

to U.S. financial stability. The analytic framework consisting of the six categories set forth above, and the metrics used to measure each of the six categories, will assist the Council in assessing the extent to which the transmission of material financial distress is likely to occur.

Each nonbank financial company in the Stage 3 Pool will receive a notice (a "Notice of Consideration") that the nonbank financial company is under consideration for a Proposed Determination. The Notice of Consideration likely will include a request that the nonbank financial company provide information that the Council deems relevant to the Council's evaluation, and the nonbank financial company will be provided an opportunity to submit written materials to the Council.⁷ This information will generally be collected by the OFR.⁸ Before requiring the submission of reports from any nonbank financial company that is regulated by a member agency or any primary financial regulatory agency, the Council, acting through the OFR, will coordinate with such agencies and will, whenever possible, rely on information available from the OFR or such agencies. Council members and their agencies and staffs will maintain the confidentiality of such information in accordance with applicable law.

Information requests likely will involve both qualitative and quantitative data. Information relevant to the Council's analysis may include confidential business information such as internal assessments, internal risk management procedures, funding details, counterparty exposure or position data, strategic plans, resolvability, potential acquisitions or dispositions, and other anticipated changes to the nonbank financial company's business or structure that could affect the threat to U.S. financial stability posed by the nonbank financial company.

In evaluating qualitative factors during Stage 3, the Council expects to have access, to a greater degree than during earlier stages of review, to information relating to factors that are not easily quantifiable or that may not directly cause a company to pose a threat to financial stability, but could mitigate or aggravate the potential of a nonbank financial company to pose a threat to the United States. Such factors may include the opacity of the nonbank financial company's operations, its complexity, and the extent to which it is subject to existing regulatory scrutiny and the nature of such scrutiny.

The Stage 3 analysis will also include an evaluation of a nonbank financial company's resolvability, which may mitigate or aggravate the potential of a nonbank financial company to pose a threat to U.S. financial stability. An evaluation of a nonbank financial company's resolvability entails an assessment of the complexity of the nonbank

financial company's legal, funding, and operational structure, and any obstacles to the rapid and orderly resolution of the nonbank financial company in a manner that would mitigate the risk that the nonbank financial company's failure would have a material adverse effect on financial stability. In addition to the factors described above, a nonbank financial company's resolvability is also a function of legal entity and cross-border operations issues. These factors include the ability to separate functions and spin off services or business lines; the likelihood of preserving franchise value in a recovery or resolution scenario, and of maintaining continuity of critical services within the existing or in a new legal entity or structure; the degree of the nonbank financial company's intra-group dependency for liquidity and funding, payment operation, and risk management needs; and the size and nature of the nonbank financial company's intra-group transactions.

The Council anticipates that the information necessary to conduct an in-depth analysis of a particular nonbank financial company may vary significantly based on the nonbank financial company's business and activities and the information already available to the Council from existing public sources and domestic or foreign regulatory authorities. The Council will also consult with the primary financial regulatory agency, if any, for each nonbank financial company or subsidiary of a nonbank financial company under consideration in a timely manner before the Council makes any final determination with respect to such nonbank financial company, and with appropriate foreign regulatory authorities, to the extent appropriate.

Before making a Proposed Determination, the Council intends to notify each nonbank financial company in the Stage 3 Pool when the Council believes that the evidentiary record regarding such nonbank financial company is complete.

Based on the analysis performed in Stages 2 and 3, a nonbank financial company will be considered for a Proposed Determination. Before a vote of the Council with respect to a particular nonbank financial company, the Council members will review information relevant to the consideration of the nonbank financial company for a Proposed Determination. After this review, the Council may, by a vote of two-thirds of its members (including an affirmative vote of the Council Chairperson), make a Proposed Determination with respect to the nonbank financial company. Following a Proposed Determination, the Council intends to issue a written notice of the Proposed Determination to the nonbank financial company, which will include an explanation of the basis of the Proposed Determination. The Council expects to notify any nonbank financial company in the Stage 3 Pool if the nonbank financial company, either before or after a Proposed Determination of such nonbank financial company, ceases to be considered for determination. Any nonbank financial company that ceases to be considered at any time in the Council's determination process may be considered for a Proposed Determination in the future at the Council's discretion.

