

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 73**

[Docket No. FAA-2003-15976; Airspace
Docket No. 03-AWA-5]

RIN 2120-AA66

Establishment of Prohibited Area P-50; Kings Bay, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Prohibited Area P-50 over the U.S. Naval Submarine Base, Kings Bay, GA. The prohibited area replaces a Temporary Flight Restriction (TFR) that is currently in effect at that location. The FAA is taking this action in response to a request from the U.S. Navy as part of its efforts to enhance the security of the Naval Submarine Base, Kings Bay, GA.

EFFECTIVE DATE: 0901 UTC, February 16, 2006.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:**History**

On February 26, 2004, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish a prohibited area over the U.S. Naval Submarine Base, Kings Bay, GA (69 FR 8884). The FAA proposed this action, at the request of the U.S. Navy, to enhance the security of the Kings Bay facility. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. The comment period ended April 12, 2004. A total of 124 comments were received in response to the notice. All comments received were considered in this rulemaking action, including six comments received by the Document Management System after the closing date.

Discussion of Comments

One commenter wrote in support of the proposed action. All other commenters opposed the establishment of the prohibited area. The following is a discussion of the substantive comments received.

Many commenters contended that there is no credible terrorist threat and

adequate justification has not been provided for establishing a prohibited area at Kings Bay, GA.

FAA Response: The purpose of establishing Prohibited Area P-50 is to be proactive in preventing terrorism rather than reactive. The September 11, 2001, attacks identified some weaknesses in the defense of certain critical U.S. assets, and some analysts still claim that necessary steps to prevent future terrorist attacks have not been taken. P-50 is just one part of the U.S. Navy's integrated, layered defense plan for the Kings Bay facility. The submarines berthed at Kings Bay are vital assets that require continual protection, not just during periods of heightened security.

A number of commenters stated that a prohibited area would do nothing to enhance actual security at Kings Bay. It would provide no deterrence to terrorists because they do not follow the rules anyway. Commenters expressed doubt that a prohibited area would provide adequate time for the Navy to react to a threat. Further, the area would only serve to limit the freedom of law-abiding pilots and possibly put an aircraft at risk of a shoot down in the event of an inadvertent penetration of the prohibited area caused by an aircraft emergency or malfunction, lost pilot, or some other innocent circumstance.

FAA Response: The FAA agrees that a prohibited area designation, in itself, presents no physical impediment to stop an attack. However, the Navy is aggressively pursuing a multitude of defensive measures at Kings Bay to prevent an airborne attack. Each of these measures includes the identification of hostile aircraft. P-50 will enhance the protection of U.S. assets by reducing low altitude aircraft overflights of the facility and provide a better means for identifying potentially hostile aircraft. The purpose of P-50, then, is not to provide a sterile environment for airborne assets to engage a hostile aircraft. An aircraft intruding into the prohibited area will draw the attention of ground security forces and may provide the "heads up" notice required to take proper action to prevent or lessen the severity of an attack. An incursion into P-50 would not automatically equate to hostile intent or trigger a defensive response.

Several commenters stated that general aviation (GA) aircraft are too small to be a viable threat to the submarines at the Kings Bay facility. One commenter cited the January 2002 intentional crash by a suicidal pilot of a small aircraft into a Tampa, FL, office building as evidence that GA aircraft are

not capable of causing significant damage to buildings or equipment.

FAA Response: The FAA does not agree. Submarine characteristics and design information is classified and, therefore, cannot be discussed here. However, the potential for serious damage to the vessels does exist whether it is the result of a direct impact or collateral damage.

Numerous commenters, including the Aircraft Owners and Pilots Association (AOPA) and the General Aviation Manufacturers Association (GAMA), said that the FAA should consider alternatives to a permanent prohibited airspace designation. They cited a number of actions taken by the Federal government since September 11, 2001, to enhance aviation security, including: advanced screening of pilot data bases, flight training restrictions and background checks for foreign nationals seeking flight training, and various requirements pertaining to flight school operations. In addition, AOPA's nationwide Airport Watch program was initiated to improve the security of airports and aircraft. AOPA called for the FAA to issue an advisory for pilots, similar to that contained in the current Notice to Airmen (NOTAM) that advises pilots to avoid flight near nuclear power plants, instead of implementing the prohibited area.

FAA Response: The FAA agrees that the initiatives described above have contributed to aviation system security. However, these general initiatives do not negate the need for specific measures at the Kings Bay Naval Base. Regarding the suggestion that the FAA issue an advisory avoidance NOTAM instead of establishing a prohibited area, it should be noted that the "power plant" NOTAM discussed above is a voluntary measure and does not prohibit aircraft overflight of a facility. By prohibiting flight in the airspace above the base, the Navy's defense force can more easily focus on the identification of a potential threat and react accordingly.

