

Issued in Kansas City, MO, on March 4, 2004.

David W. Hope,

Acting Manager, Air Traffic Division, Central Region.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2004-17151; Airspace Docket No. 04-ACE-17]

Modification of Class E Airspace; Johnson, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR 71) by revising Class E airspace at Johnson, KS. Controlled airspace at Johnson, KS was modified and published in the **Federal Register** with an effective date of February 19, 2004. A new Standard Instrument Approach Procedure (SIAP) has been developed to serve Stanton County Municipal Airport requiring additional controlled airspace. This action provides controlled airspace of appropriate dimensions to protect aircraft executing SIAPs in instrument weather conditions to the Stanton County Municipal Airport and brings the airspace area and legal description into compliance with FAA Orders.

DATES: This direct final rule is effective on 0901 UTC, June 10, 2004. Comments for inclusion in the Rules Docket must be received on or before April 20, 2004.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2004-17151/Airspace Docket No. 04-ACE-17, at the beginning of your comments. You may also submit comments on the Internet at <http://dms.dot.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT:

Kathy Randolph, Air Traffic Division,

Airspace Branch, ACE-520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329-2525.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet above the surface at Johnson, KS. Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAPs) that serve Runway (RWY) 17 and RWY 35 Stanton County Municipal Airport and nondirectional radio beacon (NDB)—A SIAP were developed to serve Stanton County Municipal Airport. Controlled airspace at Johnson, KS was modified to appropriate dimensions for the new SIAPs and published in the **Federal Register** on Wednesday, November 19, 2003 (68 FR 65159) [FR Doc. 03-28825]. The NDB—A SIAP has been replaced by a newly developed NDB RWY 17 SIAP with lower approach minimums. The new NDB RWY 17 SIAP has a lower final approach fix crossing altitude than the NDB—A SIAP it replaces. This necessitates a north extension of the Johnson, KS Class E airspace area to protect aircraft executing the SIAP in instrument weather conditions. This action brings the legal description of this airspace area into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The area will be depicted on appropriate aeronautical charts. 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 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, 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 Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or

negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this 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, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers 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 Docket No. FAA-2004-17151/Airspace Docket No. 04-ACE-17." The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, 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

■ Accordingly, 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 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 7400.9L, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

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

* * * * *

ACE KS E5 Johnson, KS

Johnson, Stanton County Municipal Airport, KS

(Lat. 37°34'58"N., long. 101°43'58" W.)

Bear Creek NDB

(Lat. 37°38'08"N., long. 101°44'05" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Stanton County Municipal Airport and within 1.9 miles each side of the 359° bearing from Bear Creek NDB extending from the 6.5-mile radius of the airport to 7 miles north of the NDB.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 81**

[AL–63–200412; FRL–7634–9]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Alabama; Redesignation of Birmingham Ozone Nonattainment Area to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of the redesignation of the 1-hour ozone National Ambient Air Quality Standard (NAAQS) nonattainment area of Birmingham, Alabama, to attainment, and finalizing approval of Alabama's State Implementation Plan (SIP) revision containing a 10-year maintenance plan for the 1-hour ozone NAAQS for the Birmingham area. Additionally, through this action, EPA is providing notification of its determination that the motor vehicle emission budgets (MVEBs) for the year 2015 contained in the 10-year maintenance plan SIP revision for the 1-hour ozone standard for the Birmingham area (submitted on January 30, 2004, by the Alabama Department of Environmental Management (ADEM)), are adequate for transportation conformity purposes. Because EPA is approving these 2015 MVEBs as part of its approval of Alabama's 10-year maintenance plan SIP revision for the Birmingham area, the 2015 MVEBs contained in the Birmingham area's 10-year maintenance plan for the 1-hour ozone standard, can be used for future conformity determinations on the date of publication of this Final rule.

DATES: This final rule is effective on April 12, 2004.

ADDRESSES: Copies of documents relative to this action are available at the following address for inspection during normal business hours: Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

The interested persons wanting to examine these documents should make an appointment at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW.,

Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9042. Ms. Sheckler can also be reached via electronic mail at sheckler.kelly@epa.gov.

Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can also be reached via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On November 19, 2003, the State of Alabama, through ADEM, submitted (1) a request to redesignate the 1-hour ozone NAAQS nonattainment area of Birmingham, Alabama, to attainment, and (2) a request for parallel processing of a draft Alabama SIP revision containing a 10-year maintenance plan for the 1-hour ozone standard for the Birmingham area. ADEM held a public meeting on January 9, 2004, to receive comments on these requested actions. Alabama's comment period for these actions closed January 13, 2004. With the exception of a positive comment concerning the redesignation ADEM did not receive any adverse comments. On January 30, 2004, ADEM submitted to EPA the final Maintenance Plan SIP revision request for final review and approval. The final Maintenance Plan submittal did not contain any changes from the Draft Maintenance Plan submitted to EPA on November 19, 2003.

On January 6, 2004, (69 FR 558) EPA published a notice of proposed rulemaking (NPR) proposing to approve the redesignation of the 1-hour ozone NAAQS nonattainment area of Birmingham, Alabama, to attainment, and proposing to approve the SIP revision containing a 10-year maintenance plan for the 1-hour ozone standard for the Birmingham area. In the January 6, 2004 NPR, EPA also provided the public with an opportunity to review and comment on the adequacy of new volatile organic compounds (VOC) and nitrogen oxides (NO_x) MVEBs for the year 2015 for purposes of determining transportation conformity. The January 6, 2004 NPR provides a detailed description of each of these matters and the rationale for each of EPA's proposed actions, together with a discussion of the opportunity to comment on the adequacy of the 2015 MVEBs. The public comment period for