

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 26211; Notice No. 90-15]

RIN 2120-AC90

Ketchikan International Special Airport Traffic Rule

AGENCY: Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend the special air traffic rule at Ketchikan, Alaska by establishing rule applicability in all portions of the Ketchikan Control Zone. The rule currently excludes certain portions of the airspace below 600 feet mean sea level (MSL). This notice would also clarify the original intent of the rule by specifying that pilots must maintain a constant listening watch on the traffic advisory frequency while operating in the control zone. The FAA believes that the level of safety provided for aircraft operations in the Ketchikan area will be enhanced by this proposed amendment.

DATES: Comments must be submitted on or before May 29, 1990.

ADDRESSES: Comments on this notice should be mailed or delivered in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 26211, 800 Independence Avenue SW., Washington, DC 20591.

The comments delivered must be marked Docket No. 26211. Comments may be examined in the Rules Docket, room 915G, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. A. Wayne Pierce, Air Traffic Rules Branch, ATO-230, Airspace Rules and Aeronautical Information Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-8783.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to participate in these proposed rulemaking procedures by submitting such written data, views, or arguments as they may desire. Comments are invited that provide the factual basis supporting the views and suggestions presented relating to the environmental, energy, or economic impacts that may result from adoption of the proposals contained in this notice. Substantive

comments should be accompanied by cost estimates. Communications should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking further action on this NPRM. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons before and after the closing date for comments. A report summarizing each substantive public contact with Federal Aviation Administration (FAA) personnel concerned with this rulemaking will be filed in the Docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26211." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the regulatory docket or notice number of this NPRM.

Persons interested in being placed on a mailing list for future NPRM's should also request from the above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Ketchikan International Airport was opened in 1973 adjacent to Ketchikan Harbor. Prior to that time, wheeled-aircraft with passengers or cargo destined for Ketchikan would land at Annette Island, about 18 miles southeast of Ketchikan International Airport, and transfer payloads to float aircraft. The float aircraft would then ferry passengers and cargo to Ketchikan and land in the harbor. Upon the airport's opening, wheeled-aircraft, including large turbojet aircraft, began using Ketchikan International Airport. Float aircraft continued to operate in substantial numbers in the vicinity of Ketchikan, using the harbor for surface operations.

A control zone was established at Ketchikan on May 24, 1973, and on April 8, 1976, the FAA promulgated an amendment to part 93 of the Federal Aviation Regulations (FAR), establishing the current Ketchikan International Airport Traffic Rule (Amdt. No. 93-33, 41 FR 14879). That action affected all of the Ketchikan Control Zone excluding that airspace below 600 feet above sea level and—(a) more than three miles from the nearest point on Ketchikan International Airport; (b) east of a line through the center of Pennock Island, extending to the end of the ferry slip at Ketchikan International Airport, thence through Channel Island; or (c) west of a line extending from Granina Point to Vallemar Point.

Reference Material

The report of an FAA Air Traffic Management Analysis conducted in September, 1987, revealed that air traffic congestion in the Ketchikan area subsided briefly after the opening of the new airport, and then began to increase steadily over the ensuing years. That analysis and report included, in pertinent part, the following major focus points:

- (1) An air traffic activity survey at both Ketchikan International Airport and Ketchikan Harbor;
- (2) An evaluation of the efficiency of the traffic flow;
- (3) An analysis of the interaction and potential conflict between aircraft operating at the Ketchikan Airport and the several seaplane operating areas in the Tongass Narrows; and
- (4) An examination of all non-standard procedures.

Prominent among the recommendations of the report was the suggestion that the Ketchikan International Airport Traffic Rule be modified to eliminate the existing exclusion for aircraft operating below 600 feet MSL in most of the affected area. This notice proposes to implement that recommendation. The other recommendations included in the report, though bearing merit, are not germane to this proposal and will not be discussed here.

Need for Regulation

The report cited concern within the Ketchikan aviation community that the exclusion of operations below 600 feet MSL posed an unnecessary and unwarranted diminution in the margin of safety which could be provided by the special airport traffic rule without the exclusion.

The report noted that the combined volume of traffic at Ketchikan International Airport and Harbor has reached over 100,000 operations annually. If the total volume of traffic were at the airport, the airport would qualify for an airport traffic control tower. The fact that the airport and harbor are adjacent has the result that the traffic to and from both landing areas uses much of the same airspace for operations. The majority of that traffic operating to and from the harbor and mixing with the operations of surface vessels means the FAA cannot exercise jurisdiction over the surface operations. The FAA believes that the original rule was adequate in 1976 but deserves further consideration at this time.

