DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AAL–19]

Establishment of Class E Airspace; Scammon Bay, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Scammon Bay, AK. The establishment of Global Positioning System (GPS) instrument approach procedures at Scammon Bay Airport made this action necessary. The Scammon Bay Airport status changes from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). This rule provides adequate controlled airspace for aircraft flying IFR procedures at Scammon Bay, AK.

EFFECTIVE DATE: 0901 UTC, June 15, 2000.

FOR FURTHER INFORMATION CONTACT: Bob Durand, Operations Branch, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: Bob.Durand@faa.gov. Internet address: http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

History

On November 22, 1999, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish the Class E airspace at Scammon Bay, AK, was published in the **Federal Register** (64 FR 63765). The proposal was necessary due to the establishment of GPS instrument approach procedures at Scammon Bay, AK. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received; thus, the rule is adopted as written.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes the Class E airspace at Scammon Bay, AK, through the establishment of GPS instrument approaches. The airport status changes from VFR to IFR. The area will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide controlled airspace for IFR operations at Scammon Bay, AK.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) Does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, *Airspace Designations and Reporting Points,* dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Scammon Bay, AK [New]

Scammon Bay Airport
(Lat. 61°50′40″ N., long. 165°34′26″ W.)
Hooper Bay VOR
(lat. 61° 30′ 52″ N., long. 166° 08′ 04″ W.)
That airspace extending upward from 700 feet above the surface within 6.3-mile radius of the Scammon Bay Airport and that airspace extending upward from 1,200 feet above the surface within a 42-mile radius of the Hooper Bay VOR extending clockwise between the 006° radial and 066° radial.

* * * * *

Issued in Anchorage, AK, on April 14, 2000.

Anthony M. Wylie,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 00–10012 Filed 4–20–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 95–ASW–6]

RIN 2120–AA66

Establishment of Restricted Areas R–5117, R–5119, R–5121 and R–5123; NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes four restricted areas in the West/Central New Mexico area (Restricted Areas R–5117, and R–5121, Fort Wingate, NM; R–5119, Socorro, NM; and R–5123, Magdalena, NM). The FAA is taking this action to provide an area for the United States Army (US Army), to conduct missile and sensor tests associated with the Theater Missile Defense (TMD) system.

EFFECTIVE DATE: 0901 UTC, June 15, 2000.

FOR FURTHER INFORMATION CONTACT: Bill Nelson, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On May 15, 1995, the US Army requested that the FAA establish four restricted areas in West/Central New Mexico to support the US Army Tactical Missile System projects.

On February 2, 1996, the FAA published in the **Federal Register** a notice proposing to establish four restricted areas in West/Central, New Mexico (61 FR 3884). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. In response to the notice, the FAA received comments from New Mexico Tech (Langmuir Laboratory for Atmospheric Research) and the Aircraft Owners and Pilots Association (AOPA). Comments received were considered before making a determination on this final rule. An analysis of the comments received and the FAA's responses are summarized below.

Discussion of Comments

New Mexico Tech commented on proposed R–5119. It stated that it currently uses R–5113 for thunderstorm research. Thus, it believes that R–5119 should not have an adverse effect on R–5113 provided (1) the US Army completes its test activity by 9:00 a.m., local time and (2) the designated altitude of R–5119 does not extend below FL 350.

The FAA finds that the restricted airspace will not adversely effect New Mexico Tech's thunderstorm research in R–5113. The operational limits of the two restricted areas are as follows: R–5113 is designated as the airspace from the surface to 45,000 feet mean sea level (MSL); and R–5119 is designated as the airspace from FL 350 to unlimited altitude. Due to the design of R–5119 a portion of R–5113 geographically overlaps R–5119's upper northwestern area. However, the high operational altitude of the test missiles transiting R–5119 make it unlikely that a trespass will occur in the upper limit of R–5113 at 45,000 feet MSL as the test missiles over-fly R–5113 in descent to the adjacent White Sands Missile Range (WSMR). After careful and thorough consideration of the facts presented by the US Army, the FAA believes this final rule has little, if any, impact on the research activities of New Mexico Tech.

