[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 93

[Docket No.: FAA-2009-0837; Airspace Docket No. 09-AWA-2; Amendment Nos. 71-34, 93-94]

RIN 2120–AJ59

Modification of the New York, NY, Class B Airspace Area; and Establishment of the New York Class B Airspace Hudson River and East River Exclusion Special Flight Rules Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action makes a minor modification to the New York, NY, Class B airspace area by adjusting the floor of Class B airspace above a portion of the Hudson River to 1,300 feet above mean sea level (MSL). Additionally, this action establishes a Special Flight Rules Area (SFRA) over the Hudson River and East River to mandate certain pilot operating practices for flight within the Hudson River and East River Class B airspace Exclusions. The FAA is taking this action to enhance the safety of flight operations in the New York Class B airspace Exclusion areas.

DATES: These amendments are effective 0901 UTC, November 19, 2009. The Director of the Federal Register approves the incorporation by reference of the 14 CFR part 71 amendment in this action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

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SUPPLEMENTARY INFORMATION:

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. 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, Section 40103. Under this section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This section also provides for the FAA to prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes) for: (1) navigating, protecting, and identifying aircraft; (2) protecting individuals and property on the ground; (3) using the navigable airspace efficiently; and (4) preventing collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

Background

On August 8, 2009, a midair collision occurred between a helicopter and a single-engine, fixed-wing aircraft operating in accordance with visual flight rules (VFR) over the Hudson River near Hoboken, New Jersey. The collision occurred beneath the New York Class B airspace area in an area commonly referred to as the Hudson River Class B airspace Exclusion. This accident prompted the FAA and the National Transportation Safety Board (NTSB) to examine the airspace configuration and pilot procedures that apply in the vicinity of the incident.

The Hudson River Exclusion extends along the Hudson River between the vicinity of the George Washington Bridge, on the north, and the Verrazano-Narrows Bridge on the south. The Exclusion extends from the surface of the Hudson River up to the base of the overlying New York Class B airspace area. Currently, the floor of Class B airspace along the Hudson River varies between an altitude above 1,100 feet MSL and 1,500 feet MSL. The Exclusion effectively is a "cutout" from the New York Class B airspace area and permits pilots to fly through the area without an air traffic control (ATC) clearance.

The East River Class B Exclusion extends between the east and west banks of the East River from Governors Island to the north tip of Roosevelt Island. The exclusion extends from the surface of the river up to the base of the overlying Class B airspace.

In light of the accident on August 11, 2009, the FAA issued Notice to Airmen (NOTAM) number 9/3952 strongly advising pilots to follow the long-standing recommended procedures for aircraft operating in the Hudson River and East River Exclusion areas. Specifically, these procedures request that aircraft operating in the area:

- Not exceed 140 knots indicated airspeed;

- Turn on anticollision, position, navigation and/or landing lights; and
- Self announce on frequency 123.075 for the East River and 123.05 for the Hudson River.

The NOTAM emphasized that the above recommendations do not relieve pilots of compliance with applicable regulations, including regulations concerning minimum safe altitudes and see-and-avoid responsibilities.

On August 14, 2009, the FAA formed a task force to review current procedures for VFR flight operations in the New York City area. A goal of the review was to identify safety enhancements to flight operations in the Hudson River area. The task force developed eight recommendations which were included in the *Review of New York Visual Flight Rules Airspace: Task Force Report*, dated August 28, 2009. A copy of the report was placed in rulemaking docket for the notice of proposed rulemaking (NPRM). Two of the eight recommendations (numbers one and five) require rulemaking action to: (1) modify the floor of Class B airspace over a portion of the Hudson River; and (2) mandate compliance with the previously recommended procedures for flight in the Hudson River and East River Exclusion areas. Those two recommendations are the subject of this rulemaking action.

Based on its preliminary findings, the NTSB issued a number of recommendations that are similar to those developed by the FAA task force. The NTSB recommendations are also available for viewing in the rulemaking docket for the NPRM.

Summary of the NPRM

In view of the FAA task force recommendations discussed above, the FAA issued a NPRM that was published on September 16, 2009 (74 FR 47495). The NPRM

proposed to amend 14 CFR part 71 by modifying the New York Class B airspace area to set a uniform Class B airspace floor of 1,300 feet above MSL over that portion of the Hudson River that extends between the Verrazano-Narrows Bridge, on the south, and the vicinity of the Alpine Tower, on the north. This proposal would provide additional altitudes in the Hudson River Exclusion so that, depending on an aircraft's purpose of flight (transiting of the Exclusion area or local operation) different altitudes can be used. This would facilitate the segregation of operations in the Hudson River Exclusion by mission profile rather than aircraft category. Currently, there are no specified altitudes for transiting aircraft, which often places them in the same altitude structure commonly used by local operators.

The NPRM also proposed to amend 14 CFR part 93 to establish a Special Flight Rules Area (SFRA) and procedures governing flight operations conducted outside of Class B airspace and over portions of the Hudson River and the East River. The proposal provided that in order to operate within the SFRA: (1) pilots would have to comply with the current recommended flight procedures for the Hudson River and East River Class B Exclusion areas; (2) pilots seeking to transit through the Hudson River Exclusion would have to transit the Hudson River Exclusion at or above an altitude of 1,000 feet MSL up to, but not including, the floor of the overlying New York Class B airspace area; and (3) pilots operating fixed-wing aircraft would be required to follow the current limitations on fixed-wing aircraft operations in the East River Exclusion as contained in NOTAM number 6/3495.

The FAA invited interested parties to participate in the rulemaking by submitting written comments on the proposal. The comment period closed on October 16, 2009. An

analysis of the comments and the FAA's responses are in the "Discussion of Comments" section.

Summary of the final rule

This action amends 14 CFR part 71 by adjusting the floor of the New York Class B airspace area over a portion of the Hudson River. This action also amends 14 CFR part 93 by establishing a SFRA consisting of that airspace within the Hudson River and East River Class B airspace Exclusions.

