

The new Safe Fatigue Limits depend on:
 (1) Status of the modification (reinforcement) of the wing structure itself (Partenavia Service Bulletin No. 65 refers); and
 (2) Aircraft Flight Hours accumulated before the modification (reinforcement) was implemented.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) For serial numbers 01 through 356, determine the safe fatigue limit of the wing structure following Vulcanair S.p.A. Service Bulletin No. 120 Rev. 1, dated June 7, 2006, within 8,500 hours time-in-service (TIS) since new or within 500 hours TIS after the effective date of this AD, whichever occurs later.

(2) For serial numbers 01 through 356, inspect the wing structure and the wing to fuselage attachments following Vulcanair S.p.A. Service Bulletin No. 120 Rev. 1, dated June 7, 2006, within the safe fatigue limit determined in paragraph (f)(1) of this AD or within 500 hours TIS after the effective date of this AD, whichever occurs later.

Repetitively thereafter inspect at intervals not to exceed every 500 hours TIS.

(3) For serial numbers 357 and above, inspect the wing structure and the wing to fuselage attachments following Vulcanair S.p.A. Service Bulletin No. 120 Rev. 1, dated June 7, 2006, within 17,500 hours TIS since new or within 500 hours TIS after the effective date of this AD, whichever occurs later. Repetitively thereafter inspect at intervals not to exceed every 500 hours TIS.

(4) For all serial numbers, inspect the stabilator following Vulcanair S.p.A. Service Bulletin No. 120 Rev. 1, dated June 7, 2006, within 8,500 hours TIS since new or within 500 hours TIS after the effective date of this AD, whichever occurs later. Repetitively thereafter inspect at intervals not to exceed every 500 hours TIS.

(5) If as a result of any inspection required by paragraphs (f)(2), (f)(3), or (f)(4) of this AD you find any discrepancies (for example, cracked or broken parts), do one of the following actions before further flight:

(i) Repair the airplane following FAA-approved repair instructions obtained from Vulcanair S.p.A.; or

(ii) Repair the airplane following a repair method approved by the FAA for this AD. Contact the FAA at the address in paragraph (g)(1) of this AD for an FAA-approved method.

Note 1: For certain Model P 68 airplanes, AD 85-08-04 requires repetitive inspections of the front and rear wing spars for cracks with modification if cracks are found. The modification terminates the repetitive inspections required in AD 85-08-04 and may be done regardless if cracks are found. The actions of AD 85-08-08 are independent of this AD action and remain in effect.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows:

(1) The MCAI is extending the safe fatigue limits of the wing structure and the wing to fuselage attachments of certain airplanes.

Airplanes registered in the United States did not have safe fatigue limits established for the wing structure and the wing to fuselage attachments. This AD is establishing safe fatigue limits for the wing structure and the wing to fuselage attachments. This AD is also establishing safe fatigue limits for the stabilator.

(2) The MCAI requires implementation of safe fatigue limits into the airplane maintenance program (maintenance program). An airplane registered in the United States and operated under 14 CFR part 91 is required to have a maintenance program, but not necessarily following the airplane maintenance manual. This AD requires you to do specific actions of Vulcanair S.p.A. Service Bulletin No. 120 Rev. 1, dated June 7, 2006, rather than incorporating those actions into the maintenance program.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4145; fax: (816) 329-4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency AD No.: 2007-0027, dated February 5, 2007; and Vulcanair S.p.A. Service Bulletin No. 120 Rev. 1, dated June 7, 2006, for related information.

Issued in Kansas City, Missouri, on September 17, 2008.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8-22338 Filed 9-25-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA-2007-26470; and Notice No. 08-10]

RIN 2120-AJ29

Proposed Establishment of Special Air Traffic Rule, in the Vicinity of Luke AFB, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This rule would establish a Special Air Traffic Rule (SATR) in the vicinity of Luke Air Force Base (Luke) which would require general aviation (GA) traffic operating under visual flight rules (VFR) to establish communication with the Luke Radar Approach Control (RAPCON) while operating in the area around Luke. This action is necessary to address reported near midair collisions in the area around Luke and would help reduce the potential for midair collisions in the vicinity of Luke.

