(2) Cracks in crankcases of engines with a ROTAX cooling air baffle may not be easily visible, and oil leaks may be an indication of cracks. Visually inspect for oil leaks in areas of (item 2) and (item 3).

(3) If oil leaks are found, determine the source by either using a borescope or removing the object blocking the view such as the air baffle or accessory, and perform the inspection.

(4) If the engine crankcase is cracked, replace engine before further flight. Repair oil leaks from any other cause.

Note 3: Information concerning this inspection can be found in Bombardier-Rotax mandatory service bulletins No's. SB–912–029, dated May 2001/SB–914–018, Revision 1, dated December 2001.

Repetitive Inspections

(b) Visually inspect the engine crankcase (item 1, Figure 1 of this AD) for cracks at each 100-hour, annual, or progressive inspection, or within 110 hours TIS since last inspection, whichever occurs first, in accordance with paragraph (a) of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be done.

Note 5: The subject of this AD is addressed in Austro Control airworthiness directive No. 107 R1, dated December 1, 2001.

Effective Date

(e) This amendment becomes effective on August 30, 2002.

Issued in Burlington, Massachusetts, on August 7, 2002.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–20679 Filed 8–14–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2001–9813; Airspace Docket No. 00–AWA–7]

RIN 2120–AA66

Modification of the Memphis International Airport Class B Airspace Area; TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Memphis International Airport (MEM) Class B airspace area. Specifically, this action reconfigures existing sub-area boundaries, adds one new sub-area, and lowers the floor of Class B airspace in certain segments of the Memphis Class B airspace area. In addition, this modification redescribes the boundaries of the Memphis Class B airspace area using the Memphis Very High Frequency Omnidirectional Range Tactical Air Navigation (VORTAC) facility as the reference point. The FAA is taking this action to more efficiently align the Memphis Class B airspace area to accommodate simultaneous parallel instrument landing system (ILS) approach procedures and simultaneous intersecting runway operations. This change will enhance safety, reduce the potential for midair collisions, and improve the management of air traffic operations in the Memphis terminal area. Further, this effort supports the FAA's National Airspace Redesign project goal of optimizing terminal and enroute airspace areas to reduce aircraft delays and improve system capacity.

EFFECTIVE DATE: 0901 UTC, October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Availability of Final Rule

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page *(http://dms.dot.gov/search).*

(2) On the search page, type in the last four digits of the Docket Number shown at the beginning of this rule. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number for the item you wish to view.

Also an electronic copy of this document can be downloaded from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: (703) 321–3339) or the **Federal Register's** electronic bulletin board service (telephone: (202) 512–1661) using a modem and suitable communications software.

Internet users may reach the FAA's web page at *http://www.faa.gov* or the **Federal Register** Web page at *http://www.access.gpo.gov/nara* for access to recently published rulemaking documents.

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, Attention: Airspace and Rules Division, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783.

Communications must identify the docket number of this final rule. Persons interested in being placed on a mailing list for future NPRM's or final rules should contact the Federal Aviation Administration, Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Related Rulemaking Actions

On May 20, 1970, the FAA published the Designation of Federal Airways, Controlled Airspace, and Reporting Points Final Rule in the **Federal Register** (35 FR 7782). This rule provided for the establishment of Terminal Control Airspace (TCA) areas (now known as Class B airspace areas).

On June 21, 1988, the FAA published the Transponder With Automatic Altitude Reporting Capability Requirement Final Rule in the **Federal Register** (53 FR 23356). This rule requires all aircraft to have an altitude encoding transponder when operating within 30 nautical miles (NM) of any designated Class B airspace area primary airport from the surface up to 10,000 feet MSL. This rule excluded those aircraft that were not originally certificated with an engine-driven electrical system (or those that have not subsequently been certified with such a system), balloons, or gliders operating outside of the Class B airspace area, but within 30 NM of the primary airport.

On October 14, 1988, the FAA published the Terminal Control Area Classification and Terminal Control Area Pilot and Navigation Equipment Requirements Final Rule in the **Federal Register** (53 FR 40318). This rule, in part, requires the pilot-in-command of a civil aircraft operating within a Class B airspace area to hold at least a private pilot certificate, except for a student pilot who has received certain documented training.