The AOPA expressed concerns that the TMD program poses a significant hazard to general aviation (GA) operations and that the proposed restricted areas will require GA pilots to circumnavigate the areas. AOPA believes that increased restrictions on airspace are not an efficient use of airspace, will result in increased fuel costs and will cause unnecessary changes to planned routes of flight. Additionally, as part of its comment, AOPA asked what plan, if any, is in place to protect nonparticipating aircraft from missiles that malfunction and deviate from the planned trajectory. Further, AOPA believes that all alternatives must be explored prior to the establishment of Special Use Airspace (SUA).

The US Army Space and Strategic Defense Command and the WSMR analyst have conducted extensive research studying flight profiles of target and defense missiles. An analysis of this research data led to the development of launch hazard areas (e.g. booster drop zones, intercept debris impact zones) and intact target vehicle and defensive missile impact zones. Based on the analysis, the four restricted areas were identified to segregate these potentially hazardous activities from nonparticipating aircraft.

Prior to each test missile launch, range personnel will conduct impact area analysis based on detailed launch planning and trajectory modeling. Test missile launches will be conducted only when the impact area analysis confirms that flight vehicles and debris would be contained within the predetermined areas. However, to further reduce risk and lessen any potential impact on civil or GA aviation, the US Army has agreed to (1) schedule testing to conclude by 9:00 a.m., local time, when the volume of air traffic is normally low and, (2) limit the number of tests per year (estimated at 6 to 10 per year). Though it is anticipated to remain limited, in the interest of national security the test program number, as published in the notice, may be exceeded. Further, each test from launch to impact is designed to take less than 15 minutes.

It is important to note that, in the past, the US Army has employed successfully the boosters to be used on the test missiles and the boosters are considered highly reliable in the terms of safety and predictability. Therefore, the FAA finds that the chances of a test missile flight failure during launch through impact is considered remote. However, the US Army has established safety procedures in the event of such a failure.

The US Army categorizes termination into three potential mishap areas: (1) On the launcher; (2) flight shortly after liftoff; and (3) flight after exiting the launch site. R–5117 and R–5121 are designed to contain the first two potential mishap categories. In the event of an exceptional circumstance such as a missile malfunction, the Range Safety Officer determines the safest point to initiate missile termination. This point is determined by real time performance data collected form a variety of instruments (e.g. telemetry, radar, computer, etc.). This data provides information on missile location and the point of debris impact at points along the trajectory to the planned impact in WSMR. Due to the high altitudes at which the test missiles navigate, the FAA has found that it is unlikely that a missile malfunction and subsequent termination outside of the designated restricted area will make the airspace underlying the missile flight path unsafe.

The US Army identified the minimum required airspace to contain the theater missile defense test operations in the national airspace system. Although the US Army has attempted to mitigate the impacts on civil operations by limiting the number, time of day, and flight time of the missile, some aircraft operations may be effected when the restricted areas are activated. However, during a standard 12-hour flying day, the limits and procedures established by the US Army will allow flight through the published restricted areas over 99 percent of the time. The FAA will activate the restricted airspace through a Notice to Airman (NOTAM) and will provide 24 hours of notice prior to activation. If a NOTAM is not published, aircraft may navigate through charted restricted areas, without concern. Therefore, there should be little, if any, impact on aircraft operations.

Charting permanent restricted areas on aeronautical charts provides users of the navigable airspace important information concerning potential flight hazards. The legend on the aeronautical chart reflects these areas as active ''By NOTAM, 24 Hours in Advance.'' Charting of the restricted airspace together with the use of the NOTAM system to publicize the effective date and activation times of restricted areas, remain the most efficient means to notify the flying public and segregate these potentially hazardous activities from GA operations.

