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Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8783.

Background

On March 26, 2001, the FAA published a final rule in the **Federal Register** establishing prohibited airspace (P-49) over the private residence of the President in Crawford, Texas (66 FR 16391). [The FAA subsequently modified P-49 by relocating the center of the prohibited area approximately one-half mile east, southeast (68 FR 7917; February 19, 2003).] This airspace designation is necessary to enhance security in the immediate vicinity of the presidential residence and assist the SSPPD in accomplishing its mission of providing security for the President of the United States. While that rule prohibits unauthorized aircraft from flying within the designated airspace, it does not address certain flight safety and national security issues concerning the transport of the President.

The USMC and the SSPPD provide transportation for the President and presidential personnel. The USMC and SSPPD devise various operational plans to accommodate the unique circumstances involved in transporting the President. The special operating procedures used by the USMC and the SSPPD include the concurrent operation of multiple aircraft, a variety of non-standard flight techniques for security purposes, and other special security provisions to ensure the secure transport of the President and his party during various weather and threat conditions. Flexibility in choosing altitude and direction of flight is essential for optimal use of these special procedures by the USMC and SSPPD, especially in the event of an unanticipated threat to the security of the President.

The Rule

The President's private residence in Crawford, Texas, has several landing areas for presidential aircraft. Each landing area must be accessible by flying several different approaches, depending upon the weather, threat conditions, the aircraft being used, and departure location. Also, the special

operating procedures used by the USMC and the SSPPD, including the use of multiple aircraft, non-standard flight techniques and other special security provisions, require the airspace surrounding the landing areas to be clear of obstructions that could affect these operating procedures and the safety of the President. Obstructions above 50 feet above ground level (AGL) in certain locations within the designated area could inhibit the flexibility of these special operating procedures and could compromise the safe transportation and the security of the President, particularly in emergency situations.

In order to provide for the safe operations of the presidential helicopters and to accommodate the inherent national security interests involved in transporting the President, the FAA is requiring that any person constructing or altering any object that would exceed 50 feet AGL within a three nautical mile (NM) radius of the President's private residence must file notice with the FAA. This geographic area covers the same surface area that is designated as P-49. The FAA will consider objects that exceed 50 feet AGL within the designated area as obstructions to air navigation. Objects that exceed the above standard could become obstacles for the USMC and the SSPPD during certain operations and result in the inability to follow specified operating procedures and hinder the safety of the entire operations. It is critical for the USMC and SSPPD to have maximum flexibility in devising procedures that uniquely accommodate safely transporting the President. Limiting the construction of new obstructions or alteration of existing structures within the P-49 area will allow optimum operating procedures that are necessary to the safety of the entire operation.

Due to the unique operating requirements of the USMC and the SSPPD previously discussed, the aircraft conducting these operations must have the ability to take off, land or perform various flight maneuvers in virtually every direction of the landing areas within the designated area. Consequently, it is critical that this area is clear of objects that may adversely affect the operations. Therefore, any new construction or alteration of an object that exceeds the obstruction standard within the designate area is presumed a hazard to air navigation and to compromise the safety of the operations conducted herein.

Certain new construction or alteration to existing structures that would exceed 50 feet AGL may be compatible with the

safe and secure transport of the President. The proponent of the construction/alteration must submit detailed information regarding the proposed construction/alteration. Only where the FAA, in consultation with the USMC and the SSPPD, determines that it would not adversely affect safety and not result in a hazard to air navigation, would the FAA issue a Determination of No Hazard. Because the decision of the Administrator may be based upon classified or otherwise sensitive information regarding the security of the President, the Administrator need not provide or disclose the basis for such determination.

New construction or alterations to existing structures above 50 feet AGL, outside of the P-49 area, may still pose a danger to the safe transportation and protection of the President. Nothing in this rule, however, precludes the FAA or another federal agency from determining that a new construction or alteration to an existing object outside the designated area is a danger to the safe transportation and protection of the President. Such objects outside the designated area, however, will be addressed by other legal authorities.

Prior Construction and Alterations

The provisions of this rule do not apply to any construction or alteration that occurred before the effective date of this rule.

Duration of the Rule

This rule shall be in effect only for the duration of President George W. Bush's term of office. The FAA recognizes that all Presidents' private residences raise safety and national security concerns regarding the safe ingress and egress of the President and his party. However, the protections necessary to ensure the safe ingress and egress may vary substantially depending upon the nature and location of each President's residence. Therefore, the FAA anticipates that similar rules, tailored to the security concerns of the Presidential residence, may be needed at other locations to protect the transportation of future Presidents.

Justification for Immediate Adoption

We find that the important national security interests of protecting the President and his party during flight operations renders notice and public procedure under 5 U.S.C. 553(b) impracticable and contrary to the public interest. Furthermore, good cause exists under 5 U.S.C. 553(d) to make this rule effective immediately upon publication in the **Federal Register** so as to prevent the commencement of any construction