On December 17, 1991, the FAA published the Airspace Reclassification Final Rule in the **Federal Register** (56 FR 65638). This rule discontinued the use of the term ''Terminal Control Area'' and replaced it with the designation ''Class B airspace area.'' This change in terminology is reflected in this final rule.

Background

The Class B airspace area program was developed to reduce the potential for midair collision in the congested airspace surrounding airports with high density air traffic operations by providing an area wherein all aircraft are subject to certain operating rules and equipment requirements. The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increase the probability of midair collisions.

In 1970, a study of terminal airspace areas found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier, or military aircraft, or another GA aircraft. The basic causal factor common to these conflicts was the mix of aircraft operating under visual flight rules (VFR) and aircraft operating under instrument flight rules (IFR). The establishment of Class B airspace areas provides a method to accommodate increasing numbers of IFR and VFR operations. The regulatory requirements of Class B airspace areas afford the greatest protection for the greatest number of people by giving air traffic control (ATC) the increased capability to provide aircraft separation service, thereby minimizing the mix of controlled and uncontrolled aircraft.

The standard configuration of Class B airspace areas normally contains three concentric circles centered on the primary airport extending to 10, 20, and 30 NM, respectively. The standard vertical limit of these airspace areas normally should not exceed 10,000 feet mean sea level (MSL), with the floor established at the surface in the inner area, and at levels appropriate to the containment of operations in the outer areas. Variations of these configurations may be utilized contingent on the terrain, adjacent regulatory airspace, and factors unique to a specific terminal area.

Public Input

On November 7, 2001, the FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (Airspace Docket No. 00–AWA–7; 66 FR 56251) proposing to modify the Memphis International Airport Class B airspace area. The comment period for this NPRM closed on January 7, 2002.

In response to the notice, the FAA received nine written comments. All comments received were considered before making a determination on this final rule. An analysis of the comments received and the FAA's response are summarized below.

Discussion of Comments

The Aircraft Owners and Pilots Association and the Air Line Pilots Association submitted comments in support of the proposed modifications. The Experimental Aircraft Association (EAA) concurred with the shift of the airspace reference point to the Memphis VORTAC, but questioned the need for size of the Class B airspace area at Memphis. EAA submitted an alternative Class B airspace design intended to better utilize Class B airspace and make the entire area more accommodating to GA. EAA recommended that the FAA change the MEM Class B airspace proposal to retain the present Class B airspace configuration within 20 NM, and extend the Class B airspace area outward to the 30 NM ring only in four separate sectors (one each to the north, south, east, and west of the airport) based on the instrument approach paths for Runways 36/18 and 9/27. EAA termed these extensions ''key holes.'' EAA also suggested that the remaining Class B airspace beyond the 20–NM ring, and in between the ''key hole'' extensions, be eliminated. EAA further recommended that the floor of Class B airspace in Area E extend no lower than 5,000 feet MSL, rather than the 4,000-foot floor implemented in this rule.

The FAA carefully considered the changes suggested by EAA and determined that the recommended configuration would not provide sufficient Class B airspace to ensure the containment of air carrier operations, and would not facilitate the efficient management of air traffic operations in the Memphis terminal area. The modifications to Areas A, B, and C are required to contain aircraft operations during the use of simultaneous ILS approaches to the north/south parallel runways and simultaneous intersecting runway operations. The modifications provide the additional Class B airspace needed by ATC to ensure the required 1,000 feet vertical separation is maintained while vectoring multiple aircraft for simultaneous ILS approaches, and to permit ATC to employ proper intercept angles during these simultaneous operations. Currently, the initial approach fix (COVIM) for Runway 27 lies within Area C which has a floor of 3,000 feet MSL. Therefore, an aircraft flying the approach and crossing COVIM at the published altitude of 1,900 feet MSL is well below the floor of the present Class B airspace area. The expanded Area B will encompass COVIM within Class B airspace thereby providing appropriate protection for aircraft flying the ILS Runway 27 approach. These modifications will not only enable increased use of simultaneous ILS approaches and simultaneous intersecting runway operations, but will also enhance the efficiency of operations in the Memphis terminal area.

