



FAA Issues New Rules on Structure Height (Part 77)

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On July 21, 2010, the Federal Aviation Administration (FAA) published a final rule updating the regulations codified at 14 C.F.R. Part 77. Part 77 governs the safe, efficient use, and preservation of the national airspace and outlines the process by which FAA reviews proposed new structures—or alterations of existing structures—to determine whether the structures may create hazards to air navigation. The new regulations include specific factors identified by Congress in Public Law 100-223 that FAA must consider when conducting aeronautical studies. Other key changes include extending the required notice period from 30 days prior to construction to 45 days prior to construction; new notice requirements for construction near private-use airports with instrument approaches; and new information regarding the processing of petitions for discretionary review. The new rule also requires FAA to evaluate electromagnetic effects, but FAA deferred its proposal to implement formal standards for electromagnetic interference until it can further coordinate with relevant agencies. FAA also deferred new rules specifically addressing wind and solar projects around airports. The new rule will become effective on January 18, 2011.