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UNITED STATES OF AMERICA
FEDERAL AVIATION AGENCY

WASHINGTON, D.C.

Civil Air Regulations Amendment 60-30

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Chapter I—Federal Aviation Agency

SUBCHAPTER A—CIVIL AIR REGULATIONS

[Reg. Docket No. 1160; Amdt. No. 60-30]

PART 60—AIR TRAFFIC RULES

Avoidance of Disaster Areas

On April 6, 1962, notice was given in Draft Release No. 62-17 (27 F.R. 3818), that the Federal Aviation Agency (FAA) had under consideration the addition of § 60.28, "Avoidance of disaster areas," to Part 60 of the Civil Air Regulations. The rule would prohibit the flight of nonessential aircraft within disaster areas designated to encompass certain types of aircraft and train accidents, forest fires, earthquakes, floods and similar disasters. The reasons for the proposed amendment were outlined in detail in the draft release.

To ensure that the views of interested persons were fully considered, an informal conference was held in Washington, D.C., on November 14, 1961, prior to the issuance of the notice of proposed rule making. The majority of the user organizations were represented, as were agencies concerned with search and rescue activities and many news organizations. The comments received at the conference proved extremely valuable in development of the rule proposed in the draft release.

In commenting on the draft release, the news media groups stressed the time critical nature of news reporting. They recommended that the rule or the implementing FAA procedures provide for immediate recourse to higher authority in the event they are denied permission to operate at altitudes which they consider necessary. Denial of entry at altitudes being used by relief aircraft must be based on the objective determination of the person responsible for relief activities. His decision, based on a first-hand knowledge of the situation, should not be open to debate at that point. The Agency will, however, in the course of development of the implementing procedures, recommend guidelines as to when entry should be granted or denied. We will stress the responsibility which news organizations have to the public and will provide for all practicable assistance and cooperation.

One free-lance writer interpreted the proposal as requiring advance accreditation for news media aircraft and suggested that in-flight notification be permitted. The proposal did permit in-flight notification and approval, as does the rule adopted herein. We also recognize that most news organizations secure aircraft on an immediate rental basis to cover news incidents. Therefore, all that the rule requires is carriage of accredited newsmen on a bona fide newsgathering mission.

The intent of the proposed rule was supported by most of the aircraft user groups which replied. However, some did recommend certain modification. The Air Transport Association and the Helicopter Association of America were concerned that pilots might not have Notices to Airmen (NOTAMs) available in all cases and might inadvertently enter a disaster area. The latter group felt that the rule should specifically exempt those pilots who unknowingly enter a disaster area. They said that even though no penalties were assessed for such violations, it would be unfair even to cause the pilot technically to be in violation. The Agency recognizes the possibility of inadvertent entry but considers it undesirable to include these occurrences as exceptions to the rule. All the circumstances would, of course, be weighed in such an event. Certainly, proper discretion and prompt departure of the disaster area when the facts become known to the pilot would serve to mitigate his unintentional entry of the area.

The Aircraft Owners and Pilots Association contends that a disaster area should be established only when aerial relief operations are actually in progress or are imminent. AOPA considers that designation in other cases would be an unwarranted restriction of airspace. The draft release preamble stressed the collision potential that exists even though relief aircraft are not being used. Curiosity seekers often congregate over a disaster site and become a hazard to each other.

There was some comment that such a rule would be self-defeating since it would focus attention on an area which might otherwise go virtually unnoticed. Presently, most pilots voluntarily avoid disaster areas after an informational NOTAM has been issued. Their cooperation has made these voluntary procedures effective to a certain degree. While we recognize that attention will be focused on these disaster sites, we consider that the legal prohibition on entering the disaster area will prove to be a strong deterrent and will result in greater effectiveness.

Two forestry groups recommended that the ceiling of disaster areas be raised to as high as 2,000 feet above the essential air activity. They maintain that greater vertical separation from airborne fire fighting activities is required because of the reduction in visibility from the smoke. A pilot operating under such conditions would still be governed by the visibility minimums of Part 60. Therefore, we consider that the current regulations plus the rule adopted herein will amply prohibit imprudent operations in such areas.

