

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 the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

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

* * * * *

ANM MT E5 Poplar, MT [REVISED]

Poplar Airport, MT

(Lat. 48°06'58"N., long. 105°10'56"W.)

That airspace extending upward from 700 feet above the surface within 9.1 mile radius of the Poplar, MT, airport and within 2.5 miles each side of the 285° bearing extending from the airport to 11.5 miles northwest of the airport; and within 2.5 miles each side of the 105° bearing from the airport extending to 11.5 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface bounded by a line from lat. 47°53'25"N., long. 105°52'50"W.; to lat. 48°18'00"N., long. 105°52'50"W.; to lat. 48°18'00"N., long. 104°30'00"W.; to lat. 47°53'25"N., long. 104°30'00"W.; to the beginning; excluding that airspace within Federal Airways and the Wolf Point, MT Class E airspace.

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Issued in Seattle, Washington, on June 14, 2001.

Dan A. Boyle,

*Assistant Manager, Air Traffic Division,
Northwest Mountain Region.*

[FR Doc. 01–15611 Filed 6–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ANM–12]

Establishment of Class E Airspace, Heber City, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes the Heber City, UT, Class E airspace to accommodate airspace required for the establishment of a new Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAP) to the Heber City Russ McDonald Field, Heber City, UT. **EFFECTIVE DATE:** 0901 UTC, September 6, 2001.

FOR FURTHER INFORMATION CONTACT:

Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 00–ANM–12, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On January 23, 2001, the FAA proposed to amend Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by establishing Class E airspace at Heber City, UT, in order to accommodate a new RNAV SIAP and Departure Procedure (DP) at Heber City Russ McDonald Field, Heber City, UT (66 FR 7435). This amendment provides Class E5 airspace at Heber City, UT, to meet current criteria standards associated with the SIAPs and DP. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The Rule

This amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) establishes Class E airspace at Heber City, UT, in order to accommodate a new SIAP and DP to the Heber City Russ McDonald Field, Heber City, UT. This amendment establishes Class E5 airspace at Heber City, UT, to meet current criteria standards associated with the RNAV SIAP and DP. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. This rule is designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations

under Instrument Flight Rules (IFR) at the Heber City Russ McDonald Field and between the terminal and en route transition stages.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth, are published in Paragraph 6005, of FAA Order 7400.9H dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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 the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

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

* * * * *

ANM UT E5 Heber City, UT [NEW]

Heber City Muni-Russ McDonald Field, UT
(Lat. 40°28'55"N., long. 111°25'44"W.)

That airspace extending upward from 700 feet above the surface within the 5-mile radius of the Heber City Muni-Russ McDonald Field, and within 2 miles each side of the 010° bearing from the airport extending to 7.8 miles, and within 2 miles each side of the 160° bearing extending to 8.9 miles; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 41°13'45"N., long. 111°24'20"W., to lat. 41°11'34"N., long. 111°09'28"W., to lat. 40°09'40"N., long. 111°15'42"W., to lat. 40°10'52"N., long. 111°34'57"W., to lat. 40°30'00"N., long. 111°34'57"W to origin, and excluding that airspace within Federal airways; the Salt Lake City, UT; and the Evanston, WY, Class E airspace areas.

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Issued in Seattle, Washington, on June 14, 2001.

Dan A. Boyle,

*Assistant Manager, Air Traffic Division,
Northwest Mountain Region.*

[FR Doc. 01-15610 Filed 6-20-01; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 231, 241, 251 and 271

[Release Nos. 33-7985, 34-44424; 35-27419; IC-25003]

RIN 3235-A114

Application of the Electronic Signatures in Global and National Commerce Act To Record Retention Requirements Pertaining to Issuers Under the Securities Act of 1933, Securities Exchange Act of 1934 and Regulation S-T

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: We are publishing guidance on the obligations of issuers to maintain certain records under the Securities Act of 1933 ("Securities Act"), Securities Exchange Act of 1934 ("Exchange Act") and Regulation S-T in light of the Electronic Signatures in Global and National Commerce Act ("E-SIGN").

EFFECTIVE DATE: June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Mark A. Borges, Division of Corporation Finance, at (202) 942-2910.

SUPPLEMENTARY INFORMATION: We are publishing guidance¹ on the impact of E-SIGN² on our rules promulgated under the Securities Act,³ Exchange Act⁴ and Regulation S-T⁵ that require issuers to retain signature authentication documents and certain other records for specified time periods.