The part 71 amendment establishes a new subarea, Area K, in the New York Class B airspace area, which creates a uniform Class B airspace floor of 1,300 feet MSL over the portion of the Hudson River that extends between the Verrazano-Narrow Bridge, on the south, and the vicinity of the Alpine Tower (approximately 7 NM north of the George Washington Bridge) on the north. Minor editorial changes are made to descriptions of the New York Class B airspace subareas A, B, D and E to reflect the new Area K.

The part 93 amendment establishes a SFRA for aircraft operations in the Hudson River and East River Class B airspace Exclusions of the New York Class B airspace area. This rule describes both the Hudson River and East River Class B Exclusion areas and defines the terms "local operation" and "transient operation." The rule also specifies the general requirements that apply to all aircraft operating in the Hudson River and/or East River Class B Exclusions, as well as specific procedures that apply individually to each Exclusion.

Differences Between the Proposed Rule and the Final Rule

<u>14 CFR part 71---New York Class B Airspace Area</u>

This rule includes a number of editorial changes to certain Class B airspace subarea descriptions to more accurately describe the areas. These minor changes do not differ substantially from the proposal. The NPRM proposed to establish a new Area K in the New York Class B airspace area, which would have consisted of that airspace extending upward from 1,300 feet MSL over a portion of the Hudson River. In the NPRM, the Area K description began north of LaGuardia airport at the intersection of the LGA VOR/DME 11-mile arc and the west bank of the Hudson River (near Alpine Tower). However, closer cartographic review of the proposed description determined that the 11-mile arc, as depicted on aeronautical charts, does not actually extend to intersect the west bank of the Hudson River. Therefore, the final rule inserts two latitude/longitude points between the 11-mile arc and the west bank of the Hudson River to more accurately describe the north end of Area K (near the Alpine Tower). This aligns the boundary of the north end of the Hudson River Exclusion with an existing segment of the boundary of Area E where it crosses over the Hudson River.

The NPRM also proposed to revise the description of Area D, which consists of that Class B airspace extending upward from above 1,100 feet MSL, by removing two segments that formerly existed over the Hudson River (i.e., east of Newark and west of LaGuardia). The amended Area D description only applies to the one remaining part of the Class B airspace area that extends upward from above 1,100 feet MSL. This area overlies part of the East River. The description of Area D in this rule differs from the NPRM by inserting the words "...extending from the LGA VOR/DME 6-mile arc to the north end of Roosevelt Island." This change clarifies that the boundaries of Area D, where the floor of Class B airspace extends upward from above 1,100 feet MSL, only

extend along the East River between the LGA VOR/DME 6-mile arc and the north end of Roosevelt Island and not the entire length of the river.

The NPRM did not propose to revise subareas A and B. However, an editorial change is required to exclude the new Area K from the Area A and B descriptions, and that change is adopted in this rule. Additionally a reference to Area D is removed from the Area E description.

14 CFR part 93---Special Flight Rules Area

Based on comments received, the FAA is including two new definitions in §93.350 for "transient operations" and "local operations." In addition, the description of the New York Class B airspace East River Exclusion is expanded and consists of the airspace below 1,500 feet MSL over that portion of the river between the LGA VOR/DME 6-mile arc and the southwest tip of Governors Island; and also the airspace from the surface up to 1,100 feet MSL from the LGA VOR/DME 6-mile arc to the north tip of Roosevelt Island. The definition of the East River Exclusion in the NPRM incorrectly described the upper altitude limit of the Exclusion as 1,100 feet MSL along the entire river.

The definition of the New York Class B airspace Hudson River Exclusion in this final rule includes a minor change that adds two latitude/longitude points to accurately describe the north end of the Exclusion. The Hudson River Exclusion lies beneath Class B airspace Area K, and this minor change ensures that the Hudson River Exclusion boundary at the north end aligns with the Area K boundary as discussed above. This change simplifies the chart depiction of the area.

This rule adopts the requirement that anticollision and position/navigation lights shall be on and that the use of landing lights is recommended for operating in the East River and/or the Hudson River Exclusion areas. The NPRM proposed "anticollision, position/navigation, and/or landing lights," which was confusing and could be interpreted to allow use of landing lights only.

Based on comments submitted to the docket, the FAA has concluded that reporting aircraft color is unnecessary because it adds to frequency congestion and is not a significant factor to assist in looking for other aircraft.

Lastly, several editorial changes were made for the purposes of clarity.

Compliance Date

The rule is effective on November 19, 2009. The FAA selected this date because there are three aeronautical charts that are affected by the modification to the New York Class B Airspace area. The new edition of both the New York Sectional Chart and the New York Terminal Area Chart is effective on November 19. These two charts are published every 6 months and the next edition would be May 2010. The effective date of the airspace modifications and the aeronautical charts must be consistent. If the rule is not effective on November 19, the airspace modifications could not become effective until mid-next year.

In addition, this rule requires a new edition of the New York Helicopter Route chart. While this particular chart is not on a regular update cycle as the terminal and aeronautical charts described above, it is republished only when significant changes occur. It is critical that this chart be updated and consistent with the terminal and aeronautical charts.

The FAA acknowledges that there is a small window of time between the issuance of this rule and the effective date. As detailed earlier in this document, the FAA is promulgating this rule and amending certain air traffic procedures to enhance safety for operations over the Hudson River. The airspace modification affects a small piece of the airspace and most of the operating requirements adopted in this rule codify voluntary practices that have been in effect for a number of years. Therefore, the agency finds that there is good cause under 5 U.S.C. § 553(d) to make this rule effective in less than 30 days.

The FAA is taking several additional actions to inform pilots of modified airspace over the Hudson River. An e-mail will be sent to all registered pilots advising of the final rule and available FAA training for operations in the New York Class B Airspace area. Postcards will be mailed to all pilots, for which there is no registered e-mail address. The FAA will conduct seminars and coordinate with other pilot groups to make users aware of the requirements specified in this rule.