DATES: Comments must be received on or before November 25, 2008.

ADDRESSES: You may send comments identified by Docket Number FAA-2007-26470 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Bring comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the electronic form of all comments received into any of our dockets,

including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

Docket: To read background documents or comments received, go to <http://www.regulations.gov> at any time and follow the online instructions for accessing the docket. Or, go to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this proposed rule contact Ken McElroy, Airspace and Rules Group, Office of System Operations Airspace and AIM, AJR-33 Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783. For legal questions contact Adrienne Wojcik, Office of Chief Counsel, Regulations Division, Air Traffic & Certification of Airman Law Branch, AGC-240 Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-7776.

SUPPLEMENTARY INFORMATION: Later in this preamble under the Additional Information section, we discuss how you can comment on this proposal and how we will handle your comments. Included in this discussion is related information about the docket, privacy, and the handling of proprietary or confidential business information. We also discuss how you can get a copy of related rulemaking documents.

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator, including the authority to issue, rescind, and revise regulations. Subtitle VII, Aviation Programs, describes, in more detail, the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Chapter 401, Section 40103(b), which allows the Administrator to regulate the use of the navigable airspace necessary to ensure the safety of aircraft and the efficient use of airspace. Moreover, Subtitle VII, Part A, Subpart III, Chapter 447, Section 44701(c) authorizes the Administrator to

regulate air commerce in a way that helps to reduce or eliminate the possibility or recurrence of accidents in air transportation. The proposed change is within the scope of our authority and is a reasonable and necessary exercise of our statutory obligations.

Background

Luke Air Force Base (AFB) is home to the 56th Fighter Wing, the United States Air Force's largest fighter wing. Since 1941, Luke has trained pilots and other aircrew members for America's front-line fighter aircraft. Today, over 200 F-16s conduct more than 201,000 annual operations, and a majority of these operations are for student training. Situated beneath the Phoenix Class B Airspace Area, the Luke terminal area consists of Class D airspace. The Phoenix Deer Valley Airport (the nation's third busiest general aviation airport in 2004) is located within 5 nautical miles of the Luke terminal airspace. There are two flight schools and two Fixed Base Operators located at Phoenix Deer Valley Airport, and the flight schools conduct training within the vicinity of Luke.

Alert Area A-231 is located adjacent and west of Luke, and is utilized by a high volume of pilot jet training operations. Military pilots are advised to be particularly alert when flying in Alert Area A-231, but there is no requirement for civil aircraft to establish communication with the Luke RAPCON during transit. The Air Force Flight Safety Office at Luke points out that although reported near midair collisions are approximately 3 per quarter, each occurrence affects multiple aircraft in the same formation. The significant number of near midair collisions between Luke F-16s and VFR aircraft indicates VFR pilots are not avoiding this area of concentrated student jet transition training.

Operational problems affecting safety in the Luke terminal airspace area are particularly acute and include complex and voluminous traffic, aircraft congestion, terrain that constrains aircraft operations, and the uncontrolled mix of IFR and VFR traffic. Luke RAPCON traffic counts show a mix of military F-16 aircraft operations and GA traffic operations, with some civil air carrier operations. F-16 aircraft are operating at significantly higher airspeeds than most civil GA traffic, normally 200+ knots faster on arrival and 250+ knots faster on departure. This difference in airspeed creates extreme closure rates on converging F-16 and GA aircraft. In addition, complexity is increased because GA aircraft often do not detect all of the aircraft in a military

flight formation. Student pilot training in the F-16 aircraft, combined with student flight training in GA aircraft, diminishes see-and-avoid concepts, seriously compromises flight safety and increases the midair collision potential. The Luke RAPCON provides services to GA aircraft on request, but safety can be significantly enhanced with the full participation of all aircraft operating within the vicinity of the Luke terminal airspace area.

