

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

[Docket No. FAA-2003-15410; Airspace  
Docket No. 03-AAL-1]

RIN 2120-AA66

**Establishment of Restricted Area 2204,  
Oliktok Point; AK**

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes a restricted area 2204 (R-2204) in the vicinity of Oliktok Point, AK. The Department of Energy (DOE) requested the establishment of this airspace to support its Mixed-Phased Arctic Clouds experiment. The experiment utilizes a moored balloon which will fly up to 7,000 feet mean sea level (MSL). The FAA is taking this action in response to the DOE's request.

**EFFECTIVE DATE:** 0901 UTC, August 5, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ken McElroy, Airspace and Rules, Office of System Operations and Safety, ATO-R, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

**SUPPLEMENTARY INFORMATION:****History**

On October 8, 2003, the FAA published in the **Federal Register** a notice proposing the establishment of R-2204, Oliktok, AK (68 FR 58052). This proposed area would be set aside for DOE to collect air samples from a moored balloon below 7000 feet MSL. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. The FAA received five comments pertaining to the proposal. All comments were fully considered before proceeding with this rule. The FAA believes that the final rule best meets air traffic control and user requirements, while promoting the safe and efficient use of airspace.

The Aircraft Owners and Pilots Association (AOPA) opposed the establishment of a restricted area and recommended an alert area as a more suitable option, stating that an "alert area provides an appropriate level of safety for general aviation aircraft."

The FAA does not agree with the AOPA on this matter. Only those activities that do not pose a hazard to other aircraft may be conducted in an

alert area, and the activities shall be conducted in accordance with visual flight rules. Since the balloon is unable to lift both the necessary scientific instrument packages, and the cabling and lights for marking, the FAA has determined that an unlighted, moored balloon at an altitude of 6,700 feet MSL in minimal VFR conditions is a hazardous operation.

Another comment opposing the restricted area recommended marking aeronautical navigation charts with a symbol similar to tall antenna tower or a transverse cable. In addition to the symbol, it was also recommended that a NOTAM be issued ten days in advance to advise airmen of hazardous operations at Oliktok.

The NOTAM system will be used to provide details whenever the balloon is to be airborne. The Restricted Area designation is needed to segregate IFR aircraft from hazardous activity (unlit balloon) and provide a means for charting for VFR general aviation pilots.

A comment suggested as an alternative to designate an appropriate symbol and warning similar to a tall tower; mark and light balloon IAW 14 CFR 101; and use NOTAM system to announce balloon usage.

Title 14 Code of Federal Regulations (14 CFR) part 101, Moored Balloons, Kites, Unmanned Rockets, and Unmanned Free Balloons, is intended to provide the procedures and conditions necessary for the safe operation of balloons, kites, and rockets in the national airspace system. Where a proponent cannot meet these procedures and conditions, the FAA is charged to provide the necessary level of safety. In this case, a restricted area is the appropriate means to segregate IFR and VFR aircraft from hazardous activity. Chart symbols and warnings are standardized. We are planning to include an additional "information box" on the chart by the area to provide additional data to pilots.

This commentor also stated that the proposed Restricted Area will eliminate Oliktok Point as a precautionary landing field.

In case of an airborne emergency the proponent can quickly lower the balloon once notified by Anchorage ARTCC or Deadhorse FSS. Additionally, the hours of balloon operation will be after local aviation assets have landed and at night, during times of minimal VFR and IFR traffic.

The Alaska Supplement lists Oliktok LRRS airport as owned by the United States Air Force and is closed to the public. The runway condition is unmonitored and a visual inspection of the runway is recommended before

landing. There are 48 foot power lines 2,361 feet east of the runway and there are no snow removal operations during the winter months. Alaska Airlines commented that they did not anticipate any operational impact to its normal operations.

With the exception of editorial changes, this amendment is the same as that proposed in the notice.

**The Rule**

In response to the DOE's request, the FAA is amending to 14 CFR part 73 to establish R-2204 at Oliktok Point, AK, as part of the DOE Mixed-Phased Arctic Clouds experiment. R-2204 will be established northeast of Oliktok Point, AK, and will consist of a two nautical mile (nm) area radius from the surface up to, but not including, 7,000 feet MSL. The area will contain an instrumented, moored balloon on a two-kilometer, unlighted cable for the purpose of collecting air samples during instrument flight conditions. The area will be activated starting October 2004 for approximately 30 days a year, and be effective through the year 2009. The area will be activated by NOTAM 24 hours in advance. The objective of the research is to better understand the processes and uncertainties related to global climate change.

