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AIRCRAFT OWNERS AND PILOTS ASSOCIATION

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Mr. Anthony F. Fazio, ARM-1
Director, Office of Rulemaking
Federal Aviation Administration
800 Independence Ave., S.W.
Washington, DC 20591-0001

RE: Petition for Rulemaking, Change to SFAR 94; Washington DC Metropolitan Area
Special Flight Rules Area

Petition for Rulemaking

The Aircraft Owners and Pilots Association (AOPA) hereby submits this petition for rulemaking to revise Special Federal Aviation Rule (SFAR) 94. AOPA seeks changes to allow the following operations to be conducted within the airspace designated as the Washington, DC Metropolitan Area Special Flight Rules Area:

- Pilots vetted at College Park Airport (CGS), Potomac Airpark (VKX), and Hyde Field (W32) may conduct flights to any of three SFAR 94-impacted airports, subject to the other provisions of this rule.
- Pilots vetted at College Park Airport (CGS), Potomac Airpark (VKX), and Hyde Field (W32) may conduct air traffic pattern work, subject to the other provisions of this rule.
- Transient operations shall be permitted into these three airports, subject to the security provisions of this amended rule.

These rule changes will help to reestablish the economic viability of these airports, and restore general aviation access to the national airspace system. It should be noted that in spite of the fact that general aviation has never been used in the conduct of terrorist activities, it is the only segment of the aviation community restricted by SFAR 94. President Bush has made it clear in his numerous speeches and correspondence to the American people that economic security is a top priority of his Administration. It is therefore desirable to revise the current SFAR 94 to strike an appropriate balance with the interests of homeland security and ensure that fundamental freedom of transit is restored and upheld.

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Interest of the Petitioner

AOPA represents the interests of over 385,000 general aviation pilots nationwide. It is a not-for-profit association whose members comprise nearly two-thirds of the active civil pilots in the United States. AOPA's mission is to promote general aviation by ensuring the economic viability, access, and safety enjoyed by private citizens through flight.

AOPA's members have been particularly and substantially affected by many of the security procedures adopted by the Administrator as a result of the terrorist attacks of September 11, 2001. This includes special air traffic rules, temporary flight restrictions and ground security requirements. AOPA has over 31,300 members in the greater DC metropolitan area, all of who have faced airspace restrictions resulting from the provisions of SFAR 94.

Background

Following the terrorist attacks of September 11, 2001, the Federal Aviation Administration (FAA) immediately prohibited all aircraft operations within the temtonal airspace of the United States, with the exception of certain military, law enforcement, and emergency-related aircraft operations. This general prohibition was lifted, in part, on September 13, 2001. In the Washington, DC Metropolitan area, however, aircraft operations remained prohibited at all civil airports within a 25-nautical mile radius of the Washington (DCA) VOR/DME. This action was accomplished through emergency air traffic rules issued pursuant to title 14, Code of Federal Regulations (14 CFR) 91.139 and the implementation of temporary flight restrictions (TFRs) issued pursuant to 14 CFR 91.137.

On October 4, 2001, limited air carrier operations were permitted to resume at Ronald Reagan Washington National Airport (DCA). On October 5, 2001, the FAA issued NOTAM 1/0989, which authorized instrument flight rules (IFR) operations and limited visual flight rules (VFR) operations within an 18 to 25 nautical mile radius from the DCA VOR/DME in accordance with emergency air traffic rules issued under 14 CFR 91.139. Exceptions to the restrictions affecting part 91 operations in the Washington, DC area issued since September 11th were made to permit the repositioning of aircraft from airports within the area of the TFR and to permit certain operations conducted under waivers issued by the FAA.

On December 19, 2001, the FAA canceled NOTAM 1/0989 and issued NOTAM 1/3354 that set forth special security instructions under 14 CFR 99.7 and created a new TER under 14 CFR 91.137. That action decreased the size of the area subject to the earlier prohibitions on part 91 operations in the Washington, DC area and permitted operations

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at Freeway (**WOO**), Maryland (2W5), and Suburban (W18) airports. This left three airports closed to flight operations, College Park Airport (CGS), Potomac Airpark (**VKS**), and Hyde Field (W32).

