

**DATES:** Effective 0901 UTC, February 22, 2010. 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:** Melinda Giddens, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5610.

**SUPPLEMENTARY INFORMATION:**

**History**

The Liberty County Airport has closed and as a result, the associated Standard Instrument Approach Procedures (SIAPs) were withdrawn and cancelled removing the Class E5 airspace requirement at Liberty County Airport. This rule will become effective on the date specified in the **DATES** section. Since this action eliminates the impact of controlled airspace on users of the National Airspace System in the vicinity of the Liberty County Airport, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E designation listed in this document will be removed from publication subsequently in the Order.

**The Rule**

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 removes Class E5 airspace at Liberty County Airport, Hinesville, GA. Controlled airspace is no longer needed as the airport has closed.

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 removes controlled airspace at Liberty County Airport, Hinesville, GA.

**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 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, effective September 15, 2009, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 feet or More Above the Surface of the Earth.*

\* \* \* \* \*

**ASO GA E5 Hinesville, GA [Removed]**

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Issued in College Park, Georgia, on November 10, 2009.

**Mark D. Ward,**  
*Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.*  
 [FR Doc. E9-28199 Filed 11-24-09; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 95**

[Docket No. 30689; Amdt. No. 483]

**IFR Altitudes; Miscellaneous Amendments**

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

**DATES:** *Effective Date:* 0901 UTC, December 17, 2009.

**FOR FURTHER INFORMATION CONTACT:** Harry Hodges, Flight Procedure Standards Branch (AMCAFS-420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954-4164.

**SUPPLEMENTARY INFORMATION:** This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

**The Rule**

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or

circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

**Conclusion**

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. 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 95**

Airspace, Navigation (air).

Issued in Washington, DC, on November 13, 2009.

**John M. Allen,**  
*Director, Flight Standards Service.*

**Adoption of the Amendment**

■ Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows, effective at 0901 UTC, December 17, 2009.

**PART 95—[Amended]**

■ 1. The authority citation for part 95 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended to read as follows:

**REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS**

[Amendment 484 Effective Date December 17, 2009]

From	To	MEA
<b>§ 95.1001 Direct Routes—U.S. Color Routes</b>		
<b>§ 95.10 Amber Federal Airway A1 Is Added To Read</b>		
ABBOTSFORD, CA NDB ..... #FOR THAT AIRSPACE OVER U.S. TERRITORY.	VICTORIA, CA NDB .....	#2800
<b>§ 95.6001 Victor Routes—U.S.</b>		
<b>§ 95.6017 VOR Federal Airway V17 Is Amended To Read in Part</b>		
WACO, TX VORTAC ..... *4000—MRA **2500—MOCA	*GAINS, TX FIX .....	**3000
*GAINS, TX FIX ..... *4000—MRA **5000—MRA	**BRIAN, TX FIX .....	3000
*BRIAN, TX FIX ..... *5000—MRA	GLEN ROSE, TX VORTAC .....	3000
<b>§ 95.6018 VOR Federal Airway V18 Is Amended To Read in Part</b>		
LASHE, SC FIX ..... *2200—MOCA	NORMS, SC FIX .....	*3000
<b>§ 95.6020 VOR Federal Airway V20 Is Amended To Read in Part</b>		
COLUMBUS, GA VORTAC ..... GRANT, GA FIX ..... *2500—MOCA *2500—GNSS MEA	GRANT, GA FIX ..... SMARR, GA FIX .....	2800 *4000
SMARR, GA FIX ..... *2500—MOCA *2500—GNSS MEA	SINCA, GA FIX .....	*4500
<b>§ 95.6066 VOR Federal Airway V66 Is Amended To Read in Part</b>		
CANER, GA FIX ..... GRANT, GA FIX ..... *2500—MOCA *2500—GNSS MEA	GRANT, GA FIX ..... SMARR, GA FIX .....	2800 *4000
SMARR, GA FIX ..... *2500—MOCA *2500—GNSS MEA	SINCA, GA FIX .....	*4500
<b>§ 95.6155 VOR Federal Airway V155 Is Amended To Read in Part</b>		
COLUMBUS, GA VORTAC .....	GRANT, GA FIX .....	2800

