

statement is made: "Comments to Docket No. FAA-2003-15845/Airspace Docket No. 03-ASO-11." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at <http://dms.dot.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at <http://www.faa.gov> or the Superintendent of Document's web page at <http://www.access.gpo.gov/nara>. Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA-400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267-9677, to request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

#### The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E5 airspace at Raleigh, NC. Class E airspace designations for airspace areas extending upward from 700 feet of more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and

routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under 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.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 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.

#### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth*

\* \* \* \* \*

#### ASO NC E5 Raleigh, NC [Revised]

Raleigh—Durham International Airport, NC  
(Lat. 35°52'40" N, long. 78°47'15" W)  
Leevy NDB  
(Lat. 35°55'38" N, long. 78°43'19" W)  
Horace Williams Airport  
(Lat. 35°56'07" N, long. 79°03'57" W)  
Duke Medical Center  
Point In Space Coordinates  
(Lat. 35°59'48" N, long. 78°55'49" W)

That airspace extending upward from 700 feet or more above the surface within a 10-mile radius of Raleigh-Durham International Airport and within 2.5 miles each side of the 045° bearing from Leevy NDB, extending from the 10-mile radius to 7 miles northeast of the NDB; within a 6.3-mile radius of

Horace Williams Airport and that airspace within a 6-mile radius of the point in space (lat. 35°59'48" N, long. 78°55'49" W) serving Duke Medical Center.

\* \* \* \* \*

Issued in College Park, Georgia, on August 13, 2003.

**Walter R. Cochran,**

*Acting Manager, Air Traffic Division,  
Southern Region.*

[FR Doc. 03-21324 Filed 8-19-03; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 91, 121 and 135

[Docket No. FAA-2003-14830; Special Federal Aviation Regulation (SFAR) No. 71]

RIN 2120-AH02

#### Air Tour Operators in the State of Hawaii; Correction

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM), correction.

**SUMMARY:** The FAA published a notice of proposed rulemaking on August 8, 2003 (68 FR 47269) to continue the existing safety requirements in Special Federal Aviation Regulation No. 71 (SFAR 71) and eliminate the termination date for SFAR 71. In that proposed rule, the FAA inadvertently omitted the Regulatory Flexibility Analysis. This publication corrects that error and publishes the Regulatory Flexibility Analysis for public comment. **DATES:** Comments must be received on or before September 8, 2003.

**ADDRESSES:** You may submit comments to FAA-2003-14830 by any of the following methods:

- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

• Mail: Docket Management Facility: U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

• Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 am and 5 pm, Monday through Friday, except Federal holidays.

• Federal Rulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**Instructions:** All submissions must include the agency name and docket

number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading under **SUPPLEMENTARY INFORMATION** and Regulatory Notices.

*Docket:* For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 am and 5 pm, Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Alberta Brown, Aviation Safety Inspector, Air Transportation Division, AFS-200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone (202) 267-8321, or by e-mail at [Alberta.Brown@faa.gov](mailto:Alberta.Brown@faa.gov).

**SUPPLEMENTARY INFORMATION:** The FAA published a notice of proposed rulemaking on August 8, 2003, (68 FR 47269) and the section titled "Initial Regulatory Flexibility Analysis" was inadvertently left out. This document corrects that error.

*Correction:* In FR Doc. 03-20277 published on August 8, 2003 (68 FR 47269), on page 47271, in column 3, before the paragraph heading "International Trade Impact Assessment," add the following information:

#### **Initial Regulatory Flexibility Analysis**

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. 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 proposed or final 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 proposed or final 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.

The FAA conducted the required review of this proposal and determined that it would have a significant economic impact on a substantial number of small entities. Accordingly, pursuant to Section 603 of the Regulatory Flexibility Act, the Federal Aviation Administration has prepared the following initial regulatory flexibility analysis.

