FEDERAL AVIATION AGENCY
WASHINGTON 25, D. C.

June 28, 1962

FEDERAL AVIATION REGULATIONS DRAFT RELEASE NO. 62-32

SUBJECT: Subchapter E - Airspace

The Federal Aviation Agency has under consideration in the recodification of its regulatory material a proposed Subchapter E "Airspace" [New] as set forth in the notice as published in the attached Part II of the Federal Register. It conforms to the "Outline and Analysis" for the proposed recodification contained in Draft Release 61-25 and published in the Federal Register on November 15, 1961 (26 F.R. 10698).

Copies of the notice are being circulated to afford all interested persons an opportunity to submit comments. Due to the large number of comments we anticipate receiving, we will be unable to acknowledge receipt of each reply. You may be assured, however, that all comments will receive careful consideration. It should be noted that comments must be submitted by August 15, 1962, in duplciate, to the Docket Section of the Federal Aviation Agency, Room A-103, 1711 New York Avenue, N.W., Washington 25, D.C.

James B. Minor

Director, Rules Codification

Attachment

Pages 6299–6308

PART II

FEDERAL REGISTER

VOLUME 27 NUMBER 128

Washington, Tuesday, July 3, 1962

Federal Aviation Agency

Proposed Recodification of Airspace Rules

FEDERAL AVIATION AGENCY

[14 CFR Parts 71 [New], 73 [New], 75 [New], 77 [New], 79 [New], 600, 601, 602, 608, 626]

[Reg. Docket No. 1274, Draft Release No. 62-32]

AIRSPACE

Notice of Proposed Rule Making

Notice is hereby given that there is under consideration a proposal to recodify Parts 600, 601, 602, 608, and 626 of the Regulations of the Administrator. Chapter I of Title 14 of the Code of Federal Regulations would be amended by adding a Subchapter E—Airspace [New] containing the recodified parts.

Interested persons are invited to participate in the proposed recodification by submitting such written data, views or arguments as they may desire. Communications must be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room A-103, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before August 15, 1962 will be considered before taking action on the proposed recodification. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Docket Section for examination by interested persons.

This proposal is a part of the program of the Federal Aviation Agency to recodify its regulatory material. It conforms to the "Outline and Analysis" for the proposed recodification contained in Draft Release 61-25 and published in the FEDERAL REGISTER on November 15, 1961 (26 F.R. 10698). The object of the new chapter is to restate existing regulations, not to make new ones. The pertinent provisions have been freely reworded and rearranged, subject to every precaution against disturbing existing rights, privileges, duties, or functions. In addition, in cases where well established administrative practice or construction has established authoritative interpretations, the revised language reflects the interpretations.

Each proposed recodified section is followed by a note citing the present section of the regulations upon which it is based. A cross-reference table has been placed at the end of each recodified part to permit easy access from the old regulations to the new. Internal cross references to parts or sections that are not yet recodified contain a blank space for later insertion of the correct recodified number with the present number contained in brackets. When a part or section that is referred to in a cross reference is later recodified, the correct number will be inserted and the bracketed number will be dropped.

No substantive changes has been made in the regulations, the purpose of the recodification project being simply to streamline and clarify present regulatory language and to delete obsolete or redundant provisions. It should be noted that the definitions, abbreviations, and rules of construction contained in Part 1 [New] published in the FEDERAL REGISTER on May 15, 1962 (27 F.R. 4587) would apply to proposed Subchapter E [New].

When finally adopted, the new subchapter will include the substance of any applicable rules or amendments adopted and effective during the period between the date of notice and the effective date of the final rule, and may also include applicable rules on which individual notices of proposed rule making have been issued and the comment period has expired, but which have not been theretofore adopted.

In consideration of the foregoing, it is proposed to amend Chapter III of Title 14 by deleting Parts 600, 601, 602, 608, and 626 and to amend Chapter I of that Title by adding Subchapter E [New] reading as hereinafter set forth.

This amendment is proposed under the authority of sections 307 and 313 of the Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1354).

Issued in Washington, D.C., on June 28, 1962.

N. E. HALABY,
Administrator.

SUBCHAPTER E—AIRSPACE [New]

Part
71 Designation of Federal Airways [New].
73 Designation of Controlled Airspace [New].
75 Special Use Airspace [New].
77 Establishment of Jet Routes [New].
79 Notice of Construction or Alteration Affecting Navigable Airspace [New].

PART 71—DESIGNATION OF FEDERAL AIRWAYS [New]

Subpart A—General

Sec.
71.1 Applicability.
71.11 Classification of Federal airways.
71.13 Extent of Federal airways.
71.15 Direction of Federal airways.
71.17 Bearings; radials; miles.

Subpart B—Low Altitude Colored Federal Airways

[Renumbered present sections]

Subpart C—Low Altitude VOR Federal Airways

[Renumbered present sections]

Subpart D—Intermediate Altitude VOR Federal Airways

[Renumbered present sections]

Subpart A—General

§ 71.1 Applicability.

The paths through the navigable airspace of the United States that are described in Subparts B, C, and D, of this part are designated as Federal airways, identified by an area on the surface, to provide suitable and, so far as possible, safe routes for air commerce.

[Revision note: Combines §§ 600.1, 600.2 (c) (less (1)-(3)), and 600.10]

§ 71.11 Classification of Federal airways.

Federal airways are classified as follows—

(a) Low Altitude Colored Federal airways:
(1) Green Federal airways.
(2) Amber Federal airways.
(3) Red Federal airways.
(4) Blue Federal airways.

(b) Low Altitude VOR Federal airways:
(1) Even numbered Federal airways.
(2) Odd numbered Federal airways.

(c) Intermediate Altitude VOR Federal airways:
(1) Even numbered Federal airways.
(2) Odd numbered Federal airways.

[Revision note: Based on § 600.2(c)(1)-(3)]

§ 71.13 Extent of Federal airways.

(a) Unless otherwise provided in Subpart B or C of this part, each Low Altitude Federal airway includes the navigable airspace of the United States that lies within five miles of its centerline. However, a low altitude Federal airway that lies within the 48 contiguous States and the District of Columbia does not include the airspace at or above 14,500 feet MSL or the airspace of any prohibited area.

(b) Unless provided otherwise in Subpart D of this part, each Intermediate Altitude Federal airway includes the navigable airspace of the United States that lies within eight miles of its centerline, and an Intermediate Altitude Federal airway that lies within the 48 contiguous States and the District of Columbia includes the airspace beginning at 14,500 feet MSL and extending up to, but not including, 24,000 feet MSL. However, it does not include the airspace of any prohibited area.

(c) The centerline of each Federal airway is a line extended through the center of the points or intersections specified for that airway.

(d) Unless provided otherwise in Subpart C of this part, at least one alternate VOR Federal airway will be established between specified points along, and be a part of, each VOR Federal airway. The centerline of an alternate VOR Federal airway departs from and returns to the main VOR Federal airway by the intersection of radials having an angle of 15 degrees (unless otherwise specified) separation from the main VOR airway.

[Revision note: Based on § 600.3]

§ 71.15 Direction of Federal airways.

(a) Green and red colored Federal airways and even numbered VOR Federal airways are normally designated in a west to east direction between their initial and final points, even though parts of such an airway may deviate from that direction between any two or more intermediate points.

