Report on
AVIATION SAFETY
An Air Traffic Control Whistleblower’s Account

FAA Expands Washington, DC, Restricted Airspace
Bypassing Rulemaking Process
Summary
On February 26, 2009, the Federal Aviation Administration (FAA) implemented a No-Fly Zone around Washington, DC. The airspace restriction was put in place by the FAA with an order to air traffic controllers at the Potomac Terminal Radar Approach Control (TRACON) to keep U.S. air carriers outside of a 10 nautical mile radius from the Washington, DC, VORTAC\(^1\). This flight restriction is in addition to the already existing airspace restrictions around the Washington, DC, Metropolitan Area put in place after 9/11. [Appendix 1.]

The FAA has not issued a Notice To Airmen (NOTAM) nor has an official directive establishing the No-Fly Zone, or any associated procedures, been given to TRACON air traffic controllers.

The purpose of this report is to bring attention to the FAA and its creation of the No-Fly Zone which has created an adverse affect on aviation safety in the skies over Washington, DC, without increasing or enhancing the level of security already accomplished with pre-existing restrictions.

The FAA refuses to state publicly or privately the reasons for instituting the No-Fly Zone.

Use of Term, Source of Information
The use of the term ‘No-Fly Zone’, used most recently to describe restricted airspace over Iraq after the Gulf War of 1991, is not meant to foster a sense of fear or alarm with the reader. Rather, it is used by the author to concisely convey to the reader what the FAA has done with the airspace over Washington, DC. There is no indication to the author that military activity is occurring within the restricted airspace that is the subject of this report.

All of the information utilized in creating this report is available through normal access channels. None of it is ‘classified’ or ‘sensitive’ in nature, and, in fact, much of the information can be found on the Internet through simple search engines.

About The Author
Employed by the FAA for 18 years, the author is an aviation professional that deals with air traffic control operations on a daily basis in the Washington, DC, area.

The author is cognizant of the sensitivity that issues involving national security, or even the mere mention of the phrase, has within the aviation and defense communities. At risk of disciplinary action at the hands of his employer, the author believes that the alternative is far worse that sitting idle while the FAA, without justification or legal authority, closes off a major portion of airspace around the nation’s capital.

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\(^1\) Washington, DC, (DCA) VORTAC is a navigational transmitter located at the Washington-National Airport.
Use Of This Report
The public has a right to know why the airspace over Washington, DC, has been restricted. It is the author’s desire for this report to be used by any government oversight authority or organization that has an obligation or interest to examine the issues and concerns raised within. It is not intended for distribution to parties that will only publicize or ridicule the FAA over its actions described in this report.

Background
Soon after the attacks of September 11, 2001, the FAA implemented temporary flight restrictions around Washington, DC, in the interest of national security. The temporary restrictions were published as a Notice to Airmen (NOTAM) in 2003 establishing the Washington, DC, Air Defense Identification Zone (ADIZ) and Flight Restricted Zone (FRZ.). The NOTAM prescribed radio communication, transponder, and flight plan requirements for pilots to follow while operating under visual flight rules (VFR) within the ADIZ and FRZ.

In 2005 the FAA published a Notice of Proposed Rulemaking (NPRM) in the Federal Register proposing to make the flight restrictions around Washington, DC, permanent.

On August 30, 2007, the FAA issued a new NOTAM, canceling that from 2003, announcing that the size and shape of DC ADIZ/FRZ was modified along with its associated procedures. This NOTAM was issued after the NPRM public comment period closed (February 6, 2006) and before the Final Rule became effective.

On February 17, 2009, the Final Rule [Appendix 2] establishing the DC Special Flight Rules Area (SFRA) became effective. Codified in 14 CFR Part 93, Subpart V, the Final Rule canceled all previous NOTAMs pertaining to the ADIZ and FRZ.

Since the Final Rule became effective, the FAA has superseded or, rather, ignored its own internal rules and procedures, along with misusing its authority found in federal regulations, to administer the nation’s airspace. The example of this is the creation of the No-Fly Zone around Washington, DC.

Authority to Establish Classes and Use of Airspace
The FAA Administrator is granted broad authority to regulate the nation’s airspace to ensure its safe and efficient use. Under 49 USC 40103 (b) (1) the FAA shall develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace.

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2 The Washington, DC, Air Defense Identification Zone is airspace within 30 miles of the DCA VORTAC where flight is authorized but with specific requirements.
3 FRZ is airspace within 15 miles of the DCA VORTAC where flight is restricted to most aircraft.
4 SFRA is synonymous with ADIZ and includes the FRZ.
In addition, 49 USC 40103 (b) (3) authorizes the FAA Administrator to establish security provisions that, while encouraging and allowing the maximum use of the airspace, restrict or prohibit flight. The DC SFRA is a product of the authority granted by (b) (3).

Instead of conforming to the authority spelled out in 49 USC 40103 the FAA set it aside. The FAA decision makers placed expediency over ensuring safety, efficiency, or the letter of the law in placing a No-Fly Zone around Washington, DC.

Airspace Over Washington, DC, Closed
At 2:15pm on Wednesday, February 25, 2009, an e-mail was sent by FAA Manager of Tactical Operations Security Douglas Gould to TRACON Air Traffic Manager Roderick Harrison. The message directed him to implement an immediate flight restriction so that no air carriers, except those to and from Washington-National Airport, would fly through the DC FRZ. Minutes later the order was given to TRACON air traffic controllers.