Summary of Comments

The FAA received 92 comments. The comments received were grouped in the following general subject areas:

- Definition of "local operation" and "transient operation" in the Hudson River Class B Exclusion
- Altitude stratification in the Hudson River Class B Exclusion
- Separation of helicopter and fixed-wing traffic
- Position reports and Reporting points
- Frequency congestion

- Charting issues
- Floor of Class B airspace over the Hudson River
- Change is unnecessary
- East River Class B Exclusion procedures
- Aircraft not equipped with lights or an electrical system
- Class B airspace informal airspace meetings
- Regulatory Evaluation
- Environmental Review
- Other Issues outside the scope of the rule

  Education and Training

  Teterboro transitions

  Altimeter setting and transponder code

  Enhanced surveillance coverage and aircraft avionics equipage

Discussion of Comments

Below is a more detailed discussion of the issues raised during the comment period.

Definition of "local operation" and "transient operation" in the Hudson River Class B exclusion

Many commenters stated that the NPRM did not clearly define the terms "local area ," "overflight" or "transient" operations. Several commenters interpreted the term "local operations" to mean helicopters only.

The FAA agrees that a clarification of the terms "local" and "transient" operations are needed, and the definitions of the terms are added to §93.350.

The NPRM proposed to modify the floor of the New York Class B airspace area over a portion of the Hudson River to provide more airspace in the Hudson River Exclusion so that aircraft transiting the area are at separate altitudes from aircraft conducting local operations.

The FAA concludes that segregating operations in the Hudson River Exclusion by mission profile places similar operations in the same airspace, which is operationally preferable because the dynamic parameters of these two types of operations are very different. Local operations include aircraft landing and departing from the heliports and seaplane bases located within the SFRA. In addition, certain local aircraft operations require significant changes in altitude, airspeed, and/or heading, such as electronic news gathering, police activities, emergency medical services and sightseeing operations. Transient operations typically fly straight and level. Separating transient operations from local operations will enhance safety by standardizing the types of operations pilots encounter and providing a buffer between dissimilar types of operations, i.e. aircraft flying straight and level versus aircraft climbing and descending, circling, or significantly changing airspeed.

The FAA also recognized that the airspace immediately surrounding the Statue of Liberty presents a particular challenge to all pilots as it is the most heavily trafficked sightseeing destination in the Hudson River Exclusion, and the southernmost turn-around point for all local helicopter tour routes. This is also the area where many local helicopter tour operators will receive ATC clearance to climb into the Class B airspace area for the northbound leg of their tours.

Consequently, all pilots are cautioned to remain especially vigilant for other traffic in the vicinity of the Statue of Liberty.

Pilots can transit the Hudson River Exclusion/SFRA in the airspace from 1,000 feet MSL up to, but not including, 1,300 feet MSL. Pilots transiting the area shall not descend below 1,000 feet MSL. Pilots are advised not to climb or descend or make significant heading changes. However, this does not preclude pilots from taking action as needed to avoid other aircraft. It is the FAA's intention to reserve the altitudes from 1,000 feet MSL up to but not including 1,300 feet MSL for those aircraft transiting the area without having to obtain a Class B airspace clearance. However, transiting pilots must be aware that some aircraft may climb through these altitudes from below in order to enter Class B airspace after receiving a clearance from ATC. This situation is most likely to occur in the vicinity of the Statue of Liberty and the Manhattan landing facilities.

Pilots conducting local area operations should operate below 1,000 feet MSL while in the SFRA, and they must follow other pertinent regulations (e.g., minimum safe altitudes, visibility and cloud clearance requirements, and see and avoid). Pilots must also be aware that, while operating in this dynamic environment below 1,000 feet MSL, they should expect to encounter aircraft that are climbing, descending, transitioning to land, making significant heading changes or operating at very slow airspeeds. Since local helicopter tour operators fly an irregular pattern near the Statue of Liberty at approximately 500 feet, other pilots intending to circle the Statue of Liberty in the Exclusion are advised to do so at the highest practical altitude below 1,000 feet MSL.

Altitude stratification in the Hudson River Class B Exclusion

Many commenters disagreed with the proposed altitude structure in the Hudson River Exclusion. A number of commenters contend that the change would degrade, rather than enhance, safety. Specifically, the commenters stated that the 300 foot layer from 1,000 feet MSL up to, but not including 1,300 feet MSL was insufficient for use by transiting aircraft. Some suggested that a minimum 500-foot altitude block be provided for transiting aircraft and that the 1,000-foot floor of the transit corridor should be lowered to 800 feet or 900 feet MSL. One commenter suggested that all transiting aircraft should do so in Class B airspace above the Hudson River Exclusion. Other suggestions included: separate altitudes for northbound and southbound transiting aircraft; limiting the speed in the transit corridor to 120 knots instead of 140 knots; and providing a larger cutout for the Exclusion behind the Statue of Liberty so pilots wishing to circle the Statue can do so at a higher altitude without entering Class B airspace. Other commenters requested that guidance be provided for turn arounds at the north and south ends of the Hudson River Exclusion and that fixed-wing aircraft should be required to fly south of the Verrazano Bridge before turning northbound.

The FAA believes that the altitude stratification in the Hudson River Exclusion will provide more consistent airspace for pilot navigation and transit flight than exists within the current Hudson River Exclusion configuration. Even though prior to this rule the ceiling of the Exclusion varied between 1,100 feet MSL and 1,500 feet MSL, as a practical matter, the majority of these pilots were operating in this area at 1,000 feet MSL. Therefore, within a significant portion of the Exclusion, all aircraft operations (transiting and local) were mixed within the airspace 1,100 feet MSL and below.

This rule requires aircraft that are simply transiting the area to do so between the altitudes of 1,000 feet MSL up to, but not including, 1,300 feet MSL, and this provides more options for aircraft that are transiting the Exclusion. This change also moves transiting aircraft above the altitudes that are intended for local operations within the Exclusion.

