

—Paragraph (b)(15);  
—Paragraph (e)(3)(iii); and  
—Paragraph (e)(4)(iii)(C).

\* \* \* \* \*

**PART 204—IMMIGRANT PETITIONS**

4. The authority citation for part 204 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255, 1641; 8 CFR part 2.

**§ 204.1 [Amended]**

5. Section 204.1 is amended by removing paragraph (h).

**§ 204.2 [Amended]**

6. Section 204.2 is amended by:  
a. Removing paragraph (c)(3)(ii) and by redesignating (c)(3)(iii) as (c)(3)(ii);  
b. Removing paragraph (e)(3)(ii) and by redesignating (e)(3)(iii) as (e)(3)(ii).

**PART 214—NONIMMIGRANT CLASSES**

7. The authority citation for part 214 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1185 (pursuant to Executive Order 13323, published January 2, 2004), 1186a, 1187, 1221, 1281, 1282, 1301–1305; 1372; 1379; 1731–32; sec. 643, Pub. L. 104–208; 110 Stat. 3009–708; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901, note, and 1931, note, respectively.

**§ 214.2 [Amended]**

8. Section 214.2 is amended by:  
a. Removing paragraph (h)(10)(ii) and by redesignating (h)(10)(iii) as (h)(10)(ii);  
b. Removing paragraph (k)(10)(iii);  
c. Removing paragraph (l)(8)(i) and by redesignating (l)(8)(ii) and (l)(8)(iii) as (l)(8)(i) and (l)(8)(ii) respectively;  
d. Revising paragraph (o)(7); and by  
e. Revising paragraph (p)(9).  
The revisions read as follows:

**§ 214.2 Special requirements for admission, extension, and maintenance of status.**

\* \* \* \* \*

(o) \* \* \*

(7) The petitioner shall be notified of the decision, the reasons for the denial, and the right to appeal the denial under 8 CFR part 103.

\* \* \* \* \*

(p) \* \* \*

(9) The petitioner shall be notified of the decision, the reasons for the denial, and the right to appeal the denial under 8 CFR part 103. There is no appeal from a decision to deny an extension of stay to the alien or a change of nonimmigrant status.

\* \* \* \* \*

8. Section 214.11 is amended by revising paragraph (k)(2) to read as follows:

**§ 214.11 Alien victims of severe forms of trafficking in persons.**

\* \* \* \* \*

(k) \* \* \*

(2) *Determination by USCIS.* An application for T–1 status under this section will not be treated as a bona fide application until USCIS has provided the notice described in paragraph (k)(3) of this section. In the event that an application is incomplete or if the application is complete but does not present sufficient evidence to establish prima facie eligibility for each required element of T nonimmigrant status, USCIS will follow the procedures provided in 8 CFR 103.2(b)(8) for requesting additional evidence, issuing a notice of intent to deny, or adjudicating the case on the merits.

9. Section 214.15 is amended by revising the second sentence of paragraph (d) to read as follows:

**§ 214.15 Certain spouses and children of lawful permanent residents.**

\* \* \* \* \*

(d) *The definition of “pending”.*

\* \* \* In addition, the petition must have been properly filed according to 8 CFR 103.2(a), and if, subsequent to filing, USCIS returns the petition to the applicant for any reason or makes a request for evidence or issues a notice of intent to deny under 8 CFR 103.2(b)(8), the petitioner must comply with the request within the time period set by USCIS. \* \* \*

\* \* \* \* \*

**PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE**

10. The authority citation for part 245 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1182, 1255; sec. 202, Pub. L. 105–100, 111 Stat. 2160, 2193; sec. 902, Pub. L. 105–277, 112 Stat. 2681; 8 CFR part 2.

**§ 245.18 [Amended]**

11. Section 245.18 is amended by removing and reserving paragraph (i).

**PART 245a—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR LAWFUL TEMPORARY OR PERMANENT RESIDENT STATUS UNDER SECTION 245A OF THE IMMIGRATION AND NATIONALITY ACT**

12. The authority citation for part 245a continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1255a and 1255a note.

13. Section 245a.20 is amended by revising paragraph (a)(2) to read as follows:

**§ 245a.20 Decisions, appeals, motions, and certifications.**

(a) \* \* \*

(2) *Denials.* The alien shall be notified in writing of the decision of denial and of the reason(s) therefor. An applicant affected under this part by an adverse decision is entitled to file an appeal on Form I–290B, Notice of Appeal to the Administrative Appeals Office (AAO), with required fee specified in 8 CFR 103.7(b)(1). Renewal of employment authorization issued pursuant to § 245a.13 will be granted until a final decision has been rendered on appeal or until the end of the appeal period if no appeal is filed. After exhaustion of an appeal, an alien who believes that the grounds for denial have been overcome may submit another application with fee, provided that the application is submitted on or before June 4, 2003.

