FEDERAL AVIATION AGENCY
AIR TRAFFIC SERVICE
WASHINGTON 25, D. C.

April 6, 1962

CIVIL AIR REGULATIONS DRAFT RELEASE NO. 62-17

SUBJECT: Avoidance of Disaster Areas

The Air Traffic Service has under consideration a proposal which would establish several additional requirements applicable to the operation of aircraft in the airspace overlying certain disaster areas. The reasons therefor are set forth in the explanatory statement of the attached proposal which is being published in the Federal Register as a notice of proposed rule making.

The Agency desires that all persons who will be affected by the requirements of this proposal be fully informed as to its effect upon them and is therefore circulating copies in order to afford interested persons ample opportunity to submit comments as they may desire.

Because of the large number of comments which we anticipate receiving in response to this draft release, we will be unable to acknowledge receipt of each reply. However, you may be assured that all comments will be given careful consideration.

It should be noted that comments must be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room C-226, 1711 New York Avenue, N. W., Washington 25, D. C., prior to June 21, 1962.

D. D. Thomas

Director, Air Traffic Service

FEDERAL AVIATION AGENCY
AIR TRAFFIC SERVICE

[14 CFR 60]
[Regulatory Docket No. 1160; Draft Release No. 62–17]

NOTICE OF PROPOSED RULE MAKING

Avoidance of Disaster Areas

Pursuant to the authority delegated to me by the Administrator (14 CFR Part 405), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 60 of the Civil Air Regulations by establishing Section 60.28, "Avoidance of Disaster Areas."

Interested persons may participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room C–226, 1711 New York Avenue, N.W., Washington 25, D.C. All communications received prior to June 21, 1962, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Docket Section for examination by interested persons at any time. Because of the large number of comments which we anticipate receiving in response to this draft release, we will be unable to acknowledge receipt of each reply.

As proposed herein, Section 60.28, "Avoidance of Disaster Areas" would establish several additional requirements applicable to the operation of aircraft in the airspace overlying certain types of aircraft accidents, forest fires, earthquakes, floods, train accidents, or other tragedies of substantial magnitude. The principal objectives of the proposed new section are improved efficiency of airborne relief operations and the enhancement of air safety by minimizing the potential mid-air collision hazard that is created in the airspace overlying the site of incidents which generate a high degree of public interest.

When circumstances require certain provisions of the National Search and Rescue (SAR) Plan to be implemented, or when a disaster such as a forest fire, flood, or earthquake has occurred and airborne relief must be administered, Federal and State agencies usually dispatch aircraft of assorted sizes and types to these areas to conduct evacuation and relief activities. The exigencies of the situation normally demand that priority in the use of airspace overlying these disasters be granted the relief aircraft. While conducting these disaster relief functions, these aircraft are usually flown very close to the surface. Frequently they are being operated very close to absolute limits insofar as speed, maneuverability, and gross weight are concerned. They seldom have much margin for error because, in many cases, getting the job done requires the sacrifice of this margin.

Since these operations are planned and dispatched by official agencies, their movements in the area are coordinated and danger of interference with one another is minimized. However, once a disaster has been made known to the public, an influx of nonrescue aircraft frequently occurs. Pilots of many of these aircraft are intent on offering aid, many are engaged in news gathering activities, while others are just curious. The presence of even occasional unauthorized aircraft in these areas requires the relief pilot, in addition to carrying out his evacuation and relief responsibilities, to be ever mindful of the presence of such uncoordinated aircraft. In widely publicized disasters of national interest the situation, of course, becomes most critical. Reports have been received that rescue operations have been seriously delayed because of the reluctance of pilots of rescue aircraft to enter these areas due to the heavy concentration of uncoordinated traffic.

Furthermore, nonrescue aircraft, mostly sightseers, often converge on the scene from different directions and proceed to circle about the area at low altitude with no regard for direction of traffic flow. Even without the presence of relief aircraft the potential for mid-air collision under such conditions is great. As many as seventy-one such aircraft have been reported over a single disaster.