One commenter suggested that all transiting aircraft operations should occur in Class B airspace, above the Hudson River Exclusion. Transiting aircraft always have the option to request Class B clearance from ATC. Separately, one of the non-rulemaking actions the FAA is taking concurrent with this rule, is to establish a published VFR transition route within the New York Class B airspace area above the Hudson River. Similar VFR transition routes exist at other Class B airspace locations, including Los Angeles and Phoenix. This new route will be depicted on the New York Sectional and Terminal Area Charts. Use of the route requires ATC clearance, but it should provide benefits including expedited handling, enhanced safety, improved communication between the controller and pilot, increased number of aircraft under positive control, reduced cockpit workload, and reduction of transiting traffic in the Exclusion airspace.

Another commenter suggested designating separate altitudes for northbound and southbound aircraft transiting the Exclusion. The FAA considered this suggestion but determined that it would further reduce available altitudes for transiting aircraft. The Exclusion is sufficiently wide to allow for lateral separation between north and southbound aircraft.

One commenter suggested reducing the maximum speed from 140 knots to 120 knots. The 140 knot speed was selected based on its use as a recommended practice for

many years in the Hudson and East River Exclusions. Given the mix of operations that will be occurring below 1,000 feet MSL, i.e. climbing, descending, significant altitude changes, 140 knots has proven to be the maximum speed that safely enables all these operations to occur in the same airspace. The FAA did not want to exclude any certain category or class of aircraft from operating in these areas. A maximum speed of 140 knots would allow access by a greater number of different classes while maintaining safety. In addition, the FAA notes that 140 knots is the maximum speed permitted within the Los Angeles Special Flight Rules Area, and it has worked well there. Based on this longstanding practice, the FAA believes that 140 knots is appropriate for use in the Exclusions.

One person asked that the Hudson River Exclusion be expanded behind the Statue of Liberty to permit pilots circling the Statue to do so at a higher altitude without entering Class B airspace. The FAA considered this suggestion, but is unable to adopt it because it would result in adverse impact on instrument flight rules (IFR) operations at Newark.

Other commenters recommended that guidance be provided for aircraft turn arounds at the north and south ends of the Hudson River Exclusion and that fixed-wing aircraft should be required to fly south of the Verrazano Bridge before turning northbound. While these suggestions are outside the scope of this final rule, the FAA is developing a training program covering operations in the New York City area. The training program will include recommended practices such as those suggested above.

Separation of helicopter and fixed-wing traffic

Several commenters interpreted the term "local operations" to mean that only helicopters can operate below 1,000 feet MSL in the Hudson River Exclusion, and that fixed wing aircraft operations are restricted to operate between 1,000 feet MSL up to but not including 1,300 feet MSL.

The FAA noted in its task force report that current operations within the Hudson River Class B Exclusion include a high level of helicopter activity arriving and departing from the Manhattan heliports, in addition to extensive local helicopter tour operations. Fixed-wing traffic is predominantly comprised of general aviation aircraft transiting the New York area either during the en route phase of a cross country flight or on local sightseeing flights. The FAA considered separate altitudes for different aircraft category within this airspace, but did not pursue this option. Prior to this rule, there were no specified altitudes for transient aircraft, often placing them in the same altitude structure commonly used by local operators. Segregating aircraft operations based on mission (transient or local operations) will enhance safety. FAA analysis did not support altitude stratification within the existing airspace of 1,100 feet MSL and below as it could introduce additional risk and have unintended consequences by compressing demand into fewer altitude strata.

Position reports and Reporting points

Over 25 comments were received objecting to the proposed requirement that pilots operating in the Hudson River Exclusion include aircraft color when making position reports at the charted mandatory reporting points. Among the stated reasons were that the requirement contributes to frequency congestion; that it is difficult to clearly distinguish color at a distance; and that reporting aircraft color adds little value to

safety. The FAA agrees with these concerns and has removed aircraft color from the position report format in § 93.352(a). In addition, the training program being developed will emphasize clear and concise position reporting procedures.

Regarding the selection of reporting points, commenters requested that they be clearly visible, identifiable, and aligned with current reporting point usage. Some commenters stated that there are too many required points and they should be standardized between the Terminal Area Chart (TAC) and Helicopter Chart. One individual suggested that a new symbol be added to the charts to identify the mandatory reporting points.

In response, the number of mandatory reporting points has been reduced to six. These points consist of locations that are already in use for the Hudson River Exclusion and will be reflected on both the New York Helicopter Route Chart and TAC. They will be clearly identified on the charts as mandatory reporting points using standard reporting point symbols already familiar to pilots.

Frequency congestion

Many commenters identified frequency congestion on the Hudson River Exclusion Common Traffic Advisory Frequency (CTAF), 123.05, as a major concern. The number of users on 123.05, as well as heliport fixed base operators (FBO) using the frequency for dispatch information and other purposes, affect the ability to use the frequency for position reporting and aircraft-to-aircraft coordination. Commenters provided several suggestions to alleviate the congestion, including assigning a separate frequency for use by transiting aircraft; providing a separate frequency for heliport FBO use; assigning a "corridor" automatic terminal information service (ATIS) frequency for

general information such as temporary flight restrictions; and limiting the use of the frequency to aviation purposes.

Due to limited frequency spectrum availability, designation of additional frequencies as suggested is not possible at this time. An effort currently is underway to realign Hudson and East River Exclusion frequencies to reduce congestion on 123.05. One step is the future change of the Wall Street Heliport frequency to 123.075. In addition, the training program being developed will specifically address standardization of phraseology for both pilot and FBO communications. Information will be included on the aeronautical charts to reflect recommended communications procedures.

Regarding the use of an ATIS for the Exclusions, the purpose of ATIS is to provide airport-specific information, rather than general geographic advisory information. Further, installation of an ATIS would require equipment procurement and frequency assignment, which are beyond the scope of this rule.

