

Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2004-17724/Airspace Docket No. 04-ACE-36, 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 71 modifies the Class E airspace area extending upward from 700 feet above the surface at Ogallala, NE. An examination of controlled airspace for Ogallala, NE revealed that the Searle Field ARP used in the legal descriptions for this Class E airspace area is incorrect. Also, the airspace area does not comply with airspace requirements for diverse departures as set forth in FAA Order 7400.2E, Procedures for Handling Airspace Matters. The Ogallala, NE Class E airspace area extending upward from 700 feet above the surface is increased from a 6.7-mile radius to an 8.6-mile radius of Searle Field in order to comply with the criteria for 700 feet above ground level (AGL) airspace required for diverse departures. These modifications bring the legal description of the Ogallala, NE Class E airspace area into compliance with FAA Order 7400.2E. 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 7400.9L, dated September 2, 2003, and effective September 16, 2003, 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 a 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-2004-17724/Airspace Docket No. 04-ACE-36." 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 is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034,

February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, 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

■ 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 part 71.1 of Federal Aviation Administration Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

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

\* \* \* \* \*

#### **ACE NE E5 Ogallala, NE**

Ogallala, Searle Field, NE  
(Lat. 41°07' 10" N., long. 101°46'11" W.)

That airspace extending upward from 700 feet above the surface within an 8.6-mile radius of Searle Field.

\* \* \* \* \*

Issued In Kansas City, MO, on May 18, 2004.

**Paul J. Sheridan**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 04-12175 Filed 5-27-04; 8:45 am]

**BILLING CODE 4910-13-M**

#### **DEPARTMENT OF TRANSPORTATION**

#### **Federal Aviation Administration**

#### **14 CFR Part 71**

**[Docket No. FAA-2004-17723; Airspace Docket No. 04-ACE-35]**

#### **Modification of Class E Airspace; North Platte, NE**

**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 revising Class E airspace areas at North Platte, NE. A review of the Class E airspace surface area and the Class E airspace area extending upward from 700 feet above the surface at North Platte, NE reveals neither reflects the current North Platte Regional Airport Lee Bird Field airport reference point (ARP) and neither complies with criteria for diverse departures. These airspace areas are enlarged and modified to conform to FAA Orders.

**DATES:** This direct final rule is effective on 0901 UTC, September 30, 2004. Comments for inclusion in the Rules Docket must be received on or before July 27, 2004.

**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-2004-17723/ Airspace Docket No. 04-ACE-35, 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 surface area and the Class E airspace area extending upward from 700 feet above the surface at North Platte, NE. An examination of controlled airspace for North Platte, NE revealed that the North Platte Regional Airport Lee Bird Field ARP used in the legal descriptions for both Class E airspace areas is incorrect. Also, neither airspace area complies with airspace requirements for diverse departures as set forth in FAA Order 7400.2E, Procedures for Handling Airspace Matters. The North Platte, NE Class E surface area is increased from a 4.6-mile radius to a 5.4-mile radius of North Platte Regional Airport Lee Bird Field,

thereby eliminating the need for an extension to the Class E surface area. The Class E airspace area extending upward from 700 feet above the surface is increased from a 7.1-mile radius to an 8.4-mile radius of North Platte Regional Airport Lee Bird Field in order to comply with the criteria for 700 feet AGL airspace required for diverse departures. These modifications bring the legal descriptions of the North Platte, NE Class E airspace areas into compliance with FAA Order 7400.2E. Class E airspace areas designated as surface areas are published in Paragraph 6002 of FAA Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, 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 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 a 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-2004-17723/Airspace Docket No. 04-ACE-35." 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 is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, 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

■ 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 7400.9L, dated

September 2, 2003, and effective September 16, 2003, is amended as follows:

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

\* \* \* \* \*

#### **ACE NE E2 North Platte, NE**

North Platte Regional Airport Lee Bird Field, NE

(Lat. 41°07'34" N., long. 100°41'01" W.)

Within a 5.4-mile radius of North Platte Regional Airport Lee Bird Field.