The Rule

This amendment to 14 CFR part 73 establishes four restricted areas in West/Central New Mexico. Specifically, this action establishes four restricted areas: R–5117 and R–5121, Fort Wingate, NM; R–5119, Socorro, NM; and R–5123, Magdalena, NM. These restricted areas will provide an area for the US Army and designated joint-use agencies, to conduct tests to validate the TMD system design and operational effectiveness. Under the test program, missile launches will be conducted from Fort Wingate Army Depot, near Gallup, NM, and will terminate in the existing restricted area of the WSMR, NM. The FAA is taking this action to provide the

US Army SUA in support of the TMD testing program.

R–5117 is designated as the launch site and is located at Fort Wingate Army Depot, NM, southeast of Gallup, NM. R–5117 extends from the surface to unlimited altitude and contains the missile launch area. It overlies government-controlled land. R–5121 is designated adjacent to R–5117, and extends from FL 200 to unlimited altitude and contains missile ascent after the initial launch.

R–5123, located at Cibola National Forest, Magdalena, NM, extends from the surface to unlimited altitude and provides a booster drop zone to contain reentry and impact of missile boosters after launch from R–5117. R–5123 also overlies government-controlled land.

R–5119 is designated as a missile reentry and planned termination area in the existing R–5107 within the WSMR. R–5119 extends from FL 350 to unlimited altitude and is adjacent to the existing WSMR.

When activated, the restricted areas may impact visual flight rules (VFR) and/or instrument flight rules (IFR) aircraft operations, along the vicinity of the Gallup (GUP), Socorro (ONM) and Truth or Consequences (TCS) navigational aids because of the necessity to reroute planned flight routes due to TMD testing. However, the potential impact is significantly reduced by the limited number of planned test events (6 to 10 a year) anticipated, the short duration of activity (15 minutes total) and the notification and coordination procedures in place. Additionally, the US Army has agreed to complete test activity prior to 9:00 a.m., local time, when the volume of air traffic in the area is normally low. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.51 of part 73 was republished in FAA Order 7400.8G dated September 1, 1999.

This regulation is limited to an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since it has been determined that this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. /

Environmental Review

The Department of Defense, Ballistic Missile Defense Organization (BMDO), issued the Theater Missile Defense Extended Test Range Final Environmental Impact Statement (EIS) in November 1994. Cooperating agencies for the EIS included the U.S. Air Force, Navy, US Army, and the FAA.

Initially, eleven candidate test range areas were considered for TMD extended-range testing. Seven of these alternatives were eliminated from further study due to inadequate features, such as lack of required instrumentation, absence of target launch land sites, prohibitive cold weather, unacceptable schedule delays, and inadequate land area for interceptor deployment. Four alternatives were retained for further consideration. Extended range testing was considered at WSMR, NM, Eglin Air Force Base, FL, Western Range, CA, and Kwajalein Missile Range, Republic of the Marshall Islands. The Western Range alternative was rejected because of soil erosion considerations and the costs of preparing the impact area for analysis. The Eglin Air Force Base and Kwajalein alternatives were rejected because testing would be limited to ocean impacts. Additionally, testing at Kwajalein posed technical difficulties and additional costs. Thus, the US Army has determined that extended range testing at WSMR is the preferred location as described in this rule because there are no impacts to wilderness study areas, recreation areas, national monuments and nesting and breading seasons of sensitive species. The selection of WSMR included two off-range missile launch alternatives; Fort Wingate Army Depot, NM, and the Green River Launch Complex, UT. The US Army selected the Fort Wingate Army Depot as the launch site.

The No Action Alternative would consist of the continuation of ongoing activities and operations at the four locations considered. The development of ground-based TMD missile and sensor systems would continue, with missile flight tests and target intercepts being conducted utilizing existing test ranges. No construction and operations for missile launch programs at the remote launch locations or use of sea launch capabilities would be conducted to support these types of ground-based TMD system tests. Test and training area restrictions, particularly on shorter-range missile flights conducted at WSMR, prohibited full validation of system design and operational effectiveness in realistic theater environments. As a result, the no action alternative was eliminated as a prudent and feasible alternative because it did not satisfy the mandatory requirements identified by the BMDO as necessary to fulfill its TMD program needs. The BMDO issued a Record of Decision in March 1995 that adopted all practicable means to avoid or minimize harm.