One commenter requested that a discrete frequency be assigned and published on the charts for VFR aircraft wishing to contact LaGuardia tower. Contact frequencies for LaGuardia (LGA), Kennedy (JFK), Newark (EWR), and Teterboro (TEB) airport traffic control towers are already shown on the New York Terminal Area and Helicopter Route charts.

Charting issues

Several commenters suggested that the FAA add enhancements to the New York aeronautical charts to expand the information available to pilots and to include the operating requirements on the charts.

The FAA agrees, and will publish the same mandatory VFR reporting points on both Helicopter Route and TAC Charts; add the VFR Transition Route to the Sectional and TAC charts; and provide an expanded depiction of the SFRA area on the reverse of the TAC chart. In addition, the charts will contain insets specifying the part 93 operating requirements and sample position reporting phraseology.

Floor of Class B airspace over the Hudson River

Some commenters suggested raising the floor of Class B over the Hudson River to 1500 feet or 1600 feet MSL to provide additional altitudes in the Hudson River Exclusion. The FAA does not agree with these suggestions. The floor of the Class B airspace can not be raised above 1300 feet MSL above the Hudson River Exclusion without significant adverse impact to IFR operations at LGA and EWR.

Change is unnecessary or premature

Several commenters stated that the proposed rule changes are unnecessary or premature based on the longstanding safety record of flight operations in the Hudson River Exclusion. One commenter said that the FAA should wait for the NTSB to issue its final report on the August 8, 2009, accident before taking action.

The FAA does not agree. While acknowledging the overall safety record of operations in the Hudson River Exclusion, the FAA believes that the measures in this rule, along with the other recommendations of the FAA (that do not require rulemaking action) are appropriate to further enhance the safety of visual flight rules (VFR) flight in the Hudson-East River areas. Although the NTSB has not

yet issued a final report, it has issued five recommendations based on its preliminary findings and its concern about the safety of flight in the Hudson River Class B Exclusion. The NTSB recommendations are similar to actions taken by the FAA. The FAA does not agree that it should delay further action pending the release of the NTSB's final report.

East River Class B Exclusion operating procedures

Two commenters opposed the proposed provision that would require ATC authorization for certain fixed-wing aircraft VFR flight operations in the East River Class B Exclusion. The commenters questioned the value to safety and the rationale for requiring ATC control in the East River Exclusion while no such requirement applies in the Hudson River Exclusion.

This rule codifies the requirements in NOTAM number 6/3495, which has been in effect since October 13, 2006, as a result of a fixed-wing aircraft accident in the East River Exclusion. The East River Exclusion differs from the Hudson River Exclusion in that, for most of its length, it is narrower and provides less maneuvering room for fixed-wing aircraft than is available in the Hudson River Exclusion. Additionally, the north end of the East River Exclusion "dead-ends" at the boundary of the Class B airspace surface area (west of LGA), which can place a pilot in the situation of needing either a course reversal, or obtaining ATC clearance to enter Class B airspace to proceed further. The Hudson River Exclusion also differs from the East River Exclusion by being open at both ends, providing a continuous path through the entire area. Therefore, the FAA does not believe that a similar requirement exists for the Hudson River Exclusion. For

these reasons, the FAA believes that the requirement for ATC authorization and control in the East River Exclusion, as proposed, is appropriate in the interest of safety.

Aircraft not equipped with lights or electrical systems

One commenter stated that no allowance is made for aircraft that are not equipped with external lights to fly the corridor. Another commenter said that aircraft without electrical systems should be permitted in this airspace.

It was not the FAA's intent to exclude aircraft without exterior lights or electrical systems from the Hudson River Exclusion. The final rule is clarified by specifying that aircraft equipped with functioning lights must turn on those lights. The use of landing lights is recommended.

Class B airspace modification informal airspace meetings

One commenter pointed out that the FAA did not hold an informal airspace meeting regarding the proposed change to the New York Class B airspace area as required by FAA policy. (See FAA Order 7400.2, *Procedures for Handling Airspace Matters,* paragraph 2-6-3.)

It is the agency's policy to hold informal airspace meetings as one means of informing the public and gathering information regarding Class B airspace. In this rule however, only a small portion of the New York Class B airspace is being modified, the area over the Hudson River. Furthermore, this modification consists of leveling the Class B floor, which varied between above 1,100 feet MSL and 1,500 feet MSL. This rule uniformly sets the floor at 1,300 feet MSL over the same segment of the river. There were no lateral alterations to the

airspace and the majority of the New York Class B airspace area is not being changed in any way by this rule. The FAA saw the need for prompt action to enhance flight safety in this area and opted not to hold an informal airspace meeting in this case. The FAA concluded that a 30 day comment period would best meet the need of gathering public input on this proposal and permit this action to move expeditiously. The comment period closed on October 16, 2009.

One commenter questioned whether the Task Force established by the FAA was an advisory committee subject to the Federal Advisory Committee Act (FACA). The FAA provided notice and a 30-day comment period so that all members of the public had opportunity to comment. The FAA believes that this process remedies any alleged FACA infractions.

The FAA did receive one request to extend the comment period, which was denied.

Other Issues

Comments were also received on issues concerning: education and training; Teterboro departure procedures for VFR aircraft; altimeter setting and transponder procedures; and enhanced surveillance coverage and aircraft avionics equipage (Multilateration, TIS, TCAS, ADS-B). These issues are outside of the scope of this rulemaking action. However, responses are provided for information.

Education and Training

Several commenters suggested that the FAA develop an internet-based training program covering all aspects of VFR flight in the New York SFRA, similar to that

produced for the Washington, DC SFRA. The FAA agrees and is developing training programs to educate pilots as well as air traffic controllers and Fixed Base Operator personnel. One commenter opposed a training program as unnecessary and burdensome since the appropriate charts will contain sufficient information. The FAA does not agree that this training is unnecessary or burdensome. Unlike the Washington, DC SFRA training program, the New York SFRA training will not be mandatory. It will supplement the information provided on the charts and include supplemental recommended practices for flight within the SFRA.