(b) Amber and blue colored Federal airways and odd numbered VOR Federal airways are normally designated in a south to north direction between their initial and final points, even though a part of such an airway may deviate from that direction between any two or more intermediate points.

[Revision note: based on § 600.4]

§ 71.17 Bearings; radials; miles.

(a) All bearings and radials in this part are true from point of origin.

(b) Unless otherwise specified, all mileages in this part are stated as statute miles.

[Revision note: based on § 600.2 (d) and (e)]

Subpart B—Low Altitude Colored Federal Airways

[No change in present sections contemplated, except renumbering]

Subpart C—Low Altitude VOR Federal Airways

[No change in present sections contemplated, except renumbering]

Subpart D—Intermediate Altitude VOR Federal Airways

[No change in present sections contemplated, except renumbering]

PART 71—DISTRIBUTION TABLE

Present section	*Revised section*	*Present section*	*Revised section*
600.1	71.1	600.2 (d) and (e)	71.17
600.2 (less (c)–(e))	(1)	600.3	71.13
600.2(c) (less (1)–(3))	71.1	600.4	71.15
600.2(c) (1)–(3)	71.11	600.10	71.1
		600.11–600.6635	(2)

[1] Transferred to Part 1.
[2] To be renumbered without change.

PART 73—DESIGNATION OF CONTROLLED AIRSPACE [New]

Subpart A—General

Sec.
73.1 Applicability.
73.3 Control areas.
73.5 Control zones.
73.7 Reporting points.
73.9 Positive control route segments.
73.11 Positive control areas.
73.13 Transition areas.
73.15 Continental control area.
73.17 Bearings; radials; miles.

Subpart B—Low Altitude Colored Federal Airway Control Areas

[Renumbered present sections]

Subpart C—Control Area Extensions

[Renumbered present sections]

Subpart D—Control Zones

[Renumbered present sections]

Subpart E—Low Altitude Colored Federal Airway Reporting Points

[Renumbered present sections]

Subpart F—Low Altitude VOR Federal Airway Control Areas

[Renumbered present sections]

Subpart G—VOR Federal Airway Reporting Points

[Renumbered present sections]

Subpart H—Continental Control Area

[Restated present section]

Subpart I—Positive Control Route Segments

[Renumbered present sections]

Subpart J—Positive Control Areas

[Renumbered present sections]

Subpart K—Transition Areas

[Renumbered present sections]

Subpart A—General

§ 73.1 Applicability.

Those parts of the navigable airspace of the United States that are described in subparts B, C, D, E, F, G, H, I, J, and K of this part, are designated as control areas, control zones, reporting points, positive control route segments, positive control areas, transition areas, and the continental control area, as named in the appropriate subpart, to provide for the safety of aircraft operating in air commerce.

[Revision note: Combines §§ 601.1, 601.10, 601.1982, and 601.4001]

§ 73.3 Control areas.

(a) The control areas and control area extensions listed in Subparts B, C, and F of this part, extend upward from an altitude of 700 feet above the surface (until designated from 1,200 feet above the surface, or from at least 500 feet below the MEA, whichever is higher) to the base of the continental control area.

(b) Except as otherwise provided in Subparts B, C, and F of this part, where a point or intersection prescribed for designating a control area coincides with a point or intersection specified in designating the centerline of a Federal airway, the control area includes all of the airspace that lies within five miles of either side of a straight line extended through the center of the points or intersections specified in designating the Federal airways and the airspace that lies within a five mile radius of the point or intersection. Unless otherwise specified, such a control area includes the airspace between straight lines connecting the center of the points or intersections specified in designating the main and associated alternate VOR Federal airways.

[Revision note: Combines §§ 601.2(d) and 601.9]

§ 73.5 Control zones.

(a) The control zones listed in Subpart D of this part consist of controlled airspace extending upward from the surface to include one or more airports, and within which rules additional to those governing flight in control areas are prescribed for the protection of air traffic.

(b) Each control zone includes the navigable airspace above that area on the surface that lies within the specified radius of the center points prescribed for that zone (unless otherwise prescribed in this part), with extensions where necessary to protect instrument approach and departure procedures, but does not include any of the airspace of any prohibited area.

[Revision note: Combines §§ 601.2(e) and 601.1981]

§ 73.7 Reporting points.

The reporting points listed in Subparts E and G of this part consist of geographic locations in relation to which the position of an aircraft must be reported in accordance with section ____ of this chapter [Present § 60.47].

[Revision note: Based on § 601.2(g)]

§ 73.9 Positive control route segments.

The positive control route segments listed in Subpart I of this part consist of those parts of the Federal airways from 17,000 feet to 22,000 feet, MSL, inclusive. Those parts of positive control route segments that underlie positive control areas include altitudes beginning at 17,000 feet and extending up to, but not including, 24,000 feet MSL.

[Revision note: Based on § 601.8001]

§ 73.11 Positive control areas.

The positive control areas listed in Subpart J of this part consist of controlled airspace, within the continental control area, within which there is positive control of air traffic.

[Revision note: Combines §§ 601.2(gg) and 601.9001]

§ 73.13 Transition areas.

The transition areas listed in Subpart K of this part consist of controlled airspace extending up from 700 feet or higher above the surface when designated in conjunction with an airport for which an approved instrument approach procedure has been prescribed; or from 1,200 feet or higher above the surface when designated in conjunction with airway route structures or segments. Unless otherwise limited, they terminate at base of the overlying controlled airspace.

[Revision note: Based on § 601.2(jj)]

§ 73.15 Continental control area.

The continental control area specified in Subpart H of this part consists of controlled airspace of the 48 contiguous States and the District of Columbia at the altitudes specified in that subpart.

[Revision note: Based on § 601.2(c)]

§ 73.17 Bearings; radials; miles.

(a) All bearings and radials in this part are true from point of origin.

(b) Unless otherwise specified, all mileages in this part are stated as statute miles.

[Revision note: Based on § 601.2 (h) and (i)]

Subpart B—Low Altitude Colored Federal Airway Control Areas

[No change in present sections contemplated, except renumbering]

Subpart C—Control Area Extensions

[No change in present sections contemplated, except renumbering]

Subpart D—Control Zones

[No change in present sections contemplated, except renumbering and elimination of sections 1981 and 1982]

Subpart E—Low Altitude Colored Federal Airway Reporting Points

[No change in present sections contemplated, except renumbering and elimination of section 4001]

Subpart F—Low Altitude VOR Federal Airway Control Areas

[No change in present sections contemplated, except renumbering]

Subpart G—VOR Federal Airway Reporting Points

[No change in present sections contemplated, except renumbering]

Subpart H—Continental Control Area

[Will be restated to conform to elimination of definition of "continental United States"]

Subpart I—Positive Control Route Segments

[No change in present sections contemplated, except renumbering and elimination of section 8001]

Subpart J—Positive Control Areas

[No change in present sections contemplated, except renumbering and elimination of section 9001]

Subpart K—Transition Areas

[No change in present sections contemplated, except renumbering]

PART 73—DISTRIBUTION TABLE

Present section	Revised section	Present section	Revised section
601.1	73.1	601.9	73.3
601.2(c)	73.15	601.10	73.1
601.2(d)	73.3	601.1981	73.5
601.2(e)	73.5	601.1982	73.1
601.2(g)	73.7	601.4001	73.1
601.2 (h) and (i)	73.17	601.8001	73.9
		601.9001	73.11
601.2(gg)	73.11		
601.2(jj)	73.13		
601.2 (less (c), (d), (e), (g), (h), (i), (gg), and (jj))	[1]		

[1] Transferred to Part 1.