The FAA concluded that EAA's suggested ''key hole'' design will eliminate Class B airspace that currently encompasses all four standard terminal arrival route (STAR) fixes serving the Memphis International Airport. Over 90 per cent of the traffic at Memphis International is air carrier/air taxi aircraft which routinely enter the Memphis terminal area via one of the four STARs. The deletion of these Class B airspace segments will also affect airspace used by ATC to vector and to separate aircraft that are being sequenced for simultaneous parallel approaches and simultaneous intersecting runway operations, as mentioned above. Regarding the floor of Class B airspace in Area E, EAA questioned the need for a base altitude of 4,000 feet MSL extending as far to the north and south of the Runway 27 instrument approach corridor as is encompassed by the new Area E. Area E was designed to meet an increasing traffic demand and to maximize airport capacity at Memphis. The 4,000-foot-base altitude provides the procedural capability to more efficiently utilize Runway 27 as an arrival runway. When Runway 27 arrivals are in progress, the final approach for Runway 27 often extends out to at least 20 NM. The new Area E provides airspace to more efficiently accommodate the increasing use of Runway 27 for arrivals.

Another commenter agreed with use of the Memphis VORTAC as the Class B airspace area reference point, but questioned both the present size of the Memphis Class B airspace area when compared to other Class B airspace locations, as well as the modifications proposed in the NPRM. The commenter endorsed the proposed design as submitted by EAA. The FAA finds that the determination of a Class B airspace area's configuration must be airport-specific and is based on the particular circumstances of the primary airport. A variety of factors are considered such as the volume of traffic, runway configuration, arrival and departure routings, adjacent airspace considerations, etc. The primary purpose of Class B airspace is to reduce the potential for midair collisions near airports with high density air traffic operations, and to contribute to the efficiency and safety of operations in the area. Due to these factors, one cannot necessarily compare the design of one Class B airspace location against another. The FAA believes that the modified Memphis Class B airspace area affords the appropriate Class B airspace protection between participating and nonparticipating aircraft in the Memphis terminal area, while considering the needs of all aviation users. The design EAA recommended was discussed above.

Two comments cited concerns that the proposed modifications would affect emergency medical service (EMS) helicopter access to and from various hospitals in and around the Memphis Class B airspace area. The commenter suggested the use of cutouts or a VFR corridor to accommodate EMS helicopter operations. The FAA will resolve these concerns by developing a Letter of Agreement with the operators to accommodate EMS operations.

One GA pilot wrote that the proposed modifications are unwarranted. The commenter stated that the modifications would compress existing traffic and increase the probability of collisions with aircraft trying to remain clear of Class B airspace. Additionally, the commenter said that the proposal would cause problems for pilots entering and leaving the traffic pattern at the Olive Branch Airport (OLV) in Mississippi, and that egress from OLV to the west is blocked by Class B airspace. The FAA does not agree with the commenter. The primary purpose of Class B airspace is to reduce the potential for midair collisions in the airspace surrounding airports with high-density air traffic operations. The dimensions of the Memphis Class B airspace area were designed based on the specific needs of the primary airport and to enhance the management of air traffic operations in the terminal area. The Area B modifications were designed to accommodate both simultaneous ILS approaches to the North/South parallel runways, and instrument approaches to Runways 9/27 at Memphis. The FAA acknowledges that the close proximity of OLV to the Memphis International Airport can be a factor for pilots operating to or from OLV. However, the volume of traffic and the number of enplaned passengers served by Memphis dictate the need for this Class B airspace configuration. By designing the expanded Area B boundaries to exclude OLV, the FAA sought to minimize possible impact on nonparticipating aircraft operating to and from that airport. Further, the existing Area B boundary lies in close proximity to the OLV traffic pattern to the west of the airport. The OLV traffic pattern altitude is 1,200 feet MSL, while the floor of Area B is 1,800 feet MSL. This allows for continued nonparticipating aircraft operations to, from, and within the OLV traffic pattern beneath the Class B airspace floor. Regarding the comment that egress to the west from OLV is blocked by Class B airspace, the FAA responds that departing OLV to the west is currently affected by the location of the existing Area B boundary as well as the Class B airspace surface area further to the west of OLV. However, since the floor of the modified Area B remains unchanged at 1,800 feet MSL, egress to the west of OLV for nonparticipating aircraft is basically the same as exists under the current Class B airspace configuration.