The majority of the commenters, including AOPA, GAMA, and the St. Marys Airport Authority, opposed the prohibited area because it would severely impact the operation of the nearby St. Marys Airport (4J6), St. Marys, GA. The airport has been continuously impacted by various TFR over the Kings Bay Naval Base since September 13, 2001. The commenters cited numerous adverse impacts on the airport and community, including: cancellation of the only instrument

approach procedure serving the airport, thereby reducing the airport to Visual Flight Rules only operations; adverse impact on the safety and usefulness of the airport due to the proximity of the TFR/prohibited area to the main airport runway 4/22 (which is the only runway with lighting for night operations); reluctance of user to conduct flight training at the airport due to the risk of unintentional penetration of the TFR/prohibited area; the airport has become less attractive to commercial operators; and, loss of jobs and lessened economic growth in the local area. Some commenters added that, because of the restrictions, the government should pay to install runway lighting and establish instrument approach procedures for the remaining runway 13/31. Other commenters said the government should pay to relocate St. Marys Airport to a site unaffected by the Kings Bay restrictions.

FAA Response: The FAA agrees that the restrictions imposed by the current TFR adversely affect St. Marys Airport operations. These restrictions will continue to exist under the proposed prohibited area. The airport's close proximity to the Kings Bay base limits the options available to offset the restrictions imposed by the TFR and the proposed prohibited area. Until recently, the only instrument approach serving the St. Marys Airport was the surveillance radar approach to runway 4 (ASR RWY 4). The close proximity of the TFR rendered the missed approach portion of that procedure unusable, therefore the approach was suspended. On September 30, 2004, a revised ASR RWY 4 approach was authorized with a relocated missed approach point that provides additional space for aircraft to execute a left climbing turn away from the current TFR. On November 25, 2004, two area navigation (RNAV) Global Positioning System (GPS) approaches were published serving runways 13 and 31. However, because these runways are not lighted, the RNAV GPS approaches are not authorized for use at night.

Currently, a St. Marys Airport relocation feasibility and site selection effort is in progress involving the City of St. Marys, the State of Georgia, and the FAA. A line item for a proposed replacement of the airport was included in the FAA's National Plan of Integrated Airport Systems (2005–2009). Environmental analysis of various alternatives is being conducted. No decisions about relocating the airport have been made at this time.

One commenter wrote that numerous U.S. military facilities such as Fort Campbell, KY; Fort Benning, GA; McConnell Air Force Base (AFB), KS;

and Eglin AFB, FL, are located in close proximity to civilian airports without a similar airspace restriction.

FAA Response: The commenter is correct; however, other military installations do not have the same operational requirements or mission as that of the Naval Submarine Base, Kings Bay, GA.

Statutory Authority

The FAA Administrator has broad authority under Title 49 of the United States Code (49 U.S.C.) to regulate the use of the navigable airspace. In exercising that authority, the Administrator is required to give consideration to the requirements of national defense and commercial and general aviation, and the public right of freedom of transit through the navigable airspace (49 U.S.C. 40101). The Administrator is also empowered to develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace (49 U.S.C. 40103(b)). Additionally, the Administrator shall, in consultation with the Secretary of Defense, establish areas in the airspace the Administrator decides are necessary in the interest of national defense (49 U.S.C. 40103(b)(3)(A)).

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 73 by designating Prohibited Area P–50 at Kings Bay, GA. Prohibited Area P–50 consists of that airspace, from the surface to, but not including 3,000 feet MSL, within a 2–NM radius of Lat. 30°48'00" N., long. 81°31'00" W. In accordance with 14 CFR § 73.83 and § 91.133, no person may operate an aircraft within a prohibited area unless authorization has been granted by the using agency. The dimensions of P–50 are identical to those contained in the TFR now in effect over the Kings Bay facility via NOTAM number 5/9063. NOTAM number 5/9063 will be cancelled on the effective date of Prohibited Area P–50.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation, (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory

evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for a categorical exclusion from further environmental analysis under the National Environmental Policy Act in accordance with FAA Order 1050.1E, Environmental Impacts: Policies and Procedures, paragraphs 303d and 312d.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

Adoption of Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.92 [New]

■ 2. § 73.92 is added as follows:

* * * * *

P–50 Kings Bay, GA [New]

Boundaries. That airspace within a 2–NM radius of Lat. 30°48'00" N., long. 81°31'00" W.

Designated altitudes. Surface to but not including 3,000 feet MSL.

Time of designation. Continuous.

Using agency. Administrator, FAA, Washington, DC.

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Issued in Washington, DC on December 19, 2005.

Edith V. Parish,

Manager, Airspace and Rules.

[FR Doc. 05–24431 Filed 12–22–05; 8:45 am]

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