The average number of conflicts between controlled and uncontrolled aircraft has increased steadily since 2000. Direct communication requirements for aircraft operating in the vicinity of the Luke terminal airspace area would reduce the number of conflicts and the near midair collision potential. Aircraft track data modeling tools indicate a significant volume of GA traffic crossing Luke primary instrument final approach course. These data indicate a direct correlation between near midair collision data and the proximity/flight patterns of GA aircraft operating out of the Phoenix Deer Valley Airport. Data track analysis also shows GA traffic from Goodyear Airport and Glendale Airport crossing the final approach course and departure path for Runway 21 at Luke.

There are a number of prominent landmarks that GA aircraft use when operating under VFR. Two of these landmarks are the Glendale Arrowhead Mall and the Peoria Power Plant/Substation, which are very close to the Luke Runway 21 final approach course. Luke F-16s use the Peoria Power plant as a visual aid for turning to the final approach course when conducting formation landings. Additionally, many of the flight schools use the Proving Grounds located approximately 5 miles north of the Luke Auxiliary Field for conducting practice aircraft operations. Aircraft operations in the vicinity of the Proving Grounds conflict with the downwind radar pattern for the Luke Auxiliary Field. The use of these prominent VFR landmarks results in conflicts with the IFR and VFR patterns of Luke F-16s.

For the past few years, the United States Air Force (USAF) has been educating the local aviation community about serious operational problems, including voluminous air traffic congestion, and the uncontrolled mix of IFR and VFR traffic, which impact safety around Luke. Initially, the USAF addressed these problems by making pilots at local airports and flight schools aware of the issue and urging aircraft operators to use various traffic services that could make operations in the area

safer. The USAF also posted its midair collision avoidance program on the Flying Office Safety Web site at: <http://www.luke.af.mil/library/midaircollisionavoidance.asp>. Although the ongoing educational efforts have had some success, leading to a reduction in near misses, there continued to be an average of one near midair collision per month. The USAF finally concluded that safety problems at Luke were so acute the USAF sought a rulemaking solution.

On July 21, 2006, the USAF petitioned the FAA to establish a SATR in the vicinity of Luke, which would require pilots to obtain an air traffic clearance to operate in the area (FAA-2006-25459-1). The USAF believes that the growing amount of VFR traffic combined with a high volume of military air traffic, as well as the increasing number of near midair collisions occurring in the Phoenix West Valley, fully justify such an action. The petition included letters from local mayors, members of Congress, and U.S. senators, as well as many aviation organizations, such as Pam Am International Flight Academy, Westwind School of Aeronautics, Oxford Airline Training Center, Airline Training Center Arizona, Inc., and WESTMARC (a regional coalition of business, government, education and community organizations), endorsing the petition and strongly supporting the action.

The Aircraft Owners and Pilots Association (AOPA) and a few local pilot associations, such as Deer Valley Pilots Association and the Arizona Pilots Association, responded to the proposal by opposing any action that would require air traffic clearances to operate in the area. They insisted on solving the problem through more education and more robust charting notations about avoiding the Luke area during its peak operational hours. However, as discussed above, the USAF has already exhausted the use of non-rulemaking alternatives, which has not solved the serious problem of near midair collisions.

After analyzing the petition and the initial response of the aviation community it generated, the FAA agrees that the establishment of a SATR in the area would significantly reduce safety problems in the vicinity of Luke. However, instead of requiring an air traffic clearance to operate in the area, we believe that a simple radio communication requirement for pilots operating around Luke would suffice to solve the issue of near midair collisions in the area. Hence, the proposed rule does not include a flight plan or

advance clearance requirements. There may be a small number of non-radio-equipped aircraft operating in the area, but those operators would be able to contact the USAF air traffic control by phone 24 hours in advance for alternate arrangements when transiting the area.