To reopen these three facilities, AOPA worked closely with key federal agencies to restore operations. **On** February 12, 2002, President Bush approved the **FAA's** proposal to open the three Washington, DC area airports to based aircraft only. The following day SFAR **94** became effective, appearing in the Federal Register **as** a final rule. AOPA **was** pleased with the reopening, but remains concerned over the future of the "DC3" airports **as** they have now become **known**, because of the continuing prohibition on transient operations. While SFAR **94** provided some manner of relief, these airports, like any others throughout the United States, depend heavily on transient operations for their economic survival. SFAR **94** left the door open for future action through the inclusion of the following language:

"After a procedural validation period, the FAA may authorize operations to or from an affected airport by persons operating aircraft not based at the airport,"

Despite this encouraging language, AOPA **has** seen no action to date accommodating the return of transient operations in the Washington, DC special flight rules area.

Discussion

Through this petition, AOPA proposes that the pilots currently vetted at any of the "DC3" airports be permitted to conduct operations into all three facilities with no additional encumbrances. The current security measures ensure that each based pilot poses no threat to national security.

In addition, pilots not currently vetted or based at the any of the "DC3" airports should be permitted to conduct operations to and from each of these facilities. To ensure national security, pilots who wish to conduct such flights will need to complete an online waiver request, similar to that now in place for the overflight of major sporting events. Also, these flights will be conducted in accordance with all other provisions of SFAR **94**.

In order to affect the changes set forth in this petition, AOPA recommends the following specific changes to **SFAR 94**:

- In the section titled ***Operating Requirements*** (paragraph three), the references to the submission and collection of fingerprints should be eliminated. The requirement imposes an unnecessary burden to based operators, and would be difficult to manage

for transient operators, effectively preventing them from accessing the "DC" airports. The background check, to include a criminal history records check accomplished via an online waiver request, coupled with information such as aircraft type, and registration, ensures the requisite levels of security are maintained.

- Paragraph four of this section should be eliminated. However, the requirements outlined in the first sentence of this paragraph should be retained and added to paragraph three.
- Paragraph five of this section should be modified to add procedures for accommodating pilots who are not proximate to the Washington DC area.
- The requirement to attend the briefing, outlined in paragraph six of this section, should be modified to include an alternate method of compliance should a pilot from outside of the Washington, DC area wish to operate within the special flight rules area.
- Paragraph 13 of this section prohibits ATC from issuing clearances that permit closed traffic operations within the traffic patterns at these airports. This precludes the use of these airports for flight instruction. If a pilot has undergone all of the appropriate security measures and complies with ATC instructions and the provisions of this SFAR, AOPA can see no reason not to allow closed pattern operations at these three facilities.
- The section titled *Airport Security Requirements*, paragraph six should be eliminated, as it discusses the FAA limiting authorized arrivals and departures to based aircraft only.
- AOPA recommends that the procedures discussed in paragraph eight of this section, along with any other applicable procedures, be made available to the aviation community.

Through compliance with the revised provisions of SFAR 94, to include a new online waiver process, and established ATC procedures, general aviation pilots would once again have access to three important airport airports, while ensuring the necessary level of national security.

Justification

It is clear that if the aforementioned changes to SFAR 94 are adopted, the three impacts will not survive. The restrictions currently preclude flight instruction,

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fuel sales, aerial tours and charters, or any other business endeavor that would provide economic justification for investment or **growth**. In the year 2000, the "DC3" airports collectively supported over 110,000 operations, illustrating their importance for access to the Washington, DC area. Moreover, prior to the terrorist attacks of September 11, 2001, these airports combined were home to nearly 400 based aircraft. Our best estimates now place that number at less than 150. With a reduction in flight operations that is equally dramatic, it is not an exaggeration to say that the "DC3" are in imminent peril unless action is taken.

In closing, AOPA wishes to stress that the mere possibility of a terrorist attack does not constitute a viable threat, and in the absence of such a threat, the current restriction, imposed upon the "DC3" airports is unjustified. The size of aircraft capable of operating at any of these three airports precludes their use as effective weapons of mass destruction. As stewards of the national air transportation system, it is incumbent upon the Department of Transportation to do everything possible to restore operations at the "DC3" airports. By adopting this petition, the government will be taking an important step toward providing much needed economic and operational relief to the pilot-citizen of this nation.

Respectfully submitted,

Aircraft Owners and Pilots Association

By



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