A nonbank financial company that is subject to a Proposed Determination may request a nonpublic hearing to contest the Proposed Determination in accordance with section 113(e) of the Dodd-Frank Act. If the nonbank financial company requests a hearing in accordance with the procedures set forth in § 1310.21(c) of the Council's rule,⁹ the Council will set a time and place for such hearing. The Council will (after a hearing, if a hearing is requested), determine by a vote of two-thirds of the voting members of the Council (including the affirmative vote of the Chairperson) whether to subject such company to supervision by the Board of Governors and prudential standards. The Council will provide the nonbank financial company with written notice of the Council's final determination, including an explanation of the basis for the Council's decision. When practicable and consistent with the purposes of the determination process, the Council intends to provide a nonbank financial company with a notice of a final determination at least one business day before publicly announcing the determination pursuant to § 1310.21(d)(3), § 1310.21(e)(3) or § 1310.22(d)(3) of the Council's rule.¹⁰ The Council does not intend to publicly announce the name of any nonbank financial company that is under evaluation for a determination prior to a final determination with respect to such company. In accordance with section 113(h) of the Dodd-Frank Act, a nonbank financial company that is subject to a final determination may bring an action in U.S. district court for an order requiring that the determination be rescinded.

Dated: April 3, 2012.

Rebecca Ewing,

Acting Executive Secretary, Department of the Treasury.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2012-0099; Airspace Docket No. 12-ASO-11]

Amendment of Class D Airspace; Cocoa Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment.

SUMMARY: This action amends Class D airspace at Cape Canaveral Skid Strip, Cocoa Beach, FL, by correcting the geographic coordinates of the airport to aid in the navigation of our National Airspace System and by removing the

⁹ See 12 CFR 1310.21(c).

¹⁰ See 12 CFR 1310.21(d)(3), 1310.21(e)(3) and 1310.22(d)(3).

⁷ See section 1310.21(a) of the rule.

⁸ Under section 112(d) of the Dodd-Frank Act, if the Council is unable to determine whether a U.S. nonbank financial company poses a threat to U.S. financial stability based on such information, the Council may request that the Board of Governors conduct an examination of the nonbank financial company to determine whether it should be supervised by the Board of Governors.

reference of St. Petersburg Automated Flight Service Station from the descriptor. This action enhances the safety and management of Instrument Flight Rules (IFR) operations for standard instrument approach procedures at the airport.

DATES: Effective 0901 UTC, May 31, 2012. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-6364.

SUPPLEMENTARY INFORMATION:

History

The FAA received notice from the National Aeronautical Navigation Services (NANS) that St. Petersburg Automated Flight Service Station has closed and its reference should be updated in the descriptor of Cape Canaveral Skid Strip, Cocoa Beach, FL. Also, the geographic coordinates for the airport need correcting to coincide with the FAA's aeronautical database.

Class D airspace designations are published in Paragraphs 5000, of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR part 71.1. The Class D airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 amends Class D airspace at Cocoa Beach, FL. The geographic coordinates of the Cape Canaveral Skid Strip are corrected to coincide with the FAA's aeronautical database and St. Petersburg Automated Flight Service Station will be removed from the descriptor. Accordingly, since this is an administrative change, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedures under 5 U.S.C. 553 (b) are unnecessary.

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, is non-controversial and unlikely to result in adverse or negative comments. 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.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, 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 establishes and amends controlled airspace at Cape Canaveral Skid Strip, Cocoa Beach FL.

Lists 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 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 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

ASO FL D Cocoa Beach, FL [Amended]
Cape Canaveral Skid Strip, FL

(Lat. 28°28'04" N., long. 80°34'01" W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.4-mile radius of the Cape Canaveral Skid Strip. This airspace lies within the confines of R-2932 and is effective on a random basis. The effective days and times are continuously available from Miami Automated Flight Service Station.

Issued in College Park, Georgia, on March 30, 2012.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2010–0255; FRL–9657–4]

Air Quality Implementation Plans; Kentucky; Attainment Plan for the Kentucky Portion of the Huntington-Ashland 1997 Annual PM_{2.5} Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision to the Kentucky state implementation plan (SIP) submitted by the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet, Division for Air Quality (DAQ), to EPA on December 3, 2008, for the purpose of providing for attainment of the 1997 fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS) in the Kentucky portion of the Huntington-Ashland, West Virginia-Kentucky-Ohio PM_{2.5} nonattainment area (hereafter referred to as the “Huntington-Ashland Area” or “Area”). The Huntington-Ashland Area is comprised of Boyd County and a portion of Lawrence County in Kentucky; Cabell and Wayne Counties and a portion of Mason County in West Virginia; and Lawrence and Scioto Counties and portions of Adams and Gallia Counties in Ohio. The Kentucky plan at issue in this action (hereafter referred to as the “PM_{2.5} attainment plan”) pertains only to the Kentucky portion of the Huntington-Ashland Area. As proposed on January 30, 2012, EPA is approving Kentucky's PM_{2.5} attainment plan, which includes an attainment demonstration; reasonably available control technology (RACT) and reasonably available control measures (RACM); reasonable further