In February 2000, the FAA completed a written reevaluation of the EIS. The FAA adopted the EIS as final, pursuant to 40 CFR 1506.3(c) and (b) 62 FR 43730 and 62 FR 44685. After careful and thorough consideration of the facts contained herein and following consideration of the views of those Federal agencies having jurisdiction by law and special expertise with respect to the environmental impacts described, the undersigned finds that this Federal action is consistent with existing national policies and objectives as set forth in section 101(a) of the National Environmental Policy Act of 1959, as amended.

This final rule constitutes final agency action under 49 USC 46110. Any person disclosing a substantial interest in this order may appeal the order to the United States Court of Appeals of the District of Columbia upon petition, filed within 60 days after the order is issued.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.51 [Amended]

2. § 73.51 is amended as follows:

* * * * *

R–5117 Fort Wingate, NM [New]

Boundaries. Beginning at lat. 35°25′51″N., long. 108°30′09″ W.; to lat. 35°28′46″ N., long. 108°37′14″W.; to lat. 35°28′46″ N., long. 108°37′39″ W.; to lat. 35°21′27″ N., long. 108°36′58″ W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Intermittent by NOTAM 24 hours in advance.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. Commanding General, White Sands Missile Range, NM.

R–5119 Socorro, NM [New]

Boundaries. Beginning at lat. 33°59′56″ N., long. 106°43′29″ W.; to lat. 33°59′51″ N., long. 106°56′27″ W.; to lat. 34°08′16″ N., long. 107°05′17″ W.; to lat. 34°00′28″ N., long. 107°12′04″ W.; to lat. 33°46′04″ N., long. 107°02′38″ W.; to lat. 33°26′49″ N., long. 107°02′25″ W.; to lat. 33°26′49″ N., long. 107°00′00″ W.; to lat. 33°32′44″ N., long. 106°58′47″ W.; to lat. 33°54′10″ N., long. 106°46′24″ W.; to lat. 33°57′16″ N., long. 106°43′58″ W.; to the point of beginning.

Designated altitudes. FL 350 to unlimited.

Time of designation. Intermittent by NOTAM 24 hours in advance.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. Commanding General, White Sands Missile Range, NM.

R–5121 Ft. Wingate, NM [New]

Boundaries. Beginning at lat. 35°25′51″ N., long. 108°30′09″ W.; to lat. 35°21′22″ N., long. 108°25′59″ W.; to lat. 35°19′18″ N., long. 108°28′10″ W.; to lat. 35°17′48″ N., long. 108°31′41″ W.; to lat. 35°21′27″ N., long. 108°36′58″ W.; to the point of beginning.

Designated altitudes. FL 200 to unlimited.

Time of designation. Intermittent by NOTAM 24 hours in advance.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. Commanding General, White Sands Missile Range, NM.

R–5123 Magdalena, NM [New]

Boundaries. Beginning at lat. 34°22′30″ N., long. 107°57′00″ W.; to lat. 34°25′00″ N., long. 107°49′00″ W.; to lat. 34°24′45″ N., long. 107°37′00″ W.; to lat. 34°18′00″ N., long. 107°30′00″ W.; to lat. 34°15′08″ N., long. 107°37′00″ W.; to lat. 34°19′00″ N., long. 107°40′00″ W.; to lat. 34°15′08″ N., long. 107°45′20″ W.; to lat. 34°14′52″ N., long. 107°44′40″ W.; to lat. 34°13′00″ N., long. 107°48′00″ W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Intermittent by NOTAM 24 hours in advance.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. Commanding General, White Sands Missile Range, NM.

