

not available to make the changes, test the changes, and train other employees. OTS believes that this factor weighs against an effective date of January 1, 2004. Moreover, a January 1, 2004 effective date will unreasonably delay, and thus deny, consumers the protections accorded under state law with regard to prepayment penalties and late charges on loans made by state housing creditors. In the final rule, OTS examined the AMTPA rule's impact on predatory lending and concluded that the widespread use of prepayment penalties may deter consumers from seeking to refinance high cost loans with burdensome provisions and may have other adverse consequences for sub-prime borrowers. OTS further concluded that state laws on prepayment penalties and late charges are a key component in states' regulation of predatory lending, and that its current AMTPA rules may frustrate these state efforts. OTS is disinclined to thwart these efforts to combat predatory lending by unnecessarily extending the implementation period.

In light of these factors, OTS will extend the effective date of the revised AMTPA rule for six additional months until July 1, 2003.<sup>5</sup>

### III. Regulatory Analyses

To the extent that this extension of the effective date is deemed to be a rule under the Administrative Procedure Act (APA), OTS makes the following regulatory findings.

#### A. Administrative Procedure Act

Under the APA, an agency may suspend general notice-and-comment rulemaking procedures if the agency "for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."<sup>5</sup> 5 U.S.C. 553(b)(3)(B). OTS finds that it has good cause to delay the effective date without first soliciting comment concerning this action. Because the effective date of the final rule (January 1, 2003) is fast approaching, it is impracticable to seek further public

<sup>5</sup> Thus, loans consummated on or after July 1, 2003 will be governed by revised § 560.220. However, if a loan is made pursuant to a legally binding loan commitment made before July 1, 2003, the loan will be governed by the prior OTS rule. Where a prospective borrower pays no fee for a commitment, state housing creditors should closely review the loan commitment to determine if a legally binding commitment exists. These agreements typically contain broad provisions permitting the lenders to decline to fund the loan on subjective grounds that effectively render the commitment unenforceable and therefore not legally binding.

comment before issuing this amendment delaying the effective date of those rules. In addition, such a delay is in the public interest for the reasons explained above. For similar reasons, OTS also finds that this action delaying the effective date of the final rule must take effect on January 1, 2003, which is less than 30 days after publication of this amendment to the final rules.

#### B. Regulatory Flexibility Act

Under section 604 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 604), a final regulatory flexibility analysis is required only for notice-and-comment rulemakings conducted under section 553 of the APA. Since OTS has found that there is "good cause" under the APA for not proceeding with notice-and-comment rulemaking for this amendment to the effective date for the final rules, the RFA does not require that a final regulatory flexibility analysis be provided for this amendment. Moreover, OTS provided a regulatory flexibility analysis in the preamble to the final rule published on September 26, 2002 (67 FR 60551–60554). In that regulatory flexibility analysis, OTS considered the likely impact of the final rule on small entities.

#### C. Executive Order 12866

The OTS determination that the final rule does not constitute a "significant regulatory action" (67 FR 60551) applies to the rule, as amended by this effective date revision.

#### D. Unfunded Mandates Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMA) applies only when an agency is required to issue a general notice of proposed rulemaking or a final rule for which a general notice of proposed rulemaking was published. 2 U.S.C. 1532. As noted above, OTS has determined, for good cause, that this amendment to the final rule may be issued without prior notice and comment. Accordingly, OTS has concluded that the UMA does not require an unfunded mandates analysis of this amendment to the final rules. Moreover, OTS provided an UMA analysis in connection with the final rule. 67 FR 60551.

#### E. Executive Order 13132—Federalism

As described in the preamble to the final rule (67 FR 60554), Executive Order 13132 imposes certain requirements on an agency when it formulates and implements policies that have federalism implementations. In accordance with those requirements, OTS consulted with the Conference of Bank Supervisors and the National

Association of Attorneys General concerning this amendment to delay the effective date of the rule.

Dated: December 6, 2002.  
By the Office of Thrift Supervision.

**James E. Gilleran,**  
*Director.*

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**BILLING CODE 6720-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2002-13819; Airspace Docket No. 02-AGL-10]

#### Establishment of Class E Airspace; Milbank, SD

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace at Milbank, SD. An area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 31 has been developed for Milbank Municipal Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing this approach. This action establishes controlled airspace for Milbank Municipal Airport.

