

# Rules and Regulations

Federal Register

Vol. 70, No. 217

Thursday, November 10, 2005

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2005-22746; Airspace Docket No. 05-ACE-32]

#### Modification of Class E Airspace; Kennett, MO

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

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR 71) by modifying Class E airspace at Kennett, MO. The establishment of Non-Directional Beacon (NDB) Instrument Approach Procedures (IAP) to Runway 2 and Runway 20 has made this action necessary. Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing these IAPs. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rules operations at Kennett Memorial Airport, Kennett, MO.

**DATES:** This direct final rule is effective on 0901 UTC, February 16, 2006. Comments for inclusion in the Rules Docket must be received on or before December 9, 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-2005-22746/Airspace Docket No. 05-ACE-32, 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:**

Brenda Mumper, Air Traffic Division, Airspace Branch, ACE-520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329-2524.

**SUPPLEMENTARY INFORMATION:** This amendment to 14 CFR Part 71 modifies the Class E airspace area extending upward from 700 feet above the surface at Kennett, MO. These modifications provide controlled airspace of appropriate dimensions to protect aircraft executing IAPs to Kennett Memorial Airport and bring the legal description of the Kennett, MO Class E airspace area into compliance with FAA Orders 7400.2E and 8260.19C. This area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 16, 2005, 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 Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit

such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and notice of proposed rulemaking may be published with a new comment period.

#### Comments Invited

Interested parties are invited to participate in this 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-2005-22746/Airspace Docket No. 05-ACE-32." The postcard will be date/time stamped and returned to the commenter.

#### Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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 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 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 regulation is within the scope of that authority since it contains aircraft executing instrument approach procedures to Kennett Memorial Airport, Kennett, MO.

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

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

Accordingly, 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 Federal Aviation Administration Order 7400.9N, dated September 1, 2005, and effective September 16, 2005, is amended as follows:

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

\* \* \* \* \*

**ACE MO E5 Kennett, MO**

Kennett Memorial Airport, MO  
(Lat. 36°13'33" N., long. 90°02'12" W.)  
Kennett NDB  
(Lat. 36°13'43" N., long. 90°02'21" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Kennett Memorial Airport and within 2.5 miles each side of the 003° bearing from the Kennett NDB extending from the 6.6-mile radius of the airport to 7 miles north of the NDB and within 2.5 miles each side of the 030° bearing from the Kennett NDB extending from the 6.6-mile radius of the airport to 7 miles north of the NDB and within 2.5 miles each side of the 191° bearing from the Kennett NDB extending from the 6.6-mile radius of the airport to 7 miles south of the NDB.

\* \* \* \* \*

Issued in Kansas City, MO, on October 26, 2005.

**Elizabeth S. Wallis,**

*Acting Area Director, Western Flight Services Operations.*

[FR Doc. 05–22395 Filed 11–9–05; 8:45 am]

**BILLING CODE 4910–13–M**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 121**

**[Docket No.: FAA–2005–22915; Amendment No. 121–317]**

**RIN 2120–ai65**

**Supplemental Oxygen**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** In this direct final rule, the FAA is amending its regulation on the use of pilot supplemental oxygen. The amendment changes the flight level at which the remaining pilot at the controls of the airplane must put on and use his oxygen mask if the other pilot at any time leaves his control station of the airplane. This amendment revises that altitude to “above flight level 350” from “above flight level 250.” It will also eliminate the needless use of oxygen that is not otherwise required to provide for safety in air carrier operations. This will reduce needless expenditures to replace oxygen equipment that is subject to excessive wear and tear.

**DATES:** Effective January 9, 2006.

Comments for inclusion in the Rules Docket must be received on or before December 27, 2005.

**ADDRESSES:** You may send comments [identified by Docket Number [Insert docket number, for example, FAA–200X–XXXX]] using any of the following methods:

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Fax: 1–202–493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building,

400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**Privacy:** We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** To read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Coffey, Air Transportation Division (AFS–220), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; Telephone No. (202) 267–3750.

**SUPPLEMENTARY INFORMATION:** On February 25, 2004, the FAA published a notice in the **Federal Register** asking the public to tell us which regulations we should amend, remove, or simplify. See 69 FR 8575. In response to the February notice, we received four comments on the topic of supplemental oxygen. Additionally, the FAA has received numerous petitions for exemption from 14 CFR 121.333(c)(3). These petitions requested relief from the regulation so that if it is necessary for one pilot to leave his station at the controls of the airplane when the aircraft is above flight level (FL) 250, the remaining pilot at the controls must put on and use his oxygen mask until the other pilot has returned to his duty station. The petitioners sought relief up to FL 410.

When flight operations above FL 250 were first initiated, there was uncertainty of the ability of pilots to safely operate in that environment. Before the establishment of the FAA in 1958, the Civil Aeronautics Board (CAB) was responsible for safety in air transportation. The CAB established requirements that both pilots must wear oxygen masks at all times when the airplane was operated above FL 250. The FAA carried forward this requirement without comment into its regulations.

As airplanes, pressurization systems, engines, and other systems, became more reliable, the FAA amended the requirements concerning oxygen masks.