There was no prior notice to this request, no explanation why, and no guidance on how to re-route the numerous airplanes affected. I was told by a FAA official at the TRACON that when queried, Mr. Gould stated “I’ll be damned if any airplane is going to fly through there.”

Up until this point, except for the airspace closures following the attacks of September 11, 2001, U.S. air carriers were permitted to fly through the DC FRZ.

Air traffic controllers and supervisors at the TRACON scrambled to figure out how to comply with the directive. They didn’t know if there was an urgent airborne threat to national security or what, if anything was going on.

Concentrating on the task placed before them, they quickly determined ways to reroute the airplanes departing from Dulles and Baltimore airports around the DC FRZ. New routes were utilized that took airplanes from 10 to 40 miles out of their way. [Appendix 3.] Airplanes that were spaced 5 miles apart were increased to between 15 and 30 miles to ensure that air traffic controllers could safely handle the increased workload. [Appendix 4.] The resulting delays reached 30 minutes for every airplane awaiting take-off from Dulles (IAD) and Baltimore (BWI) airports. [Appendix 5.]

What used to be an efficient and orderly, albeit congested, piece of airspace filled with airplanes over Washington, DC, was instantly turned into a complete mess.

Pressure From Airline Companies Force Changes
Not until 6:50pm on February 26, 2009, were the restrictions around Washington, DC, lifted—partially. While this was a great relief to air traffic controllers it was not the end of the story.

The cost to airline companies due to the delays, increased flight miles and increased fuel costs could not continue. Something had to give. The airspace restrictions affected every overseas
flight from Dulles and every flight from Dulles to New York, Boston, Miami, and every other
airport on the east coast. Finally the FAA relented. The FAA canceled the DC FRZ flight
restrictions that were implemented 28 hours earlier.

While the lifting of the FRZ flight restrictions saved money for the airline companies it was
only the beginning of the next phase for air traffic controllers at the TRACON. As one
restriction was cancelled another was put in its place by the FAA. Like the earlier
restrictions, the FAA has not provided a reason—not publicly or even privately—to air traffic
controllers tasked with keeping airplanes out of the newly restricted airspace.

No-Fly Zone Placed Around Washington, DC
The only document that describes the FAA’s No-Fly Zone is a memorandum, dated February
26, 2009, from TRACON manager Harrison to air traffic controllers. [Appendix 6.] In it he
wrote:

“All regularly scheduled U.S. Air Carriers, operating under a TSA Security Program,
which originate outside of the FRZ and transition the FRZ, are authorized; as long as
these aircraft remain outside of 10 nautical miles from the DCA VORTAC.”

THE FAA HAS IMPLEMENTED A NO-FLY ZONE AROUND WASHINGTON, DC, AND
HAS NOT TOLD ANYONE WHY.

Air traffic controllers—and the public—are still in the dark about what the FAA is doing with
the airspace over the nation’s capital. All that air traffic controllers know is that how they’ve
been working airplanes up until now has been turned upside down. No one will tell air traffic
controllers why a large piece of the airspace over Washington, DC, is now off-limits. I doubt
that the FAA management at the TRACON even knows why. Shouldn’t they at least be
informed? And doesn’t the public have a need to know why their government has placed a
new airspace restriction over their heads? Surely, someone has the answers.

According to TRACON manager Harrison there was a decision by representatives of the
government agencies tasked with ensuring the integrity of our nation’s aviation security
system that it was necessary to keep some U.S. air carriers more than 10 miles away from
Washington, DC.

It should be noted that the Homeland Security Advisory System threat level has not changed
immediately before, during, or after the FAA closed off the airspace above Washington, DC.
This important fact lends credence to the belief that securing the airspace in the name of
national security has nothing to do with the FAA’s creation of the No-Fly Zone.

If the intention of the FAA is to make the airspace around Washington, DC, even more secure
than it already is then they haven’t a clue to what they are doing. Air traffic controllers
already keep aircraft clear of the Prohibited Area (P56A and P56B) airspace that surrounds
The White House, the U.S. Capitol, and the Naval Observatory up to 18,000 feet. No air
traffic controller and no circle in the sky 10 miles around Washington, DC, will keep a fast
moving jet from descending into the ground.
But if the goal of the FAA was to adversely affect the safe and expeditious movement of air carriers in the Washington, DC, area then it’s **Mission Accomplished**.

Citing recently enacted Federal Air Regulation (FAR) 93.341, TRACON manager Harrison, in his memorandum, implies that the decision to place a No-Fly Zone around Washington, DC, instantly amends the regulation. It does not. It took seven years of temporary flight restrictions, NOTAMs, a NPRM, public comments and review, public meetings, and ultimately, the Final Rule that created FAR 93.341. It is foolish to believe that a federal regulation is changed just because someone, or some group, says it is.

The Effect of the No-Fly Zone Around Washington, DC

The No-Fly Zone around Washington, DC, has reduced a 15-mile wide corridor north of DCA to 7 miles. [Appendix 7.] Air traffic controllers use this corridor to turn, separate, and sequence air carrier departures from Dulles and Washington-National to points north, south, and east. Slicing an already congested piece of airspace in half is not safe nor is it an efficient use of airspace. Making it even more troublesome for air traffic controllers is the FAA’s refusal to say why this is being done.