This action amends 14 CFR 73.22 of part 73 of the Federal Aviation Regulations that were republished in FAA Order 7400.8L dated October 7, 2003.

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 proposed 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.

**Environmental Impact**

Pursuant to Section 102(2) of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR Parts 1500-1508), and other

applicable law, the FAA prepared an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) dated February 3, 2004. The EA/FONSI analyzed the establishment of the restricted area to support the deployment of a moored weather research balloon as one of the actions included in the DOE EA for the research program dated February 1997. This final rule will not result in significant environmental impacts.

#### List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

#### 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.

#### § 73.22 [Amended]

■ 2. § 73.22 is amended as follows:

\* \* \* \* \*

#### R-2204 Oliktok Point, AK (New)

Boundaries. Within a 2 nautical mile radius centered at (lat. 70°30'5" N., long. 149°51'33" W.).

Designated altitudes. Surface to, but not including, 7,000 feet MSL.

Time of designation. By NOTAM, 24 hours in advance, not to exceed 30 days annually.

Controlling agency. FAA, Anchorage ARTCC.

Using agency. Department of Energy, Sandia National Labs/National Nuclear Security Administration, Albuquerque, NM.

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Issued in Washington, DC, on May 21, 2004.

**Paul Gallant,**

*Acting Manager, Airspace and Rules, ATO–R.*

[FR Doc. 04–12063 Filed 5–27–04; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01–04–036]

#### Drawbridge Operation Regulations: Cheesequake Creek, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the New Jersey Transit Rail Operations railroad bridge, at mile 0.2, across Cheesequake Creek, New Jersey. Under this temporary deviation the bridge may remain closed for two weekends May 14 & 15, 2004, and May 21 & 22, 2004, from 11 p.m. on Friday through 8 a.m. on Saturday to facilitate scheduled bridge maintenance. One alternate weekend date of June 4 & 5, 2004, was also requested in case of inclement weather.

**DATES:** This deviation is effective from May 14, 2004 through June 5, 2004.

**FOR FURTHER INFORMATION CONTACT:** Joe Arca, Project Officer, First Coast Guard District, at (212) 668–7069.

**SUPPLEMENTARY INFORMATION:** The New Jersey Transit Rail Operations railroad bridge has a vertical clearance in the closed position of 3 feet at mean high water and 8 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.709(b).

New Jersey Transit Rail Operations requested a temporary deviation from the drawbridge operation regulations to facilitate repairs to the miter rails at the bridge. The bridge must remain in the closed position to perform these repairs.

Under this temporary deviation the New Jersey Transit Rail Operations railroad bridge may remain in the closed position on two weekends May 14 & 15, 2004, and May 21 & 22, 2004, from 11 p.m. on Friday through 8 a.m. on Saturday. One alternate weekend date of June 4 & 5, 2004, was also requested as alternate dates in case inclement weather results in cancellation of the scheduled bridge maintenance.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: May 14 2004.

**Vivien S. Crea,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 04–12131 Filed 5–27–04; 8:45 am]

BILLING CODE 4910–15–P

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Parts 252 and 257

[Docket No. 2004–3 CARP]

#### Filing of Claims for Cable and Satellite Royalties

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Waiver of regulation.

**SUMMARY:** Due to continuing delays in the receipt of mail, the Copyright Office of the Library of Congress is announcing alternative methods for the filing of claims to the cable and satellite royalty funds for the year 2003. In order to ensure that claims are received timely, claimants are encouraged to file their cable and satellite claims online, utilizing the special procedures described in this document.

**EFFECTIVE DATE:** May 28, 2004.

**ADDRESSES:** Online submissions should be made to the following: for cable claims <http://www.copyright.gov/carp/cable/claims.html>; for satellite claims <http://www.copyright.gov/carp/satellite/claims.html>. See **SUPPLEMENTARY INFORMATION** for information about online electronic filing through the Copyright Office website. If hand delivered by a private party, an original and two copies of each claim should be brought to: Room LM–401 of the James Madison Memorial Building and addressed as follows: Office of the General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM–401, 101 Independence Avenue, SE., Washington, DC 20559–6000 between 8:30 am and 5 pm. If delivered by a commercial courier, an original and two copies of each claim must be delivered to the Congressional Courier Acceptance Site located at 2nd and D Streets, NE., between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel/CARP, Room LM–403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. If sent by mail, an original and two copies of each claim should be addressed to: Copyright Arbitration Royalty Panel (CARP), PO