Teterboro VFR Transitions

Commenters recommended that the FAA develop a standard transition for fixed-wing VFR aircraft that depart Teterboro (TEB) and request to enter the Hudson River Class B Exclusion. The FAA agrees and is developing revised ATC procedures to provide guidance for VFR TEB departures requesting to enter the Hudson River Exclusion as well as separate guidance for VFR departures requesting Class B services.

Altimeter setting and transponder procedures

Commenters submitted a number of suggestions regarding altimeter settings and transponder usage for the SFRA. One commenter requested that a radio frequency be provided for broadcasting a standard altimeter setting for the Exclusions. Another stated that the FAA should mandate the use of the Newark altimeter setting.

The FAA does not agree with these suggestions. Each of the airports bracketing the SFRA (Newark, Teterboro, LaGuardia and Kennedy) has published ATIS frequencies that broadcast altimeter settings on a continuous basis. Pilots may select the altimeter

setting most appropriate for their route of flight. Guidance for setting altimeters is provided in 14 CFR 91.121.

One commenter suggested that a standard VFR transponder code be assigned to aircraft operating in the SFRA if this would be helpful to ATC. The FAA determined that a discrete transponder code for VFR flights in the Exclusions would not be useful for ATC. Since aircraft operations in the Exclusions are conducted under VFR, ATC services are not routinely provided. The FAA does not believe that a discrete code, as opposed to the standard 1200 VFR code, would provide any additional benefit.

Another commenter stated that the requirement for a transponder will disenfranchise aircraft that are not equipped with an electrical system. This rule did not propose any new transponder requirements. Regulations governing transponder use in the National Airspace System are contained in 14 CFR 91.215. In part, that regulation requires that all aircraft operated within 30 nautical miles of an airport listed in Appendix D to part 91 (i.e., those airports where Class B airspace has been designated) must have an operable transponder with altitude reporting capability. The regulation contains specific procedures to accommodate aircraft not equipped with an engine-driven electrical system (see § 91.215(b)(3)).

Enhanced surveillance coverage and aircraft avionics equipage

One commenter said the FAA should consider the longer-term installation of wide area multilateration technology for the "corridor" and adjacent areas to increase ATC surveillance coverage without requiring additional airborne equipment. Others said that

equipment such as the Traffic Alert and Collision Avoidance System (TCAS), Traffic Information Service (TIS) and Automatic Dependent Surveillance - Broadcast (ADS-B) should be used in the Exclusion.

The FAA is exploring the use of multilateration technology to improve surveillance coverage in the SFRA area. This technology involves the placement of numerous sensors at a variety of locations to achieve improved coverage. This could permit earlier processing of conflict alerts and traffic calls for aircraft entering and leaving the Class B airspace. However, it will not replace application of "see and avoid" already in use in the Exclusion.

The FAA considered requiring the use of TCAS and TIS in the Exclusion. However, the following problems were identified:

- Excessive amount of TCAS/TIS alerts, (common in dense traffic areas) causing distractions, increased pilot workload detracting from the pilot's primary obligation to "see and avoid"
- Response to resolution advisories could cause an unwanted intrusion into Class B airspace, resulting in possible conflicts.

Enhanced surveillance coverage and expanded use of systems such as TCAS and ADS-B represent longer term initiatives that are outside the scope of this rule. However, nothing in this rule precludes the future implementation of advanced technology that will enhance the safety of the NAS.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires the FAA consider the impact of paperwork and other information collection burdens

imposed on the public. We have determined there is no current or new requirement for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

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 (Public Law 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Public Law 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the 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 (Public Law 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 final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows.

This rule merely sets a uniform ceiling in the Hudson River Exclusion to facilitate segregation of overflights from local traffic. Pilots will self-announce at the reporting points while in the Exclusion area. Pilot training regarding this change is voluntary. We are incorporating the existing NOTAM restricting certain fixed-wing operations in the East River Exclusion Area. Pilots will be required to carry current charts, at a cost of $5.25 each. As a result, the cost is minimal. For these just discussed facts we received no comments regarding our minimal cost determination and we reduced the number of reporting points.

We did receive a comment claiming an increase in cost because of a potential increase in noise. As discussed below in the Environmental Review there is no increase in noise on communities because the rule will not increase operations, and operations are over the Hudson River, rather than over communities. Therefore, there is no increase in noise cost. The action is categorically excluded from further environmental documentation according to Order 1050.1E, "Environmental Impacts: Policies and Procedures," in accordance with paragraphs 307a, 311a, 311j and 312d.

Therefore, this rule does not change the quantity of flights, nor training requirements, continues the existing safety restriction in the East River Exclusion Area, chart costs are minimal, and there is no increase in the cost of noise. In addition, these changes will improve airspace safety. FAA has, therefore, determined that this final rule

is not a “significant regulatory action” as defined in section 3(f) of Executive Order 12866, and is not “significant” as defined in DOT's Regulatory Policies and Procedures.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Public Law 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. We agree the rule may well affect a substantial number of small entities. However, the FAA has determined this rule will impose only minimal cost; therefore there is not a significant economic impact. We received no comments changing our minimal cost estimate and no NPRM comments

disputing our small entity determination. Therefore, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

International Trade Analysis

The Trade Agreements Act of 1979 (Public Law 96-39), as amended by the Uruguay Round Agreements Act (Public Law 103-465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered unnecessary obstacles to the foreign commerce of the United States, so long as the standards have a legitimate domestic objective, such as the protection of safety, and do not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA notes the purpose is to ensure the safety of the American public, and has assessed the effects of this rule to ensure it does not exclude imports that meet this objective. As a result, this final rule is not considered as creating an unnecessary obstacle to foreign commerce.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 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 (in 1995 dollars) 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 final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

Executive Order 13132, Federalism

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

Environmental Review

The FAA has reviewed the above described action and determined that it is categorically excluded from further environmental documentation according to FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," in accordance with paragraphs 307a, 311a, 311j and 312d. Additionally, the implementation of this action will not result in any extraordinary circumstances in accordance with Order 1050.1E paragraph 304. A copy of this Declaration is posted in the docket.