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

**FOR FURTHER INFORMATION CONTACT:** Denis C. Burke, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294-7568.

#### SUPPLEMENTARY INFORMATION:

##### History

On Friday, August 16, 2002, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Milbank, SD (67 FR 53533). The proposal was to establish controlled airspace extending upward from 700 feet or more above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

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. Class E airspace designations for airspace area extending

upward from 700 feet or more above the surface of the earth are published in paragraph 6005 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 Class E airspace designation listed in this document will be published subsequently in the Order.

#### The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Milbank, SD, to accommodate aircraft executing instrument flight procedures into and out of Milbank, SD, to accommodate aircraft executing instrument flight procedures into and out of Milbank Municipal Airport. The area will be depicted on appropriate aeronautical charts.

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. Therefore, this regulation—(1) Is not a “significant rule” 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 part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 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 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

#### AGL SD E5 Milbank, SD [New].

Milbank Municipal Airport, SD,  
(Lat. 45° 13' 50" N., long. 96° 33' 57" W.).  
Watertown VORTAC,  
Lat. 44° 58' 47" N., long. 97° 08' 30" W.).

That airspace extending upward from 700 feet or more above the surface within a 6.4-mile radius of the Milbank Municipal Airport, and that airspace extending upward from 1200 feet above the surface within an area bounded on the north by lat. 45° 34' 00" N., on the west by long. 97° 30' 00" W., on the south by lat. 44° 38' 00" N., and on the east by the South Dakota/Minnesota border excluding that airspace within the Watertown, SD, Class E airspace area, that airspace within the Ortonville, MN, Class E airspace area, and that airspace area within the state of Minnesota.

\* \* \* \* \*

Issued in Des Plaines, Illinois on November 13, 2002.

**Richard K. Petersen,**  
*Assistant Manager, Air Traffic Division, Great Lakes Region.*  
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**BILLING CODE 4910-13-M**

#### DEPARTMENT OF STATE

#### 22 CFR Part 62

#### [Public Notice 4214]

#### RIN 1405-AB45

#### Exchange Visitor Program: SEVIS Regulations

**AGENCY:** Department of State.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule establishes regulations and procedures for designated Exchange Visitor Program sponsors to gain access to the Student and Exchange Visitor Program (SEVP) database through the Student and Exchange Visitor Information System (SEVIS) for the reporting of information essential to the administration of their exchange visitor program in an electronic environment. It also provides a means for organizations interested in being considered for designation to apply for authorization. The purpose of this rule is to provide immediate access to SEVIS to enable the Attorney General to meet the legislative mandate established in section 641 of the Illegal

Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Pub. L. 104-208), which requires the Attorney General, in consultation with the Secretary of State and the Secretary of Education, to develop an electronic system to collect information on aliens who have, or are applying for nonimmigrant status under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (Act).

Although the Attorney General has the primary responsibility for implementing SEVIS, the Department is promulgating this rule to set forth the SEVIS requirements that specifically pertain to exchange visitor program sponsors. INS will specifically address those areas over which they have responsibility for exchange visitors (e.g., admission, change of status, and duration of status) in a separate rule.

**DATES: Effective Date:** This rule is effective December 12, 2002.

**Comment Dates:** Written comments regarding this rule must be submitted on or before January 13, 2003.

Comments on proposed information collections must be submitted on or before 60 days from December 12, 2002.

**ADDRESSES:** Comments regarding this rule must be presented in duplicate and addressed as follows: U.S. Department of State, Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, 301 4th Street, SW., Room 734, Washington, DC 20547.

#### FOR FURTHER INFORMATION CONTACT:

Stanley S. Colvin, Acting Director, Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, 301 4th Street, SW., Room 734, Washington, DC 20547; 202-401-9810; fax: 202-401-9809.

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

#### *What Is the Student and Exchange Visitor Program (SEVP)?*

The SEVP is a statutorily mandated information system designed to electronically track and record the entry and presence in the United States of student and exchange visitor non-immigrants. The SEVP is the responsibility of the Immigration and Naturalization Service (INS) who has developed the enterprise architecture necessary to implement the electronic tracking of student and exchange visitors. The Department of State (Department) is promulgating this rule in order to advise future applicants for Exchange Visitor Program designation of certain procedures now necessary for