longitude 86°23'45" W.; thence three nautical miles from and parallel to the shoreline to latitude 30°20'50" N., longitude 86°38'50" W.; thence along the E boundaries of R-2915B and R-2915A to the point of beginning.

**§ 93.83 Aircraft operations.**

Unless otherwise authorized, no person may operate an aircraft in flight in the area described in § 93.81, unless, before operating within the area, that person establishes communication with air traffic control (ATC) for the purpose of receiving an ATC advisory concerning operations being conducted therein.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 3, 1964.

N. E. HALABY,  
Administrator.

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