''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 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 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—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

ASO AL D Fort Rucker Shell, AL [Removed]

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Issued in College Park, Georgia, on July 24, 1995.

Stanley Zylowski,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 95–18918 Filed 8–2–95; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Docket No. 95–ANE–28]

Amendment to Class D and Class E Airspace; Hartford, CT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will modify the Class D and Class E airspace areas established in the vicinity of the Hartford-Brainard Airport, Hartford, CT. Those airspace areas also define controlled airspace to contain aircraft operating to and from the Rentschler Airport, a privately operated airport in East Hartford, CT. The owner of Rentschler Airport has recently closed the control tower. Therefore, this action is necessary to revise the Class D and Class E airspace in the vicinity of the Rentschler and Hartford-Brainard airports.

EFFECTIVE DATE: 0901 UTC, September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph A. Bellabona, System Management Branch, ANE–530, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (617) 238–7536; fax: (617) 238–7596.

SUPPLEMENTARY INFORMATION:

History

On May 24, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by modifying the Class D and Class E airspace areas established in the vicinity of the Hartford-Brainard Airport, Hartford, CT. That action was prompted by the closing of the control tower at the privately operated Rentschler Airport. The proposed action would also provide the necessary controlled airspace to accommodate the Standard Instrument Approach Procedures (SIAP's) that remain at the now closed Rentschler Airport.

Interested parties were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. One comment noted a misspelling of the name of the Hartford-Brainard Airport, and a minor correction to the longitude and latitude coordinates for that airport. The FAA has made these minor changes to the rule. Class D and Class E airspace areas are published in FAA Order 7400.9B, dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. Class D areas appear in paragraph 5000 of FAA Order 7400.9B, and Class E areas extending upward from 700 feet or more above the surface of the earth appear in paragraph 6005. The Class D and Class E airspace designations in this document would be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Hartford, CT Class D and the Hartford, CT Class E airspace areas by revising those areas in the vicinity of the Hartford-Brainard and Rentschler Airports, and by providing the necessary controlled airspace to accommodate the SIAP's to the Rentschler Airport.

The FAA has determined that this proposed regulation involves only an established body of technical regulations for which frequent and routine amendments are necessary to keep the regulations 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 economic cost will be so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, the FAA certifies that this rule 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 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—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963, Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 5000 General

* * * * *

ANE CT D Hartford, CT [Revised]

Hartford Brainard Airport, Hartford, CT
(Lat. 41°44′11″ N, long. 72°39′01″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within 4.6-mile radius of Hartford-Brainard Airport from the Hartford Brainard Airport 158° bearing clockwise to the Hartford-Brainard Airport 052° bearing, and with a 6.0-mile radius of Hartford-Brainard Airport from the Hartford-Brainard Airport 052° bearing clockwise to the 158° bearing;

excluding that airspace within the Windsor Locks, CT Class C airspace area. This Class D airspace is effective during the specific dates and times established in advance by a Notice of airmen (NOTAM). The effective dates and times will thereafter be continuously published in the Airport Facility Directory.

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

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ANE CT E5 Hartford, CT [Revised]

Hartford-Brainard Airport, Hartford, CT
(Lat. 41°44′11″ N, long. 72°39′01″ W)

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of Hartford-Brainard Airport; excluding that airspace within the Windsor Locks, CT and Chester, CT Class E airspace areas.

Issed in Burlington, MA, on July 27, 1995.

John J. Boyce,

Acting Manager, Air Traffic Division, New England Region.

[FR Doc. 95–19141 Filed 8–2–95; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 3

Administrative Litigation Following the Denial of a Preliminary Injunction

AGENCY: Federal Trade Commission.

ACTION: Final rule, with request for public comment.

SUMMARY: Elsewhere in this issue, the Federal Trade Commission has published statements explaining how, after a court has denied preliminary injunctive relief to the Commission, the Commission decides whether administrative litigation should be commenced or, if it has already been commenced, should be continued. The Commission has also adopted a rule to facilitate such consideration in those cases where administrative litigation has already commenced. While the rule is effective upon publication in the **Federal Register**, the Commission will receive comment for thirty days, and will thereafter take such further action as may be appropriate.

DATES: The rule is effective August 3, 1995. Comments will be receive until September 5, 1995.

ADDRESSES: Comments should be sent to the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 20580. Comments will be entered on the public record of the Commission and will be available for public inspection in Room 130 during the hours of 9 a.m. until 5 p.m.