An analysis of aircraft accidents and incidents in the Ketchikan area between October 1, 1982, and September 30, 1987, reveals one mid-air collision and no reported near mid-air collisions (NMAC). Since this period, there was one reported NMAC on September 21, 1988, approximately 4½ miles west of the airport.

According to the National Transportation Safety Board's (NTSB) Factual Report, the collision occurred between a Hughes helicopter and a Cessna 185, approximately eight-tenths of a mile southeast of the airport, at approximately 500 feet MSL. Portions of the helicopter's flight, inbound to the harbor, were within airspace excluded from applicability of the special rule. The collision occurred near the boundary line between excluded airspace and non-excluded airspace. The helicopter pilot had contacted the Ketchikan Flight Service Station (FSS), advised that he was inbound to the harbor from the southeast, and received traffic advisories. The Cessna pilot made initial contact with the FSS about 20-30 seconds later, advised of his impending departure, and received traffic advisories. A local pilot reported to the NTSB that some pilots inbound to Ketchikan make initial contact with the FSS to receive advisories and then change frequencies to communicate with their companies. The NTSB was unable to determine if this had occurred in this instance.

The FAA does not favor this practice as pilots may be unaware of other traffic pertinent to their flight. Advisory Circular No. 42E, Traffic Advisory Practices at Airports Without Operating Control Towers, states that pilots should monitor and communicate on the advisory frequency from 10 miles outside the airport until landing. The FAA believes that pilots operating in the

vicinity of airports, especially in periods of congestion, should be more concerned with potential traffic conflicts than with company communications. Company communications can be made prior to entering the congested area and/or after landing. The FAA believes that the level of safety provided by the rule would be enhanced if pilots monitored the advisory frequency constantly while operating within the affected area.

For the reasons set forth above, the FAA proposes to amend the Ketchikan International Airport Traffic Rule by: (1) Eliminating the exclusion which exists for aircraft operating below 600 feet MSL in most of the area; and (2) adding a provision to require that pilots monitor the advisory frequency at all times while operating in the control zone.

Regulatory Evaluation Summary

Introduction

The FAA is required to assess the benefits and costs of each proposed rulemaking action. This ensures that the public is not burdened with rules whose costs outweigh their benefits. This section contains an analysis that quantifies, to the maximum possible extent, the costs and benefits of amending the special air traffic rules of the Ketchikan Control Zone.

The proposed amendment is intended to enhance aviation safety by eliminating the area of exclusion for aircraft operating below 600 feet MSL within the perimeter of the Ketchikan Control Zone. The proposal also specifies that pilots must maintain a constant listening watch on the traffic advisory frequency while operating in the control zone.

Benefit-Cost Analysis

Costs

The FAA estimates the total quantitative costs expected to accrue from implementation of this proposed rule to be zero. However, some aircraft operators may incur qualitative costs in the form of the inconvenience of having to stay in constant two-way radio communications with the traffic advisory frequency.

In terms of the FAA, the proposed rule would not impose any additional administrative costs for either personnel or equipment. Any additional operations workload generated by the proposed rule would be absorbed by current personnel and equipment resources that are already in place at the Ketchikan Flight Service Station (FSS).

The only potential quantitative costs to aircraft operators would be the purchase of two-way radio equipment. However, all aircraft operators who taxi

onto the runway at Ketchikan National Airport (KTN) or use the Ketchikan Control Zone, including the area of exclusion, are assumed to have the necessary radio equipment to monitor the advisory radio frequency. This is assumed since the vast majority of aircraft that fly in and out of Ketchikan are operated commercially and already have two-way radios in order to keep in contact with their companies. Furthermore, all aircraft operators, commercial or not, who taxi onto the runway at KTN or operate within the Ketchikan Control Zone above 600 feet MSL are required to establish two-way radio communications and receive a traffic advisory from the FSS. Thus, they already must have two-way radios in order to comply with current regulations.