#### **Reasons Why Agency Action Is Being Considered**

The FAA is proposing to continue the existing safety standards in SFAR 71 without a termination date as a result of the reduction in accidents and incidents involving air tour operators in Hawaii and NTSB recommendations. The rationale for the major provisions of the NPRM are summarized below:

*Safety provisions addressing the risks of beyond the shore operations.* Based on an analysis of the risks of beyond the shore operations and NTSB recommendations, the FAA concludes that the benefits of these provisions justify the costs. Based on survivors' testimony, life preservers alone are insufficient in preventing loss of life in helicopter accidents over water. Without floats, helicopters sink very quickly upon impact, giving occupants little time to exit the aircraft. The FAA believes that helicopter floats, in conjunction with life preservers and pre-flight briefing and water ditching procedures, would significantly improve the chances of survival. Therefore, this proposal would require life preservers and passenger briefings for all air tours and floats for helicopters.

*Provisions addressing weather.* Between 1982 and 1994 there were 12 weather related accidents in Hawaii while between 1994 and 2002 there were 3 weather related accidents. This illustrates the effectiveness of the existing SFAR 71 weather related provisions and warrant their continuation.

#### **Statement of Objectives and Legal Basis**

The objective of this proposal is to continue a higher level of safety for Hawaii air tours. Under the United States Code, the FAA Administrator is required to consider the following matter, among others, as being in the public interest: assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce. [See 49 U.S.C. 40101(d)(1).] Additionally, it is the FAA Administrator's statutory duty to carry out her responsibilities "in a way that best tends to reduce or eliminate the possibility or recurrence of accidents in air transportation." [See 49 U.S.C. 44701(c).] Accordingly, this notice proposes to amend title 14 of the Code of Federal Regulations to continue the safety requirements of air tour operations in Hawaii, without a termination date.

#### **Description of Small Entities Affected**

The FAA concludes that all of the entities affected by the proposed amendments are small according to thresholds established by the Small Business Administration (i.e., employ fewer than 1,500 employees). An estimated 6 part 91 operators and 24 part 135 operators would be affected by the rule. The part 91 operators own about 11 aircraft, while the part 135 operators have about 80 aircraft. This proposed rule would impose total annualized costs per operator of approximately \$99,000. According to a Small Business Administration analysis of Bureau of Census data for non-scheduled air transportation firms,<sup>1</sup> firms with fewer than 500 employees have average revenues of \$1.87 million. The estimated cost to each of these small entities is approximately 5.3 percent of the average revenue of non-scheduled air transportation firms with fewer than 500 employees based on the SBA's Census data cited.

#### **Projected Reporting, Recordkeeping and Other Compliance Requirements**

The annualized cost for completing the performance plan and conducting the passenger briefing would impose average annualized costs per operator of approximately \$43,500.

#### **Overlapping, Duplicative, or Conflicting Federal Rules**

The proposed rule would not overlap, duplicate, or conflict with existing Federal rules.

<sup>1</sup> Source: SBA Advocacy Office statistics for 1997. All Hawaii air tour operators are assumed to have fewer than 500 employees.

### Analysis of Alternatives

Affected operators and helicopter air tour pilots have petitioned the FAA to amend SFAR 71. They argue that SFAR 71's 1500-foot minimum altitude requirement is "cumbersome and lacks flexibility in dynamic circumstances." The petitioners also maintain that allowing air tour flights as low as 300 feet above the surface would make SFAR 71 safer in certain circumstances.

The FAA has considered the petitioners' views in formulating this proposed rule. The issues raised are similar to comments received by the agency during the three SFAR rulemaking preceding this proposed rule. The FAA concludes that 1,500 feet provides a pilot with more distance, and, thus time, to avoid an accident or to deal with an error. An altitude of 300 feet provides 80 percent less distance and thus, much less reaction time.