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS—Continued  
 [Amendment 484 Effective Date December 17, 2009]

From	To	MEA
GRANT, GA FIX ..... *2500—MOCA *2500—GNSS MEA	SMARR, GA FIX .....	*4000
SMARR, GA FIX ..... *2500—MOCA *2500—GNSS MEA	SINCA, GA FIX .....	*4500
SINCA, GA FIX ..... *3000—MRA **2400—MOCA **2400—GNSS MEA	*BEYLO, GA FIX .....	**5000
*BEYLO, GA FIX ..... *3000—MRA **2100—MOCA	COLLIERS, SC VORTAC .....	**3000

§ 95.6166 VOR Federal Airway V166 Is Amended To Read in Part

BELAY, MD FIX ..... *6000—MRA	*BAINS, MD FIX .....	2000
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§ 95.6288 VOR Federal Airway V288 Is Amended To Read in Part

*CORIN, UT FIX ..... *13000—MRA *16000—MCA CORIN, UT FIX, E BND **11600—MOCA **12000—GNSS MEA	FORT BRIDGER, WY VOR/DME .....	**16000
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§ 95.6454 VOR Federal Airway V454 Is Amended To Read in Part

COLUMBUS, GA VORTAC .....	GRANT, GA FIX .....	2800
GRANT, GA FIX ..... *2500—MOCA *2500—GNSS MEA	SMARR, GA FIX .....	*4000
SMARR, GA FIX ..... *2500—MOCA *2500—GNSS MEA	SINCA, GA FIX .....	*4500

§ 95.6537 VOR Federal Airway V537 Is Amended To Read in Part

GREENVILLE, FL VORTAC ..... *1600—MOCA *3000—GNSS MEA	MOULTRIE, GA VOR/DME .....	*5000
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§ 95.6626 VOR Federal Airway V626 Is Added To Read

MYTON, UT VORTAC ..... *12600—MOCA	YMONT, UT FIX .....	*14000
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From	To	MEA	MAA
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§ 95.7001 Jet Routes

§ 95.7522 Jet Route J522 Is Amended To Read in Part

U.S. CANADIAN BORDER ..... #GNSS REQUIRED ABOVE FL350.	ROCHESTER, NY VOR/DME .....	18000	35000
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[FR Doc. E9-28200 Filed 11-24-09; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF ENERGY

Federal Energy Regulatory  
Commission

## 18 CFR Part 37

[Docket Nos. RM05–17–005 and RM05–25–005; Order No. 890–D]

Preventing Undue Discrimination and  
Preference in Transmission Service

November 19, 2009.

AGENCY: Federal Energy Regulatory  
Commission, Energy.

ACTION: Order on Clarification.

**SUMMARY:** The Federal Energy Regulatory Commission affirms its basic determinations in Order Nos. 890, 890–A, 890–B, and 890–C, granting clarification regarding certain revisions to its regulations and the *pro forma* open-access transmission tariff, or OATT, adopted in Order Nos. 888 and 889 to ensure that transmission services are provided on a basis that is just, reasonable, and not unduly discriminatory. The Commission grants clarification regarding the requirement to undesignate network resources used to serve off-system sales.

**DATES:** *Effective Date:* This rule will become effective November 25, 2009.

**FOR FURTHER INFORMATION CONTACT:** Christina Hayes, Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–6194.

**SUPPLEMENTARY INFORMATION:**

*Before Commissioners:* Jon Wellinghoff, Chairman; Suedeen G. Kelly, Marc Spitzer, and Philip D. Moeller.

**Order on Clarification**

1. On February 16, 2007, the Commission issued Order No. 890,<sup>1</sup> addressing and remedying opportunities for undue discrimination under the *pro forma* Open Access Transmission Tariff (OATT) adopted in Order No. 888.<sup>2</sup> The

<sup>1</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 FR 12266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890–A, 73 FR 2984 (January 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890–B, 123 FERC ¶ 61,299 (2008), *order on reh'g and clarification*, Order No. 890–C, 126 FERC ¶ 61,228 (2009).

