

employees of FHFA under 12 U.S.C. 4523.

#### **§ 1212.2 Definitions.**

For purposes of subpart B of this part, the term:

*Consultant* means a person who works directly on matters for, or on behalf of, a regulated entity or the Office of Finance.

*Director* means the Director of FHFA or his or her designee.

*Employee* means an officer or employee of FHFA, including a special Government employee.

*Federal Home Loan Bank or Bank* means a Bank established under the Federal Home Loan Bank Act; the term "Federal Home Loan Banks" means, collectively, all the Federal Home Loan Banks.

*Office of Finance* means the Office of Finance of the Federal Home Loan Bank System, or any successor thereto.

*Regulated entity* means the Federal National Mortgage Association and any affiliate thereof, the Federal Home Loan Mortgage Corporation and any affiliate thereof, any Federal Home Loan Bank; the term "regulated entities" means, collectively, the Federal National Mortgage Association and any affiliate thereof, the Federal Home Loan Mortgage Corporation and any affiliate thereof, and the Federal Home Loan Banks.

*Safety and Soundness Act* means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by the Federal Housing Finance Regulatory Reform Act of 2008, Division A of the Housing and Economic Recovery Act of 2008, Public Law No. 110-289, 122 Stat. 2654 (2008).

*Senior examiner* means an employee of FHFA who has been:

(1) Authorized by FHFA to conduct examinations or inspections on behalf of FHFA;

(2) Assigned continuing, broad and lead responsibility for examining a regulated entity or the Office of Finance; and

(3) Assigned responsibilities for examining, inspecting and supervising the regulated entity or the Office of Finance that—

(i) Represents a substantial portion of the employee's assigned responsibilities; and

(ii) Requires the employee to interact routinely with officers or employees of the regulated entity or the Office of Finance.

#### **§ 1212.3 Post-employment restriction for senior examiners.**

(a) *Prohibition.* An employee of FHFA who serves as the senior examiner of a

regulated entity or the Office of Finance for two or more months during the last 12 months of his or her employment with FHFA may not, within one year after leaving the employment of FHFA, knowingly accept compensation as an employee, officer, director, or consultant from a regulated entity or the Office of Finance unless the Director grants a waiver pursuant to § 1212.4.

(b) *Effective date.* The post-employment restriction in paragraph (a) of this section shall not apply to any officer or employee of FHFA or any former officer or employee of FHFA who ceased to be an officer or employee of FHFA before November 4, 2009.

#### **§ 1212.4 Waiver.**

At the written request of a senior examiner or former senior examiner, the Director may waive the post-employment restriction in § 1212.3 if he or she certifies, in writing, and on a case-by-case basis, that granting a waiver of such restriction does not affect the integrity of the supervisory program of FHFA.

#### **§ 1212.5 Penalties.**

(a) *General.* A senior examiner who, after leaving the employment of FHFA, violates the restriction set forth in § 1212.3 shall be subject to one or both of the following penalties—

(1) An order:

(i) Removing the individual from office at the regulated entity or the Office of Finance or prohibiting the individual from further participation in the affairs of the relevant regulated entity or the Office of Finance for a period of up to five years; and

(ii) Prohibiting the individual from participating in the affairs of any regulated entity or the Office of Finance for a period of up to five years; and/or

(2) A civil money penalty of not more than \$250,000.

(b) *Other penalties.* The penalties set forth in paragraph (a) of this section are not exclusive, and a senior examiner who violates the restrictions in § 1212.3 also may be subject to other administrative, civil, or criminal remedies or penalties as provided in law.

(c) *Procedural rights.* The procedures applicable to actions under paragraph (a) of this section are those provided in the Safety and Soundness Act under section 1376, in connection with the imposition of a civil money penalty; under section 1377, in connection with a removal and prohibition order (12 U.S.C. 4636 and 4636a, respectively); and under any regulations issued by FHFA implementing such procedures.

Dated: September 26, 2009.

**Edward J. DeMarco,**

*Acting Director.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 73**

[Docket No. FAA-2009-0490; Airspace Docket No. 09-AWP-3]

RIN 2120-AA66

#### **Establishment of Restricted Area R-2502A; Fort Irwin, CA**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action establishes a restricted area (R-2502A) at Fort Irwin, CA, as part of a Department of the Army initiative at the National Training Center (NTC). The NTC is being expanded to meet the critical need of the Army for additional training land and airspace suitable for maneuvering large numbers of military personnel and equipment. Additionally, the Silver military operation area (MOA) in the vicinity of the NTC Complex has been modified as part of this initiative. Unlike restricted areas, which are designated under Title 14 Code of Federal Regulations (14 CFR) part 73, MOAs are not rulemaking airspace actions. However, since the R-2502A will infringe on the Silver MOA, the FAA is including a description of the Silver MOA change in this rule. The MOA change described here was published in the National Flight Data Digest (NFDD). The Army requested these airspace changes to provide the additional special use airspace (SUA) above the expanded ground maneuver area to facilitate realistic combat training at the NTC.

