



National Wildfire Coordinating Group National Interagency Aviation Committee

NIAC-19-04

Date: 27 February 2019
To: NIAC Members
From: Joel Kerley, Chair, National Interagency Aviation Committee
Subject: NIAC Position on Non-Emergency Temporary Flight Restriction (TFR) Requests

Purpose: This memorandum updates and clarifies the standards regarding use and ordering Temporary Flight Restrictions from the Federal Aviation Administration in accordance with 14 Code of Federal Regulations (CFR) Part 91.137.

Issue/Action: It is the position of the National Interagency Aviation Committee (NIAC) that non-disaster, non-emergency resource management projects do not constitute a hazard, disaster, or emergency that meets the FAA criteria required to request a TFR. In addition, planned prescribed fire projects which are not wildfire suppression incidents are also not authorized to be granted a TFR unless the prescribed fire exceeds the capability of holding resources and is declared a wildfire. When aircraft are utilized for events that are not an emergency, disaster, or hazard, the host unit may request that a Notice To Airmen (NOTAM) be issued by the FAA to advise general aviation pilots of an area where agency aircraft are operating in the national airspace to conduct a mission that may be hazardous to non-participating aircraft. Interagency Dispatch Centers should avoid requesting TFRs from the FAA for any purpose other than those authorized as described in AC 91-63D.

Background: 14 CFR 91.137 authorizes land management agencies to request a TFR for the events and circumstances listed below:

1. Protect persons and property on the surface or in the air from a hazard associated with an incident on the surface;
2. Provide a safe environment for the operation of disaster relief aircraft; or
3. Prevent an unsafe congestion of sightseeing and other aircraft above an incident or event which may generate a high degree of public interest.

The intent and purpose of 91.137 TFRs is further clarified in more detail in an FAA Advisory Circular AC 91-63D which is found at:

https://www.faa.gov/documentLibrary/media/Advisory_Circular/AC_91-63D.pdf

This document specifically lists situations that may warrant a 91.137 TFR in Appendix 1, Sec. 6:

- a. 14 CFR Section 91.137(a)(1): toxic gas leaks or spills; fumes from flammable agents which, if fanned by rotor or propeller wash could endanger persons or property on the surface, or if entered by an aircraft could endanger persons or property in the air; volcanic eruptions that could endanger airborne aircraft and occupants; nuclear accident or incident; and hijackings.
- b. 14 CFR Section 91.137(a)(2): aviation or ground resources engaged in wildfire suppression; and aircraft relief activities following a disaster (e.g., earthquake, tidal wave, flood, hurricane, etc.).
- c. 14 CFR Section 91.137(a)(3): disaster/hazard incidents of limited duration that would attract an unsafe congestion of sightseeing aircraft, such as aircraft accident sites. *Note: Section*

91.137(a)(3) applies only to incidents/events that are associated with a disaster or hazard situation.

Coordination: This document was coordinated with the Interagency Airspace Subcommittee (IASC) and the National Coordination System Committee (NCSC).

Contact: Please direct questions to your agency representative on the National Interagency Aviation Committee (<https://www.nwcg.gov/committees/national-interagency-aviation-committee/roster>).

Attachment: AC 91-63D – Temporary Flight Restrictions (TFR) and Flight Limitations Advisory Circular

cc: Kurt Kleiner, Co-Chair, Interagency Airspace Subcommittee
Brad Gibbs, Co-Chair, Interagency Airspace Subcommittee
Kathy Pipkin, Chair, National Coordination System Committee