On a qualitative basis, the FAA does recognize that potential costs could accrue from this proposal in the form of inconvenience to aircraft operators who do not monitor the traffic advisory frequency at all times while inside the control zone. The inconvenience to them would simply be the requirement to monitor the traffic advisory frequency at all times when they would prefer not to do so. There also is the potential for inconvenience for those aircraft operators who operate within the area of exclusion, since current regulations do not require them to monitor the traffic advisory frequency. Because of the uncertainty as to the number of aircraft operators who could be affected, coupled with the fact that the cost of inconvenience is difficult to quantify, the FAA solicits comments and information from the aviation community regarding the extent that potential costs, both qualitative and quantitative, might be incurred.

Benefits

The proposed rule is expected to accrue potential benefits primarily in the form of enhanced safety to the aviation community and flying public. Such safety, for example, would take the form of reduced casualty losses (namely, aviation fatalities and property damage) resulting from a lowered likelihood of midair collisions attributed to the elimination of the 600 feet MSL area of exclusion and establishment of constant two-way radio communication within the Ketchikan Control Zone.

The two ways that aviation safety would be enhanced by this proposed rule are discussed in detail below:

First, this proposed rule would enhance aviation safety by requiring aircraft operators to engage in two-way radio communications with the traffic

advisory frequency while in the Ketchikan Control Zone. Combined flight operations at KTN and at Ketchikan Harbor have reached over 100,000 annually. This large volume of air traffic includes a mixture of general aviation aircraft (both wheeled and float) and large turbojet-type aircraft. Enhanced aviation safety would be achieved by requiring anyone who operates any of these types of aircraft in any airspace below 3,000 feet MSL within the Ketchikan Control Zone or taxis onto the runway at KTN, to monitor the advisory frequency at all times while operating within the specified airspace. This would enhance the safety of all aircraft operating within the Ketchikan Control Zone by providing aircraft operators with enough traffic and other advisory information necessary to safely avoid other aircraft within the entire perimeter of the control zone.

Second, enhanced aviation safety would accrue because this proposed rule would eliminate the 600 foot MSL area of exclusion of the Ketchikan Control Zone. The current exclusion of aircraft operating below 600 feet MSL from participating in the special air traffic rules and communication requirements of the control zone is a concern among the Ketchikan aviation community and the FAA. This area of exclusion poses an aviation safety hazard at Ketchikan. This is evidenced by a midair collision that occurred on August 12, 1987, between a Hughes helicopter and a Cessna 185. The collision occurred within the area of exclusion. During the ensuing investigation, it was revealed that some pilots inbound to Ketchikan make initial contact with the FSS and receive traffic and other advisories, and then change frequencies to communicate with their companies. This practice is dangerous because of the potential risk to aviation safety as the result of the pilot leaving himself unaware of changing air traffic information. This information is pertinent to not only his safety but to the safety of other aircraft operators as well. As mentioned earlier, the FAA's Advisory Circular No. 42D: Traffic Advisory Practices at Airports Without Operating Control Towers, cautioned pilots against this very practice. The FAA believes that pilots operating in the vicinity of airports, especially during periods of congestion, should be more concerned with potential traffic conflicts than with company communications. Company communications can be adequately accomplished before entering the congested area or after landing.

The FAA believes that the proposal to eliminate the area of exclusion, coupled with the proposed requirement to maintain a constant listening watch on the traffic advisory channel, would increase the safety level of the Ketchikan Control Zone. It is difficult to forecast this safety increase in quantitative terms. Since October 1, 1982, one actual midair collision and one near midair collision have occurred in the Ketchikan area. Although it was not determined whether one or both of the pilots involved in the midair collision had discontinued monitoring the FSS frequencies, the accident investigation revealed that this was done routinely by local pilots in order to communicate with their companies. For the purpose of this evaluation, the Ketchikan accident will serve as the FAA's best indication, over the next 10 years, of the potential benefits of this proposal.

The potential benefits, in monetary terms, associated with avoiding a midair collision similar to the one that occurred in Ketchikan would amount to an estimated \$2.2 million (\$1.4 million discounted) in 1988 dollars. This figure represents \$2 million for the two fatalities (based on the FAA's minimum value of \$1 million for each aviation statistical fatality), plus \$203,000 for property damage, namely the Hughes helicopter that was destroyed.

The FAA strongly believes this proposal would help to reduce the probability of a midair collision, especially in an area of increasing traffic levels. The FAA believes there would be a significantly lower likelihood that an accident of the magnitude, which occurred in Ketchikan, that amounted to an estimated \$2.2 million in monetary damages, would happen again. This figure represents a conservative estimate due to uncertainty, but can be viewed as the equivalent of saving at least two lives and one aircraft over the next 10 years.

