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

Office of the Chief Counsel

Office of the Chief Counsel
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Washington, DC 20591

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Dear Mr. Smith:

I am writing in response to your September 26 letter asking several questions about the New York North Shore Helicopter Route, which is codified in §§ 93.101 and 93.103 of Title 14 of the Code of Federal Regulations (14 CFR). Your questions concern the interpretation and application of § 93.103, which requires pilots of helicopters operating along a portion of the northern shoreline of Long Island, New York, to use the published North Shore Helicopter route. Our answers to your questions are set out below.

1. **In paragraph (a), it states, "unless otherwise authorized", what agency has the authority to authorize aircraft off the route, what are the steps needed to get the authorization, and what are the parameters needed to get that authorization?**

   Because § 93.103 is an FAA regulation, the FAA is the only agency that has authority to authorize operations outside the requirements of the rule. Please note that 14 CFR § 93.1, Applicability, states, "This part prescribes special air traffic rules for operating aircraft in certain areas described in this part, unless authorized by air traffic control". In addition, please note that paragraph b of the rule allows deviations when necessary for reasons of safety, weather or transitions to a point of landing. Given this provision, we believe the need to seek an authorization from this rule is unlikely.

2. **Also in paragraph (a) it states "each person piloting a helicopter along Long Island New York's northern shore line". What is the definition of the Long Island New York's northern shoreline? Where does it start and where does it end? For example, if I am at 3,500 feet, do I need to fly the North Shore route? If so, how high do I need to be not to have to fly it? If I take off of the East 34th Street, can I go along the "tracks" route" out to destinations east or do I need to proceed to the North Shore route? The "tracks route" is on the center of the island.**

   While the north shore of Long Island is not legally defined, for purposes of § 93.103 it is that portion of the coast of Long Island adjacent to the Long Island Sound that lies between Orient Point and a point due south of the VPLYD waypoint. The north shore of Long Island is clearly portrayed on the New York Helicopter Route Chart. The rule applies to those pilots of helicopters whose intended route of flight takes them along the northern shore of Long Island. It is not expected that pilots whose route of flight is across the center or southern portions of Long Island would alter their flight path to the

north. The requirement to utilize the route is contingent on planned route of flight, not altitude.

3. **Also in paragraph (a) it states "North Shore Helicopter route". What are the parameters of this route? Being that it is a designated route and is mandatory, is it not a Federal Airway and has the same requirements under 7400.9W?**

   Because this is a route intended to be flown in VFR conditions and does not require the use of navigational aids, it does not meet the definition of an Air Traffic Service Route, as defined in 14 CFR § 71.11. Section 93.103 specifically refers to the published helicopter route, which is both depicted and described in text on the New York Helicopter Route Chart. Referencing the description of the route on the New York Helicopter Route Chart, the mandatory portion of the route extends from the "VPLYD waypoint (north of Lloyd Harbor) to the VPJAY waypoint (northwest of Port Jefferson LIPA plant smokestacks), then via and off the shoreline to Orient Point." Since the route is flown by visual reference to the coastline and not defined by navigational aids, there is no centerline or defined width.

   Please note a training video for pilots flying the route can be viewed at: http://www.faa.gov/tv/?mediaId=530

4. **The preamble to the rule states that the route is "approximately 1 mile off shore" and that visual checkpoints are used to identify VPLYD and Orient Point. What are the landmarks associated with identifying VPLYD and Orient Point? Also, if the "route" is always approximately 1 mile off shore, must a pilot navigate the shoreline of Long Island maintaining approximately 1 mile off shore and then going directly from VPLYD to the point of departure for transition be considered a "deviation"?**

   As noted in the preamble to the final rule, VPLYD stands for "Visual Point Lloyd Harbor." 77 Fed. Reg. 39913. The latitude and longitude for VPLYD are listed in the FAA New York Airport/Facility Directory. The waypoint also should be in most GPS navigational databases. The waypoint lies almost directly north of the tip of Caumsett State Park, between Oyster and Huntington Bays. Orient Point is the eastern most point of the Long Island mainland, and is plainly depicted on the on the New York Helicopter Route Chart.