The implementation of a SATR with a two-way radio communication requirement would provide an additional safety margin and increase the protection of both military and GA aircraft. Currently, all military aircraft en-route to/from Luke are required to establish two-way radio communication with Luke RAPCON, but the absence of required radio contact with VFR aircraft has led to a significant increase in the number of near midair collisions. When pilots operating VFR use advertised advisory services available at Luke RAPCON they are issued timely traffic advisories and assistance to successfully transit the area. Luke will provide continuous information on the status of the Luke SATR for flight crews both in flight and on the ground via land line and Automatic Terminal Information Service (ATIS). It is not the intent of this proposal to deny pilots flying VFR access to the area once communication is established with Luke RAPCON. Additionally, this proposal is minimally burdensome and will enhance safety.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there is no new information collection requirement associated with this proposed rule.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L.

104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule. We suggest readers seeking greater detail read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

In conducting these analyses, FAA has determined that this proposed rule: (1) Has benefits that justify its costs, (2) is not an economically "significant regulatory action" as defined in section 3(f) of Executive Order 12866, (3) is not "significant" as defined in DOT's Regulatory Policies and Procedures; (4) would not have a significant economic impact on a substantial number of small entities; (5) would not create unnecessary obstacles to the foreign commerce of the United States; and (6) would not impose an unfunded mandate on State, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below. The FAA believes that this rule would impose minimal costs on VFR pilots of GA aircraft, Luke RAPCON and the Federal government. The rule would help reduce the risk of a midair collision in the SATR area, which would result in an increase in aviation safety. As a result, the FAA believes this rule is cost-beneficial.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354) (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration." The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If

the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This proposed rule would impose minimal costs on individuals operating GA aircraft in the Luke vicinity under VFR. Most operators of GA aircraft are individuals, not small business entities, and are not included when performing a regulatory flexibility analysis. However, flight schools, as well as GA operators flying for business reasons, are considered small business entities. The FAA assumes affected instructors and operators use aircraft already equipped with two-way radios, and therefore would not incur any extra costs.

Therefore, the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA requests comments from affected entities on this finding and determination, and requests that comments be supported with clear and relevant documentation.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and has determined that it would have only a domestic impact and therefore no effect on international trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the

aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of \$136.1 million in lieu of \$100 million. This proposed rule does not contain such a mandate.

Executive Order 13132, Federalism

The FAA has analyzed this NPRM under the principles and criteria of Executive Order 13132, Federalism. We have determined that this action will not have a substantial direct effect on the states, or the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this final rule does not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act (NEPA) in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a "significant energy action" under the executive order because it is not a "significant regulatory action" under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Additional Information

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments

electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Availability of Rulemaking Documents

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visiting the FAA's Regulations and Policies Web page at http://www.faa.gov/regulations_policies/; or
3. Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

You may access all documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, from the Internet through the Federal eRulemaking Portal referenced in paragraph above.

List of Subjects in 14 CFR Part 93

Air Traffic Control, Airports, Navigation (air)

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Chapter I of Title 14, Code of Federal Regulations, as follows:

PART 93—SPECIAL AIR TRAFFIC RULES

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

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

2. Add subpart N to Part 93 to read as follows:

Subpart N—Special Flight Rules in the Vicinity of Luke AFB, AZ.

§ 93.161 Applicability.

This subpart prescribes a Special Air Traffic Rule for aircraft conducting VFR operations in the vicinity of Luke Air Force Base, AZ.

§ 93.163 Description of Area.

The Luke Air Force Base, Arizona Terminal Area is designated during daylight hours Monday through Friday during flight training operations, other times by Notice to Airmen (NOTAM) as advertised on the local ATIS, as follows:

(a) East Sector:

(1) South section includes airspace extending from 3,000 feet MSL to the base of the overlaying Phoenix Class B airspace bounded by a line beginning at:

Lat. 33°23'56" N.; Long. 112°28'37" W;
Lat. 33°22'32" N.; Long. 112°37'14" W;
Lat. 33°25'39" N.; Long. 112°37'29" W;
Lat. 33°31'55" N.; Long. 112°30'32" W;
Lat. 33°28'00" N.; Long. 112°28'41" W;
to point of beginning.