Conclusions

The estimated cost of this proposal, in quantitative terms, is zero. This is because there would be no costs incurred due to additional equipment or personnel on the part of either the FAA or aircraft operators. In qualitative terms, aircraft operators could incur the cost of inconvenience. This is a result of the requirement to maintain a constant listening watch of the traffic advisory channel.

The potential benefits of this proposal would be the enhanced safety by requiring aircraft operators to be more aware, via constant two-way radio communications with the traffic

advisory channel, of traffic and other advisory information necessary to navigate safely within the Ketchikan Control Zone. Another form of enhanced safety would be the elimination of the area of exclusion that exists from the ground up to 600 feet MSL. The potential benefits, in monetary terms, associated with avoiding a midair collision similar to the one that occurred in Ketchikan would amount to an estimated \$2.2 million (\$1.4 million, discounted 10 percent). On balance, the FAA firmly believes the proposed rule is cost-beneficial.

International Trade Impact Assessment

The proposed amendment would neither have an effect on the sale of foreign aviation products or services in the United States, nor would it have an effect on the sale of U.S. products or services in foreign countries. This is because the proposed amendment would neither impose costs on aircraft operators nor aircraft manufacturers (U.S. or foreign) that would result in a competitive disadvantage to either.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules that may have "a significant economic impact on a substantial number of small entities."

The small entities that could be potentially affected by the implementation of this proposed rule are unscheduled operators of aircraft for hire owning, but not necessarily operating, nine or fewer aircraft.

Only those small entities without two-way radios would be affected by this proposed amendment. However, the FAA assumes that all potentially affected aircraft already are equipped with two-way radios. This assumption is based on the fact that these small aircraft operators routinely fly in and out of the Ketchikan Control Zone, where they are required by the present air traffic rule, to establish two-way communications with the Ketchikan FSS. Therefore, the FAA believes this proposed amendment would not have a significant economic impact on a substantial number of small entities.

Federalism Implications

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and

the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposed regulation is not major under Executive Order 12291. In addition, the FAA certifies that this proposal, if adopted, would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposal is considered nonsignificant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). An initial regulatory evaluation of the proposal, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Alaska, Aviation safety, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part

93 of the Federal Aviation Regulations (14 CFR part 93) as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

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

Authority: 49 U.S.C. 1302, 1303, 1348, 1354(a), 1421(a), and 1424, 2402, and 2424; 49 U.S.C. 106 (Revised Pub. L. 97-449, January 12, 1983).

2. Section 93.151 is revised to read as follows:

§ 93.151 Applicability.

This subpart prescribes special air traffic rules and communication requirements for persons operating aircraft, under VFR, in the airspace below 3,000 feet MSL within the perimeter defined for the Ketchikan Control Zone, regardless of whether that control zone is in effect.

3. Section 93.153 is revised to read as follows:

§ 93.153 Communications.

(a) When the Ketchikan Flight Service Station is in operation, no person may operate an aircraft within the airspace specified in § 93.151, or taxi onto the runway at Ketchikan International Airport, until that person has established two-way radio communications with Ketchikan Flight Service Station and has received a traffic advisory and continues to monitor the advisory frequency at all times while operating within the specified airspace.

(b) When the Ketchikan Flight Service Station is not in operation, no person may operate an aircraft within the airspace specified in § 93.151, or taxi onto the runway at Ketchikan International Airport, unless that person continuously monitors and communicates, as appropriate, on the designated common traffic advisory frequency (CTAF) as follows:

(1) *For inbound flights.* Announces position and intentions when no less than 10 miles from Ketchikan International Airport, and monitors the designated frequency until clear of the movement area on the airport or Ketchikan Harbor.

(2) *For departing flights.* Announces position and intentions prior to taxiing onto the active runway on the airport or onto the movement area of Ketchikan Harbor and monitors the designated frequency until outside of the airspace described in § 93.151 and announces position and intentions upon departing that airspace.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, if two-way radio communications failure occurs in flight, a person may operate an aircraft within the airspace specified in § 93.151, and land, if weather conditions are at or above basic VFR weather minimums.

Issued in Washington, DC, on April 19, 1990.

Harold W. Becker,

Acting Director, Air Traffic Rules and Procedures Service.

[FR Doc. 90-9549 Filed 4-24-90; 8:45 am]

BILLING CODE 4910-13-M