Clearly, the decision makers did not consider the adverse effect on aviation safety that closing off large portions of the airspace above Washington, DC, would have.

It is only a matter of time before the No-Fly Zone will be attributed as the cause for an air traffic controller to lose separation between two air carriers.

On February 27, 2009, TRACON manager Harrison delivered a second memorandum to air traffic controllers that described yet another requirement that, again, only affects U.S. air carriers. [Appendix 8.] The direction to air traffic controllers is fairly straightforward but Harrison didn’t realize that the second memorandum conflicts with the first one.

This memo states that aircraft landing at BWI may enter the FRZ if the aircraft remain on or south of their published route between the Casanova (CSN) VOR and the Nottingham (OTT) VOR. [Appendix 9 and 10.] One little problem: the route is within the just-created No-Fly Zone. [Appendix 11.] To date, TRACON manager Harrison has not resolved the conflicting directives. It’s no wonder air traffic controllers are confused by all of this.

Obviously, it is hard to find a rational explanation for why the FAA has created the No-Fly Zone. But there is more. These scenarios, below, are now repeated a few hundred times every day by airlines flying in the airspace around Washington, DC:

<table>
<thead>
<tr>
<th>Southwest Airlines Boeing 737 from Dallas to Baltimore</th>
<th>CAN GO THROUGH the No-Fly Zone.</th>
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</thead>
<tbody>
<tr>
<td>Southwest Airlines Boeing 737 from Baltimore to Dallas</td>
<td>CANNOT GO THROUGH the No-Fly Zone.</td>
</tr>
<tr>
<td>American Airlines MD80 from Washington-National to Miami</td>
<td>CAN GO THROUGH the No-Fly Zone.</td>
</tr>
<tr>
<td>American Airlines MD80 from Washington-Dulles to Miami</td>
<td>CANNOT GO THROUGH the No-Fly Zone.</td>
</tr>
</tbody>
</table>
This is an absurd way to run the nation’s air traffic control system and even more absurd to think that the decisions made to close off airspace around Washington, DC, is doing anything to ensure the safety of aircraft, the efficient use of airspace, or is in the interest of national defense.

And consider the cost to U.S. air carriers to navigate around the No-Fly Zone adding at least 10 extra flying miles to every U.S. air carrier flying from Dulles to points southeast. For 10 extra miles that’s an extra cost of $279.36 for every American Airlines MD80; $234.30 for every United Airlines Boeing 737; $339.57 for every Delta Airlines MD80; and $153.12 for every Air Shuttle Regional Jet. This is a big price to pay by the U.S. airline industry for no apparent reason.5

Safety Compromised

Over the past month TRACON air traffic controllers have been forced to make real-time decisions on whether to turn an airplane away from the No-Fly Zone or toward hazardous weather.

- March 1, 2009: A commuter aircraft at 18,000 feet above the No-Fly Zone encounters turbulence and requests air traffic control to descend in the hope of finding smoother air. The request is put on hold while the controller asks his supervisor if it’s okay to enter the No-Fly Zone. In turn the supervisor telephone the NCRCC to get approval. Two minutes later the request is approved and the controller issues a descent clearance.

- March 29, 2009: A line of thunderstorms moves through the Washington, DC, area. Numerous air carrier pilots are requesting air traffic control to turn away from the thunderstorm cells. Faced with the decision of turning into the No-Fly Zone or toward a thunderstorm air traffic controllers turn these aircraft toward the thunderstorms.

If air traffic controllers and pilots knew why a 10-mile circle around Washington, DC, was more important to avoid than a thunderstorm cell then the decisions would be easier to accept. As it stands today, aviation safety is overruled by an imaginary circle in the sky.

The FAA Used An Extralegal Process To Create The No-Fly Zone

The Federal Aviation Regulation codifying the DC SFRA and its associated procedures became effective on February 17, 2009. Nine days later the FAA decided to ignore its own regulation that took seven years to achieve.

For no good reason the FAA and the decision makers that created the No-Fly Zone decided to side-step federal regulations. Obviously, it was thought by the FAA that creation of the No-Fly Zone was necessary. Why else would they have done it? But even though expediency

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was put ahead of safety the FAA could—and still can—utilize a process contained in existing regulations to properly establish their No-Fly Zone. It’s called a Notice to Airmen.

NOTAMs are issued by the FAA all over the country many times every day. A NOTAM was the method used by the FAA to keep the DC ADIZ and FRZ in place until it was finally made a permanent rule. The thing about a NOTAM is that the FAA has to state a reason why it is being published. Maybe that is why the FAA decided to skirt the process for legally creating the No-Fly Zone.

Let’s take a look at how it should have been done. That is, if you’re not trying to hide anything or keep something from becoming public knowledge.

Referring again to 49 USC 40103 (b) (1): The Administrator of the Federal Aviation Administration shall develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. The Administrator may modify or revoke an assignment when required in the public interest. The FAA has the authority to develop plans and policy for the use of the navigable airspace.

The FAA implemented the No-Fly Zone around Washington, DC, starting with an e-mail to the TRACON air traffic manager. He, in turn, posted a memorandum directing air traffic controllers to keep aircraft outside of the No-Fly Zone.

Assign by regulation or order is the requirement in 49 USC 40103 (b) (1). An e-mail message is not a plan or policy and a memorandum is not an assignment of a regulation or an order.