The remaining two comments were duplicate submissions to the docket.

The Rule

This amendment to 14 CFR part 71 modifies the Memphis Class B airspace area. Specifically, this action expands the lateral limits of Areas A, B, and C, reduces the size of Area D, and establishes a new Area E. In addition, this modification revises the description of the Memphis Class B airspace area by using radials and mileages from the Memphis VORTAC as the reference point instead of the current point-in-space latitude/longitude positions. Area A is modified to more efficiently align the lateral dimensions of the surface area and to provide the additional Class B airspace needed for simultaneous ILS approach procedures, while accommodating secondary airport operations. The lateral dimensions of Area B are expanded slightly to ensure the containment of instrument procedures using a 300-foot-per-mile gradient, to provide additional airspace for vectoring aircraft for simultaneous parallel ILS approaches, and to accommodate simultaneous intersecting runway operations. To the east of the airport, the expanded Area B boundary is adjusted to exclude the Olive Branch Airport (OLV). Area C is modified by extending the boundaries of Area C outward to the Memphis VORTAC 30-mile arc in the segments to the north and south of the Memphis Airport, thereby incorporating into Area C, portions of airspace formerly in Area D. The effect of this modification is the lowering of the floor of Class B airspace from the current 5,000 feet MSL to 3,000 feet MSL in the airspace incorporated by the new Area C extensions. This change to Area C is needed to ensure the efficient use of and containment of simultaneous parallel approach procedures. As a result of the Area C modification, Area D is reduced in size. The revised Area D consists only of that airspace generally between the 20-mile and 30-mile arcs of the Memphis VORTAC, and within the area bounded by the 199° radial clockwise to the 332° radial. The remaining portion of the current Area D airspace to the north and south of the airport is incorporated into the revised Area C. That portion of the current Area D located to the east of the airport is incorporated into the new Area E. A new Area E is established to the east of the airport consisting of airspace that is currently part of Area D. Area E consists of that airspace generally between the 20-mile and 30-mile arcs of the Memphis VORTAC, and bounded by the MEM 019° radial, clockwise to the 151° radial. This change lowers the floor of Class B airspace in that area from the current 5,000 feet MSL to 4,000 feet MSL. This lower Class B airspace floor, combined with the lateral extent of Area E is required to contain Runway 27 instrument approaches and to provide the procedural capability to more efficiently utilize Runway 27 as an arrival runway.

These modifications to the Memphis Class B airspace area enhance safety by improving the containment of turbojet aircraft within Class B airspace and by simplifying navigation in the Memphis terminal area for aircraft that are not global positioning system-equipped. The modifications improve flow of traffic and the management of air traffic operations in the Memphis terminal area. Finally, this action supports the FAA's National Airspace Redesign project goal of optimizing terminal and enroute airspace areas to reduce aircraft delays and improve system capacity.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR section 71.1. The Class B airspace area listed in this document will be published subsequently in the Order.

Regulatory Evaluation Summary

Changes to Federal Regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act requires agencies to analyze the economic effect of regulatory changes on small businesses and other small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule: (1) Will generate benefits that justify its minimal costs and is not a ‘‘significant regulatory action’’ as defined in the Executive Order; (2) is not significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; (4) will not constitute a barrier to international trade; and (5) will not contain any Federal intergovernmental or private sector mandate. These analyses are summarized here in the preamble, and the full Regulatory Evaluation is in the docket.

This final rule will modify the Memphis, TN, Class B airspace by reconfiguring the sub-area boundaries, adding one new sub-area and lowering the altitude floor in certain segments of that airspace. In addition, the FAA will describe the boundaries of the Memphis Class B airspace area using the Memphis VORTAC as the reference point.

The final rule will generate benefits for system users and the FAA in the form of enhanced operational efficiency and simplified navigation in the Memphis terminal area for aircraft that are not global positioning system-equipped. Since Class B airspace is already in place at Memphis, and the modifications in this rule are not major expansions of Class B airspace, minimal costs will be incurred by aircraft operators. Thus, the FAA has determined that this final rule will be cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ‘‘as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.’’ To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule may impose some minimal circumnavigation costs on some individuals operating in the Memphis area; but the final rule will not impose any costs on small business entities. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Statement

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

In accordance with the above statute, the FAA has assessed the potential effect of this final rule and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments.

Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ‘‘significant regulatory action.’’

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)).

Conclusion

In view of the minimal cost of compliance of this final rule and the enhancements to aviation safety and operational efficiency, the FAA has determined that this final rule will be cost-beneficial.

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 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 3000—Subpart B Class B Airspace

* * * * *

ASO TN B Memphis, TN [Revised]

Memphis International Airport (Primary Airport)
(Lat. 35°02′33″ N., long. 89°58′36″ W.)
Memphis VORTAC (MEM)
(Lat. 35°00′54″ N., long. 89°59′00″ W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the MEM 090° radial and the MEM 5-mile arc; thence clockwise along the 5-mile arc to the MEM 270° radial; thence west along the 270° radial to the 8-mile arc; thence clockwise along the 8-mile arc to the MEM 090° radial; thence west along the 090° radial to the point of beginning.

Area B. That airspace extending upward from 1,800 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the MEM 090° radial and the MEM 12-mile arc; thence west along the 090° radial to the MEM 9-mile arc; thence clockwise along the 9-mile arc to the MEM 111° radial; thence southeast along the 111° radial to the MEM 12-mile arc; thence clockwise along the 12-mile arc to the MEM 134° radial; thence southeast along the 134° radial to the MEM 16-mile arc; thence clockwise along the 16-mile arc to the MEM 217° radial; thence northeast along the 217° radial to the MEM 12-mile arc thence clockwise along the 12-mile arc to the MEM 313° radial; thence northwest along the 313° radial to the MEM 16-mile arc; thence clockwise along the 16-mile arc to the MEM 038° radial; thence southwest along the 038° radial to the MEM 12-mile arc; thence clockwise along the 12-mile arc to the point of beginning.

Area C. That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the MEM 019° radial and the MEM 30-mile arc; thence southwest along the 019° radial to the MEM 20-mile arc; thence clockwise along the 20-mile arc to the MEM 151° radial; thence southeast along the 151° radial to the 151° radial at 27 miles; thence via a line drawn southwestward to the intersection of the MEM 163° radial and the MEM 30-mile arc; thence clockwise along the 30-mile arc to the MEM 199° radial; thence northeast along the 199° radial to the MEM 20-mile arc; thence clockwise along the 20-mile arc to the MEM 332° radial; thence northwest along the 332° radial to the 332° radial at 29 miles; thence via a line drawn northeastward to the intersection of the MEM 338° radial and the MEM 30-mile arc; thence clockwise along the 30-mile arc to the point of beginning.

Area D. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the MEM 199° radial and the MEM 20-mile arc; thence southwest along the 199° radial to the MEM 30-mile arc; thence clockwise along the 30-mile arc to the MEM 302° radial; thence via a line drawn northeastward to the MEM 332° radial at 29 miles; thence southeast along the MEM 332° radial to the MEM 20-mile arc; thence counterclockwise along the 20-mile arc to the point of beginning.

Area E. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the MEM 019° radial and the MEM 30-mile arc; thence clockwise along the 30-mile arc to the MEM 103° radial; thence via a line drawn southwestward to the MEM 151° radial at 27 miles; thence northwest along the 151° radial to the MEM 20-mile arc; thence counterclockwise along the 20-mile arc to the MEM 019° radial; thence northeast along the 019° radial to the point of beginning.