PART 75—SPECIAL USE AIRSPACE [New]

Subpart A—General

Sec.
75.1 Applicability.
75.3 Special use airspace.
75.5 Bearings; radials; miles.

Subpart B—Restricted Areas

75.11 Applicability.
75.13 Restrictions.
75.15 Using agency.
75.17 Controlling agency.
75.19 Reports by using agency.
75.21–75.72 [Present §§ 608.21–608.72 unchanged except for renumbering].

Subpart A—General

§ 75.1 Applicability.

The airspace that is described in Subpart B of this part is designated as special use airspace. This part prescribes the requirements for the use of that airspace.

[Revision note: Based on § 608.2]

§ 75.3 Special use airspace.

(a) Special use airspace consists of airspace of defined dimensions identified by an area on the surface of the earth wherein activities must be confined because of their nature, or wherein limitations are imposed upon aircraft operations that are not a part of those activities, or both.

(b) The vertical limits of special use airspace are measured by designated altitude floors and ceilings expressed as flight levels or as feet above mean sea level.

(c) The horizontal limits of special use airspace are measured by boundaries described by geographic coordinates or other appropriate references to clearly define their perimeter.

(d) The period of time during which a designation of special use airspace is in effect is stated in the designation.

[Revision note: Based on § 608.3 (3d, 6th, and 28th clauses)]

§ 75.5 Bearings; radials; miles.

(a) All bearings and radials in this part are true from point of origin.

(b) Unless otherwise specified, all mileages in this part are stated as statute miles.

[Revision note: Based on § 608.3 (2d and 16th clauses)]

Subpart B—Restricted Areas

§ 75.11 Applicability.

This subpart designates restricted areas and prescribes limitations on the operation of aircraft within them.

[Revision note: Based on § 608.11 (less 2d sentence)]

§ 75.13 Restrictions.

No person may operate an aircraft within a restricted area between the designated altitudes and during the time of designation, unless he has the advance permission of—

(a) The using agency described in § 75.25; or

(b) The controlling agency described in § 75.27 of this chapter.

[Revision note: Based on § 608.12]

§ 75.15 Using agency.

(a) For the purposes of this part, the following are using agencies:

(1) The agency, organization, or military command whose activity within a restricted area necessitated the area being so designated.

(2) In the case of a Restricted Area/Military Climb Corridor that does not have a designated controlling agency, the Military Air Traffic Control facility that may be contacted for permission for transit through the climb corridor.

(b) Upon the request of the FAA, the using agency shall execute a letter establishing procedures for joint use of a restricted area by the using agency and the controlling agency, under which the using agency would notify the controlling agency whenever the controlling agency may grant permission for transit through the restricted area in accordance with the terms of the letter.

(c) The using agency shall—

(1) Schedule activities within the restricted area;

(2) Authorize transit through, or flight within, the restricted area as feasible; and

(3) Contain within the restricted area all activities conducted therein in accordance with the purpose for which it was designated.

[Revision note: Combines §§ 608.3 (13th and 34th clauses), 608.11 (2d sentence), and 608.13 (less 1st 42 words)]

§ 75.17 Controlling agency.

For the purposes of this part, the controlling agency is the FAA, or the agency, office, facility, or person to whom has been delegated the authority to allow the use of special use airspace during the time that it is not being used for the purpose to which it was assigned.

[Revision note: Combines §§ 608.3 (5th clause) and 608.14]

§ 75.19 Reports by using agency.

(a) Each using agency shall report once a year, in duplicate, to the Director, Air Traffic Service, Federal Aviation Agency, Washington 25, D.C., on each restricted area for which it is the using agency. The report must reach the Director not later than January 31 and shall cover the 12-month period ending with the preceding September 30.

(b) In its report under this section the using agency shall—

(1) State the name and number of the restricted area as published in this part;

(2) State the period covered by the report;

(3) List in detail the activities carried on in the area by all organizations using it for the restricted area purposes;

(4) State the time that daily operations are normally scheduled to begin and end;

(5) State the average number of hours the area is actually used each day, and in addition, for a restricted area used for aircraft operations, the total number of aircraft hours of actual use during the reporting period;

(6) State the number of days each week, weeks each month, and months each year (as appropriate) that the area is used for actual operations;

(7) State whether or not radar is used during operations;

(8) State the number and type of aircraft, if any, normally involved in the activities for which the area was restricted.

(9) List the altitudes used in daily operations of aircraft, including for each activity the altitudes used and the number of hours at each of those altitudes;

(10) Include a chart of the area (of optional scale and design) showing—

(i) The approximate location, and the representative pattern (if any), for firing runs (if any), for bombing runs (if any), the place where runs begin, where firing (if any) begins and ends, and the release point and pullup point; and

(ii) The location of impact areas, if any;

(11) State the maximum ordinate of surface firing (expressed in feet, mean sea level altitude) used for required operations;

(12) State the daily number of hours or minutes, or both, that the maximum ordinate altitudes are normally used in surface to surface firing operations;

(13) List the altitudes normally used for daily surface to surface firing operations;

(14) Include a chart of the area (of optional scale and design) showing—

(i) The location of firing points and impact areas, if any; and

(ii) The perimeter of the firing fan for each weapon used, if any; and

(15) Include a brief statement of any other pertinent facts concerning the current use of the restricted area and requirements for future use of the area or part of it.

(c) This section does not apply to restricted areas established for climb corridors.

[Revision note: Combines §§ 608.13 (1st 42 words) and 608.15]

NOTE: Present §§ 608.21–608.72 will be renumbered but not otherwise changed.

PART 75—DISTRIBUTION TABLE

Present section	Revised section	Present section	Revised section
608.1	(1)	608.11 (2d sentence)	75.15
608.2	75.1	608.11 (less 2d sentence)	75.11
608.3 (2d and 16th clauses)	75.5	608.12	75.13
608.3 (3d, 6th, and 28th clauses)	75.3	608.13 (1st 42 words)	75.19
608.3 (5th clause)	75.17	608.13 (less 1st 42 words)	75.15
608.3 (13th and 34th clauses)	75.15	608.14	75.17
608.3 (less 2d, 3d, 5th, 6th, 13th, 16th, 28th, and 34th clauses)	(2)	608.15	75.19
		608.21–608.72	(3)

[1] Note.
[2] Transferred to Part 1.
[3] Unchanged, except for renumbering.

PART 77—ESTABLISHMENT OF JET ROUTES [New]

Subpart A—General

Sec.
77.1 Applicability.
77.11 Jet routes.
77.13 High altitude navigational aids.
77.15 Jet advisory areas.
77.17 Bearings; radials; miles.

Subpart B—Jet Routes

[No change, except for renumbering]

Subpart C—Jet Advisory Areas

[No change, except for renumbering]

Subpart A—General

§ 77.1 Applicability.