Consideration has also been given to the concern of military personnel over the lack of regulations which would prohibit flight of nonessential aircraft over the scene of a "Broken Arrow," which is an accident involving an aircraft carrying a nuclear weapon or other fissionable material. Aside from the potential operational hazard to any spectator aircraft and its occupants, a possible compromise of national security is involved.

The Federal Aviation Agency, as well as the agencies charged with the responsibility of conducting disaster relief and search and rescue operations, acknowledges the fact that everyone would like to do his part when rescue operations are required. We also recognize the obligation of responsible representatives of news media to cover such newsworthy incidents. Aerial photography and other news gathering activities in connection with such disasters are certainly in the public interest. However, safety of flight and the efficiency of the relief operations must be our primary areas of concern.

Existing air traffic rules are not considered adequate to effectively cope with the problem. For example, Section 60.17, "Minimum Safe Altitudes," would in many cases allow itinerant aircraft to operate at altitudes being used by aircraft engaged in relief and search and rescue operations. Section 60.14, "Right-of-Way," would in many cases give the right-of-way to these itinerant aircraft over the rescue aircraft. By itself, Section 60.12, "Careless or Reckless Operation," is not specific enough to be fully effective.

The Administrator of the FAA is authorized and directed to prescribe regulations for the safe and efficient utilization of navigable airspace and for prevention of collision between aircraft. Continuation of the foregoing conditions are inconsistent with this statutory responsibility, and therefore additional regulatory measures are considered necessary. Strict and complete exclusion of all aircraft not essential to the rescue operation, although in some respects desirable, is not absolutely necessary. As proposed, the new rule would have minimum impact on aircraft which have a justifiable need to operate in these areas.

In order that all airspace users may be apprised of the location and the duration of activation of these areas, the proposed rule provides that any area, wherein the flight of nonessential aircraft would be considered detrimental to relief activities, would be described in a Notice to Airmen (NOTAM). This area would be of sufficient size, both laterally and vertically, to provide for the relief operations to be conducted. The rule would recognize authorized relief aircraft and provide for their occupation of the subject airspace and for the exclusion or regulation of other air traffic as necessary.

Since news gathering aircraft and aircraft on official business have a bona fide need to enter these areas, this need is provided for—but on an orderly and coordinated basis so as to prevent their interference with rescue aircraft. Accordingly, the rule provides that these flights remain above the altitudes being utilized by relief aircraft except with the approval of the agency responsible for relief activities.

The proposed regulation would also provide for those aircraft intending to land at or depart from airports located within these areas, but require that they be flown in a manner which will not hamper or endanger the aircraft engaged in relief activities.

Establishment of a 2,000 foot ceiling on this area would not impose undue restrictions on itinerant aircraft since circumnavigation of the area or en route flight above the area would usually be possible. However, to provide for the occasion when circumnavigation of the area or flight above the area is not practicable—due to weather, terrain, or other considerations—the proposed rule would permit flight through the area if prior approval has been obtained from air traffic control (ATC).

The Federal Government's responsibility for conducting physical search and rescue operations is delegated to military agencies by the National SAR Plan, approved by the President's Air Coordinating Committee in March 1956. This plan provides for the control and coordination, by the Regional SAR Coordinator, of all available facilities for all types of search and rescue operations. Some State search and rescue organizations have retained established SAR responsibilities within their boundaries to provide relief from incidents which are primarily local or intrastate in character. However, appropriate agreements have been made between the Regional SAR Coordinator and the respective State organizations in such cases. Under the plan, the SAR Coordinator—through an appropriate Rescue Coordination Center—coordinates all SAR operations in any one area. Although the National SAR Plan does not encompass relief activities for earthquakes, tornados, floods, or other public disasters, the SAR organization and its facilities are utilized to the maximum extent feasible in connection with these activities.

During actual or potential SAR operations, control of participating forces is exercised through an On-Scene-Commander who is the official responsible for coordinating and directing the operations of facilities committed to a SAR mission. When airborne fire control operations are being conducted by the U.S. Forest Service, the Fire Air Officer is responsible for coordinating and directing the activities. The FAA provides assistance in these emergencies through the use of its ATC and communications facilities.