The FAA also didn’t comply with the ensure the safety of aircraft and the efficient use of airspace part of the regulation either. The No-Fly Zone around Washington, DC, has reduced a 15-mile wide corridor north of DCA to 7 miles. There shouldn’t be any argument that taking the number of airplanes that go through a 15-mile wide corridor and squeezing them into a 7-mile wide corridor is not safe or efficient.

THE FAA IS WITHHOLDING INFORMATION FROM THE PUBLIC BY NOT ISSUING A NOTAM AND STATING WHY THEY HAVE IMPLEMENTED A NO-FLY ZONE OVER WASHINGTON, DC.

The FAA Ignored Its Own Order To Create The No-Fly Zone
FAA Order 1320.1E, FAA Directives Management, is the means for issuing policy and procedures within the FAA. Had the creators of the No-Fly Zone wanted to do things “by the book” this would have been the book to use to write a directive to air traffic controllers explaining the No-Fly Zone.

6 http://www.faa.gov/documentLibrary/media/Order/ND/1320.1E.pdf
According to the Order, directives are the primary means with the FAA to issue, establish, and describe agency policies, responsibilities, methods, and procedures. There are two types of directives:

- **Orders** are permanent directives and stay in effect until canceled.
- **Notices** are temporary directives and expire one year from their effective date or have a cancellation date before one year.

The Order also includes a process to quickly establish and create procedures for, as an example, the No-Fly Zone. By using the ‘Fast Track’ process [Appendix 12], FAA management could have created the No-Fly Zone in a coherent way that wouldn’t have left TRACON air traffic controllers wondering why a 10-mile circle was cut out from some of the busiest airspace in the country.

The deadline for Fast Track directives may be set to 14 business days or for exigent safety, security, and continuity of operations issues a shorter deadline. Most certainly the creation of the No-Fly Zone would be listed under a heading of safety or security thus allowing for a quick turnaround of a directive. But that wasn’t good enough for the creators of the No-Fly Zone who instead bypassed the Fast Track process and the oversight of upper management oversight that goes along with it.

**The New Regulations Are Too Clearly Written**

Before the final rule making the DC SFRA permanent became effective on February 17, 2009, there was always some question on whether air carriers were permitted in the DC FRZ. The ambiguity in the 2003 and 2007 NOTAMs was fixed with the new language in FAR 93.341.

At the crux of this issue is FAR 93.341 (a). It states which flight operations are NOT permitted in the DC FRZ. In order to determine which flight operations ARE permitted then a canon of statutory interpretation is applied in order to understand the meaning and proper use of the words in the regulation. Known by its Latin name, Expressio unius est exclusio alterius which means ‘The express mention of one thing excludes all others.’

FAR 93.341 (a) Except as provided in paragraph (b) of this section, no pilot may conduct any flight operation under part 91, 101, 103, 105, 125, 133, 135, or 137 of this chapter in the DC FRZ, unless the specific flight is operating under an FAA/TSA authorization. [See Appendix 13 for definition of FAR ‘part’ numbers.]

Applying the canon, the unambiguous interpretation of the rule is that part 121 (domestic air carrier) and part 129 (foreign air carrier) flight operations within the DC FRZ are permitted. The current application of FAR 93.341 (a), banning from the DC FRZ in either whole (e.g. foreign air carriers) or in part (e.g. domestic air carriers subject to the No-Fly Zone), is incorrect.

As it stands today, all foreign air carriers are prohibited in the DC FRZ. This determination made several months ago by the FAA and generally affecting foreign air carriers departing
Washington-Dulles Airport was implemented much in the same was as today’s No-Fly Zone—arbitrary and capricious.

The creation of the No-Fly Zone around Washington, DC, is an end-run by the security entities at the FAA that seemingly didn’t get their way with the DC SFRA Final Rule. They didn’t want to take the time and forethought to explain the reasons for the need to ban U.S. air carriers from the DC FRZ. And they apparently didn’t want to figure out how to minimize the disruption to air traffic control operations around Washington, DC, instead leaving it to air traffic controllers to figure out.

DC FRZ Operations Explained, What’s In and What’s Out
If domestic air carriers to or from IAD and BWI are excluded from sections of the DC FRZ (i.e. the No-Fly Zone) then what part of the Federal Air Regulations allow for domestic air carrier operations at DCA?

The answer is in FAR 93.341, Aircraft operation in the DC FRZ. The following is the breakdown of each paragraph of FAR 93.341 and its meaning.

(a) Except as provided in paragraph (b) of this section, no pilot may conduct any flight operation under part 91, 101, 103, 105, 125, 133, 135, or 137 of this chapter in the DC FRZ, unless the specific flight is operating under an FAA/TSA authorization.

As written in the above section, all part 121 and 129 flight operations in the DC FRZ, including those to and from DCA, are permitted.

(b) Department of Defense (DOD) operations, law enforcement operations, and lifeguard or air ambulance operations under an FAA/TSA airspace authorization are excepted from the prohibition in paragraph (a) of this section if the pilot is in contact with Air Traffic Control and operates the aircraft transponder on an Air Traffic Control-assigned beacon code. Does not pertain to air carrier operations.

(c) The following aircraft operations are permitted in the DC FRZ:

These keys words (italicized below) must be interpreted as follows in order to apply or comply with the requirements of the regulation.