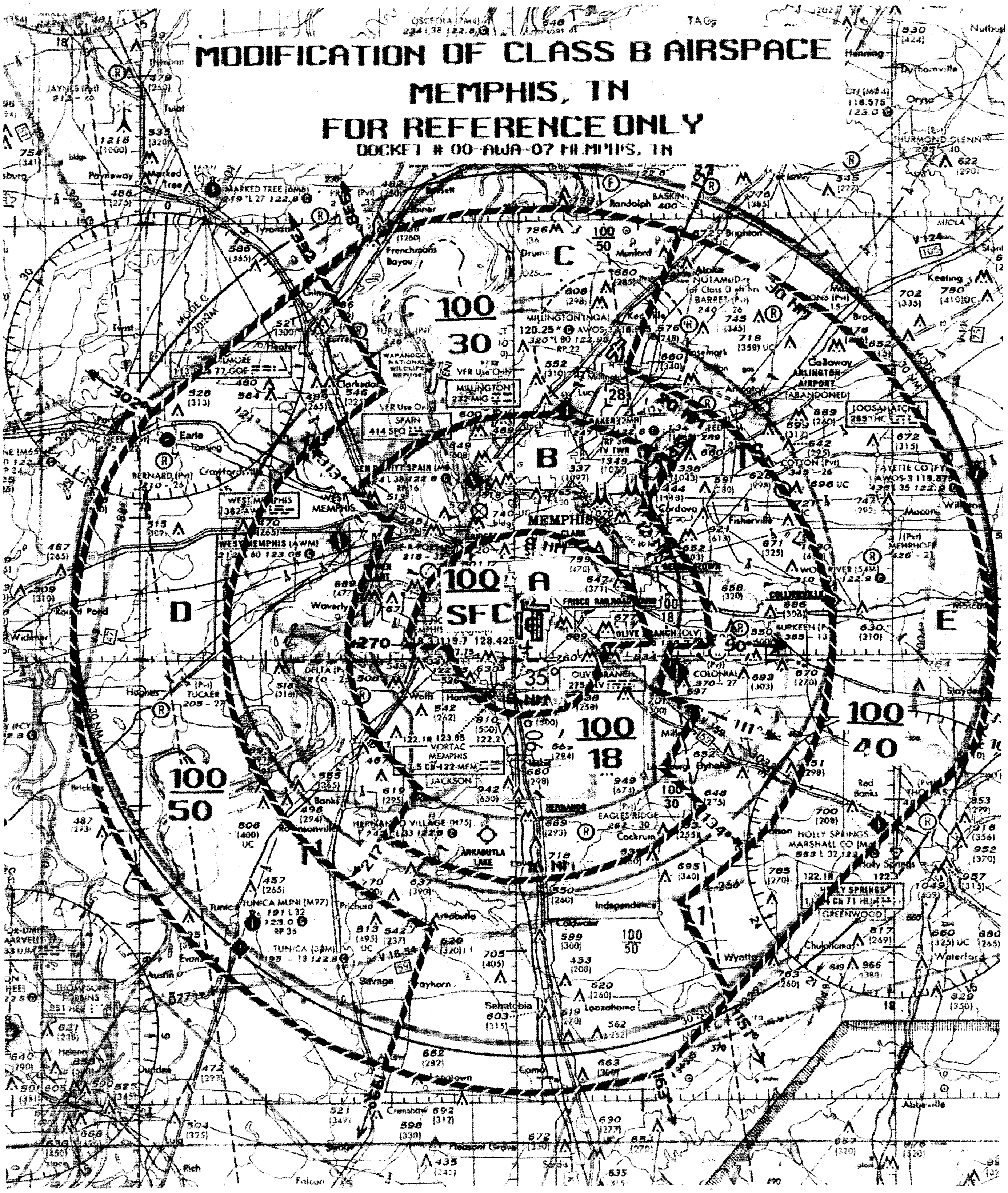
* * * * *

Issued in Washington, DC, on August 7, 2002.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

BILLING CODE 4910–13–C


MODIFICATION OF CLASS B AIRSPACE
MEMPHIS, TN
FOR REFERENCE ONLY
DOCKET # 00-AWA-07 MEMPHIS, TN
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Arkabutla
Randolph
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[FR Doc. 02–20764 Filed 8–14–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 5 and 16

[Docket No. 02N–0251]

Presiding Officers at Regulatory Hearings

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its administrative regulations governing who may act as a presiding officer at a regulatory hearing. This action amends the regulations to permit an administrative law judge (ALJ) to act as a presiding officer and provide the appropriate delegations of authority. FDA is taking this action to increase the pool of qualified personnel available as presiding officers, thereby increasing the efficiency with which the agency conducts regulatory hearings, beginning with responding to hearing requests and continuing through issuance of written hearing reports. Elsewhere in this issue of the **Federal Register**, FDA is publishing a companion proposed rule, under FDA's usual procedure for notice-and-comment rulemaking, to provide a procedural framework to finalize the rule in the event the agency receives any significant adverse comments and withdraws this direct final rule.