The routes that are described in Subpart B of this part are designated as jet routes between high altitude navigational aids or intersections of their signals, along which aircraft may be operated at and above flight level 240. The areas described in Subpart C of this part are designated as jet advisory areas along specified jet route segments, VOR/VORTAC radials, bearings from L/MF navigational facilities, direct courses between high altitude navigational facilities, centerlines of control area extensions, or in the vicinity of specific geographical locations.

[Revision note: Based on § 602.1]

§ 77.11 Jet routes.

(a) Each jet route consists of a direct course for navigating aircraft at and above flight level 240 between the respective navigational aids and intersections specified for that route. They are designated in Subpart B.

(b) Jet routes designated in a west to east direction between their initial and final points are normally assigned even numbers, even though parts of such a route may deviate from that direction between any two or more intermediate points.

(c) Jet routes designated in a south to north direction between their initial and final points are normally assigned odd numbers, even though parts of such a route may deviate from that direction between any two or more intermediate points.

[Revision note: Combines §§ 602.2 (10th clause), 602.3, and 602.10]

§ 77.13 High altitude navigational aids.

The navigational facilities used in the jet route descriptions in Subpart B of this part, and the following, are high altitude navigational aids:

(a) Nantucket, Mass.—CONSOLAN.
(b) Newark, N.J.—RR.
(c) Wilmington (Carolina Beach), N.C.—RBN.
(d) Marathon, Fla.—RBN.
(e) Galveston, Tex.—RBN.
(f) Grand Isle, La.—RBN.
(g) Egmont Key, Fla.—RBN.
(h) Miami, Fla.—RBN.
(i) Pensacola, Fla.—RR.
(j) Millville, N.J.—RR.
(k) Boston, Mass.—RR.
(l) Squantum, Mass.—RBN.

[Revision note: Based on § 602.9]

§ 77.15 Jet advisory areas.

(a) Unless otherwise designated in Subpart C of this part, each jet advisory area consists of airspace within the continental control area, as designated in that subpart.

(b) En route radar jet advisory areas consist of areas within which jet advisory service is provided by using radar. Unless otherwise designated, each of them includes the area within 16 miles on each side of the jet route segment from flight level 240 through flight level 390, inclusive.

(c) Terminal radar jet advisory areas consist of areas in which jet advisory service is provided by using radar. Unless otherwise designated, each of them includes the area within 16 miles on each side of the jet route segment, VOR/VORTAC radials, bearings from L/MF navigational facilities, direct courses between navigational facilities, or centerlines of control area extensions from flight level 240 through flight level 390, inclusive.

(d) Unless otherwise designated, nonradar jet advisory areas consist of areas in which jet advisory service is provided on a procedural basis without the use of radar, from flight level 270 through flight level 310, inclusive, and from flight level 370 through flight level 390, inclusive.

(e) Jet advisory areas do not include the airspace within prohibited areas or restricted areas except those restricted areas specified in Subpart H of Part 73 of this chapter.

(f) Jet advisory areas that are based on jet routes are identified by the associated jet route number. Those based on jet route segments, VOR/VORTAC radials, bearings from L/MF navigational facilities, direct courses between navigational facilities, or centerlines of control area extensions, and those in the vicinity of geographical locations, are identified by geographical names.

[Revision note: Combines §§ 602.2 (9th clause), 602.50, and 602.60]

§ 77.17 Bearings; radials; miles.

(a) All bearings and radials in this Part are true from point of origin.

(b) Unless otherwise specified, all mileages in this part are stated as statute miles.

[Revision note: Based on § 602.2 (2d and 14th clauses)]

Subpart B—Jet Routes

[No change, except for renumbering]

Subpart C—Jet Advisory Areas

[No change, except for renumbering]

PART 77—DISTRIBUTION TABLE

Present section	Revised section	Present section	Revised section
602.1	77.1	602.3	77.11
602.2 (2d and 14th clauses)	77.17	602.9	77.13
602.2 (9th clause)	77.15	602.10	77.11
602.2 (10th clause)	77.11	602.50	77.15
602.2 (less 2d, 9th, 10th, and 14th clauses)	(1)	602.60	77.15
		602.100	(2)
		602.200–300	(2)

[1] Transferred to Part 1.
[2] No change, except for renumbering.

PART 79—NOTICE OF CONSTRUCTION OR ALTERATION AFFECTING NAVIGABLE AIRSPACE

Subpart A—General

Sec.
79.1 Applicability.
79.3 Kinds of construction or alteration affected.

Subpart B—Notice of Proposed Construction or Alteration

79.11 Scope.
79.13 Construction or alteration requiring notice.
79.15 Construction or alteration not requiring notice.
79.17 Form and time of notice.
79.19 Acknowledgment of notice.

Subpart C—Standards for Determining Hazards to Air Navigation

79.21 Scope.
79.23 Standards for determining hazards.
79.25 Airport imaginary surfaces, except runways and heliports.
79.27 Airport imaginary surfaces: runways.
79.29 Heliport imaginary surfaces.

Subpart D—Aeronautical Studies of Effect of Proposed Construction of Navigable Airspace

79.31 Scope.
79.33 Initiation of studies.
79.35 Regional office procedures for aeronautical studies.
79.37 Headquarters review and issue of determination.
79.39 Petitions for public hearing.
79.41 Effective period of determination of no hazard.

Subpart E—Rules of Practice for Hearings Under Subpart D

Sec.
79.51 Scope.
79.53 Nature of hearing.
79.55 Presiding officer.
79.57 Legal officer.
79.59 Notice of hearing.
79.61 Parties to the hearing.
79.63 Prehearing conference.
79.65 Examination of witnesses.
79.67 Evidence.
79.69 Subpoenas of witnesses and exhibits.
79.71 Revision of construction or alteration proposal.
79.73 Record of hearing.
79.75 Recommendations by parties.
79.77 Final decision of the Administrator.
79.79 Limitations on appearance and representation.

Subpart F—Establishment of Antenna Farm Areas

79.81 Scope.
79.83 General provisions.
79.85 Establishment of antenna farm areas.

Subpart A—General

§ 79.1 Applicability.

This part:

(a) Sets forth the requirements for notice to the Administrator of certain proposed construction or alteration described in Subpart B of this part;

(b) Establishes standards for determining whether that proposed construction or alteration would be a hazard to air navigation;

(c) Provides for aeronautical studies of proposed construction or alteration that would exceed the standards in this part, to determine its effect on the safe flight of aircraft and the efficient use of airspace;

(d) Provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and

(e) Provides for establishing antenna farm areas.

[Revision note: Based on § 626.1]

§ 79.3 Kinds of construction or alteration affected.

(a) This part applies to the following kinds of construction or alteration:

(1) Erecting any permanent or temporary construction or apparatus, including implements or materials used therein.

(2) Altering any permanent or temporary existing structure by a change in its height (including appurtances), or lateral dimensions, including implements or materials used therein.

(b) This part does not apply to any structure that was in existence on July 15, 1961, except with respect to a change in its height (including appurtenances), or lateral dimensions, after that date.

(c) The standards in this Part apply only in determining the effect that proposed construction or alteration would have on air navigation from an airspace utilization standpoint. They do not affect the standards in Parts ____ and ____ [Present Parts 609 and 610] of this chapter or in Technical Standard Order TSO–N18.