- **Flight operation(s)** refer to a type of operations. Such as Part 103- Ultralight vehicles or Part 121- Domestic air carriers.

- **Aircraft operations** refer to a specific aircraft or individual flight operation. Such as air ambulance helicopter MedStar2 (see #2 below) or a Saudi Arabian Airlines flight with King Fahd Bin Abdul Aziz aboard landing at ADW (see #3 below)

(1) Aircraft operations under the DCA Access Standard Security Program (DASSP) (49 CFR part 1562) with a Transportation Security Administration (TSA) flight authorization. TSA program permitting general aviation aircraft into or out of DCA. Does not pertain to air carrier operations.
(2) Law enforcement and other U.S. Federal aircraft operations with prior FAA approval. **Does not pertain to air carrier operations.**

(3) Foreign-operated military and state aircraft operations with a State Department-authorized diplomatic clearance, with State Department notification to the FAA and TSA. **Does not pertain to air carrier operations.**

(4) Federal, State, Federal DOD contract, local government agency aircraft operations and part 121, 129 or 135 air carrier flights with TSA-approved full aircraft operator standard security programs/procedures, if operating with DOD permission and notification to the FAA and the National Capital Regional Coordination Center (NCRCC). These flights may land and depart Andrews Air Force Base, MD, with prior permission, if required. **Pertains only to specific (individual) non-DOD flights into or out of Andrews Air Force Base.**

(5) Aircraft operations maintaining radio contact with Air Traffic Control and continuously transmitting an Air Traffic Control-assigned discrete transponder code. The pilot must monitor VHF frequency 121.5 or UHF frequency 243.0. **Communications requirement for all aircraft in the DC SFRA.**

(d) Before departing from an airport within the DC FRZ, or before entering the DC FRZ, all aircraft, except DOD, law enforcement, and lifeguard or air ambulance aircraft operating under an FAA/TSA airspace authorization must file and activate an IFR or a DC FRZ or a DC SFRA flight plan and transmit a discrete transponder code assigned by an Air Traffic Control facility. Aircraft must transmit the discrete transponder code at all times while in the DC FRZ or DC SFRA. **Flight plan and transponder code requirements for all DC SFRA operations.**

**FAA Responds To NATCA**

On February 27, 2009, an attorney representing the National Air Traffic Controllers Association (NATCA) requested a briefing and bargaining over the change to procedures created by the airspace closures that preceded the creation of the No-Fly Zone. One month later, the FAA responded by unequivocally stating that there has been no change to procedures and even if there was a change there would be no bargaining over the matter. [Appendix 14.]

Except for the simple fact that one month after this all started there remains a perception among air traffic controllers, supervisors, and managers that there is a No-Fly Zone around Washington, DC, and that air traffic controllers are rerouting airplanes around the No-Fly Zone.

An interesting statement from the FAA is found in its March 27 correspondence: **The determination of flight paths or arrival patterns is a reserved management right.** Interesting that over a 28-hour period on February 26 & 27, 2009, the FAA closed off the entire DC
Flight Restricted Zone and left air traffic controllers scrambling to exercise a management right of determining new flight paths for airplanes shut-out of the airspace above Washington, DC.

Equally interesting is why the FAA did not exercise their reserved management right of determining flight paths when the departure sequencing corridor north of DCA was cut in half by the creation of the No-Fly Zone. Instead, it was left up to air traffic controllers to figure out how to get airplanes safely around the No-Fly Zone; a reserved management right, indeed.

Conclusions
The FAA has restricted a piece of airspace around our nation’s capital that has adversely affected the safety of flight and efficient use of airspace. There is neither rhyme nor reason for what the FAA has done. Using an extralegal process, the FAA has shown that the airspace of the United States is theirs for the taking.

Anyone who has watched the evolving airspace restrictions around Washington, DC, since September 11, 2001, should take pause at this latest undertaking by the FAA. If the FAA gets away with avoiding the rule making process to restrict airspace today who loses airspace tomorrow?

Indeed, the FAA has the right and responsibility, within the law, to develop plans and policy for the safe and efficient use of airspace. The law also prescribes that the FAA put those plans and policies into regulations or orders. This, the FAA has not done.

Air traffic controllers depend on regulations, orders, rules, and procedures to get their job done. The introduction of this hastily crafted decision that cuts a 10-mile circle from some of the most congested airspace in the country has wreaked havoc on an air traffic control system that is already operating on the edge.

In President Obama’s January 21, 2009, memorandum to Agency heads he wrote—Transparency promotes accountability and provides information for citizens about what their Government is doing. [Appendix 15.] Obviously, the memo wasn’t given much weight by the FAA Administrator and her subordinates.

What Is Needed
The FAA must explain why they have created a 10-mile No-Fly Zone around Washington, DC. If the reason for it can be upheld as necessary and within the authority of the FAA to ensure the safety of aircraft and the efficient use of airspace then it must be written into a regulation or order with disclosure to the public.

Otherwise, the No-Fly Zone should be removed and the pre-existing flight restrictions and procedures (e.g. DC SFRA and FRZ) should be relied upon to provide the necessary defense of the nation’s airspace that this day and age requires.
Reason for This Report

From the author:

“As an aviation professional I see first hand—every day—the damage that my employer, the FAA, has done to the nation’s aviation system. It’s a result of the FAA not being held accountable. The FAA’s circumvention of rules that created a No-Fly Zone around Washington, DC, was just too much for me to sit idle and wait for something bad to happen.