Discussion

I. Background

E-SIGN seeks to promote electronic commerce by permitting and encouraging the use of electronic records and signatures in transactions in interstate or foreign commerce.⁶ Generally, E-SIGN provides that, with respect to any transaction⁷ within its scope, a signature, contract or other record relating to the transaction may not be denied legal effect, validity or enforceability solely because it is in electronic form.⁸ Similarly, E-SIGN provides that a contract relating to such transaction may not be denied legal effect, validity or enforceability solely because an electronic signature or

¹ Except for the discussion in this release about authentication documents, our views expressed today do not address record retention requirements for investment companies and public utility holding companies. Our views also do not address record retention requirements for investment advisers, transfer agents or broker-dealers. These matters are addressed in separate releases. *See* Investment Company Act Release No. 24991 (May 24, 2001) [66 FR 29224 (May 30, 2001)] (investment companies and investment advisers); Public Utility Holding Company Act Release No. 27404 (May 24, 2001) [66 FR 29471 (May 31, 2001)] (public utility holding companies); Exchange Act Release No. 44238 (May 1, 2001) [66 FR 22916 (May 7, 2001)] (broker-dealers); and Exchange Act Release No. 44227 (Apr. 27, 2001) [66 FR 21648 (May 1, 2001)] (transfer agents). This release does not in any way affect the record retention requirements discussed in those releases.

As we have previously noted (*see* Securities Act Release No. 7912 (Oct. 27, 2000) [65 FR 65736 (Nov. 2, 2000)]; Securities Act Release No. 7877 (July 27, 2000) [65 FR 47281 (Aug. 2, 2000)]), we are considering the broader implications of the Electronic Signatures in Global and National Commerce Act on securities transactions.

² Pub. L. No. 106-229, 114 Stat. 464 (2000) (codified at 15 U.S.C. 7001-7006, 7021, 7031).

³ 15 U.S.C. 77a, *et seq.*

⁴ 15 U.S.C. 78a, *et seq.*

⁵ 17 CFR 232.10-232.601.

⁶ E-SIGN preamble.

⁷ E-SIGN section 106(13) [15 U.S.C. 7106(13)] defines the term "transaction" generally to mean "an action or set of actions relating to the conduct of business, consumer or commercial affairs between two or more persons."

⁸ E-SIGN section 101(a)(1) [15 U.S.C. 7001(a)(1)]. Note, however, that section 101(e) of E-SIGN [15 U.S.C. 7001(e)] provides that legal effect, validity or enforceability may be denied to a contract or other record required to be in writing that is kept in electronic form if the electronic record is not in a form that is capable of being retained and accurately reproduced for later reference by all involved parties.

electronic record was used in its formation.⁹

E-SIGN also encourages the electronic storage of records relating to business, consumer and commercial transactions.¹⁰ Further, E-SIGN authorizes federal and state regulatory agencies to set standards and formats for the retention of these electronic records.¹¹

II. E-SIGN's Record Retention Provision

Under E-SIGN, if a statute, regulation or other rule of law requires that a contract or other record relating to a transaction be retained, that requirement is met by retaining an electronic record of the information in the contract or other record if the electronic record

- Accurately reflects the information set forth in the contract or other record; and

- Remains accessible to all persons who are entitled to access by statute, regulation or rule of law, for the period required by such statute, regulation or rule of law, in a form that is capable of being accurately reproduced for later reference.¹²

E-SIGN generally supersedes pre-existing regulatory agency requirements that a record be kept on paper if that record is generated in a business, consumer or commercial transaction.¹³ If, however, the record is generated

⁹ E-SIGN section 101(a)(2) [15 U.S.C. 7001(a)(2)].

¹⁰ E-SIGN section 101(d)(1) [15 U.S.C. 7001(d)(1)]. With respect to record retention requirements imposed by a federal statute or agency rule, E-SIGN became effective on March 1, 2001 unless a federal regulatory agency had announced, proposed or initiated rulemaking to establish performance standards to assure accuracy, record integrity and accessibility of electronic records on or before that date. Where a federal regulatory agency announced, proposed or initiated a rulemaking project on or before March 1, 2001, the effective date of E-SIGN was postponed until June 1, 2001 with respect to those record retention requirements. *See* E-SIGN section 107(b)(1) [15 U.S.C. 7007(b)(1)]. On February 28, 2001, we published notice of our intention to engage in rulemaking in order to provide interpretive guidance and, where appropriate, propose or adopt electronic performance standards consistent with E-SIGN. *See* Securities Act Release No. 7955 (Feb. 28, 2001) [66 FR 13273 (Mar. 5, 2001)]. Accordingly, to the extent that E-SIGN affects any record retention requirements under the federal securities laws, E-SIGN took effect on June 1, 2001, instead of March 1, 2001.

¹¹ E-SIGN section 104(b)(3) [15 U.S.C. 7004(b)(3)].

¹² E-SIGN section 101(d)(1) [15 U.S.C. 7001(d)(1)]. E-SIGN preserves our authority to interpret this provision. E-SIGN section 104(b)(1) [15 U.S.C. 7004(b)(1)].

¹³ *See* Office of Management and Budget, Memorandum for the Heads of Departments and Agencies from Jacob J. Lew, No. M-00-15, *OMB Guidance on Implementing the Electronic Signatures in Global and National Commerce Act* (Sept. 25, 2000), Part III, B.1 ("OMB Guidance").