\* \* \* \* \*

**§ 245a.33 [Amended]**

14. Section 245a.33 is amended by removing the second sentence of paragraph (b).

Dated: November 18, 2004.

**Tom Ridge,**

*Secretary of Homeland Security.*

[FR Doc. 04–26371 Filed 11–29–04; 8:45 am]

BILLING CODE 4410–10–P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA–2004–19577; Airspace Docket No. 04–ACE–67]

**Proposed Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Independence, KS**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to create a Class E surface area at Independence, KS. It also proposes to modify the Class E5 airspace at Independence, KS.

**DATES:** Comments for inclusion in the Rules Docket must be received on or before January 10, 2005.

**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-2004-19577/ Airspace Docket No. 04-ACE-67, 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:**

**Comments Invited**

Interested parties are invited to participate in this proposed 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-2004-19577/Airspace Docket No. 04-ACE-67." The postcard will be date/time stamped and returned to the commenter.

**Availability of NPRM's**

An electronic copy of this document may be downloaded through the Internet at <http://dms.dot.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.faa.gov> or the Superintendent of Document's Web page at <http://www.access.gop.gov/nara>.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA-400, 800 Independence Avenue, SW., Washington 20591, or by calling (202)

267-8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's 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.

**The Proposal**

This notice proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace designated as a surface area for an airport at Independence, KS. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing instrument approach procedures to Independence Municipal Airport. Weather observations would be provided by an Automatic Weather Observing/Reporting system (AWOS) and communications would be direct with Kansas City Air Route Traffic Control Center.

This notice also proposes to revise the Class E airspace area extending upward from 700 feet above the surface at Independence, KS. An examination of this Class E airspace area revealed it does not comply with airspace requirements for diverse departments from Independence Municipal Airport as set forth in FAA Order 7400.2E, Procedures for Handling Airspace Matters. The examination also revealed discrepancies in the Independence Municipal Airport airport reference point. This proposal would correct these anomalies. The areas would be depicted on appropriate aeronautical charts.

Class E airspace areas designated as surface areas are published in Paragraph 6002 of FAA Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of the same Order. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed 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, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This proposed 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 the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority since it would contain aircraft executing instrument approach procedures to Independence Municipal Airport and correct discrepancies in the airport reference point.

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

Airspace, Incorporation by reference, Navigation (Air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 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 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

*Paragraph 6002 Class E Airspace Designated as Surface Areas.*

\* \* \* \* \*

**ACE KS E2 Independence, KS**

Independence Municipal Airport, KS (lat. 37°09'30" N., long. 95°46'42" W.).

Within a 4.6-mile radius of Independence Municipal Airport.

\* \* \* \* \*

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

\* \* \* \* \*

#### ACE KS E5 Independence, KS

Independence Municipal Airport, KS (lat. 37°09'30" N., long. 95°46'42" W.).

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the Independence Municipal Airport.

\* \* \* \* \*

Issued in Kansas City, MO, on November 10, 2004.

**Anthony D. Roetzel,**

Acting Area Director, Western Flight Services Operations.

[FR Doc. 04-26344 Filed 11-29-04; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2004-19578; Airspace Docket No. 04-ACE-68]

#### Proposed Establishment of Class E2 Airspace; Lawrence, KS

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to create a Class E surface area at Lawrence, KS.

**DATES:** Comments for inclusion in the Rules Docket must be received on or before January 10, 2005.

**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-2004-19578/Airspace Docket No. 04-ACE-68, 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:

##### Comments Invited

Interested parties are invited to participate in this proposed 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-2004-19578/Airspace Docket No. 04-ACE-68." The postcard will be date/time stamped and returned to the commenter.

##### Availability of NPRM's

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Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA-400, 800 Lawrence Avenue, SW., Washington, DC 20591, or by calling (202) 267-8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's 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.

##### The Proposal

This notice proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace designated as a surface area for an airport at Lawrence, KS. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing instrument approach procedures to Lawrence Municipal Airport. Weather observations would be provided by an Automated Surface Observing System (ASOS) and

communications would be direct with Kansas City Air Route Traffic Control Center. The area would be depicted on appropriate aeronautical charts.

Class E airspace areas designated as surface areas are published in Paragraph 6002 of FAA Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed 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, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This proposed 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 the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority since it would contain aircraft executing instrument approach procedures to Lawrence Municipal Airport.

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

Airspace, Incorporation by reference, Navigation (Air).

##### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 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.