U.S. Department
of Transportation
**Federal Aviation
Administration**

APR 2 7 2007

Mr. David Wartofsky
Potomac Airfield
10300 Glen Way
Ft. Washington, MD 20744

Dear Mr. Wartofsky:

This responds to your letters dated October 26 and December 4, 2006, in which you seek clarification for when an airport sponsor is required to submit form 7460 to notify the Federal Aviation Administration (FAA) of the installation of equipment on the Friendly/Potomac Airfield. The equipment that you refer to is an FAA approved Aviation Weather Reporting System (AWRS) that you collocated with the airport's windsock.

Title 14 of the Code of Federal Regulations (CFR), part 77 sets forth the requirements to file notice with the FAA for proposed construction and alterations to existing structures on or near airports. These regulations require that the FAA be notified of that construction via the filing of FAA form 7460 so that the agency may study the potential impacts of that structure and determine whether any related marking and lighting requirements are necessary.

Under § 77.13(a)(5)(i), any sponsor proposing construction or alteration on an airport that is available for public use and is listed in the Airport Directory of the current Airman's Information Manual or in either the Alaska or Pacific Airman's Guide and Chart Supplement must file notice with the FAA. The installation of the AWRS equipment at the Potomac/Friendly airfield would require notice to the agency under this section.

Section § 77.15 provides the exceptions to the requirement to file notice with the FAA. You assert that the installation meets all of the exceptions. Under this section, notice is not required for construction or alteration of:

(a) any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation;

(b) any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure;

(c) any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device of a type approved by the Administrator, on an

appropriate military service if on a military airport, the location and height of which are fixed by functional purpose; and

(d) any construction or alteration for which notice is required by any other FAA regulation.

We do not agree that the proposed installation of the AWRS equipments meets any of the exceptions noted above.

Paragraph (a) applies to construction or alterations that are shielded and located in a congested area of a city, town or settlement area. Construction taking place on an airport does not meet this exception. While the principle of shielding may in fact apply during the aeronautical study and thus factor into the agency's determination of whether the proposal would affect air navigation, shielding is not an exception from the requirement to file notice with the FAA for on-airport construction.

Paragraph (b) applies to antenna structures of 20 feet or less in height except one that would increase the height of another antenna structure. An antenna structure typically is some sort of transmitter and receiver. The AWRS equipment has an antenna component; but the equipment is more substantial than an antenna structure. Even though the height of the AWRS equipment is 16 feet, we are not persuaded that this is simply an "antenna structure" that is addressed by this exception.

Paragraph (c) excludes from the notice requirements certain various navigation facilities and meteorological devices that are approved by the FAA for which the location and height is fixed by its functional purpose. The location of the AWRS installed at the airfield is not fixed by its functional purpose. The AWRS equipment can be located at various places on an airport without impact to its function. Furthermore, windsocks may be incorrectly located at some airports and collocation of the AWRS equipment at those locations might further impact the airport.

Paragraph (d) excepts from the notice requirements any construction or alteration for which notice is required by any other FAA regulation. Here, there is no other *FAA regulation* for which notice of the AWRS equipment would be required. (Emphasis added.)

The FAA studied this proposal and focused on the efficient use of the airport and the safety of persons and property on the ground. As the result of the study, the FAA did not object to the installation of the AWRS equipment but articulated several conditions, including marking and lighting requirements, completion of an as-built survey and appropriate coordination with the FAA's Airport and Air Traffic personnel. (We refer to the FAA's letter dated November 27, 2006, from Mr. Nelson Knox, Manager, Operations Branch, Engineering Services Eastern Service Area. You provided a copy of this letter in your request.)

Please be advised that this response pertains to case number 06-AEA-0146-NR. We regret the time it has taken to process this case. The FAA is in the process of automating the filing of notices for on-airport construction/alteration so that proponents will be able to file notice and receive a determination letter via the internet. The FAA's OE/AAA website has been successful in automating the obstruction evaluation cases and greatly speeds up the filing and process time for these cases. We expect similar results once this process is automated, which is likely to occur in the next six months.

We appreciate your patience and trust that the above responds to your concerns. Should you have any additional questions, please contact Lorelei Peter, of my staff at (202) 267-3073 of the Federal Aviation Administration, Office of the Chief Counsel, Regulations Division, 800 Independence Avenue, SW, Washington DC 20591.

Sincerely,



Rebecca B. MacPherson
Assistant Chief Counsel for Regulations
Office of the Chief Counsel
Federal Aviation Administration