### Affordability Analysis

The FAA lacks reliable revenue and profit data on the individual entities affected by this rule, but the estimated cost to each of these small entities is approximately 5.3 percent of the average revenue of non-scheduled air transportation firms with fewer than 500 employees based on the SBA's Census data. Hawaii air tour operators have been subject to the proposed provisions of this rule since 1994. While there are fewer operators today than in 1994, the cause cannot be directly attributed to SFAR 71 but rather, the vagaries and nature of the tourism market. New air tour operators have entered the market after making the business decision to accept the provisions of this rule. The FAA invites comment on the potential impact of the proposal on revenues and profits.

### Business Closure Analysis

The FAA estimates that none of the operators currently providing air tour flights would elect to stop providing the service. These operators have been complying with these provisions since 1994.

### Disproportionality Analysis

All Hawaiian entities in the air tour market are small. Accordingly, the costs imposed by this proposal would be borne almost entirely by small businesses. The estimated costs are proportional to the frequency of operations and thus the burden is not disproportionate. Air tour safety in Hawaii has been significantly improved, and the FAA believes that the only way to continue this is to maintain these higher standards on these entities.

### Key Assumptions Analysis

The FAA has made several conservative assumptions in this analysis, which may have resulted in an overestimate of the costs of the proposal. For example, the FAA assumes that the pilot in command would conduct all pre-flight briefings but the provision only requires the pilot to "ensure that each passenger has been briefed". The briefing could be recorded or provided by a lower paid employee. Also, the helicopter life preserver costs may be overestimated since there is a voluntary industry standard to which 13 helicopter tour operators subscribe that requires occupants to wear a personal flotation device.

Issued in Washington, DC, on August 18, 2003.

**Donald P. Byrne,**

*Assistant Chief Counsel.*

[FR Doc. 03-21423 Filed 8-18-03; 12:19 pm]

**BILLING CODE 4910-13-P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-108676-03]

RIN 1545-BC00

#### Distributions of Interest in a Loss Corporation From Qualified Trust; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to a notice of proposed rulemaking; by cross-reference to temporary regulations and notice of public hearing.

**SUMMARY:** This document contains regulations under section 382 of the Internal Revenue Code of 1986. The proposed regulations affect loss corporations and provide guidance on whether a loss corporation has an ownership change where a qualified trust described in section 401(a) distributes an ownership interest in an entity.

**FOR FURTHER INFORMATION CONTACT:** Martin Huck at (202) 622-7750 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### Background

The proposed regulations that are the subject of these corrections are under section 382 of the Internal Revenue Code.

### Need for Correction

As published, this notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing contains errors that may prove to be misleading and are in need of clarification.

### Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing (REG-108676-03), which is the subject of FR. Doc. 03-16230, is corrected as follows:

1. On page 38247, column 3, in the preamble, under the subject heading **ADDRESSES**, line 3, the language "5226, Internal Revenue Service, POB" is corrected to read "5207, Internal Revenue Service, POB".
2. On page 38248, column 1, in the preamble, under the subject heading **FOR FURTHER INFORMATION CONTACT**, line 5, the language "Treena Garrett, (202) 622-7180 (not toll-)" is corrected to read "Treena Garrett, (202) 622-3401 (not toll-".

**LaNita Van Dyke,**

*Acting Chief, Regulations Unit, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. 03-21356 Filed 8-19-03; 8:45 am]

**BILLING CODE 4830-01-P**

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 206 and 210

RIN 1010-AD04

#### Federal Oil Valuation

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The MMS is proposing to amend the existing regulations governing the valuation of crude oil produced from Federal leases for royalty purposes, and related provisions governing the reporting thereof. The current regulations became effective on June 1, 2000.

Experience thus far has shown that the 2000 rules have generally served both MMS (and the states who cooperate with MMS in auditing Federal leases) and the producing industry well. However, in continuing to evaluate the effectiveness and efficiency of its rules, MMS has identified certain issues that warrant further proposal and public comment. These issues concern primarily which published market