(2) South section lower includes airspace extending from 2,100 feet MSL to the base of the overlaying Phoenix Class B airspace, excluding the Luke Class D airspace area bounded by a line beginning at:

Lat. 33°28'00" N.; Long. 112°28'41" W;
Lat. 33°23'56" N.; Long. 112°28'37" W;
Lat. 33°27'53" N.; Long. 112°24'12" W;
to point of beginning.

(3) Center section includes airspace extending from surface to the base of the overlaying Phoenix Class B airspace, excluding the Luke Class D airspace area bounded by a line beginning at:

Lat. 33°42'22" N.; Long. 112°19'16" W;
Lat. 33°38'40" N.; Long. 112°14'03" W;
Lat. 33°35'36" N.; Long. 112°15'36" W;
Lat. 33°27'53" N.; Long. 112°24'12" W;
Lat. 33°28'00" N.; Long. 112°28'41" W;
Lat. 33°31'55" N.; Long. 112°30'32" W;
to point of beginning.

(4) The north section includes that airspace extending upward from 3,000 feet MSL to 4,000 feet MSL, bounded by a line beginning at:

Lat. 33°42'22" N.; Long. 112°19'16" W;
Lat. 33°46'58" N.; Long. 112°16'41" W;
Lat. 33°44'48" N.; Long. 112°10'59" W;
Lat. 33°38'40" N.; Long. 112°14'03" W;
to point of beginning.

(b) West Sector:

(1) The north section includes that airspace extending upward from 3,000 feet MSL to 6,000 feet MSL, bounded by a line beginning at:

Lat. 33°51'52" N.; Long. 112°37'54" W;
Lat. 33°49'34" N.; Long. 112°23'34" W;
Lat. 33°46'58" N.; Long. 112°16'41" W;
Lat. 33°42'22" N.; Long. 112°19'16" W;
Lat. 33°39'27" N.; Long. 112°22'27" W;
to point of beginning.

(2) The south section includes that airspace extending upward from the surface to 6,000 feet MSL, bounded by a line beginning at:

Lat. 33°39'27" N.; Long. 112°22'27" W;
Lat. 33°38'06" N.; Long. 112°23'51" W;
Lat. 33°38'07" N.; Long. 112°28'50" W;
Lat. 33°39'34" N.; Long. 112°31'39" W;
Lat. 33°39'32" N.; Long. 112°37'36" W;
Lat. 33°51'52" N.; Long. 112°37'54" W;
to point of beginning.

§ 93.165 Operations in the Special Air Traffic Rule Area.

(a) Unless otherwise authorized by Air Traffic Control (ATC), no person may operate an aircraft in flight within the Luke Terminal Area designated in § 93.163 unless—

(1) Before operating within the Luke Terminal area, that person establishes radio contact with Luke Radar Approach Control (RAPCON); and

(2) That person maintains two-way radio communication with the Luke RAPCON or an appropriate FAA ATC facility while within the designated area.

(b) Request for deviation from the provisions of this section must be submitted to the Luke RAPCON at least 24 hours before the proposed operation.

