

# Rules and Regulations

Federal Register

Vol. 74, No. 83

Friday, May 1, 2009

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 73

[Docket No. FAA-2009-0353; Airspace Docket No. 09-ANM-5]

RIN 2120-AA66

#### Amendment to Restricted Areas R-6402 A&B, R-6404 A, B, C & D, R-6405, R-6406 A & B, and R-6407; Utah

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

**ACTION:** Final rule.

**SUMMARY:** This action changes the using agency of Restricted Area 6402 (R-6402 A & B), Dugway Proving Ground; R-6404 A, B, C & D, Hill AFB; R-6405, R-6406 A & B, Wendover; and R-6407, Hill AFB, Utah, from “Commander, 6501 Range Squadron, Air Force Systems Command, Hill AFB, UT.” to “388th Fighter Wing Air Combat Command, Hill AFB UT.” The FAA is taking this action in response to a request from the United States Department of Air Force to reflect an administrative change of responsibility for the restricted areas. There are no changes to the boundaries; designated altitudes; time of designation; or activities conducted within the affected restricted areas.

**DATES:** *Effective Date:* 0901 UTC, July 2, 2009.

**FOR FURTHER INFORMATION CONTACT:** Ken McElroy, 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.

**SUPPLEMENTARY INFORMATION:**

**The Rule**

This action amends Title 14 Code of Federal Regulations (14 CFR) part 73 by

amending the using agency for Restricted Areas 6402 (R-6402 A & B), Dugway Proving Ground; R-6404 A, B, C & D, Hill AFB; R-6405, R-6406 A & B, Wendover; and R-6407, Hill AFB, Utah, from “Commander, 6501 Range Squadron, Air Force Systems Command, Hill AFB, UT.” to “388th Fighter Wing Air Combat Command, Hill AFB UT.” Accordingly, since this action only involves a change of administrative information and does not change the boundary, designated ceiling, or times of use of the restricted areas notice and public procedures under 5 U.S.C. 533(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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 that 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 regulation is within the scope of that authority as it amends the using agency for said restricted areas in Utah.

Section 73.64 of Title 14 CFR part 73 was republished in FAA Order 7400.8R, effective February 5, 2009.

### Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with 311d., FAA Order 1050.1E, “Environmental Impacts: Policies and Procedures.” This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

### List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

### Adoption of the Amendment

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

#### PART 73—SPECIAL USE AIRSPACE

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

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

#### § 73.64 [Amended]

■ 2. Section 73.64 is amended as follows:

\* \* \* \* \*

#### R-6402A Dugway Proving Ground, UT [Amended]

Under Using agency, remove the words “Commander, 6501 Range Squadron, Air Force Systems Command, Hill AFB, UT.” and insert “388th Fighter Wing, Air Combat Command, Hill AFB UT.”

#### R-6402B Dugway Proving Ground, UT [Amended]

Under Using agency, remove the words “Commander, 6501 Range Squadron, Air Force Systems Command, Hill AFB, UT.” and insert “388th Fighter Wing, Air Combat Command, Hill AFB UT.”

\* \* \* \* \*

#### R-6404A Hill AFB, UT [Amended]

Under Using agency, remove the words “Commander, 6501 Range Squadron, Air Force Systems Command, Hill AFB, UT.” and insert “388th Fighter Wing, Air Combat Command, Hill AFB UT.”

**R-6404B Hill AFB, UT [Amended]**

Under Using agency, remove the words “Commander, 6501 Range Squadron, Air Force Systems Command, Hill AFB, UT.” and insert “388th Fighter Wing, Air Combat Command, Hill AFB UT.”

**R-6404C Hill AFB, UT [Amended]**

Under Using agency, remove the words “Commander, 6501 Range Squadron, Air Force Systems Command, Hill AFB, UT.” and insert “388th Fighter Wing, Air Combat Command, Hill AFB UT.”

**R-6404D Hill AFB, UT [Amended]**

Under Using agency, remove the words “Commander, 6501 Range Squadron, Air Force Systems Command, Hill AFB, UT.” and insert “388th Fighter Wing, Air Combat Command, Hill AFB UT.”

**R-6405 Wendover, UT [Amended]**

Under Using agency, remove the words “Commander, 6501 Range Squadron, Air Force Systems Command, Hill AFB, UT.” and insert “388th Fighter Wing, Air Combat Command, Hill AFB UT.”

**R-6406A Wendover, UT [Amended]**

Under Using agency, remove the words “Commander, 6501 Range Squadron, Air Force Systems Command, Hill AFB, UT.” and insert “388th Fighter Wing, Air Combat Command, Hill AFB UT.”

**R-6406B Wendover, UT [Amended]**

Under Using agency, remove the words “Commander, 6501 Range Squadron, Air Force Systems Command, Hill AFB, UT.” and insert “388th Fighter Wing, Air Combat Command, Hill AFB UT.”

**R-6407 Hill AFB, UT [Amended]**

Under Using agency, remove the words “Commander, 6501 Range Squadron, Air Force Systems Command, Hill AFB, UT.” and insert “388th Fighter Wing, Air Combat Command, Hill AFB UT.”

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Issued in Washington, DC, April 23, 2009.

**Edith V. Parish,**

*Manager, Airspace and Rules Group.*

[FR Doc. E9-9968 Filed 4-30-09; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Parts 91 and 135**

[Docket No. FAA-2002-14002; Amendment Nos. 91-306 and 135-110]

RIN 2120-AJ46

**Communication and Area Navigation Equipment (RNAV) Operations in Remote Locations and Mountainous Terrain**

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** This final rule amends the regulations to allow the use of the published Obstacle Departure Procedures (ODP) or an alternative procedure or route assigned by Air Traffic Control (ATC). Also, this final rule amends the requirements to facilitate compliance and accurately reflect operating conditions in areas in which the terrain impedes communications. In August 2007, the FAA issued regulations relating to ODPs and Area Navigation equipment (RNAV). Among the amendments, the FAA prohibited Instrument Flight Rules (IFR) takeoffs from airports with published ODPs for the takeoff runway to be used unless the pilot uses the ODP for that runway. Following publication of the rule, the FAA determined that this requirement is unnecessarily restrictive because it prohibits pilots from using Standard Instrument Departure (SID) procedures and air traffic control (ATC) radar vectoring. The final rule also amended the communication and navigation equipment requirements for aircraft operations under Visual Flight Rules (VFR). The FAA determined that compliance with the new communications requirements may not be possible in remote locations and areas of mountainous terrain. This final rule is adopted without prior notice and public comment, but the public may comment prior to the effective date of the rule.

**DATES:** *Effective Date*—This amendment becomes effective June 30, 2009.

*Comments Due*—Comments must be received by June 1, 2009.

**ADDRESSES:** You may send comments identified by Docket Number FAA-2002-14002 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow

the instructions for sending your comments electronically.

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

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

- *Fax:* Fax comments to Docket Operations at 202-493-2251. For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Privacy:* We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

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

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this final rule, contact Dennis Mills, Aviation Safety Inspector, Air Transportation Division, Flight Standards Service, AFS-220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 493-4901 facsimile (202) 267-5229, e-mail [dennis.mills@faa.gov](mailto:dennis.mills@faa.gov). For legal questions concerning this final rule, contact Robert Hawks, General Attorney, Office of the Chief Counsel, Regulations Division, AGC-240, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-7143, facsimile (202) 267-7971, e-mail [rob.hawks@faa.gov](mailto:rob.hawks@faa.gov).

**SUPPLEMENTARY INFORMATION:****Comments Invited**

The FAA is adopting this final rule without prior notice and public