DATES: This rule is effective December 30, 2002. Submit written or electronic comments on or before October 29, 2002. If FDA receives no significant adverse comments within the specified comment period, the agency will publish a document confirming the effective date of the final rule in the **Federal Register** within 30 days after the comment period on this direct final rule ends. If timely significant adverse comments are received, the agency will publish a document in the **Federal Register** withdrawing this direct final rule before its effective date.

ADDRESSES: Submit written comments on the direct final rule to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Peter C. Beckerman, Office of the Chief Counsel (GCF–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7144.

SUPPLEMENTARY INFORMATION:

I. Discussion

FDA's procedures for a regulatory hearing are set forth in part 16 (21 CFR part 16) of the agency's regulations. ''Part 16 hearings'' are offered under numerous statutory and regulatory provisions. Section 16.1 provides a list of statutes and regulations in which part 16 hearings are available.

Currently § 16.42(a) provides that an FDA employee to whom the Commissioner of Food and Drugs (the Commissioner) delegates the authority, or any other FDA employee to whom such authority is redelegated, can serve as the presiding officer at a regulatory hearing. In turn, § 5.30(c) (21 CFR 5.30(c)) delegates authority to preside at and conduct a regulatory hearing to the Chief Mediator and Ombudsman for the Agency; the Directors and Deputy Directors of the Center for Food Safety and Applied Nutrition, the Center for Drug Evaluation and Research, the Center for Devices and Radiological Health, and the Center for Biologics Evaluation Research; Regional Directors; District Directors; the Director of the St. Louis Branch; and such other FDA official as the Commissioner may designate by memorandum in the proceeding.

FDA believes that the addition of the ALJ to the list of those delegated to conduct regulatory hearings would increase the pool of qualified personnel available to preside at regulatory hearings. In addition, by virtue of the nature of an ALJ's training and experience adjudicating disputes, FDA believes that an ALJ would be appropriately suited to conduct regulatory hearings. Therefore, the agency is amending §§ 5.30(c) and 16.42(a) to permit an ALJ to preside at and conduct regulatory hearings before the agency.

The regulations pertaining to ALJs issued by the Office of Personnel Management (OPM) (5 CFR 930.209(b)), provide that an agency may assign an ALJ, by detail or otherwise, to perform duties that are not the duties of an ALJ without prior approval by OPM when the duties are not inconsistent with the duties and responsibilities of an ALJ, the assignment is not to last longer than 120 days; and the ALJ has not had an aggregate of more than 120 days of such assignments or details in the preceding year. However, OPM's regulations under 5 CFR 930.209(c) also state that on a showing that it is in the public interest, OPM may authorize a waiver from the 120-day limitation.

For the reasons already discussed, FDA believes it would be in the public interest to permit an ALJ to preside at and conduct part 16 hearings.

II. Direct Final Rulemaking

FDA has determined that the subject of this rulemaking is suitable for a direct final rule. This direct final rule revises §§ 5.30(c) and 16.42(a) to permit an ALJ to preside at and conduct regulatory hearings before the agency. The action taken should be noncontroversial, and the agency does not anticipate receiving any significant adverse comment on this rule.

If FDA does not receive significant adverse comment by October 29, 2002, the agency will publish a document in the **Federal Register** before November 28, 2002, confirming the effective date of the final rule. The agency intends to make the direct final rule effective 30 days after publication of the confirmation document in the **Federal Register**. A significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment recommending a rule change in addition to this rule will not be considered a significant adverse comment unless the comment also states why this rule would be ineffective without the additional change. If timely significant adverse comments are received, the agency will publish a document in the **Federal Register** withdrawing this direct final rule before November 28, 2002.

Elsewhere in this issue of the **Federal Register**, FDA is publishing a companion proposed rule, identical to the direct final rule, that provides a procedural framework within which the rule may be finalized in the event the direct final rule is withdrawn because of significant adverse comment. The comment period for the direct final rule runs concurrently with that of the companion proposed rule. Any comments received under the companion proposed rule will be treated as comments regarding the direct final rule. FDA will not provide additional opportunity for comment on the companion proposed rule. A full description of FDA's policy on direct final rule procedures may be found in a guidance document published in the **Federal Register** of November 21, 1997 (62 FR 62466).