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Issued in Washington, DC, on April 14, 2000.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 00–10010 Filed 4–20–00; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AB51

Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is amending Regulation 1.17, which governs the minimum financial requirements imposed upon futures commission merchants (''FCMs'') and introducing brokers (''IBs''). The amendments will ease the restrictions imposed upon the withdrawal of equity capital from an FCM. The amendments also increase the percentage deduction (*i.e.,* ''haircut'') applied to the value of equity securities pledged as collateral for secured demand notes that are included in the adjusted net capital of an FCM or IB and delete a reference to a section of the Securities and Exchange Commission's (''SEC'') capital rule that has been repealed.

EFFECTIVE DATE: May 22, 2000.

FOR FURTHER INFORMATION CONTACT: Henry J. Matecki, Financial Audit and Review Branch, Commodity Futures Trading Commission, 300 S. Riverside Plaza, Room 1600–N, Chicago, IL 60606; telephone (312) 886–3217; electronic mail *hmatecki@cftc.gov:* or Thomas J. Smith, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581; telephone (202) 418–5495; electronic mail *tsmith@cftc.gov.*

SUPPLEMENTARY INFORMATION

I. Background

On February 10, 2000, the Commission published in the **Federal Register** [1] for public comment proposed amendments to Regulation 1.17, which governs the minimum financial requirements imposed upon FCMs and IBs (the ''Proposal'').[2] The Proposal was to: (1) Ease the restrictions imposed upon the withdrawal of equity capital from an FCM; (2) increase the percentage deduction (*i.e.,* ''haircut'') applied to the value of equity securities pledged as collateral for secured demand notes that are included in the adjusted net capital of an FCM or IB; and (3) delete a reference to a section of the SEC's capital rules that has been repealed. The comment period expired on March 13, 2000. No comments were received.

After considering the issues, the Commission has determined to adopt the amendments as proposed. A discussion of the final rule amendments is provided below.

II. Rule Amendments

A. Restriction on the Withdrawal of Equity Capital From an FCM

Commission Regulation 1.17(e) prohibits the withdrawal of equity capital from an FCM [3] to redeem or to repurchase shares of stock of the FCM, to pay dividends, or to make an unsecured advance or loan to a stockholder, partner, sole proprietor or employee of the FCM if, after giving effect to the withdrawal and to certain other specified withdrawals and payments, the FCM's adjusted net capital would be less than the greatest of:

(1) $300,000 (120 percent of the $250,000 minimum adjusted net capital requirement);

(2) Seven percent of the customer funds required to be segregated or set aside pursuant to the Commodity Exchange Act (''Act'') and Commission regulations, [4] (hereinafter collectively referred to as the ''customer segregated and secured amount'');

(3) 120 percent of the amount of adjusted net capital required by a registered futures association of which the FCM is a member; or

(4) For an FCM that is also a securities broker or dealer registered with the SEC, the amount of net capital specified in SEC Rule 15c3–1(e).[5]

[1] 65 FR 6569 (February 10, 2000).

[2] Commission rules cited herein can be found at 17 CFR Ch. I (1999).

[3] The prohibition against withdrawal of equity capital set forth in Regulation 1.17(e) applies to both FCMs and IBs. The restriction requires consideration of both the minimum dollar amount of net capital required for both types of registrants ($250,000 for FCMs and $30,000 for IBs) and, just for FCMs, the amount of funds required to be segregated and set aside for FCMs' customers. For purposes of this final rulemaking, only the restriction on FCMs need be addressed since the amendments relate only to the percentage applied to the amount of funds required to be segregated and set aside for customers.

[4] Before applying the percentage capital factor, the amount required to be segregated or set aside is reduced by the market value of commodity options purchased by customers on or subject to the rules of a contract market or a foreign board of trade for which the full premiums have been paid: provided, however, that the option premium deduction for each customer is limited to the amount of customer funds and the foreign futures and foreign options secured amounts in such customer's account(s).

[5] SEC rules cited herein can be found at 17 CFR Part 240 (1999).