I’m not writing as a disgruntled employee either. I love my job and will keep doing it despite my employer. I’ve almost given up hope that the FAA will do the right thing when it comes to addressing matters affecting safety—especially those raised by employees.

As a citizen, I am appalled by my government skirting rules and regulations to further an unknown cause. It is my sincere desire that this report prompts an appropriate inquiry into the FAA and its extralegal activities that have lead to the creation of the No-Fly Zone around Washington, DC.”

Contact the Author

Parties wishing to contact the author may do so through Ingrid Drake at Project On Government Oversight. Her telephone number is 202.347.1122, email idrake@pogo.org
Abbreviations

ADIZ  Air Defense Identification Zone
BWI  Baltimore-Washington Airport
CSN  Casanova VORTAC
DCA  Washington-National Airport
DOD  Department of Defense
FAA  Federal Aviation Administration
FAR  Federal Air Regulation
FRZ  Flight Restricted Zone
IAD  Washington-Dulles Airport
NCRCC  National Capital Region Coordination Center
NOTAM  Notice to Airman
NPRM  Notice of Proposed Rulemaking
OTT  Nottingham VORTAC
SFRA  Special Flight Rules Area
TRACON  Terminal Radar Approach Control
VFR  Visual flight rules
VOR  Very high frequency omni-directional radio
VORTAC  Very high frequency omni-directional radio with Tactical air navigation

Appendices

1. Airspace chart depicting restriction boundaries.
3. TRACON airports departure routes before and after FRZ restriction.
5. FAA Command Center advisory, morning of February 26, 2009.
6. TRACON Air Traffic Manager Memorandum describing No-Fly Zone.
7. IAD/ DCA departure sequencing corridor airspace.
8. TRACON Air Traffic Manager memorandum regarding BWI arrival restrictions.
9. RAVNN2 Arrival Procedure chart
10. OTT6 Arrival Procedure chart
11. Chart depicting location where U.S. air carrier arrivals to BWI enter the No-Fly Zone.
12. FAA Order 1329.1E, Appendix B-4, Fast Track Guidance
13. Federal Air Regulations, Aircraft type designations
14. March 27, 2009, Correspondence from FAA to NATCA
15. Federal Register, January 21, 2009, Presidential Memorandum
16. FAA officials with first-hand knowledge of airspace restrictions implemented over Washington, DC.
Note: Charts are in color.

Appendix 1

Chart depicts the existing restricted airspace (ADIZ and FRZ) around the Washington, DC, Metropolitan Area and the No-Fly Zone created by the FAA on February 26, 2009.

Appendix 2

Federal Register / Vol. 73, No. 242 / Tuesday, December 16, 2008
Washington, DC Metropolitan Area Special Flight Rules Area: Final rule.

Appendix 3

First chart depicts departure routes BEFORE the February 25, 2009, restriction banning all U.S. air carriers through the DC FRZ.

Second chart depicts departure routes AFTER the February 25, 2009, restriction banning all U.S. air carriers through the DC FRZ. (Note the major difference in the IAD routes—dark blue lines. Restriction added approximately 40 miles to each southbound flight, 10 miles to each eastbound flight.)
Appendix 4
Departure spacing restrictions issued by FAA Command Center the morning of February 26, 2009.

**Current Restrictions**

This page refreshes every minute. Last updated Thu, 26 Feb 2009 12:27:12 UTC.

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<td>IAD</td>
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<td>02/26/2009 1115</td>
</tr>
</tbody>
</table>

Appendix 5
FAA Command Center advisory, morning of February 26, 2009, advising of 30 minute departure delays.

**ATCSCC Advisory**

**ATCSCC ADVZY 017 DCC 02/26/2009 SPECIAL OPERATIONS - DC AREA**

**MESSAGE:**

DUE TO ONGOING SPECIAL OPERATIONS IN THE DC AREA, AIRCRAFT CAN EXPECT THE FOLLOWING: 1) BWI ARRIVALS CAN NOT OVERFLY CSN (SEE ADVZY 12) 2) IAD DEPARTURES VIA SWANN/PALEO CAN EXPECT TO BE REROUTED VIA WOOLY 3) IAD DEPARTURES VIA DAILY CAN EXPECT TO BE REROUTED VIA GVE OR WOOLY 4) BWI TERPZ DEPARTURES CAN EXPECT TACTICAL REROUTES. CUSTOMERS ARE REQUIRED TO FILE THE CORRECT ROUTE INTO BWI. THE IAD AND BWI DEPARTURE ROUTES WILL BE MANAGED TACTICALLY BY PCT/ZDC. CUSTOMERS CAN EXPECT UP TO 30 MINUTE DEPARTURE DELAYS DUE TO VOLUME ON THESE ROUTES.
PCT FRZ Procedures Update

After further discussions with the Inter Agency Airspace Procedures Working Group (IAAPWG), Eastern Terminal Service Area (ETSA), National Capital Region Command Center (NCRCC), US Secret Service, and DOD it has been decided:

In addition FAR 93.341, Flight Restricted Zone (FRZ), all regularly scheduled U.S Air Carriers, operating under a TSA Security Program, which originate outside of the FRZ and transition the FRZ are authorized; as long as these aircraft remain outside of 10 nautical miles from the DCA VORTAC. Aircraft not on the U.S Air Carrier list, see attached, will be rerouted by TMU to circumnavigate the FRZ.