Hank Krakowski,

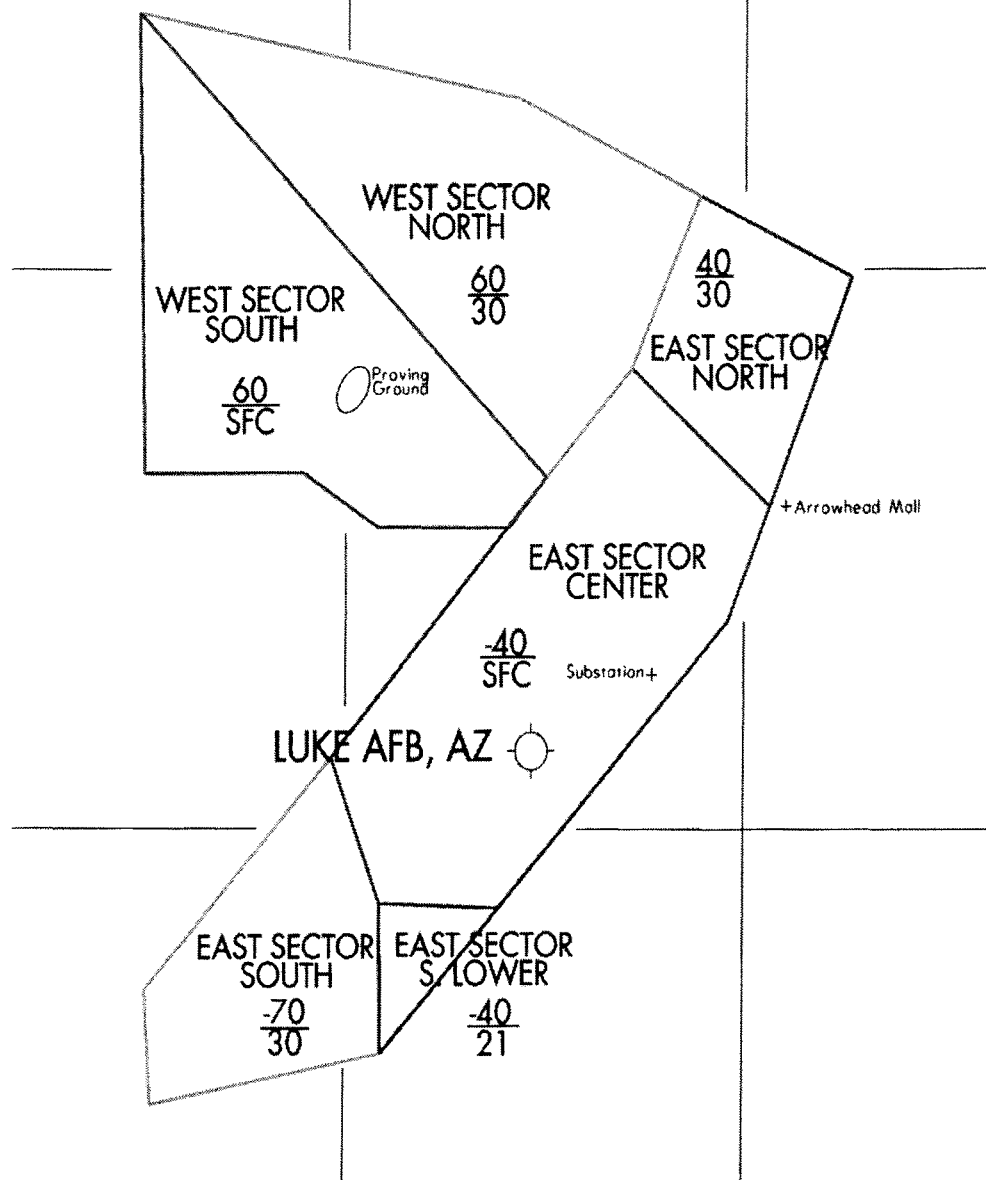
Chief Operating Officer (COO), Air Traffic Organization.

Note: The Following Map Will Not Appear In the Code of Federal Regulations.

BILLING CODE 4910-13-P

PROPOSED SPECIAL AIR TRAFFIC RULE LUKE AFB, PHOENIX, AZ JANUARY 2008

NOT FOR NAVIGATION



[FR Doc. E8-22568 Filed 9-25-08; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF JUSTICE

28 CFR Part 20

[FBI Docket No. 118]

RIN 1110-AA29

FBI Records Management Division National Name Check Program Section User Fees

AGENCY: Federal Bureau of Investigation (FBI), Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FBI is authorized to establish and collect fees for providing fingerprint-based and name-based criminal history record information (CHRI) checks and other identification services submitted by authorized users for non-criminal justice purposes including employment and licensing. The fees may include an amount to establish a fund to defray expenses for the automation of criminal justice information services and associated costs. The proposed rule concerns the name-based checks conducted by the Records Management Division (RMD) in the National Name Check Program (NNCP).