Specifically, in accordance with:

1. Paragraph 307a, the FAA is implementing these measures to respond to the accident over the Hudson River on August 8, 2009, and there is no reasonably foreseeable significant long-term adverse effect from this action;
2. Paragraph 311a, the action is to modify Class B airspace;

3. Paragraph 311j, the action implements procedures to respond to accidents with no reasonably foreseeable long-term adverse effects; and,
4. Paragraph 312d, this action supports issuance of regulatory documents (issuance of a Final Rule).

Additionally, in accordance with paragraph 304, there are no extraordinary circumstances associated with this action which would preclude the use of any of the categorical exclusions listed above. This action focuses specifically on helicopters and other aircraft that operate utilizing Visual Flight Rule (VFR) conditions above the Hudson River and not over any residential areas.

Therefore it will not:

1. Have an adverse effect any National Historic Preservation Act properties;
2. Impact properties under section 4(f) of the Department of Transportation Act;
3. Impact resources under the Endangered Species Act;
4. Cause a division or disruption to an established community;
5. Cause an increase in congestion of surface transportation;
6. Have an impact on noise levels of noise-sensitive areas. Although the change in altitude is below 3,000 feet MSL, there will be no increase in noise over noise sensitive areas because the location of the change is over the Hudson River;
7. Have an impact on air quality;
8. Have an impact on water quality;
9. Affect the quality of the human environment that is likely to be highly controversial (create a substantial dispute related to the size, nature, or effect) on environmental grounds;

10. Likely to be inconsistent with any Federal, State, Tribal or Local laws; and,

11. Likely to directly or cumulatively create a significant impact on the human environment.

Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule 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" and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

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 amendment number or docket number of this rulemaking.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may

review DOT's complete Privacy Act statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit http://DocketsInfo.dot.gov.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under the FOR FURTHER INFORMATION CONTACT heading at the beginning of the preamble. You can find out more about SBREFA on the Internet at http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects

14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

14 CFR Part 93

Aircraft flight, Airspace, Aviation safety, Air traffic control, Aircraft, Airmen, Airports.

The Amendments

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 and 14 CFR part 93 as follows:

PART 71--DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE 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 the FAA Order 7400.9T, Airspace Designations and Reporting Points, dated August 27, 2009 and effective September 15, 2009, is amended as follows:

Paragraph 3000--Class B Airspace

* * * * *

AEA NY B New York, NY [Amended]

* * * * *

Boundaries.

By removing the descriptions of Area A, Area B, Area D and Area E and substituting the following; and by adding a new Area K as follows:

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within an 8-mile radius circle of Kennedy (JFK) VORTAC; within a 4-mile radius circle centered at lat. 40°41'30"N., long. 74°09'59"W.; and within a 6-mile radius circle of LaGuardia (LGA) VOR; excluding the airspace within and below Areas B, J and K hereinafter described and excluding that airspace east of LaGuardia Airport bounded by a line beginning at the point of intersection of the LGA VOR/DME 071° radial and the 6-mile arc of the LGA VOR/DME, thence clockwise along the LGA VOR/DME 6-mile arc to the LGA 093° radial, thence westerly to the intersection of the Clearview Expressway with a line extending from the LaGuardia 093° radial 6-mile DME fix to the southern

edge of Bowne Park; thence to the southern edge of Leavitts Park; thence direct to the JFK VORTAC 340° radial 9-mile DME fix; direct to the JFK VORTAC 341° radial 10-mile DME fix; thence direct to the point of beginning.

Area B. That airspace extending upward from above 500 feet MSL to and including 7,000 feet MSL within an 8-mile radius circle of JFK VORTAC south of a line beginning at the intersection of the JFK VORTAC 237° radial and the Atlantic Ocean shoreline, thence easterly along the shoreline to its intersection with the JFK VORTAC 125° radial 5-mile DME fix, thence northerly along the 5-mile DME arc to and easterly along the JFK VORTAC 94° radial to the 8-mile radius circle of JFK VORTAC; that airspace within a 6-mile radius circle of LGA VOR/DME bounded by a line beginning at the intersection of the 6-mile radius circle and the LGA VOR/DME 039° radial, thence southwesterly along the LGA VOR/DME 039° radial to and southerly along the Bronx shoreline to the north stanchion of the Throggs Neck Bridge, thence direct to the intersection of the LGA VOR/DME 071° radial and the 6-mile radius circle of LGA VOR/DME, thence counterclockwise along the 6-mile radius circle to the point of beginning; and that airspace between the 4-mile and the 6.5-mile radii of a circle centered at lat. 40°41'30"N., long. 74°09'59"W.; excluding that airspace within and below Areas C, J and K hereinafter described.

Area D. That airspace extending upward from above 1,100 feet MSL to and including 7,000 feet MSL within the area between the east and west banks of the East River extending from the LGA VOR/DME 6-mile arc to the north end of Roosevelt Island.

Area E. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within the area bounded by a line beginning at the intersection of the 20-mile

radius circle of JFK VORTAC and the JFK VORTAC 208° radial, thence counterclockwise along the 20-mile arc to its intersection with the Long Island shoreline, thence southwest along the Long Island shoreline to and counterclockwise along the 13-mile radius circle of JFK VORTAC to and counterclockwise along the 11-mile radius circle of LGA VOR/DME to the LGA VOR/DME 351° radial, thence direct to the LGA VOR/DME 283° radial at the LGA VOR/DME 17-mile DME fix, thence counterclockwise along a 10-mile radius circle centered at lat. 40°41'30"N., long. 74°09'59"W., to its intersection with the Colts Neck VORTAC 005° radial, thence direct to the intersection of the Colts Neck VORTAC 034° radial and the New Jersey shoreline at Sandy Hook, thence south along the New Jersey shoreline to the point of beginning; and that airspace within 2 miles each side of the Newark ILS Runway 4L localizer course, extending from the CHESA outer marker to 6 miles southwest of the outer marker, excluding that airspace within and below Areas A, B, and C previously described; and excluding the airspace within and below Areas F, J and K hereinafter described.