If necessary, Traffic Management Initiatives will be in place to help alleviate any increase in workload.

Roderick Harrison
Acting District Manager, Potomac TRACON

Attachment
Appendix 7

IAD/ DCA departure sequencing corridor airspace used by TRACON air traffic controllers.

Between Green Lines = Before No-Fly Zone implementation
Between Red Lines = After No-Fly Zone implementation
Appendix 8
Second memorandum from TRACON Air Traffic Manager to air traffic controllers regarding BWI arrival restrictions.

RAVNN2 and OTT6 FRZ EXCEPTION

All regularly scheduled U.S. Air Carriers, operating under a TSA Security Program, filed the RAVNN2 and OTT6 arrivals on the CSN transition are authorized to enter the FRZ as long as the aircraft stay on the transition or south of the transition. *Aircraft not on the U.S. Air Carrier list, see ACE/IDS, will be rerouted by ZDC to circumnavigate the FRZ.*

If necessary, Traffic Management Initiatives will be in place to help alleviate any increase in workload.

Roderick Harrison
Acting District Manager, Potomac TRACON
Appendix 9

RAVNN TWO ARRIVAL (RNAV)

LANDING RWY 10: Depart ZAKTO heading 299° for vectors to final approach course.

LANDING RWY 33 or LANDING Mtn RWY 15/33: After RAVNN expect radar vectors to final approach course.

NOTE: RADAR REQUIRED
NOTE: This STAR applicable to turbojet aircraft only.
NOTE: All part 91, 101, 103, 105, 125, 133, and 137 flight operations are prohibited on the CASANOVA TRANSITION.
NOTE: DME/DME/IRU or GPS Required.
NOTE: RNAV 1.
NOTE: Maintain last ATC assigned altitude until cleared to "DESCEND VIA THE RAVNN TWO ARRIVAL".

ARRIVAL ROUTE DESCRIPTION
CASANOVA TRANSITION (CSN, RAVNN2):
RICHMOND TRANSITION (RIC, RAVNN2):
From OTT VORTAC via 072° track to RAVNN, thence as depicted to ZAKTO, depart ZAKTO heading 299° for vectors to final approach course.
NOTTINGHAM SIX ARRIVAL

ARRIVAL ROUTE DESCRIPTION

CASANOVA TRANSITION (CSN.OTT6): From over CSN VORTAC via CSN R-091 and OTT R-276 to OTT VORTAC. Thence . . . .

FLAT ROCK TRANSITION (FAK.OTT6): From over FAK VORTAC via FAK R-031 and BRV R-214 to BRV VORTAC, then via OTT R-242 to OTT VORTAC. Thence . . . .

RICHMOND TRANSITION (RIC.OTT6): From over RIC VORTAC via RIC R-018 to SABBI INT, then via OTT R-234 to OTT VORTAC. Thence . . . .

. . . . From over OTT VORTAC via OTT R-071 to RAVNN INT, then via BAL R-174 to RIPKN INT. Expect radar vectors to final approach course after passing RIPKN INT.

NOTTINGHAM SIX ARRIVAL

NOTE: Chart not to scale.
Appendix 11

Chart depicting location where U.S. air carrier arrivals to BWI enter the No-Fly Zone.
Appendix 12


a. Criteria, You may use the Fast Track Process for a directive when:

(1) The Administrator has directed the use of Fast Track process.

(2) The management board agrees that your directive needs to be implemented in a shortened time frame (i.e. safety, security etc).

b. The OPR Manager may set a shortened deadline of 14 business days for the Fast Track directive or change. Exigent safety, security, and continuity of operations issues might require shorter deadline.

c. All other Associate or Assistant Administrators and above who have an interest in the directive or change must respond to the request for Fast Track within the established deadline.

d. The Fast Track does not preclude the affected Associate or Assistant Administrator and above from coordinating the directive or change with service or division levels within his or her organization, but the coordination must be completed within the shortened deadline.

e. An affected Associate or Assistant Administrator and above may not delegate signature of the clearance record below the Associate or Assistant Administrator level. In an emergency situation refer to guidance in the latest version of FAA Order 1900.1, FAA Emergency Operation Plan, Appendix C (Line of Succession).

f. Notify the FAA Directives Program Manager that your organization is fast tracking a directive.

g. Send the coordination package, containing the items listed below, to the affected offices. This package can be electronic and should include:

(1) A memorandum to the affected Associate or Assistant Administrators requesting Fast Track coordination with an explanation;

(2) A copy of the draft directive or change; and

(3) A standard clearance record form for the other affected Associate or Assistant Administrators or above to sign.

h. The reviewing office indicates their position on the directive by signing the clearance record and attaching comments (if any).

i. After all signatures and comments are returned to you, send the final draft and package to the FAA directives program manager for review.

j. The FAA Directives Program Manager will be available to provide guidance on agency policy.

k. After the FAA Directives Program Manager checks the directive for compliance with this order, he or she will deliver it to the approving official.

l. The FAA Directives Program Manager will work with the OPR to post it to the Directives Management System database as soon as the approving official signs.
Appendix 13