[Revision note: Combines §§ 626.2 (f), (h), (m), and (x), and 626.3]

Subpart B—Notice of Proposed Construction or Alteration

§ 79.11 Scope.

(a) This subpart requires each person proposing any kind of construction or alteration described in § 79.13 to give adequate notice to the Administrator. It specifies the locations and dimensions of the construction or alteration for which notice is required and prescribes the form and manner of the notice.

(b) The information in notices received under this subpart provides a basis for charting and other notification to airmen of new or altered construction or apparatus.

[Revision note: Based on § 626.8 (less last 18 words of (a) and less last sentence of (b))]

§ 79.13 Construction or alteration requiring notice.

Each person who proposes any of the following construction or alteration shall notify the Administrator in the form and manner prescribed in § 79.17—

(a) Any construction or alteration that would be more than 150 feet above the surface level of its site.

(b) Any construction or alteration within 15,000 feet of the boundary of an airport (except a heliport), that would extend above the airport elevation, or above the surface level of its site, whichever is higher, more than one foot vertically for each 100 feet (or fraction thereof) of the horizontal distance from the construction or alteration to the airport boundary.

(c) Any construction or alteration within 5,000 feet of the boundary of any heliport, that would extend above the heliport elevation, or above the surface level of its site, whichever is higher, more than three feet vertically for each 100 feet (or fraction thereof) of the horizontal distance from the construction or alteration to the heliport boundary.

(d) Any construction or alteration that would extend into an airport approach plane consisting of an imaginary surface extending from each end of any airport runway that is at least 2,000 feet long, longitudinally centered on the extended centerlines thereof, for 1,000 feet at the elevation of the approach end of the runway and then sloping upward at a ratio of 1 to 60, but not extending beyond any limit in paragraph (b) of this section or beyond 10,000 feet from the runway end, and having—

(1) In the case of an instrument approach runway or runway at least 5,000 feet long, a width of 1,000 feet at the end adjacent to the runway and expanding uniformly to a width of 4,000 feet at a distance of 10,000 feet from the end of the runway; and

(2) In the case of a non-instrument approach runway having a length of 2,000 feet or more up to, but not including, 5,000 feet, a width of 500 feet at the end adjacent to the runway and expanding uniformly to a width of 3,000 feet at a distance of 10,000 feet from the end of the runway.

(e) Any construction or alteration within 500 feet of the centerline of any runway.

(f) Any construction or alteration 500 feet or more from a runway centerline, if that construction or alteration would project above an inclined plane extending upward from the ground from a base line 500 feet either side of and parallel to each runway centerline, sloping upward and away from the runway at a ratio of one to seven to a height of 150 feet above the airport elevation.

(g) Any construction or alteration that would project above an inclined plane that extends upward and away from the outer edge of an airport approach plane (as described in paragraph (d) of this section) at a ratio of one to seven until it intersects the limits described in paragraph (b) of this section, but not more than a height of 150 feet above the airport elevation.

[Revision note: Based on § 626.9(a)]

§ 79.15 Construction or alteration not requiring notice.

No person is required to notify the Administrator as prescribed by § 79.17, for—

(a) Any construction or alteration that, when completed, would be shielded by—

(1) Existing construction of a permanent and substantial nature;

(2) Natural terrain; or

(3) Topographic features of equal or greater height; if as a result of that shielding, the proposed construction or alteration would not cause an increase in potential hazard to aircraft operations;

(b) Any antenna structure that, when completed, would not be more than 20 feet high and would be located on the ground or on an existing structure other than an antenna structure; or

(c) Any electronic facility the broadcast signal of which is used for navigational guidance by aircraft, any airport visual approach or landing aid, or any airport ceiling or visibility indicator device, the location and height of which would be fixed by its functional purpose.

In any case where there is doubt as to whether construction or alteration of the type described in paragraph (a) of this section would increase the potential hazard to aircraft, the sponsor of the construction or alteration shall notify the Administrator as prescribed in § 79.17.

[Revision note: based on § 626.9 (less (a))]

§ 79.17 Form and time of notice.

(a) Each person who is required to notify the Administrator under this subpart shall send three executed copies of Form FAA–117, "Notice of Proposed Construction or Alteration", to the Chief, Air Traffic Division, of the nearest regional office of the FAA, or to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C.

(b) The notice must be submitted at least 30 days before the earlier of the following dates:

(1) The date the proposed construction or alteration is to begin.

(2) The date an application for a construction permit is to be filed.

However, a notice relating to proposed construction or alteration that is subject to the licensing requirements of the Federal Communications Act may be sent to the FAA at the same time the application for construction is filed with the Federal Communications Commission.

(c) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (b) of this section does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Form FAA–117 submitted within 5 days thereafter.

[Revision note: Based on § 626.10]

§ 79.19 Acknowledgment of notice.

(a) The FAA acknowledges receipt of each notice submitted under § 79.13.

(b) If the construction or alteration proposed in a notice does not violate the standards in Subpart C of this part, the acknowledgment contains a statement to that effect and a request that the acknowledging office be notified when the construction or alteration reaches the minimum height requiring notice under § 79.13.

(c) If the construction or alteration proposed in a notice violates the standards in Subpart C of this part, the acknowledgment advises the sponsor—

(1) That the construction or alteration at the location and to the height specified in the notice, would violate those standards, and a preliminary determination has been made that it would be a hazard to air navigation;

(2) Of any possible modifications of the construction or alteration that would eliminate the violation;

(3) That he may request the FAA, within 30 days after the date of acknowledgment, to make an aeronautical study of the proposal or an amended proposal, and that the preliminary determination of a hazard would expire at the beginning of the study; and

(4) That the preliminary determination of hazard becomes final unless the FAA receives a request for an aeronautical study within 30 days after the date of acknowledgment or an aeronautical study is initiated within 60 days after that date.

[Revision note: Based on § 626.11]

Subpart C—Standards for Determining Hazards to Air Navigation

§ 79.21 Scope.

(a) This subpart establishes standards for evaluating the effect on air navigation of any proposed construction or alteration for which a notice has been sent to the Administrator under Subpart B of this part.

(b) The standards in this subpart are applied to establish which proposed construction or alteration requiring notice would result in a hazard to air navigation unless, upon an aeronautical study under this part, it is determined that it would not be a hazard.

[Revision note: Based on § 626.8 (last 18 words of (a) and last sentence of (b))]

§ 79.23 Standards for determining hazards.

(a) Unless, based upon an aeronautical study under this part, it is determined that it would not be a hazard, or unless it is entirely within an antenna farm area established under Subpart E of this part, any proposed construction or alteration for which a notice has been submitted under § 79.17 and that would extend above a height set forth in any of the following subparagraphs, may ultimately be considered to be a hazard to air navigation:

(1) An elevation of 500 feet above ground at the site of the construction or alteration.

(2) An elevation of 200 feet above ground at the site of the construction or alteration and within a control zone or within five miles of either side of the centerline of a low altitude Federal airway or a VFR flyway that is an established air route, depicted on aeronautical charts, along a valley, river, highway, railroad, shoreline, or other visually identifiable path over the ground, used for pilotage under weather conditions suitable for flight under Visual Flight Rules.

(3) An elevation, at the site of the construction or alteration, that is 951 feet below the minimum en route altitude of an approved off-airway, route, or 200 feet above ground, whichever is higher, if the construction or alteration is within five miles of either side of that route.

