

at Augusta, GA, (67 FR 62416). This action provides adequate Class E5 airspace for IRF operations at Millen, GA. Designations for Class E5 airspace extending upward from 700 feet or more above the surface are published in FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR part 71.1. The Class E designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

### The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class E5 airspace at Augusta, GA.

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 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; EO 10854, 24 FR 9565, 3 CFR, 1959–1964 Comp., p. 389.

#### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation

Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

#### ASO GA E5 Augusta, GA [REVISED]

Augusta, Bush Field, GA

(Lat. 33°22'12"N, long. 81°57'52"W)

Bushe NDB

(Lat. 33°17'13"N, long. 81°56'49"W)

Daniel Field

(Lat. 33°27'59"N, long. 82°02'21"W)

Burke County Airport

(Lat. 33°02'27"N, long. 82°00'14"W)

Burke County NDB

(Lat. 33°02'33"N, long. 82°00'17"W)

Millen Airport

(Lat. 32°53'38"N, long. 81°57'54"W)

Millen NDB

(Lat. 32°53'41"N, long. 81°58'01"W)

That airspace extending upward from 700 feet above the surface within an 8.2-mile radius of Bush Field and within 8 miles west and 4 miles east of the Augusta ILS localizer south course extending from the 8.2-mile radius to 16 miles south of the Bushe NDB, and within a 6.3-mile radius of Daniel Field, and within a 6.2-mile radius of Burke County Airport and within 3.5 miles each side of the 243° bearing from the Burke County NDB extending from the 6.2-mile radius to 7 miles southwest of the NDB, and within a 6.4-mile radius of Millen Airport and within 4 miles east and 8 miles west of the 357° bearing from the Millen NDB extending from the 6.4-mile radius to 16 miles north of the airport.

\* \* \* \* \*

Issued in College Park, Georgia, November 21, 2002.

**Walter R. Cochran,**

*Acting Manager, Air Traffic Division, Southern Region.*

[FR Doc. 02–30329 Filed 11–29–02; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA 2001–10527; Airspace Docket No. ASD 02–AGL–16]

RIN 2120–AA66

#### Revision of Jet Route

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

**ACTION:** Final Rule.

**SUMMARY:** This action realigns Jet Route 211 (J–211) southeast of the Johnstown, PA, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) by realigning it

clockwise by one degree. The realignment is necessary because the Johnstown 129° radial has become unusable. The FAA is taking this action to enhance aviation safety in the Johnstown, PA, area.

**EFFECTIVE DATE:** 0901 UTC, January 23, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Steve Rohring, 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:

#### Background

Aircraft navigating on J–211 currently use the 129° radial of the Johnstown, PA, VORTAC. A review by the FAA has revealed that the 129° radial of the Johnstown, PA, VORTAC has become unusable. This action revises J–211 from the Johnstown 129° radial to the Johnstown 130° radial. The FAA is taking this action to enhance aviation safety in the affected area.

#### The Rule

This amendment to 14 CFR part 71 realigns a segment of J–211 southeast of the Johnstown, PA, VORTAC by moving it one degree from the Johnstown 129° radial to the Johnstown 130° radial. This action is necessary to ensure the safety of aircraft navigating on J–211. Because this action is needed for safety reasons, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest.

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 Department of Transportation (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, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Jet routes are published in paragraph 2004 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 jet routes listed in this document will be published subsequently in the Order.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of 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 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 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

*Paragraph 2004 Jet Routes*

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#### J-211 [Revised]

From Youngstown, OH; Johnstown, PA; INT Johnstown 130° and Westminster, MD, 292° radials; to Westminster.

\* \* \* \* \*

Issued in Washington, DC, on November 22, 2002.

**Reginald C. Matthews,**

*Manager, Airspace and Rules Division.*

[FR Doc. 02–30326 Filed 11–29–02; 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; Confirmation of Effective Date

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; confirmation of effective date.

**SUMMARY:** The Food and Drug Administration (FDA) is confirming the

effective date of January 2, 2003, for the direct final rule that appeared in the **Federal Register** of August 15, 2002 (67 FR 53305). The direct final rule amends the administrative regulations governing who may act as a presiding officer at a regulatory hearing. This document confirms the effective date of the final rule.

**DATES:** Effective date confirmed: January 2, 2003.

#### 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:** In the **Federal Register** of August 15, 2002 (67 FR 53305), FDA solicited comments concerning the direct final rule for a 75-day period ending October 29, 2002. FDA stated that the effective date of the direct final rule would be 30 days after the publication of this confirmation document in the **Federal Register**, unless any significant adverse comment was submitted to FDA during the comment period. FDA did not receive any significant adverse comments.

Therefore, under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321 et al.), and under the authority delegated to the Commissioner of Food and Drugs, the amendments issued thereby will go into effect on January 2, 2003.

Dated: November 26, 2002.

**Margaret M. Dotzel,**

*Assistant Commissioner for Policy.*

[FR Doc. 02–30483 Filed 11–29–02; 8:45 am]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 101

[Docket No. 02P–0177]

#### Food Labeling: Health Claims; D-tagatose and Dental Caries

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Interim final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the regulation authorizing a health claim on sugar alcohols and dental caries, i.e., tooth decay, to include the sugar D-tagatose, a novel food ingredient. Similar to the sugar alcohols currently listed in § 101.80 (21 CFR 101.80), D-tagatose is a carbohydrate sweetener that is slowly fermented by oral

microorganisms, thus producing less acid than more fermentable carbohydrates. We (FDA) are taking this action in response to a petition filed by Arla Foods Ingredients amb. We previously concluded that there was significant scientific agreement for the relationship between slowly fermented carbohydrate sugar substitutes, specifically certain sugar alcohols, and the nonpromotion of dental caries. Based on the totality of publicly available scientific evidence, we now have determined that the sugar D-tagatose, like the sugar alcohols, is not fermented by oral bacteria to an extent sufficient to lower dental plaque pH to levels that would cause the erosion of dental enamel. Therefore, we have concluded that D-tagatose does not promote dental caries, and we are amending the regulation authorizing a health claim relating certain sugar alcohols and nonpromotion of dental caries to include D-tagatose as a substance eligible for the claim. Moreover, because D-tagatose is a sugar, we are denying the petitioner's request to exclude D-tagatose from the definition of "sugars," and instead are exempting foods containing D-tagatose from the requirement that foods bearing a health claim about nonpromotion of dental caries be sugar-free. Accordingly, although products containing D-tagatose will not be permitted to be labeled as "sugar-free," they will be authorized to say that D-tagatose sugar does not promote, or may reduce the risk of, tooth decay.

**DATES:** This rule is effective December 2, 2002. Submit written or electronic comments by February 18, 2003.

**ADDRESSES:** Submit written comments 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:

James Hoadley, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS–832), Harvey W. Wiley Federal Bldg., 5100 Paint Branch Pkwy., College Park, MD, 20740–3835, 301–436–1450.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The Nutrition Labeling and Education Act of 1990 (the 1990 amendments) (Public Law 101–535) amended the Federal Food, Drug, and Cosmetic Act (the act) in a number of important ways. One aspect of the 1990 amendments was that they confirmed FDA's authority to