Part 91 - GENERAL OPERATING AND FLIGHT RULES

Part 101 - MOORED BALLOONS, KITES, UNMANNED ROCKETS AND UNMANNED FREE BALLOONS

Part 103 - ULTRALIGHT VEHICLES

Part 105 - PARACHUTE OPERATIONS

Part 125 - CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT [non-commercial]

Part 133 - ROTORCRAFT EXTERNAL-LOAD OPERATIONS

Part 135 - OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

Part 137 - AGRICULTURAL AIRCRAFT OPERATIONS

Part 121 - OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

Part 129 - OPERATIONS: FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S.-REGISTERED AIRCRAFT ENGAGED IN COMMON CARRIAGE
By email
March 27, 2009

Mr. Brendan Connolly
brendan-bwi@msn.com
NATCA representative

Re: Response to NATCA request for briefing regarding changes to existing procedures and practices regarding the Washington flight restricted zones (FRZs)

Dear Mr. Connolly:

This is in response to Marc Shapiro’s letter dated February 27, 2009 and received in this office March 9 regarding alleged changes to procedures for the Washington flight restricted zones (FRZs). Mr. Shapiro’s letter identified you as a NATCA representative in this matter. At this time, NATCA’s request is premature due to the fact that the Agency has not made any decision to change Washington’s FRZ procedures. To date, this issue is simply the subject of continuing discussion and consideration within FAA following concerns that were voiced by the Secret Service and the Department of Homeland Security about certain flight paths.

The determination of flight paths or arrival patterns is a reserved management right, subject only to impact and implementation bargaining if such changes would have more than a de minimis effect on conditions of employment. While you allege that changes to FRZs would directly impact the bargaining unit, you have failed to identify any such adverse impact.

NATCA’s request to bargain over Washington’s FRZ procedures is denied because there is no bargaining obligation in this case. Although the Agency will not engage in bargaining over this matter, we are prepared to provide NATCA with a purely informational briefing, if and when any decision is made to implement changes. If you have any questions, you may contact me at this address or at linda.r.temple@faa.gov.

Sincerely,

Linda Temple
Labor Relations Specialist
Collective Bargaining Services, AHL-300
Memorandum of January 21, 2009

Transparency and Open Government

Memorandum for the Heads of Executive Departments and Agencies

My Administration is committed to creating an unprecedented level of openness in Government. We will work together to ensure the public trust and establish a system of transparency, public participation, and collaboration. Openness will strengthen our democracy and promote efficiency and effectiveness in Government.

_Government should be transparent._ Transparency promotes accountability and provides information for citizens about what their Government is doing. Information maintained by the Federal Government is a national asset. My Administration will take appropriate action, consistent with law and policy, to disclose information rapidly in forms that the public can readily find and use. Executive departments and agencies should harness new technologies to put information about their operations and decisions online and readily available to the public. Executive departments and agencies should also solicit public feedback to identify information of greatest use to the public.

_Government should be participatory._ Public engagement enhances the Government’s effectiveness and improves the quality of its decisions. Knowledge is widely dispersed in society, and public officials benefit from having access to that dispersed knowledge. Executive departments and agencies should offer Americans increased opportunities to participate in policy-making and to provide their Government with the benefits of their collective expertise and information. Executive departments and agencies should also solicit public input on how we can increase and improve opportunities for public participation in Government.

_Government should be collaborative._ Collaboration actively engages Americans in the work of their Government. Executive departments and agencies should use innovative tools, methods, and systems to cooperate among themselves, across all levels of Government, and with nonprofit organizations, businesses, and individuals in the private sector. Executive departments and agencies should solicit public feedback to assess and improve their level of collaboration and to identify new opportunities for cooperation.

I direct the Chief Technology Officer, in coordination with the Director of the Office of Management and Budget (OMB) and the Administrator of General Services, to coordinate the development by appropriate executive departments and agencies, within 120 days, of recommendations for an Open Government Directive, to be issued by the Director of OMB, that instructs executive departments and agencies to take specific actions implementing the principles set forth in this memorandum. The independent agencies should comply with the Open Government Directive.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.
This memorandum shall be published in the Federal Register.

THE WHITE HOUSE,
Washington, January 21, 2009
Appendix 16

FAA officials with first-hand knowledge of airspace restrictions implemented over Washington, DC.

Franklin Hatfield, Director of System Operations Security
AJR-2, System Operations Security Office
franklin.hatfield@faa.gov
Office: (202)267-3364, Cell: (202)744-4835
Office Location: FAA Headquarters, 800 Independence Av., SW, Washington, DC 20591
Room 300W

Douglas Gould, Manager, Tactical Operations Security
AJR-24, Tactical Operations Security Group
douglas.gould@faa.gov
Office: (202)267-7682, Cell: (202)725-6091
Office Location: FAA Headquarters, 800 Independence Av., SW, Washington, DC 20591
Room 300W

Rolando Caparas, Air Traffic Security Coordinator, Domestic Events
AJR-24, Tactical Operations Security Group
rolando.caparas@faa.gov
Office: (202)493-5107, Cell: (843)822-3071
Office Location: FAA Headquarters, 800 Independence Av., SW, Washington, DC 20591
Room 301

Greg Davis, Supervisory Air Traffic Security Coordinator
AJR-24, Tactical Operations Security Group
greg.davis@faa.gov
Office: (703)563-3221, Cell: (540)539-3029
Office Location: TSA Freedom Center, 13555 EDS Drive, Herndon, VA 20171
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