

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.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. 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 airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it adds additional controlled airspace in the Battle Creek, MI airspace area, at W.K. Kellogg Airport, Battle Creek, MI.

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, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE 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 part 71.1 of the Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, signed October 3, 2008, and effective October 31, 2008, is amended as follows:

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

* * * * *

AGL MI E5 Battle Creek, MI [Amended]

Battle Creek, W.K. Kellogg Airport, MI
(Lat. 42°18'26" N., long. 85°15'05" W.)
BATOL LOM/NDB
(Lat. 42°21'43" N., long. 85°11'04" W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of W.K. Kellogg Airport and within 4 miles each side of the 222° bearing from the airport extending from the 7-mile radius to 11.7 miles southwest of the airport, and within 4 miles each side of the 049° bearing from the airport extending from the 7-mile radius to 10.9 miles northeast of the airport, and within 7 miles northwest and 4.4 miles southeast of the Battle Creek ILS localizer northeast course extending from the 7-mile radius to 10.4 miles northeast of the BATOL LOM/NDB.

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Issued in Fort Worth, TX, on April 2, 2009.

Anthony D. Roetzel,

*Manager, Operations Support Group, ATO
Central Service Center.*

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–1228; Airspace
Docket No. 08–ACE–3]

Amendment of Class E Airspace; Omaha, NE

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Omaha, NE. Additional controlled airspace is necessary to accommodate Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAP) at Blair Municipal Airport, Blair, NE. This action also makes minor changes to the geographic coordinates of the existing airports in the Omaha, NE, airspace area. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at Blair Municipal Airport.

DATES: *Effective Date:* 0901 UTC, July 2, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd, Fort Worth, TX 76193–0530; telephone (817) 321–7716.

SUPPLEMENTARY INFORMATION:

History

On January 13, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class E airspace at Omaha, NE, adding additional controlled airspace at Blair Municipal Airport, Blair, NE. (74 FR 1651, Docket No. FAA–2008–1228). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9S signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order. With the exception of editorial changes, and the changes described above, this rule is the same as that proposed in the NPRM.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace at Omaha, NE, adding additional controlled airspace at Blair Municipal Airport, Blair, NE. This action also updates the geographic coordinates for Eppley Airfield, Offutt Air Force Base, and Council Bluffs Municipal Airport, to coincide with the National Aeronautical Charting Office.

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.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. 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 airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it adds additional controlled airspace at Blair Municipal Airport, Blair, NE.

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, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE 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 part 71.1 of the Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, signed October 3, 2008, and effective October 31, 2008, is amended as follows:

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

* * * * *

ACE NE E5 Omaha, NE [Amended]

Omaha, Eppley Airfield, NE

(Lat. 41°18'11" N., long. 95°53'39" W.)

Omaha, Offutt AFB, NE

(Lat. 41°07'10" N., long. 95°54'31" W.)

Council Bluffs, Council Bluffs Municipal Airport, IA

(Lat. 41°15'36" N., long. 95°45'31" W.)

Blair, Blair Municipal Airport, NE

(Lat. 41°24'53" N., long. 96°06'32" W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of Eppley Airfield and within 3 miles each side of the Eppley Airfield Runway 14R ILS Localizer course extending from the 6.9-mile radius to 12 miles northwest of the airport and within a 7-mile radius of Offutt AFB and within 4.3 miles each side of the Offutt AFB ILS Runway 30 localizer course extending from the 7-mile radius to 7.4 miles southeast of Offutt AFB and within a 6.4-mile radius of the Council Bluffs Municipal Airport, and within a 6.4-mile radius of Blair Municipal Airport, and within 2 miles each side of the 317° bearing from the Blair Municipal Airport extending from the 6.4-mile radius to 11.6 miles, and within 2 miles each side of the 137° bearing from the Blair

Municipal Airport extending from the 6.4-mile radius to 12.2 miles.

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Issued in Fort Worth, TX, on March 24, 2009.

Ronnie L. Uhlenhaker,

Acting Manager, Operations Support Group, Central Service Center.

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 40, 41, and 145

RIN 3038–AC44

Confidential Information and Commission Records and Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission is adopting final rules to specify the exclusive procedures under which designated contract markets (DCMs), derivatives clearing organizations (DCOs) and derivatives transaction execution facilities (DTEFs) (collectively, “regulated entities”) may request confidential treatment for products and rules submitted via certification procedures or for Commission review and approval under parts 40 and 41 of the Commission’s regulations. The amendments also revise the Commission’s part 145 regulations under the Freedom of Information Act by providing that the confidential treatment procedures specified in section 145.9 do not apply to information filed by regulated entities pursuant to parts 40 and 41.

DATES: May 15, 2009.

FOR FURTHER INFORMATION CONTACT: Susan Nathan, Senior Special Counsel, (202) 418–5133, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Electronic mail: snathan@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Procedural History

On July 20, 2007, the Commission requested comment from the public regarding its proposal to establish in part 40 of its regulations the exclusive procedure to be followed by regulated entities when requesting confidential treatment for information they are

required to submit under parts 40 and 41 of the Commission’s regulations,¹ and to clarify the standards under which requests for confidential treatment will be considered.² Three commenters responded to this proposal: the CME Group (“CME”), CBOE Futures Exchange (“CFE”) and the New York Mercantile Exchange (“NYMEX”).³ While CFE generally supported the proposal, CME and NYMEX questioned the merits of the proposed amendments and the adequacy of the Commission’s explanation for proposing the changes.

In light of the CME and NYMEX comments, the Commission re-proposed the rule amendments in order to (1) Clarify the procedure for seeking review of an adverse determination; (2) amend Commission regulation 145.9 to make clear that that process for requesting confidential treatment under the Commission’s Freedom of Information Act regulations does not apply to submissions filed pursuant to parts 40 and 41; and (3) address more fully the reasons for proposing the amendments. The **Federal Register** release announcing the re-proposal fully addressed the substantive issues raised by the commenters and invited additional public comment on one issue raised by NYMEX: whether the Commission should honor requests for confidential treatment of algorithms or similar trading tools that are mechanisms for executing transactions.⁴ CME submitted comments on this matter.

B. Confidential Treatment of Trading Mechanisms

1. Comments: Confidential Treatment of Information Made Public by Statute or Rule

The Commodity Exchange Act (“CEA”) and regulations promulgated thereunder require that substantial portions of the material filed pursuant to Parts 40 and 41 be made publicly available by the submitters. Section

¹ Part 40 of the Commission’s regulations, 17 CFR part 40, specifies the standards and procedures to be followed by regulated entities for listing products for trading by certification to the Commission; voluntary submission of new products for Commission review and approval; amendments to terms or conditions of enumerated agricultural contracts; voluntary submission of rules for Commission review and approval; and self certification of rules by DCMs and DCOs. Part 41, 17 CFR part 41, contains the standards and procedures for filing required information with respect to security futures products.

² 72 FR 39764.

³ In August 2008, subsequent to the Commission’s Notice of Proposed Rulemaking in this matter, CME and NYMEX completed a merger. As a result, NYMEX is currently a wholly-owned indirect subsidiary of CME Group, Inc.

⁴ 73 FR 44939 (Aug. 1, 2008).