

counterparty of the retail forex customer's selection.

(b) *Exceptions.* The requirements of paragraph (a) of this section shall not apply to transfers:

(1) Requested by the retail forex customer;

(2) Made by the Federal Deposit Insurance Corporation as receiver or conservator under the Federal Deposit Insurance Act; or

(3) Otherwise authorized by applicable law.

(c) *Obligations of transferee FDIC-supervised insured depository institution.* An FDIC-supervised insured depository institution to which retail forex accounts or positions are assigned or transferred under paragraph (a) of this section must provide to the affected retail forex customers the risk disclosure statements and forms of acknowledgment required by this part and receive the required signed acknowledgments within sixty days of such assignments or transfers. This requirement shall not apply if the FDIC-supervised insured depository institution has clear written evidence that the retail forex customer has received and acknowledged receipt of the required disclosure statements.

#### § 349.16 Customer dispute resolution.

(a) *Voluntary submission of claims to dispute or settlement procedures.* No FDIC-supervised insured depository institution may enter into any agreement or understanding with a retail forex customer in which the customer agrees, prior to the time a claim or grievance arises, to submit such claim or grievance to any settlement procedure.

(b) *Election of forum.* (1) Within ten business days after receipt of notice from the retail forex customer that the customer intends to submit a claim to arbitration, the FDIC-supervised insured depository institution must provide the customer with a list of persons qualified in dispute resolution.

(2) The customer shall, within 45 days after receipt of such list, notify the FDIC-supervised insured depository institution of the person selected. The customer's failure to provide such notice shall give the FDIC-supervised insured depository institution the right to select a person from the list.

(c) *Enforceability.* A dispute settlement procedure may require parties using such procedure to agree, under applicable state law, submission agreement or otherwise, to be bound by an award rendered in the procedure, provided that the agreement to submit the claim or grievance to the voluntary procedure under paragraph (a) of this

section or that agreement to submit the claim or grievance was made after the claim or grievance arose. Any award so rendered shall be enforceable in accordance with applicable law.

(d) *Time limits for submission of claims.* The dispute settlement procedure used by the parties shall not include any unreasonably short limitation period foreclosing submission of a customer's claims or grievances or counterclaims.

(e) *Counterclaims.* A procedure for the settlement of a retail forex customer's claims or grievances against an FDIC-supervised insured depository institution or employee thereof may permit the submission of a counterclaim in the procedure by a person against whom a claim or grievance is brought. Such a counterclaim may be permitted where it arises out of the transaction or occurrence that is the subject of the customer's claim or grievance and does not require for adjudication the presence of essential witnesses, parties, or third persons over which the settlement process lacks jurisdiction.

Dated at Washington, DC, this 6th of July 2011.

By order of the Board of Directors.  
Federal Deposit Insurance Corporation.

**Robert E. Feldman,**  
*Executive Secretary.*

[FR Doc. 2011-17396 Filed 7-11-11; 8:45 am]

**BILLING CODE P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2010-0987; Airspace  
Docket No. 10-ANM-14]

#### Establishment of Class E Airspace; Lincoln City, OR

**AGENCY:** Federal Aviation  
Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace at Lincoln City, OR, to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at Samaritan North Lincoln Hospital Heliport. This action also corrects the name of the city where the Heliport is located. This improves the safety and management of Instrument Flight Rules (IFR) operations.

**DATES:** Effective date, 0901 UTC, October 20, 2011. The Director of the Federal Register approves this

incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:**

Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 203-4537.

**SUPPLEMENTARY INFORMATION:**

**History**

On April 15, 2011, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish controlled airspace at Lincoln City, OR (76 FR 21268). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Subsequent to publication, the FAA found the name of the town was listed incorrectly. This action makes that correction. With the exception of editorial changes, and the changes described above, this rule is the same as that proposed in the NPRM.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9U dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

**The Rule**

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace extending upward from 700 feet above the surface, at Samaritan North Lincoln Hospital Heliport, Lincoln City, OR, to accommodate IFR aircraft executing new RNAV (GPS) standard instrument approach procedures at the heliport. This action is necessary for the safety and management of IFR operations. This action also makes a correction in the town name, from Lincoln, OR, to Lincoln City, OR.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this 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 will only affect air traffic procedures and air navigation, it

is certified 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. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Samaritan North Lincoln Hospital Heliport, Lincoln City, OR.

