

Before the
Federal Aviation Administration

Safe, Efficient Use and Preservation of
the Navigable Airspace

) Docket No. FAA-2006-25002
) Notice No. 06-06

**SUPPLEMENTAL COMMENTS OF THE
FIXED WIRELESS COMMUNICATIONS COALITION**

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The Fixed Wireless Communications Coalition (FWCC) hereby submits this Supplement to its original Comments filed September 11, 2006, in connection with the Notice of Proposed Rulemaking in the above-captioned proceeding.¹

The FWCC's original comments focused on the FAA's lack of authority to adopt its proposed new regulations on prior notice of spectrum use, as well as on the severe negative impact those rules would have on FWCC members and their operations. The instant supplement highlights another adverse impact of the proposed rule related to greatly increased numbers of tower notifications.

The NPRM proposes to expand the universe of tower sites subject to prior FAA approval to include private-use airports and heliports that have at least one FAA-approved Instrument Approach Procedure (IAP). The FWCC is concerned that the inclusion of heliports in the protected category will unduly expand the number of required FAA notifications. A large

¹ *Safe, Efficient Use and Preservation of the Navigable Airspace*, Docket No. FAA-200-25002, Notice No. 06-06, 71 Fed. Reg. 34028 (June 13, 2006) (NPRM). The FWCC is a coalition of companies, associations, and individuals interested in the Fixed Service -- *i.e.*, in terrestrial fixed microwave radio communications. Our membership includes manufacturers of microwave equipment, licensees of terrestrial fixed microwave systems and their associations, and communications service providers and their associations. The membership also includes railroads, public utilities, petroleum and pipeline entities, public safety agencies, cable TV providers, backhaul providers, and/or their respective associations, communications carriers, and telecommunications attorneys and engineers. Our members build, install, and use both licensed and unlicensed point-to-point, point-to-multipoint, and other fixed wireless systems, in frequency bands from 900 MHz to 95 GHz. For more information, see www.fwcc.us.

number of the fixed wireless installations constructed and operated by FWCC members are in developed urban areas such as downtown regions in cities. To serve such areas, it is often necessary to construct multiple stations in close proximity to each other in order to address the problems of multi-path, fading, non-line of sight, and other unavoidable features of the urban wireless communications landscape.

While this circumstance presents technical challenges of its own, we have been able to solve those in most locations without having also to consider airport-related regulations. Downtown urban regions are rarely close to landing paths associated with public use airports, so the glide/slope criterion for notification of the FAA has rarely come into play. The new proposal would change that dramatically.

Heliports are often built in urban centers. For example, they are frequently associated with hospitals, which are most often located in areas of high population. Heliports are also found on rooftops of tall buildings in urban areas – again, a feature most likely to appear in a downtown area where landing space is at a premium. The new rule would require FAA notification for structures built within 5,000 feet of such a heliport using a 25 to 1 glide slope. This would capture even relatively short structures (e.g., 25 ft. or two stories tall) within roughly an eighth of mile of the heliport and 50 ft. tall (four story) structures up to a quarter mile away. If a downtown area has three or four IAP heliports, each with a protective 5,000 ft. radius, virtually every fixed wireless structure erected in the downtown area might have to be evaluated for FAA notification and, in many cases, go through the proposed approval process. This could amount to thousands of new notifications per year derived solely from the need to protect heliports.

The NPRM offered considerable analysis of the additional burden imposed by extending protection to IAP-approved private-use airports, based on the current number of such airports, the anticipated increase in numbers, and the time and cost involved in the new notifications. But no comparable information or analysis was offered or developed regarding the additional burden involved in heliport notifications. This omission is striking because private-use airports would tend to be located in relatively remote areas, far from concentrations of communications equipment. By contrast, as we have noted, heliports tend to be found in the densest concentrations of communications facilities where, consequently, the number of affected structures will be far higher. Absent consideration of this key factor, the FAA cannot rationally evaluate the relative benefits vs. burdens potentially caused by the new rules.²

Also conspicuous by its absence from the NPRM is any explanation of why the new rule is needed. There is no indication of any problem associated with communications structures in the flight path of helicopters, so it is unclear whether there is any real problem to be solved. Heliports seem to have been added into the proposed rule, along with private-use airports, without any consideration of why or whether they need to be there.

Finally, we note that the proposed rule does not account at all for the fact that many heliports are situated on top of buildings. The glide/slope criterion specified by the rule seems to

² As the NPRM noted, there is not now any aeronautical publication which lists the sites of IAP-approved heliports, so it is impossible for FWCC to predict in precise detail the adverse effect on its operations to be caused by the new rule. We do observe, however, that the comments of the Helicopter Association International reported over 5600 heliports in the United States, and more than 150 “special procedures” are applicable to heliports. (These are instrument procedures authorized for use only by an individual carrier or other specified air operators.) Since heliports with special procedures are a subset of the larger universe of heliports with IAPs, we may assume that there are considerably more than 150 heliports with IAPs. We may further assume that the heliports with such procedures are likely to be those situated in urban areas having dense communications concentrations – precisely the ones most likely to create a disproportionate filing burden for FWCC. As the absolute number of heliports grows, and as more and more of the existing 5600 heliports apply for instrument approach procedures, the problem posed by the new rule would compound rapidly.

assume a heliport sited on the ground rather than hundreds of feet in the air. A heliport on top of a 30 story building would not be affected by structures on the ground or on much shorter buildings, yet the rule would still require notification to the FAA of such facilities within 5000 ft. of the heliport. This makes no sense.

CONCLUSION

The addition of heliports to the category of aeronautical sites necessitating FAA notification will impose a significant new burden on communications carriers whose facilities are located in urban areas. This burden has neither been recognized nor justified by the FAA. In addition, the glide/slope criteria for heliports fail to take into account the above-ground nature of many heliports, which would result in additional unnecessary notifications. For these reasons and those set forth in the FWCC's original comments, the FAA should not adopt its proposed rules.

Respectfully submitted,

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