(4) An elevation above mean sea level, at the site of the construction or alteration, that is on a slope ratio of 1 to 50 extending upward from 500 feet below the minimum en route altitude of any Low Altitude Federal airway or approved off-airway route, beginning at a point 5 miles from and perpendicular to the centerline of that airway or the course of that route, if the construction or alteration would be more than five, but not more than 10, miles from that centerline or course and a perpendicular line from that centerline or course on which the construction or alteration lies intersects the centerline or course not more than 25 miles from the nearest electronic air navigation aid upon which that airway or route is based.

(5) An elevation above mean sea level, at the site of the construction or alteration, that is 500 feet below the minimum en route altitude for any Low Altitude Federal airway or approved off-airway route, if the construction or alteration would be more than five, but not more than 10, miles perpendicular distance from the centerline of that airway or the course of that route and more than 25 miles from the nearest electronic air navigation aid upon which the airway or route is based, measured as prescribed in subparagraph (4) of this paragraph.

(6) Any airport or heliport imaginary surface as established under § 79.25, § 79.27, or § 79.29.

(b) The standards in this section apply to the effect of proposals for construction or alteration upon any electronic facility whose broadcast signal is used for navigational guidance by aircraft, airports, Low Altitude Federal airways, standard instrument approach procedures, approved off-airway routes, or control zones, and changes in any of them, that are not in existence at the time of filing the notice required by Subpart B of this part, but only if plans or proposals for such a facility or change are on file with the FAA on the date the notice is filed. Minimum obstruction clearance altitudes are considered in place of minimum en route altitudes in applying these standards to construction or alteration proposals whenever planning information available at the time of the notice indicates a need to lower the minimum en route altitude of a segment of a Federal airway, and that need may be filled by an additional VOR, distance measuring equipment, or other electronic air navigation aid.

(c) In any case in which more than one of the standards in this section would apply, the most restrictive one is applied.

[Revision note: Combines §§ 626.12 and 626.75(a) (last sentence)]

§ 79.25 Airport imaginary surfaces, except runways and heliports.

The following airport imaginary surfaces are established for airports based on the length of the longest runway:

(a) Inner horizontal surface—a circular plane, 150 feet above the established elevation of the airport having a radius from an airport reference point selected or approved by the FAA as its approximate center—

(1) 2½ miles (13,200 feet)—for runways at least 5,000 feet long;

(2) 1½ miles (7,920 feet)—for runways at least 2,000, but less than 5,000 feet long; or

(3) One mile (5,280 feet)—for runways less than 2,000 feet long.

(b) Conical surface—a surface extending from the periphery of the inner horizontal surface upward and outward at a—

(1) Slope ratio of 1 to 40 for a horizontal distance of 14,000 feet—for runways at least 5,000 feet long;

(2) Slope ratio of 1 to 30 for a horizontal distance of 10,500 feet—for runways at least 2,000, but less than 5,000, feet long; or

(3) Slope ratio of 1 to 20 for a horizontal distance of 7,000 feet—for runways less than 2,000 feet long.

(c) Outer horizontal surface—a circular plane, 500 feet above the established airport elevation extending outward from the periphery of the conical surface—

(1) 25,600 feet—for runways at least 5,000 feet long; or

(2) 7,980 feet—for runways at least 2,000, but less than 5,000 feet long.

[Revision note: based on § 626.13(a)]

§ 79.27 Airport imaginary surfaces: Runways.

The following airport imaginary surfaces are established for runways:

(a) Instrument approach area surface—a plane longitudinally centered on the extended runway centerline beginning at the end of the runway and ex-

tending 500 feet outward at the elevation of the approach end of the runway and then sloping upward at a ratio of 1 to 50 to an altitude of 500 feet above the established airport elevation, then constant to the outer end of the plane; being 1,000 feet wide at the end adjacent to the runway and expanding uniformly to a width of 16,000 feet at a distance of 50,000 feet from the end of the runway (and, in the case of a runway for which an instrument approach with straight-in landing minimums are prescribed, having an instrument approach area surface at each end).

(b) Non-instrument approach area surface—a plane longitudinally centered on the extended runway centerline, the runway having (in the case of one for which no instrument approach with straight-in landing minimums are prescribed) a non-instrument approach area surface at each end as follows:

(1) For runways at least 5,000 feet long—beginning at the end of the runway and extending 500 feet outward at the elevation of the approach end of the runway and then sloping upward at a ratio of 1 to 50, being 1,000 feet wide at the beginning and expanding uniformly to a width of 4,000 feet at the outer extremity, 10,000 feet from the end of the runway.

(2) For runways at least 2,000, but less than 5,000, feet long—beginning at the end of the runway and extending 500 feet outward at the elevation of the approach end of the runway and then sloping upward at a ratio of 1 to 40, being 500 feet wide at the beginning and expanding uniformly to a width of 3,000 feet at the outer extremity, 10,000 feet from the end of the runway.

(3) For runways less than 2,000 feet long—beginning at the end of the runway, at the elevation of the approach end of the runway and sloping upward at a ratio of 1 to 20, being 250 feet wide at the beginning and expanding uniformly to a width of 2,000 feet at the outer extremity, 10,000 feet from the end of the runway.

(c) Transitional surface—an inclined plane sloping upward and away from each side of each runway and its associated approach area surfaces, at a ratio of 1 to 7 to a height of 150 feet above the airport elevation, and with—

(1) The edge of the approach area surface as a base line for the transitional surface of the approach area surface;

(2) For the length of the runway, the base of the transitional surface parallel to and at the elevation of the runway; and

(3) The distance of the runway transitional surface base line from the runway centerline as follows:

(i) 500 feet—for runways at least 5,000 feet long and for instrument approach runways.

(ii) 250 feet—for runways at least 2,000, but less than 5,000, feet long.

(iii) 125 feet—for runways less than 2,000 feet long.

[Revision note: Based on § 626.13(b)]

§ 79.29 Heliport imaginary surfaces.

A heliport conical surface is a surface sloping upward and outward to an altitude of 500 feet above the established heliport elevation at a ratio of 1 to 8, beginning at the heliport elevation on the perimeter of a circle or circles of 200-foot radius centered on each helipad.

[Revision note: Based on § 626.13 (less (a) and (b))]

Subpart D—Aeronautical Studies of Effect of Proposed Construction on Navigable Airspace

§ 79.31 Scope.

(a) This subpart establishes procedures to be applied in initiating and processing informal aeronautical studies of the effect of proposed construction or alteration on the use of navigable airspace by aircraft.

(b) Whenever a study is made under this subpart, its conclusion is normally a determination as to whether the specific proposal being studied would be a hazard to air navigation.

[Revision note: Based on § 626.30]

§ 79.33 Initiation of studies.

Aeronautical studies of the effect, on the use of navigable airspace, of proposed construction or alterations to heights that would exceed the standards set forth in Subpart C of this part are initiated by the FAA—

(a) Upon the request of the sponsor of any construction or alteration for which a notice was submitted under Subpart B of this part; or

(b) Whenever it is otherwise considered appropriate.

[Revision note: Based on § 626.31]

§ 79.35 Regional office procedures for aeronautical studies.