FOR FURTHER INFORMATION CONTACT: Ernest Nagata, Deputy Assistant Director for Policy and Evaluation, Bureau of Competition, (202) 326–2714, or Marc Winerman, Office of the General Counsel, (202) 326–2451.

SUPPLEMENTARY INFORMATION:

I. Background

Elsewhere in this issue, the Commission has published a policy statement that explains the process it follows in deciding whether to pursue administrative merger litigation following denial of a preliminary injunction in a separate proceeding brought, under section 13(b) of the Federal Trade Commission Act, 15 U.S.C. 53(b), in aid of the adjudication. The Commission has also determined to adopt a new rule, 16 CFR 3.26, to facilitate the consideration of these issues in matters where the Commission has issued an administrative complaint, and thus begun an adjudicative proceeding, before the court denied the preliminary injunction. Rule 3.26 provides two options for respondents to request such review [1]: (a) Respondents may move to have the administrative case withdrawn from adjudication so that the review may be conducted without the constraints of adjudicative rules, or (b) respondents may argue their case for dismissal within the adjudicative framework by filing a motion for dismissal of the complaint and briefing the matter on the public record.[2]

II. Motion to Withdraw From Adjudication

The first alternative open to respondents is a motion to withdrawn the matter from adjudication. A motion to withdraw a matter from adjudication pursuant to Rule 3.26(c) should be filed directly with the Commission (rather than filed with the Administrative Law Judge and then certified to the Commission), and will result, two days after filing, in automatic withdrawal from adjudication.[3]

In requiring that all respondents make a motion for withdrawal from adjudication, the rule implicitly obtains their unanimous consent to such withdrawal, and to ex parte communications that will be permitted during such time as the litigation is withdrawn.[4] Once a matter is withdrawn from adjudication, complaint counsel and respondents (and even third parties) can communicate informally with Commissioners to discuss the matter. In addition, since such communications will not be on the record of the administrative proceeding, counsel will be able to discuss the case without concern that their statements might compromise their litigation position if the case is returned to adjudication.

III. Motion for Consideration on the Public Record

If one or more respondents do not want the matter withdrawn from adjudication, Rule 3.26(d) permits any respondent or respondents to make a motion for dismissal that will be briefed on the public record. Such motions are similarly filed directly with the Commission rather than the Administrative Law Judge.

Rule 3.26 imposes a fourteen-day time limit for respondents to file a motion under the rule, and fourteen days for complaint counsel to file an answer, and it imposes a limit of thirty printed pages, or forty-five typewritten pages, on respondent's motion (and any accompanying brief) and complaint counsel's answer. The rule also provides that a stay will be automatic, although the Commission could subsequently lift it.[5] Further, the rule provides that

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[1] The Commission also reserves the right to consider sua sponte the public interests in continuing administrative litigation.

[2] It should be noted that, under its general rule governing adjudicative motions, 16 CFR § 3.22, the Commission has previously entertained motions to dismiss a complaint as no longer warranted by the public interest. See, e.g., *Boise Cascade Co.*, 101 F.T.C. 17 (1983), *American Home Products Corp.* 90 F.T.C. 148 (1977).

[3] The two-day delay will enable complaint counsel to object (and the Commission to defer or halt the withdrawal from adjudication) if there is a question respecting whether the motion meets the requirements of Rule 3.26(b). For example, the motion may be untimely, or there may be a question as to whether a particular court order constitutes a denial of preliminary injunctive relief. A brief delay in withdrawing a matter from adjudication is preferable to the risk that the matter might be prematurely removed from adjudication and placed back in adjudication shortly afterward.

[4] Various constraints on communications with Commissioners during the pendency of an administrative proceeding arise by virtue of the ex parte rule, 16 CFR 4.7 (which applies to communications with both complaint counsel and outside parties), of the separation of functions provision of the APA, 5 U.S.C. 554(d) (which applies to communications with complaint counsel), of the ex parte provision of the APA, 5 U.S.C. 557(d) (which applies to communications with outside parties), and of due process strictures.

[5] As noted previously, in the context of a motion to withdraw a case from adjudication under proposed Rule 3.26(c), the rule provides that the automatic withdrawal would be deferred to enable some opportunity to consider whether respondent's motion was consistent with the rule. Rule 3.26(d) does not provide for similar deferral of a stay. Withdrawal from litigation has serious consequences, insofar as it permits ex parte communications, and it is appropriate to defer withdrawal briefly rather than risk that a matter