#### 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, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE 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 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010 is amended as follows:

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

\* \* \* \* \*

#### ANM OR E5 Lincoln City, OR [New]

Samaritan North Lincoln Hospital Heliport,  
OR

(Lat. 44°59'11" N., long. 123°59'39" W.)

That airspace extending upward from 700 feet above the surface within 3-mile radius of Samaritan North Lincoln Hospital Heliport.

Issued in Seattle, Washington, on June 30, 2011.

**Christine Mellon,**

*Acting Manager, Operations Support Group,  
Western Service Center.*

[FR Doc. 2011–17202 Filed 7–11–11; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 121

**[Docket No.: FAA–2002–11301; Amendment No. 121–315]**

**RIN 2120–AH14**

#### Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities; Final Regulatory Flexibility Determination

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** On January 10, 2006, the FAA issued a final rule to require that each person who performs a safety-sensitive aviation function directly for an employer, including contractors and subcontractors, is subject to drug and alcohol testing. This document announces the completion and availability of the final regulatory flexibility certification for this final rule. The rule will not have a significant economic impact on a substantial number of small entities.

**DATES:** Effective July 7, 2011.

#### FOR FURTHER INFORMATION CONTACT:

Nicole Nance, Office of Aviation Policy and Plans, APO–300, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3311; e-mail [nicole.nance@faa.gov](mailto:nicole.nance@faa.gov). For legal questions concerning this document, contact Anne Bechdolt, Regulations Division, AGC–220, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7230; e-mail [anne.bechdolt@faa.gov](mailto:anne.bechdolt@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 28, 2002, the FAA issued a notice of proposed rulemaking seeking to revise the drug and alcohol testing regulations by amending the definition of employee (67 FR 9366, 9377, Feb. 28, 2002). The FAA action addressed those individuals performing safety-sensitive functions under contract who may not

have been subject to testing under the drug and alcohol testing regulations established in 1988 and 1994, respectively. Upon review of comments, the FAA, in 2004, issued a supplemental notice of proposed rulemaking to seek comment regarding how small entities would be impacted by this rule (69 FR 27980, May 17, 2004). From the comments received the FAA certified under 5 U.S.C. 605(b) that the rule would not have a significant impact on a substantial number of small entities.

On January 10, 2006, the FAA issued the final rule (71 FR 1666). This rule requires that each person who performs a safety-sensitive aviation function directly for an employer is subject to testing and that each person who performs a safety-sensitive function at any tier of a contract for that employer is also subject to testing. This requirement includes contractors and subcontractors. Contracting companies have two testing options: Option one is for the contracting company to obtain and implement its own FAA drug and alcohol (D&A) testing programs. Under this option, the company would subject the individuals to testing. The other option is for the regulated employer to maintain its own testing programs and subject the individual to testing under these programs. To establish a D&A program a company would need to develop and maintain testing, training, and annual reporting requirements.

To comply with the Regulatory Flexibility Analysis (RFA), and to evaluate the impact on small businesses, the FAA described and estimated the number of affected businesses and estimated the economic impact. In the certification for the final rule the FAA estimated that the costs were minimal, and that contractors would absorb some of these costs. In order to estimate the maximum impact of this regulation on regulated entities, the FAA assumed that all of the additional cost would be passed along to regulated employers. Since costs were minimal, the FAA again certified that the rule would not have a significant economic impact on a substantial number of small entities. 71 FR 1666, 1674 (Jan. 10, 2006)

The Aeronautical Repair Station Association, Inc., (ARSA) and other affected businesses challenged the final rule on several grounds, including the FAA's compliance with the Regulatory Flexibility Act. The entities argued that contractors and subcontractors were directly affected by the final rule, and in failing to consider them as part of the basis for the certification, the FAA failed to comply with the RFA. Upon review, the U.S. Court of Appeals for the