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

\* \* \* \* \*

#### **ACE NE E5 North Platte, NE**

North Platte Regional Airport Lee Bird Field, NE

(Lat. 41°07'34" N., long. 100°41'01" W.)

That airspace extending upward from 700 feet above the surface within an 8.4-mile radius of North Platte Regional Airport Lee Bird Field.

\* \* \* \* \*

Issued in Kansas City, MO, on May 18, 2004.

**Paul J. Sheridan,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 04-12174 Filed 5-27-04; 8:45 am]

**BILLING CODE 4910-13-M**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 73**

[Docket No. FAA-2004-17612; Airspace Docket No. 04-ASW-03]

**RIN 2120-AA66**

#### **Modification of Restricted Area 5115, NM; and Restricted Areas 6316, 6317, and 6318, TX**

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

**ACTION:** Final rule.

**SUMMARY:** This action amends the legal description for Restricted Area 5115 (R-5115), Deming, NM; R-6316, Eagle Pass, TX; R-6317, El Sauz; and R-6318, Marfa, TX to reflect a change in the using agency. Specifically, this action changes the using agency from the "United States Custom Service" to the "Western Air Defense Sector" in response to a request from the United States Air Force (USAF). This action makes no other changes to R-5515, R-6316, R-6317, or R-6318.

**EFFECTIVE DATE:** 0901 UTC, August 5, 2004.

#### **FOR FURTHER INFORMATION CONTACT:**

Steve Rohring, Airspace and Rules, Office of System Operations and Safety, ATO-R, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

#### **SUPPLEMENTARY INFORMATION:**

##### **History**

On February 20, 2004, the USAF requested that the FAA take action to change the using agency of R-5515, R-6316, R-6317, and R-6318 from the "United States Custom Service" to the "Western Air Defense Sector." The FAA is taking this action in response to that request. Since this action only changes the using agency for the restricted area and does not change the dimensions or operational requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

##### **The Rule**

This action amends title 14 Code of Federal Regulations (14 CFR) part 73 by changing the using agency of R-5515, R-6316, R-6317, and R-6318 from the "United States Custom Service" to the "Western Air Defense Sector." This action makes no other changes to R-5515, R-6316, R-6317, or R-6318. Section 73.51 and 73.63 of part 73 of the Federal Aviation Regulations were republished in FAA Order 7400.8L dated October 7, 2003.

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. Therefore, this proposed 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.

##### **Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts. This airspace action is not expected to cause any potentially significant

environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

#### **List of Subjects in 14 CFR Part 73**

Airspace, Navigation (air).

#### **The Adoption of the Amendment**

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

#### **PART 73—SPECIAL USE AIRSPACE**

■ 1. The authority citation for part 73 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.

■ 2. § 73.51 and 73.63 are amended as follows:

##### **§ 73.51 and 73.63 [Amended]**

\* \* \* \* \*

##### **R-5115 Deming, NM [Amended]**

■ By removing the words "Using Agency. United States Customs Service" and inserting the words "Using Agency. Western Air Defense Sector."

\* \* \* \* \*

##### **R-6316 Eagle Pass, TX [Amended]**

■ By removing the words "Using Agency. United States Customs Service" and inserting the words "Using Agency. Western Air Defense Sector."

\* \* \* \* \*

##### **R-6317 El Sauz, TX [Amended]**

■ By removing the words "Using Agency. United States Customs Service" and inserting the words "Using Agency. Western Air Defense Sector."

\* \* \* \* \*

##### **R-6318 Marfa, TX [Amended]**

■ By removing the words "Using Agency. United States Customs Service" and inserting the words "Using Agency. Western Air Defense Sector."

\* \* \* \* \*

Issued in Washington, DC, on May 21, 2004.

**Paul Gallant,**

*Acting Manager, Airspace and Rules, ATO-R.*

[FR Doc. 04-12065 Filed 5-27-04; 8:45 am]

**BILLING CODE 4910-13-M**