(a) Whenever an aeronautical study is initiated under this subpart, the Chief of the Air Traffic Division of the Region in which the construction or alteration is proposed informally notifies the sponsor of the construction or alteration and all other known interested persons, by informal circularization, that an informal study is to be made, including enough details of the proposal to provide a basis for the study, such as location by geographical coordinates, height above ground, and height above mean sea level. Aeronautical comments on the proposal are solicited.

(b) If the Chief of the Air Traffic Division concerned finds that there is no substantial aeronautical objection to the proposal in comments he receives, or from the analysis made by that division, he notifies the sponsor, in writing, that the proposal would not result in a hazard to air navigation, and sends a copy of the notice to each other interested person. If the proposed construction or alteration is to be used for or in connection with communications, he sends a copy of the letter to the Secretary of the Federal Communications Commission.

(c) If the Chief of the Air Traffic Division concerned finds that there is substantial aeronautical objection to the proposal in comments he receives, or from the analysis made by that Division, he sends a written notice to all interested persons, including the sponsor, of an informal meeting, to be held in the Regional Office, at which the aeronautical study will be discussed. In addition to evaluating the effects of the proposed construction or alteration on air navigation, the purposes of such a meeting are to explore aeronautical objections to the proposal, attempt to develop recommendations for adjustment of aviation requirements that would accommodate the proposed construction or alteration, and examine possible changes in the proposal, including revisions that would eliminate the violation of the standards in Subpart C of this part.

(d) Any interested person may attend the meeting in person or be represented by an attorney or other person, and may introduce at the meeting any material, oral presentation, or written statements that are pertinent to the study. A designated FAA representative presides at the meeting.

(e) The Chief of the Air Traffic Division concerned has a summary report made of the informal meeting and recommends conclusions on the effect of the proposed construction or alteration on the use of navigable airspace. He sends the report and copies of all pertinent written material and statements received as a result of the circular and meeting to the Obstruction Evaluation Branch of the Airspace Utilization Division for its review.

[Revision note: Based on § 626.32]

§ 79.37 Headquarters review and issue of determination.

(a) Based on its review and analysis of the report made under § 79.35, the Obstruction Evaluation Branch evaluates each construction or alteration proposal as to its effect on the safe and efficient use of airspace by aircraft. The Chief of that Branch issues a determination as to whether it would be a hazard to air navigation, including appropriate findings. He sends copies of the determination to the sponsor of the construction or alteration and each other interested person (including the Secretary of the Federal Communications Commission, if appropriate), and publishes it in the FEDERAL REGISTER.

(b) A determination made under this section is final unless an appeal from it is granted under § 79.39.

[Revision note: Based on § 626.33]

§ 79.39 Petitions for public hearing.

(a) The sponsor of any proposed construction or alteration, or any person who stated a substantial aeronautical objection to it in the study made under § 79.35 may petition the Administrator, within 30 days after the date the determination is issued under § 79.39, for a public hearing to obtain a formal decision of the Administrator on the matter.

(b) The petition must be in triplicate and must contain a full statement of the basis for it.

(c) The Administrator determines whether there is adequate grounds for the substance of the petition and grants or denies a hearing on that basis.

[Revision note: Based on § 626.34]

§ 79.41 Effective period of determination of no hazard.

(a) Unless it is otherwise revised or terminated, each final determination, made under this subpart or subpart E of this part, that proposed construction or alteration would not be a hazard to air navigation, expires 18 months after its effective date or upon the date the proposed construction or alteration is abandoned, whichever is earlier.

(b) In any case where the proposed construction or alteration has not been started during the 18-month period any interested person may petition the Administrator to—

(1) Revise the final determination based on new facts that alter the basis upon which the determination was made; or

(2) Extend the effective period of the determination.

(c) The Administrator provides an appropriate review for each petition and the facts upon which it is based, and revises, extends, or reaffirms the determination as indicated by his findings.

[Revision note: Based on § 626.35]

Subpart E—Rules of Practice for Hearings Under Subpart D

§ 79.51 Scope.

This subpart applies to hearings held by the FAA under Titles III and X of the Federal Aviation Act of 1958 (49 U.S.C. Subchapters III and X), on proposed construction or alteration that affects the use of navigable airspace.

[Revision note: Based on § 626.50]

§ 79.53 Nature of hearing.

Sections 4, 5, 7 and 8 of the Administrative Procedure Act (5 U.S.C. 1003, 1004, 1006 and 1007) do not apply to hearings held on proposed construction or alteration to determine its effect on the safety of aircraft and the efficient use of navigable airspace because those hearings are fact-finding in nature. As a fact-finding procedure, each hearing is non-adversary and there are no formal pleadings or issues and no adverse parties.

[Revision note: Based on § 626.51]

§ 79.55 Presiding officer.

(a) If, under § 79.39, the Administrator orders a public hearing to be held on any proposed construction or alteration covered by this part, the Director of the Air Traffic Service designates an employee of the FAA to be the Presiding Officer at that hearing.

(b) The Presiding Officer may—

(1) Give notice of the date and location of the hearing and any pre-hearing conference that may be held;

(2) Administer oaths and affirmations;

(3) Examine witnesses;

(4) Issue subpoenas and take depositions or have them taken;

(5) Obtain, in the form of a public record, all pertinent and relevant facts relating to the subject matter of the hearing;

(6) Rule, with the assistance of the Legal Officer, upon the admissibility of evidence;

(7) Regulate the course and conduct of the hearing; and

(8) Designate parties to the hearing and revoke those designations.

[Revision note: Based on § 626.52]

§ 79.57 Legal officer.

The General Counsel designates a member of his staff to serve as Legal Officer at each hearing under this subpart. The Legal Officer may examine witnesses and assist and advise the Presiding Officer on questions of evidence or other legal questions arising during the hearing.

[Revision note: Based on § 626.53]

§ 79.59 Notice of hearing.

In designating a time and place for a hearing under this subpart, the Presiding Officer considers the needs of the FAA and the convenience of the parties and witnesses. The time and place of each hearing is published in the "Notices" section of the FEDERAL REGISTER before the date of the hearing, unless the notice is impractical or unnecessary.

[Revision note: Based on § 626.54]

§ 79.61 Parties to the hearing.

The Presiding Officer shall designate the following as parties to the hearing:

(a) The proponent of the proposed construction or alteration.

(b) Those persons whose activities would be substantially affected by the proposed construction or alteration.

[Revision note: Based on § 626.55]

§ 79.63 Prehearing conference.

(a) The Presiding Officer may, in his discretion, hold a prehearing conference with the parties to the hearing and the Legal Officer at a convenient time and place.

(b) Each party to a prehearing conference shall, at least 24 hours before the conference, submit a brief written statement of the evidence he intends to provide through his witnesses and by questioning other witnesses at the hearing, and shall provide enough copies of the statement so that the Presiding Officer may keep three for the FAA and give one to each other party.

(c) At the prehearing conference, the Presiding Officer reduces and simplifies each issue so far as possible and advises the parties of the probable order of presenting the evidence.

[Revision note: Based on § 626.56]

§ 79.65 Examination of witnesses.

(a) Each witness at a hearing under this subpart shall, after being sworn by the Presiding Officer, give his testimony under oath.