The forestry groups also recommended that disaster areas be designated for all forest fires. The draft release preamble discussed the manner in which a disaster area would be established around a forest fire. That is, the Fire Air Officer would forward his recommendation to the appropriate FAA air route traffic control center which would then establish the area by NOTAM. Decision as to whether a disaster area is warranted would rest with the Fire Air Officer. An area could, therefore, be established around any forest fire where the circumstances justified.

Two comments discussed disasters on or near an airport having a control tower. One suggestion was that the control tower operator be given authority to impose conditions comparable to those proposed in the rule even though a disaster area was not designated. The particular circumstances would dictate whether a disaster area should be created. However, the specific authority is not required in this rule because basically the same results would be obtained through the use of § 60.18, "Operation on and in the vicinity of an airport." Section 60.18, among other things, requires aircraft to avoid the five-mile airport traffic area unless op-

erating to or from an airport within the area, requires two-way radio communications with federally operated control towers, imposes a speed limit, and establishes a left-hand traffic pattern direction for fixed-wing aircraft. The control tower can authorize deviation from any of these requirements. Even if the accident should occur on the airport itself, the airport would be kept open to the extent practicable.

Two comments suggested that the Federal Aviation Agency immediately send traffic controllers to the disaster scene to provide air traffic control service. This course has been studied, however, personnel and equipment considerations presently make this impractical in most instances. The Federal Aviation Agency has recently entered into a Memorandum of Agreement entitled, "Airspace Control in Search and Rescue and Disaster Relief Areas" with the Department of Defense, the United States Coast Guard, the Forest Service, and the Office of Emergency Planning. The Agreement sets forth certain actions which will be taken by the signatories in development of the over-all plan. The Federal Aviation Agency has agreed to determine the feasibility of providing airport traffic control personnel and equipment to designated operating bases when requested by appropriate disaster control authorities.

In consideration of the foregoing, Part 60 of the Civil Air Regulations is amended to add:

§ 60.23 Avoidance of disaster areas.

(a) Whenever the Administrator determines it to be necessary, the airspace below 2,000 feet above the surface over and within five statute miles of an aircraft or train accident, forest fire, earthquake, flood, or other disaster of substantial magnitude will be designated a disaster area. Designation will be made in a Notice to Airmen.

(b) Aircraft may not be flown within a disaster area except under the following conditions:

(1) Aircraft participating in airborne relief activities may be operated under the direction of the Agency responsible for relief activities.

(2) Aircraft may be operated to or from an airport within the area if they do not hamper or endanger relief activities.

(3) When flight around or above the area is impractical due to weather, terrain, or other considerations, aircraft may be operated en route through the area if they do not hamper or endanger relief activities and prior notice is given to the Air Traffic Service facility specified in the Notice to Airmen.

(4) Aircraft may be operated through the area when specifically authorized under an IFR air traffic control clearance.

(5) Aircraft carrying properly accredited news representatives or persons on official business pertaining to the disaster may be operated within the area. However, they shall be operated in accordance with § 60.17 and other applicable Civil Air Regulations and they may not be operated at or below altitudes being used by relief aircraft unless they have the specific approval of the Agency responsible for relief activities. Such approval, together with any special instructions, will normally be obtained through the Air Traffic Service facility specified in the Notice to Airmen. A flight plan containing the following shall be filed for news media and official business aircraft prior to operating in a disaster area:

(i) Aircraft identification, type, and color;

(ii) Radio communications frequencies to be used;

(iii) Proposed time of entry and exit of the disaster area;

(iv) Name of news media or other purpose of flight, and

(v) Any other information deemed necessary by air traffic control.

(Sec. 307, 72 Stat. 749, 49 U.S.C. 1348)

This regulation is effective on March 20, 1963.

Issued in Washington, D.C., on December 13, 1962.

N. E. HALABY,
Administrator.

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