Area K. That airspace extending upward from 1,300 feet MSL, to and including 7,000 feet MSL, north of LaGuardia Airport, within the area beginning on the west bank of the Hudson River at lat. 40°57’45”N., long. 73°54’48”W., (near Alpine Tower) thence south along the west bank of the Hudson River to intersect the Colts Neck VOR/DME 012° radial, thence southwest along the Colts Neck 012° radial to the Hudson River shoreline, thence south along the shoreline to the Verrazano-Narrows Bridge, thence east along the Bridge to the east bank of the Hudson River, thence north along the east bank of the Hudson River to lat. 40°38’39”N.,long. 74°02’03”W., thence north along a line drawn

direct to the southwesternmost point of Governors Island, thence north along a line drawn direct to the southwest tip of Manhattan Island, thence north along the east bank of the Hudson River to the LGA VOR/DME 11-mile arc, north of LaGuardia Airport, thence counterclockwise along the 11-mile arc to lat. 40°57’54”N., long. 73°54’23”W., thence to the point of beginning.

* * * * *

PART 93--SPECIAL AIR TRAFFIC RULES

3. 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.

4. Add subpart W, consisting of §§ 93.350 through 93.353, to read as follows

Subpart W-- New York Class B Airspace Hudson River and East River Exclusion Special Flight Rules Area

Sec.

93.350 Definitions.

93.351 General requirements for operating in the East River and/or Hudson River Exclusions.

93.352 Hudson River Exclusion specific operating procedures.

93.353 East River Exclusion specific operating procedures.

Subpart W-- New York Class B Airspace Hudson River and East River Exclusion Special Flight Rules Area

§ 93.350 Definitions.

For the purposes of this subpart only the following definitions apply:

(a) *Local operation*. Any aircraft within the Hudson River Exclusion that is conducting an operation other than as described in paragraph (b) of this section. Local operations include but are not limited to operations for sightseeing, electronic news gathering, and law enforcement.

(b) *Transient operation*. Aircraft transiting the entire length of the Hudson River Class B Exclusion, as defined in paragraph (d) of this section, from one end to the other.

(c) *New York Class B airspace East River Exclusion* is that airspace below 1,500 feet MSL between the east and west banks of, and overlying, the East River beginning at lat. 40°38'39"N., long. 74°02'03"W., thence north along a line drawn direct to the southwestern tip of Governors Island, thence north along a line direct to the southwest tip of Manhattan Island, thence north along the west bank of the East River to the LGA VOR/DME 6-mile arc, thence counterclockwise along the 6-mile arc to the east bank of the East River, thence south along the east bank of the East River to the point of beginning at lat. 40°38'39"N., long 74°02'03"W.; and that airspace 1,100 feet MSL and below between the east and west banks of, and overlying the East River, from the LGA VOR/DME 6-mile arc to the north tip of Roosevelt Island.

(d) *New York Class B airspace Hudson River Exclusion* is that area from the surface up to but not including the overlying floor of the New York Class B airspace area, between the east and west banks of, and overlying, the Hudson River within the area beginning north of LaGuardia Airport on the west bank of the Hudson River at lat. 40°57'45"N., long. 73°54'48"W. (near Alpine Tower), thence south along the west bank of the Hudson River to intersect the Colts Neck VOR/DME 012° radial, thence southwest along the

Colts Neck 012° radial to the Hudson River shoreline, thence south along the shoreline to the Verrazano-Narrows Bridge, thence east along the Bridge to the east bank of the Hudson River, thence north along the east bank of the Hudson River to lat. 40°38'39"N., long. 74°02'03"W., thence north along a line drawn direct to the southwesternmost point of Governors Island, thence north along a line drawn direct to the southwest tip of Manhattan Island, thence north along the east bank of the Hudson River to the LGA VOR/DME 11-mile arc, north of LaGuardia Airport, thence counterclockwise along the 11-mile arc to lat. 40°57'54"N., long. 73°54'23"W., thence to the point of beginning.

§ 93.351 General requirements for operating in the East River and/or Hudson River Exclusions.

Pilots must adhere to the following requirements:

(a) Maintain an indicated airspeed not to exceed 140 knots.

(b) Anti-collision lights and aircraft position/navigation lights shall be on, if equipped. Use of landing lights is recommended.

(c) Self announce position on the appropriate radio frequency for the East River or Hudson River as depicted on the New York VFR Terminal Area Chart (TAC) and/or New York Helicopter Route Chart.

(d) Have a current New York TAC chart and/or New York Helicopter Route Chart in the aircraft and be familiar with the information contained therein.

§ 93.352 Hudson River Exclusion specific operating procedures.

In addition to the requirements in §93.351, the following procedures apply:

(a) Pilots must self announce, at the charted mandatory reporting points, the following information: aircraft type, current position, direction of flight, and altitude.

(b) Pilots must fly along the west shoreline of the Hudson River when southbound, and along the east shoreline of the Hudson River when northbound; while remaining within the boundaries of the Hudson River Exclusion as defined in § 93.350(d).

(c) Aircraft transiting the area within the Hudson River Exclusion in accordance with §93.350(b) must transit the Hudson River Exclusion at or above an altitude of 1,000 feet MSL up to, but not including, the floor of the overlying Class B airspace.

§ 93.353 East River Exclusion specific operating procedures.

No person may operate an airplane in the East River Exclusion extending from the southwestern tip of Governors Island to the north tip of Roosevelt Island except:

(a) Seaplanes landing on or taking off from the river; or

(b) Airplanes authorized by ATC. Pilots must contact LaGuardia Airport Traffic Control Tower prior to Governors Island for authorization.

Issued in Washington, DC, on November 10, 2009.

J. Randolph Babbitt,

Administrator

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