

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 73**

[Docket No. FAA-2009-0693; Airspace
Docket No. 09-AAL-14]

RIN 2120-AA66

**Amendment of Restricted Area R-2204
High and R-2204 Low; Oliktok Point,
AK**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends R-2204 High and R-2204 Low at Oliktok Point, AK, by increasing the authorized times of designation and extending the duration of the restricted areas beyond 2009, until they are no longer needed by the Department of Energy (DOE). Continued access to R-2204 High and R-2204 Low at Oliktok, AK, is required for current moored balloon and future climate-related aviation activities.

DATES: Effective date 0901 UTC, June 3, 2010.

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:

Background

On November 24, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Restricted Area R-2204 High and R-2204 Low in Alaska (74 FR 61291). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. One comment was received in support of the proposed rule stressing the importance of continued climate studies at Oliktok Point, Alaska.

Section 73.22 of Title 14 CFR part 73 was republished in FAA Order 7400.8S, effective February 16, 2010.

The DOE, Sandia National Laboratories, is continuing its arctic climatology research on the North Slope of Alaska. Their Adjacent Arctic Ocean site is providing data about cloud and radiative processes at high latitudes. The arctic area has been identified as one of the most sensitive regions to climate change. In 2004, the need to operate an unlighted moored balloon in clouds resulted in the establishment of R-2204 at Oliktok Point. That site was selected because of its proximity to the

Arctic Ocean, availability of ground infrastructure to support the scientists, and remoteness that lessens the impacts to other instrument flight rules and visual flight rules air traffic.

In addition to the current moored balloon activities, scientists are interested in testing the use of unmanned aircraft systems (UAS) over the coastal waters (in clouds) of the Arctic Ocean and propose to launch and recover UAS aircraft at the Oliktok station. A Certificate of Approval for flight outside of R-2204 would be required by the FAA for UAS operations not contained within R-2204. The DOE has stated that they are anticipating the development of Letters of Agreement with other aircraft operators using airspace in the vicinity of Oliktok to ensure that access to airspace within R-2204 is available within the parameters agreed upon by the parties involved. On April 21, 2008, the FAA published in the **Federal Register** a final rule to amend R-2204 by changing the using agency and subdividing the area to create R-2204 High and R-2204 Low (73 FR 21246).

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 73 by amending the time of designation to allow activation of R-2204 High and R-2204 Low by NOTAM 24 hours in advance for up to 75 days per year. Special Use Airspace R-2204 High and R-2204 Low would continue to be designated until it is no longer required by the DOE to conduct research.

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 times of designation for restricted area airspace at Oliktok Point, Alaska.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, Environmental Impacts: Policies and Procedures, paragraph 311p. 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 FAA 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.

§ 73.22 [Amended]

■ 2. § 73.22 is amended as follows:

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R-2204 High, Oliktok Point, AK [Amended]

Under Time of Designation, remove the words "By NOTAM, 24 hours in advance, not to exceed 30 days annually" and insert "By NOTAM, 24 hours in advance, not to exceed 75 days per year."

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R-2204 Low, Oliktok Point, AK [Amended]

Under Time of Designation, remove the words "By NOTAM, 24 hours in advance, not to exceed 30 days annually" and insert "By NOTAM, 24 hours in advance, not to exceed 75 days per year."

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Issued in Washington, DC, on March 4, 2010.

Edith V. Parish,

Manager, Airspace and Rules Group.

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