(b) The party for whom a witness, other than an employee of the FAA, is testifying shall examine that witness. After that examination, other parties to the hearing may examine the witness, in order fixed by the Presiding Officer. The Presiding Officer and the Legal Officer may then examine the witness. The Presiding Officer may grant any party an additional opportunity to examine any witness, if that party adequately justifies the additional examination.

(c) The Legal Officer examines each FAA employee who is a witness, before the other parties examine him. After that examination, the order prescribed in paragraph (b) of this section applies.

[Revision note: Based on § 626.57]

§ 79.67 Evidence.

(a) The Presiding Officer receives all testimony and exhibits that are relevant to the issues of the hearing. So far as possible, each party shall submit enough copies of his exhibits that the Presiding Officer may keep three copies for the FAA and give one to each other party.

(b) The Presiding Officer excludes any testimony that is irrelevant or unduly repetitious. A party to the hearing may object to the admission of evidence only on the ground that it is irrelevant.

[Revision note: Based on § 626.58]

§ 79.69 Subpoenas of witnesses and exhibits.

(a) The Presiding Officer of a hearing may issue subpoenas for any witness or exhibit that he determines may be material and relevant to the issues of the hearing. So far as possible, each party to the hearing shall provide the witnesses and exhibits that he intends to present at the hearing.

(b) If any party to the hearing is unable to provide his necessary witnesses and exhibits, he shall advise the Presiding Officer far enough in advance that the Presiding Officer can determine whether he should issue subpoenas for the desired witnesses or exhibits.

[Revision note: Based on § 626.59]

§ 79.71 Revision of construction or alteration proposal.

(a) The sponsor of any proposed construction or alteration covered by this part may revise his proposal at any time before or during the hearing. If he revises it, the Presiding Officer decides whether the revision affects the proposal to the extent that he should send it to the Administrator for a redetermination of the need for a hearing.

(b) If the Presiding Officer decides that it does not need to be re-submitted to the Administrator, he advises the parties of the revised proposal and takes the action necessary to allow all parties to effectively participate in the hearing on the revised proposal. Without limiting his discretion, the Presiding Officer may recess and reconvene the hearing, or hold another prehearing conference.

[Revision note: Based on § 626.60]

§ 79.73 Record of hearing.

(a) Each hearing is recorded verbatim by an official reporter under an FAA contract. The transcript, and all exhibits, become a part of the record of the hearing.

(b) Any person may buy a copy of the transcript of the hearing from the reporter at the price fixed for it.

(c) The Presiding Officer may allow any party to withdraw an original document if he submits authenticated copies of it.

(d) Any person may buy, from the FAA, photostatic copies of any exhibit by paying the copying costs.

(e) A change in the official transcript of a hearing may be made only if it involves an error of substance. Any recommendation to correct the transcript must be filed with the Presiding Officer within five days after the hearing closes. The Presiding Officer reviews each request for a correction to the extent he considers appropriate as a result of that review.

[Revision note: Based on § 626.61]

§ 79.75 Recommendations by parties.

Within 20 days after a hearing closes, each party to it, or any other interested person, may submit five copies of his recommendations for a final decision to be made by the Administrator.

[Revision note: Based on § 626.62]

§ 79.77 Final decision of the Administrator.

After reviewing the evidence relevant to the issues of a hearing, including the official transcript and the exhibits, the Administrator resolves all questions of fact, based on the weight of evidence, and makes his determination, stating the basis and reasons for it. He then issues an appropriate order to be published in the FEDERAL REGISTER and served on each of the parties.

[Revision note: Based on § 626.63]

§ 79.79 Limitations on appearance and representation.

(a) A former officer or employee of the FAA may not appear on behalf of, or represent, any party before the FAA in connection with any matter to which this part applies, if he considered or passed on that matter while he was an officer or employee of the FAA.

(b) A person appearing before the FAA on any matter to which this part applies may not, in connection with that appearance, knowingly accept assistance from, or share fees with, any person who is prohibited, by paragraph (a) of this section, from appearing himself on that matter.

(c) A former officer or employee of the FAA may not, within six months after he ceases to be such an officer or employee, appear before the FAA on behalf of, or represent, any party in connection with any proceeding that was pending under this part while he was an officer or employee of the FAA, unless he obtains written consent from an appropriate officer of the FAA, based on a verified showing that he did not personally consider the matter concerned or gain particular knowledge of it while he was an officer or employee of the FAA.

[Revision note: Based on § 626.64]

Subpart F—Establishment of Antenna Farm Areas

§ 79.81 Scope.

(a) This subpart establishes antenna farm areas in which antenna structures may be grouped to localize their effect on the use of navigable airspace.

(b) It is the policy of the FAA to encourage the use of antenna farms and the single structure-multiple antenna concept for radio and television towers whenever possible. In considering proposals for establishing antenna farm areas, it considers as far as possible the revision of aeronautical procedures and operations to accommodate antenna structures that will fulfill broadcasting requirements.

[Revision note: Based on § 626.75 (less last sentence of (a))]

§ 79.83 General provisions.

(a) An antenna farm area consists of a specified geographic location with established dimensions of area and height, where antenna towers with a common impact on aviation may be grouped.

(b) Each proposal for an antenna farm area is evaluated on the basis of its effect on the use of navigable airspace. The views of the Federal Communications Commission are requested on the effect that each establishment of an antenna farm area would have on its statutory responsibilities. Any views submitted by it are fully considered before the antenna farm concerned is established. If the Commission advises that the establishment of any proposed antenna farm area would interfere with its statutory responsibility, the proposed area is not established.

(c) The establishment of an antenna farm area is considered whenever it is proposed by—

(1) The FAA;

(2) The Federal Communications Commission;

(3) The sponsor of a proposed antenna tower; or

(4) Any person having a substantial interest in a proposed antenna tower.

[Revision note: Based on § 626.76]

§ 79.85 Establishment of antenna farm areas.

The airspace areas described in the following sections of this subpart are established as antenna farm areas.

[Revision note: Based on § 626.77]

NOTE: §§ 79.87–79.1100 reserved for descriptions of antenna farm areas.

PART 79—DISTRIBUTION TABLE

Present section	*Revised section*	*Present section*	*Revised section*
626.1	79.1	626.31	79.33
626.2 (f), (h), (m), and (x)	79.3	626.32	79.35
		626.33	79.37
		626.34	79.39
626.2 (less (f), (h), (m), and (x))	(1)	626.35	79.41
		626.50	79.51
		626.51	79.53
626.3	79.3	626.52	79.55
626.8 (less last 18 words of (a) and less last sentence of (b))	79.11	626.53	79.57
		626.54	79.59
		626.55	79.61
		626.56	79.63
		626.57	79.65
		626.58	79.67
626.8 (last 18 words of (a) and last sentence of (b))	79.21	626.59	79.69
		626.60	79.71
		626.61	79.73
		626.62	79.75
		626.63	79.77
626.9(a)	79.13	626.64	79.79
626.9 (less (a))	79.15	626.75(a) (last sentence)	79.23
626.10	79.17		
626.11	79.19	626.75 (less last sentence of (a))	79.81
626.12	79.23		
626.13(a)	79.25		
626.13(b)	79.27	626.76	79.83
626.13 (less (a) and (b))	79.29	626.77	79.85
626.30	79.31		

[1] Transferred to Part 1.

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