**DATES:** *Effective Date:* 0901 UTC, December 17, 2009.

**FOR FURTHER INFORMATION CONTACT:** Ken McElroy, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

#### **SUPPLEMENTARY INFORMATION:**

##### **History**

On July 13, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish

Restricted Area R-2502A, Fort Irwin, CA (74 FR 33382). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received during the comment period.

Section 73.25 of 14 CFR Part 73 was republished in FAA Order 7400.8R, dated February 5, 2009.

### Military Operation Area (MOA)

Restricted areas are regulatory airspace designations, under Title 14 Code of Federal Regulations (CFR) part 73, which are established to confine or segregate activities considered hazardous to non-participating aircraft. A MOA is a non-rulemaking type of SUA established to separate or segregate certain non-hazardous military flight activities from aircraft operating in accordance with instrument flight rules (IFR), and to identify for visual flight rules (VFR) pilots where those activities are conducted. IFR aircraft may be routed through an active MOA only when air traffic control can provide approved separation from the MOA activity. VFR pilots are not restricted from flying in an active MOA, but are advised to exercise caution while doing so.

Unlike restricted areas, which are designated through rulemaking procedures, MOAs are non-rulemaking airspace areas that are established administratively and published in the National Flight Data Digest. Normally MOA actions are not published in a NPRM, but instead, are advertised for public comment through a non-rule circular that is distributed by an FAA Service Center office to aviation interests in the affected area. However, when a non-rulemaking action is connected to a rulemaking action, FAA procedures allow for the non-rulemaking action to be included in the Rule. In such cases, the NPRM replaces the non-rule circularization requirement. Because the change to the Silver MOA North was necessary, due to the establishment of the restricted area, the MOA was modified to exclude the airspace contained in R-2502A.

### MOA Change

#### Silver MOA North, CA

Boundaries. Beginning at lat. 35°39'00" N., long. 115°53'03" W.; to lat. 35°24'30" N., long. 115°53'03" W.; to lat. 35°06'50" N., long. 116°20'00" W.; to lat. 35°04'30" N., long. 116°29'00" W.; to lat. 35°07'00" N., long. 116°34'03" W.; to point of beginning. Excluding the airspace below 3,000 feet AGL within a 3NM radius of the town of Baker, CA (lat. 35°16'00" N. long. 116°04'33" W.) and R2502A.

### The Rule

The FAA is amending Title 14 CFR part 73 to establish Restricted Area R-2502A at Fort Irwin, CA. The U.S. Army has requested this restricted area because the existing special use airspace does not include the airspace above the expanded land maneuver area created to support the NTC. This action will ensure a safe training environment, isolated from the public, for military air and ground maneuvers from the surface to the upper limits of restricted airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes restricted area airspace at Fort Irwin, CA.

### Environmental Review

The FAA has determined that the Environmental Assessment (EA) prepared by the Department of Army associated with the proposed project, is adequate for adoption in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," Paragraph 404d. The FAA has independently evaluated the information contained in the EA and takes full responsibility for the scope and content that addresses FAA actions.

Further, the FAA has issued its own Finding of No Significant Impact (FONSI). The FAA's Adoption of Environmental Assessment and FONSI are combined into a single document dated August 1, 2008. A copy of the Adoption of Environmental Assessment and FONSI document has been inserted into the official docket for this rulemaking.

### List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

### The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

### PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 73.25 [Amended]

■ 2. § 73.25 is amended as follows:

\* \* \* \* \*

### R-2502A Fort Irwin, CA [New]

Boundaries. Beginning at lat. 35°25'48" N., long. 116°18'48" W.; to lat. 35°25'30" N., long. 116°09'46" W.; to lat. 35°23'15" N., long. 116°09'47" W.; to lat. 35°06'54" N., long. 116°30'17" W.; to lat. 35°07'00" N., long. 116°34'03" W.; to lat. 35°18'45" N., long. 116°18'48" W. to point of beginning.

Designated altitudes. Surface to 16,000 feet MSL.

Time of designation. Continuous.

Controlling agency. FAA, Hi-Desert TRACON, Edwards, CA.

Using agency. Commander, Fort Irwin, CA.

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Issued in Washington, DC, on September 28, 2009.

**Edith V. Parish,**

*Manager, Airspace and Rules Group.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

[Docket Number USCG–2009–0857]

**Drawbridge Operating Regulations; Victoria Barge Canal, Bloomington, TX**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.