The rule explains the methodology used to calculate the revised fees and provides a proposed fee schedule. After public comment, a final rule and notice of the final fee schedule will be published in the **Federal Register**.

DATES: Written comments must be received on or before November 25, 2008.

ADDRESSES: You may submit comments, identified by Docket No. FBI 118, by either of the following methods:

- *Federal Regulations Web site:* You may review this regulation on <http://www.regulations.gov> and use the comment form for this regulation to submit your comments. You must include Docket No. FBI 118 in the subject box of your message.

- *Mail:* You may use the U.S. Postal Service or other commercial delivery services to submit written comments to the FBI, Records Management Division, National Name Check Program Section, 1325 G Street, Room G-300, Washington, DC 20005, Attention: Michael A. Cannon.

To ensure proper handling, please reference Docket No. FBI 118 in your comment. When submitting written comments, please allow for delivery time plus at least two days for internal mail security scanning and delivery.

FOR FURTHER INFORMATION CONTACT:

Michael Cannon, FBI, Records Management Division, National Name Check Program Section, 1325 G Street, Room G-300, Washington, DC 20005, telephone number (202) 220-1198.

SUPPLEMENTARY INFORMATION:

- I. Posting of Public Comments
- II. Background
- III. Fee Calculation
- IV. Revised Fee Schedule
- V. Administrative
- VI. Regulatory Certifications

I. Posting of Public Comments

Please note that all comments on the proposed rule are considered part of the public record and made available for public inspection online at <http://www.regulations.gov>. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on <http://www.regulations.gov>.

Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the "For Additional Information" paragraph.

II. Background

For purposes of discussion, FBI user fees may be differentiated by the FBI Division providing the service. The user fees for the National Name Check

Program (NNCP) checks provided by the Records Management Division (RMD) are the subject of this rulemaking. Fees for the criminal history record information checks provided by the Criminal Justice Information Services Division (CJIS) are the subject of a separate rulemaking (Docket No. FBI 114, RIN 1110-AA26). The separate CJIS fee rule also proposes to amend 28 CFR 20.31. In the event that the CJIS fee rule is finalized first, the revisions proposed in this rulemaking to section 20.31(e) will be conformed with the changes contained in the CJIS fee rule.

The rulemaking process provides federal governmental agencies and the public the opportunity to review and comment on the methodology utilized by the FBI to implement its statutory authority to establish and collect fees and the proposed fee schedule, and advises that future fee adjustments will be made by notice published in the **Federal Register**. After analysis and response to the comment, a final rule and notice of the fee schedule will be published in the **Federal Register**. This rule will be published at Part 20 of 28 CFR.

FBI's Legal Authority To Collect Fees

The FBI has collected fees for NNCP checks since 1991, under the authority set out in Public Law 101-162. This law authorized the FBI to collect fees to process identification records and name checks for non-criminal justice purposes and to set such fees at a level to include an amount to defray expenses for the automation of fingerprint identification and associated costs. Congress, in Public Law 101-515, subsequently authorized the FBI to establish and collect these fees on a continuing basis.

National Name Check Program Services

Under Public Law 101-515, the FBI is authorized to charge a fee for non-criminal justice name-based checks for such purposes as immigration, Federal Government employment and security clearance processes. The FBI does not charge a fee for NNCP services performed for criminal justice purposes, which are supported by federal appropriations.

Reasons for the Proposed Fee Schedule

While the RMD has automated some portions of the NNCP process, the current fees, which have not changed since 1991, do not reflect the expense of personnel time and other costs involved in the analysis of the pertinent information. As explained below, the NNCP disseminates information from the FBI's Central Records System (CRS) in response to requests submitted by