<sup>2</sup> *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888–A, 62 FR 12274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888–B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888–C, 82 FERC ¶ 61,046 (1998), *aff'd in*

*pro forma* OATT was intended to foster greater competition in wholesale power markets by reducing barriers to entry in the provision of transmission service. In the twelve years since Order No. 888, however, flaws in the *pro forma* OATT undermined, in part, its ability to realize the core objective of remedying undue discrimination. The Commission acted in Order No. 890 to correct these flaws by reforming the terms and conditions of the *pro forma* OATT in several critical areas, including the calculation of available transfer capability (ATC), the planning of transmission facilities, and the conditions of services offered by each transmission provider.

2. In Order Nos. 890–A, 890–B, and 890–C, the Commission largely affirmed the reforms adopted in Order No. 890. The Commission concluded that, taken together, these reforms will better enable the *pro forma* OATT to achieve the core objective of remedying undue discrimination in the provision of transmission service. In Order No. 890–C, the Commission granted clarification regarding the degree of consistency required in the calculation of ATC by transmission providers and denied rehearing regarding the requirement to undesignate network resources used to serve off-system sales. Duke Energy Corporation (Duke) has sought clarification of the latter determination.

**I. Reforms of the OATT***A. Designation of Network Resources*

3. In Order No. 890–C, the Commission affirmed the requirement that network resources used to supply sales of system power off-system must first be undesignated.<sup>3</sup> The Commission explained that transactions in which the buyer and seller are both located on the same transmission system are distinct from transactions involving sales of energy from a network customer to an off-system buyer. In the latter circumstance, the off-system buyer will not be using network service to take delivery from the host transmission provider but, instead, must identify the points of receipt and delivery for the transaction on the host transmission provider's system. The Commission stated that the point-to-point transmission reservation and the corresponding resource-specific undesignation provide the transmission provider with the information it needs

*relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (DC Cir. 2000) (*TAPS v. FERC*), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

<sup>3</sup> See Order No. 890–C, 126 FERC ¶ 61,228 at P 17 (*citing* Order No. 890–B, 123 FERC ¶ 61,299 at P 206).

regarding the location of particular resources being used by the seller to source the transaction in order to model the effect of the transaction on its transmission system and set aside ATC accordingly.

## Request for Clarification

4. Duke argues that the Commission's determination in Order No. 890–C is inconsistent with the *pro forma* OATT and Order No. 888. Duke contends that Order No. 890–C indicates that network customers purchasing system power from an off-system seller cannot take network service from the off-system seller's transmission provider, but instead must procure point-to-point service from the transmission system on which the off-system seller is located. Duke asserts that this is inconsistent with section 31.3 of the *pro forma* OATT, which permits network loads of network customers to not be physically interconnected with the transmission provider from whom they take network service. Duke notes that the Commission has acknowledged in prior cases that, although not generally used for through-and-out service, network service can be used to serve loads on neighboring transmission systems.<sup>4</sup> Duke seeks confirmation that, where an off-system buyer is buying system power from a seller that is a network customer on an adjacent transmission system, the off-system buyer needs transmission service on both the system on which the seller is located and the system on which the buyer is located, but that it remains the choice of the buyer as to whether to procure network or point-to-point service.

5. If the Commission confirms that an off-system buyer is permitted to take network service from both transmission providers, Duke questions whether the seller needs to undesignate specific generating resources or whether it can undesignate a slice of its system. Duke contends that resource-specific undesignations are needed only if the buyer is using point-to-point service on the transmission system on which the seller is located for delivery, not if the off-system buyer takes network service on that system.<sup>5</sup> Duke suggests that, where the buyer is a network customer on both transmission systems, the reason for requiring resource-specific

<sup>4</sup> Duke Request for Clarification (*citing* *Midwest Indep. Trans. System Operator, Inc.*, 109 FERC ¶ 61,168, at P 80 (2004)).

<sup>5</sup> Duke Request for Clarification at 4–5 (*citing* Order No. 890–C, 126 FERC ¶ 61,228 at P 18).