Therefore, in establishing the need for airspace restrictions, Fire Air Officers would forward their recommendations to the air route traffic control (ARTC) center concerned. Military commanders responsible for security "Broken Arrow" aircraft, On-Scene-Commanders, and State or local SAR agencies, would forward their recommendations to the appropriate Rescue Coordination Center. The Rescue Coordination Center would, in turn, forward its recommendations to the ARTC center. The recommendation to the ARTC center would include a clear definition of the area by geographical coordinates or other appropriate references.

In consideration of such recommendation, or at any other time such action is considered necessary in the interest of safety, the ARTC center concerned would issue an appropriate NOTAM. NOTAMs which might be originated by the ARTC center would include particularly newsworthy incidents which would generate a high degree of public interest and tend to cause the congregation of sight-seeing aircraft even though relief aircraft were not being utilized. These NOTAMs would be broadcast periodically on the voice

channels of appropriate navigation aids. They would also be delivered to individual pilots during pre-flight and in-flight briefings.

It would be incumbent on any pilot, intending to conduct flight over a disaster, to contact an ATC facility and determine whether a NOTAM concerning the incident had been issued. If such NOTAM were in effect, pilots of news gathering aircraft, or of other aircraft on official business pertaining to the disaster, would be required to forward the necessary flight plan information before conducting flight within the area. ATC would forward information at this time concerning altitudes being utilized by relief aircraft. Pilots of other itinerant aircraft having a bona fide need to transit the area would be required to obtain prior approval from ATC.

This proposal is subject to the FAA Recodification Program, recently announced in Draft Release No. 61-25 (26 F.R. 10698). The final rule, if adopted, may be in a recodified form, however, the recodification itself will not alter the substantive contents proposed herein.

In view of the foregoing, it is proposed that Part 60 of the Civil Air Regulations be amended by adding Section 60.28 to read as follows:

60.28 Avoidance of Disaster Areas. Whenever the Administrator determines it to be necessary, the airspace below 2,000 feet above the surface and within five statute miles of an aircraft or train accident, forest fire, earthquake, flood, or other disaster or substantial magnitude will be designated a disaster area. The designation will be made in a Notice to Airmen. When a disaster area has been so designated, an aircraft may not be flown within such area except under the following conditions:

(a) Aircraft participating in airborne relief activities may be flown under the direction of the agency responsible for relief activities.

(b) When prior notice has been given to air traffic control, and when flight is conducted in accordance with Section 60.17 and other applicable provisions of the Civil Air Regulations, aircraft of properly accredited news representatives or other aircraft on official business pertaining to the disaster may be flown:

1. Above the altitudes being utilized by relief aircraft;
2. At altitudes being utilized by relief aircraft, with the approval of, and under the direction of, the agency responsible for relief activities; or
3. When relief aircraft are not being utilized.

(c) Aircraft may be operated to or from an airport within the area, provided they are flown so as not to hamper or endanger relief operations being conducted therein.

(d) When circumnavigation of the area or flight above the area is not practicable, due to weather, terrain, or other considerations, en route aircraft may be operated through the area if prior approval has been obtained from air traffic control.

(e) Prior to operating in accordance with paragraph (b) of this section, an abbreviated flight plan shall be filed with air traffic control. Such flight plan shall contain at least the following information unless otherwise authorized by air traffic control:

1. Aircraft identification and radio call sign;
2. Type of aircraft;
3. Radio transmitting and receiving frequencies to be used;
4. Proposed time of entry into area;
5. Estimated elapsed time of flight within area;
6. Name of news media or other purpose of flight.

This amendment is proposed under the authority of Section 307 of the Federal Aviation Act of 1958 (72 Stat. 749, U.S.C. 1348).

D. D. Thomas

Director, Air Traffic Service

Issued in Washington, D.C., on April 6, 1962.

O 0169