   Pilots of helicopters must maintain at least one mile off shore to be considered on the route. The FAA noted in the preamble to the final rule that pilots using the route are expected to rely on pilotage skills to maintain the required distance off the shoreline of Long Island. 77 Fed. Reg. 39915. The FAA also noted that many pilots may elect to use Global Positioning System (GPS) coordinates to track a portion of the route, although they are not required to do so. 77 Fed. Reg. 39913. For noise abatement purposes, transitions between the route and a point of landing should be made by the shortest and most direct flight path possible to minimize the flight time over land.

5. **Paragraph (b) states that a pilot may "deviate when necessary for safety, weather conditions or transitioning to or from a destination or point of landing." Though the decision to deviate is solely on the Pilot in Command, the discretionary authority to the validity for the deviation lies with the FAA and Flight Standards. What are the standards that will be used to validate those deviations? E.g. If a pilot initiates his transition ¼ mile east of VPLYD to 87N, will this be considered a valid deviation?**

   The intent of paragraph (b) is to allow a pilot in command (PIC) the flexibility to conduct operations outside of the route requirements for reasons of safety and weather and for purposes of takeoff and landing. For example, a pilot of a single engine helicopter may elect to fly within power-off autorotation distance from shore for reasons of safety. The rule does not affect the long-standing responsibility and authority of a PIC for the operation of the helicopter under 14 CFR § 91.3(a), nor does it affect the factors considered by the FAA when investigating a PIC's exercise of that authority.

   As always, an FAA investigation of suspected noncompliance with a regulation will be handled on a case-by-case basis. Pilots are expected to combine good judgment and consideration for the rule's purpose (noise abatement) when exercising the authority to deviate under § 93.103(b). As noted in the preamble to the final rule, the FAA's investigation of a deviation will be to determine if it was for reasons of safety, weather, or to transit to a destination. While operators will be given the maximum latitude for deviations related to safety, weather, or transitions for a takeoff or landing, a pattern of deviations attributed to weather or safety would indicate that an operator was interested more in cutting short the route rather than any legitimate concerns. 77 Fed. Reg. 39918.

   As a general guide, transitions between the route and a point of takeoff or landing should be made by the shortest and most direct path possible to minimize flight time over land. In your example, instead of transitioning ¼ mile east of VPLYD for a landing at Southampton heliport (87N), the pilot should transition at a point where the heliport is directly abeam of the helicopter's flight path on the mandatory route.

6. **What agency will be responsible for collecting data of compliance, weather, traffic density and deviations? Will inquiries into possible deviations/violations of the route be triggered by FAA monitoring or by third party accounts?**

   The preamble to the final rule does not state that data concerning compliance with the rule will be collected as suggested in the question. However, as noted in the preamble, the FAA will monitor compliance with the rule to the best of its capabilities. 77 Fed. Reg. 39918.

   As with any other rule, the FAA initiates an investigation of a possible rule violation when there is evidence suggesting that a violation may have occurred. Evidence that might trigger an investigation can originate from several different sources, including (but not limited to) air traffic data, FAA inspector surveillance, or complaints from the general public. The FAA does not have a third party monitoring compliance with the rule.

7. **What is the definition of a VFR transition route?**

   The Pilot/Controller Glossary, found in the FAA's Aeronautical Information Manual (AIM), contains definitions for commonly used terms, but does not contain a definition for the term "VFR transition route." However, the term "transition" is defined: "The general term that describes the change from one phase of flight or flight condition to another . . . ."

8. **Paragraph (a) is the rule and paragraph (b) is the ability to deviate from the rule. Are pilots required or suggested to file a deviation report to the FAA or to the NASA Aviation Safety and Reporting System?**

   Paragraph (b) allows deviations from the route and altitude requirements of paragraph (a) "when necessary for safety, weather conditions or transitioning to or from a destination or point of landing." When a pilot undertakes a deviation from the route and altitude requirements of paragraph (a) in accordance with the terms of paragraph (b), there presumably is no violation of the rule as written. In this context, the term "deviation" does not indicate noncompliance with the requirements of the rule. Therefore, no deviation report would be generated and no report to the NASA Aviation Safety and Reporting System would be necessary. A deviation not made in accordance with the rule, such as a transition to or from the route that is not the shortest and most direct line possible, may be considered a violation of the rule.

This response was prepared by Mark Bury, Deputy Assistant Chief Counsel, International Law, Legislation, and Regulations Division of the Office of the Chief Counsel, and coordinated with the Air Traffic Organization and the Flight Standards Service.

Sincerely,

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