

money penalty shall not be subject to administrative review and a disqualification imposed under § 278.6(e)(8) of this chapter shall not be subject to administrative or judicial review;

(3) Imposition of a fine under § 278.6 of this chapter;

(4) Denial of all or part of any claim asserted by a firm against FNS under § 278.7(c), (d), or (e) of this chapter;

(5) Assertion of a claim under § 278.7(a) of this chapter; or

(6) Forfeiture of part or all of a collateral bond under § 278.1 of this chapter, if the request for review is made by the authorized firm. FNS shall not accept requests for review made by a bonding company or agent.

(b) *Authority*. The determination of the designated reviewer shall be the final administrative determination of the Department, subject, however, to judicial review under section 14 of the Food Stamp Act and subpart B of this part.

#### §§ 279.2 through 279.4 [Removed]

9. Remove §§ 279.2 through 279.4.

#### §§ 279.5 through 279.11 [Redesignated and Transferred]

10. Subpart B is further amended by redesignating §§ 279.5 through 279.9 as §§ 279.2 through 279.6, respectively, and transferring them to Subpart A.

#### § 279.2 [Amended]

11. Amend newly redesignated § 279.2 as follows:

a. The heading of paragraph (a) is amended by removing the word "Addressing" and adding in its place the word "Submitting".

b. Paragraph (a) is further amended by removing the words "Room 304".

c. Paragraph (c) introductory text is amended by removing the words "with the Director, Administrative Review Division,".

#### § 279.3 [Amended]

12. Remove the last two sentences of paragraph (b) in newly redesignated § 279.3.

13. Amend newly redesignated § 279.4 as follows:

a. Paragraph (a) is amended by revising the first two sentences and by removing the last sentence;

b. Paragraph (c) is revised; and

c. Paragraph (d) is removed.

The revisions read as follows:

#### § 279.4 Action upon receipt of a request for review.

(a) Upon receipt of a request for review of administrative action, the administrative action shall be held in abeyance until the designated reviewer

has made a determination. However, permanent disqualifications for trafficking shall not be held in abeyance and shall be effective immediately as specified in § 278.6(b)(2) of this chapter.

\* \* \*

\* \* \* \* \*

(c) *Extensions of time*. Upon timely written request to FNS by the firm requesting the review, FNS may grant extensions of time if, in FNS' discretion, additional time is required for the firm to fully present information in support of its position. However, no extension may be made in the time allowed for the filing of a request for review.

14. Amend newly redesignated § 279.5 as follows:

a. The heading of this section is revised and the heading of paragraph (a) is amended by removing the word "officer",

b. Paragraph (b), (c) and (e) are revised; and

c. Paragraph (f) is removed and paragraph (g) is redesignated as paragraph (f).

The revisions read as follows:

#### § 279.5 Determination of the designated reviewer.

\* \* \* \* \*

(b) *Review of denial or withdrawal of authorization*. When the action under review is the denial of an application for authorization or the withdrawal of an existing authorization, the designated reviewer shall sustain the action under review; sustain the action under review, but specify a shorter period of time the action will remain in effect; or direct that the action under review be reversed.

(c) *Review of disqualification or civil money penalty or fine*. When the action under review is disqualifying a firm from program participation or assessing a civil money penalty or fine against a firm, the designated reviewer shall: sustain the action under review; specify a shorter period of disqualification; specify a reduced money penalty or fine; direct that an official warning letter be issued to the firm in lieu of a disqualification, civil money penalty or fine; or, direct that the action under review be reversed. The designated reviewer may change a disqualification of a firm to a civil money penalty if the disqualification would cause a hardship to participating households (except in the case of a permanent disqualification). The designated reviewer, working with the appropriate FNS office, shall determine if circumstances warrant a civil money penalty in accordance with § 278.6 of this chapter.

\* \* \* \* \*

(e) *Determination notifications*. FNS shall notify the firm of the determination. Such notification will be sent to the representative of the firm who filed the request for review.

\* \* \* \* \*

15. In newly redesignated § 279.6, revise paragraph (a) to read as follows:

#### § 279.6 Legal advice and extensions of time.

(a) *Advice from Office of the General Counsel*. If any request for review involves any doubtful questions of law, the Benefit Redemption Division shall obtain the advice of the Department's Office of the General Counsel.

\* \* \* \* \*

#### Subpart B—[Removed]

16. Subpart B is removed.

#### Subpart C—[Redesignated as Subpart B]

17. Subpart C is redesignated as Subpart B.

#### §§ 279.10 and 279.11 [Redesignated as §§ 279.7 and 279.8]

18. Redesignate §§ 279.10 and 279.11 as §§ 279.7 and 279.8.

#### § 279.7 [Amended]

19. Amend newly redesignated § 279.7 as follows:

a. Paragraph (a) is amended by removing the regulatory reference "§ 279.8(e)" and adding in its place the regulatory reference "§ 279.5(e)".

b. Paragraph (b) is amended by removing the words the "officer or".

Dated: November 14, 2002.

Roberto Salazar,

Administrator, Food and Nutrition Service.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket No. 02-AEA-20]

#### Amendment of Class D Airspace, White Plains, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class D airspace at White Plains, NY. Controlled airspace extending upward from the surface is needed to contain aircraft executing Instrument Flight Rule (IFR) procedures

and provide a safer operating environment. This action would increase the limits of the existing Class D airspace by an extension along the runway 34 approach course.

**DATES:** Comments must be received on or before December 20, 2002.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA-520, Docket No. 02-AEA-20, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434-4809.

The official docket may be examined in the Office of the Regional counsel, AEA-7, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434-4890. An informal docket may also be examined during normal business hours in the Airspace Branch, AEA-520, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434-4809.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA-520 FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434-4809; telephone: (718) 553-4521.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

"Comments to Airspace Docket No. 02-AEA-20". The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket closing both before and

after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

##### **Availability of NPRMs**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA-7, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434-4809. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

##### **The Proposal**

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to provide additional controlled airspace for Instrument Flight Rules (IFR) procedures at Westchester County Airport, White Plains, NY. This action would provide additional Class D Airspace extending two additional miles along the southeast and northwest localizer courses for Westchester County Airport up to but not including 3,000 feet to accommodate IFR operations using Runway 34.

Class D airspace designations for airspace areas extending upward from the surface are published in Paragraph 5000 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(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 would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have 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).

##### **The Proposed Amendment**

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

##### **PART 71—[AMENDED]**

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

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; EO 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 7400.9K dated August 30, 2002, and effective September 16, 2002, is proposed to be amended as follows:

*Paragraph 5000 Class D airspace areas extending upward from the surface of the earth.*

\* \* \* \* \*

##### **AEA NY D White Plains, NY**

Westchester County Airport, White Plains, NY

(Lat. 41°04'01" N., long. 73°42'27" W.)

Westchester County ILS Localizer Northwest (Lat. 41°03'27" N., long. 73°41'58" W.)

Westchester County ILS Localizer Southeast (Lat. 41°04'37" N., long. 73°42'52" W.)

That airspace extending upward from the surface to but not including 3,000 feet MSL within a 4.1 mile radius of Westchester County Airport and within 1.5 miles each side of the Westchester County ILS northwest localizer course extending from the 4.1 mile radius to 6.1 miles northwest of the airport and within 1.5 miles each side of the Westchester County ILS southeast localizer course extending from the 4.1 mile radius to 6.1 miles southeast of the airport. This Class D airspace is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

\* \* \* \* \*

Issued in Jamaica, New York, on November 7, 2002.

**F.D. Hatfield,**

Manager, Air Traffic Division, Eastern Region.  
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