

Issued in Kansas City, MO, on September 12, 1997.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 97-28749 Filed 10-29-97; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97-ASO-10]

Amendment to Class E Airspace; Anniston, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace area at Anniston, AL. Global Positioning System (GPS) Runway (RWY) 3 and RWY 21 Standard Instrument Approach Procedures (SIAP) have been developed for Talladega Municipal Airport, and a GPS RWY 20 SIAP has been developed for St. Clair County Airport. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAPs.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5576.

SUPPLEMENTARY INFORMATION:

History

On July 29, 1997, the FAA proposed to amend 14 CFR part 71 by modifying Class E airspace at Anniston, AL (62 FR 40488). This action would provide adequate Class E airspace for Instrument Flight Rules (IFR) operations at Talladega Municipal and St. Clair County Airports.

Designations for Class E airspace extending upward from 700 feet or more above the surface of the Earth are published in Paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, 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.

Interested parties were invited to participate in this rulemaking proceeding by submitting when comments on the proposal to the FAA.

No comments objecting to the proposal were received.

The Rule

This amendment to 14 CFR Part 71 modifies Class E airspace at Anniston, AL. Global Positioning RWY 3 and RWY 21 SIAPs have been developed for Talladega Municipal Airport, and a GPS RWY 20 SIAP has been developed for St. Clair County Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAPs.

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. 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—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 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 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 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

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

* * * * *

ASO FL E5 Anniston, AL [Revised]

Anniston Metropolitan Airport, AL
(Lat. 33°35'17" N, long. 85°51'29" W)
Talladega Municipal Airport
(Lat. 33°34'12" N, long. 86°03'04" W)
St. Clair County Airport
(Lat. 33°33'32" N, long. 86°14'57" W)

That airspace extending upward from 700 feet above the surface within a 12-mile radius of Anniston Metropolitan Airport and within a 9.5-mile radius of Talladega Municipal Airport and within a 11.5-mile radius of St. Clair County Airport, excluding that airspace within Restricted Area R-2101 when the restricted area is active.

* * * * *

Issued in College Park, Georgia, on October 8, 1997.

Wade T. Carpenter,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 97-28748 Filed 10-29-97; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release No. 33-7472; 34-39269]

Rule to Provide That the Commission Will Not Accept Paper Filings That are Required To Be Filed Electronically

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is adding a rule to the series of rules governing the submission of filings and other documents through the Electronic Data Gathering, Analysis, and Retrieval system. The new rule provides that the Commission will not accept any paper filing that is required to be filed electronically, unless it satisfies the requirements for a temporary or continuing hardship exemption.

EFFECTIVE DATE: The rule is effective on January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Margaret R. Black, Division of Corporation Finance, (202) 942-2933, or Ruth Armfield Sanders, Division of Investment Management, (202) 942-0633, U.S. Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The U.S. Securities and Exchange Commission (the "Commission") is adding new Rule 14 to Regulation S-T¹ under the Securities Act of 1933 ("Securities Act").²

¹ 17 CFR Part 232.

² 15 U.S.C. 77a et seq.

I. Discussion

The Commission's filing rules mandate electronic filing by registrants and certain others via the Commission's Electronic Data Gathering and Retrieval ("EDGAR") system.³ Most companies were phased into the electronic system in groups between 1993 and 1996; by May, 1997, when small business filers were completely phased into the electronic filing system, all domestic issuers were required to file most documents electronically.⁴ EDGAR filings are available on the Commission's Internet web site within 24 to 48 hours of filing, and commercial databases provide the information even sooner. The electronic filing system has made filings more easily and more quickly available to the investing public.

Most filers either regularly and promptly submit filings via the EDGAR system or apply for an exemption before the required filing date. The high level of compliance with the rules requiring electronic filing draws attention to the fact that some filers have continued to make their filings in paper without requesting a hardship exemption. In May 1997, for example, when approximately 23,750 filings were submitted electronically, the Commission received approximately 8,850 paper filings, of which approximately 500 should have been filed electronically.⁵ These paper filings create a gap in the EDGAR database because all paper filings, whether or not filed pursuant to an exemption, are currently accepted and treated as valid filings.⁶ The gap in the electronic database is detrimental to an investing public that relies on the prompt availability and dissemination of filed information. Those who rely primarily on the EDGAR database may not even be aware that the information is on file with the Commission.

³ Rules 101 and 102 of Regulation S-T [17 CFR 232.101 and 17 CFR 232.102].

⁴ Rule 101(a) of Regulation S-T [17 CFR 232.101(a)] specifically excepts "foreign private issuers and foreign governments" from the persons and entities subject to mandated electronic filing. In the future, the Commission will consider whether such filings should be required to be made electronically.

⁵ The other paper filings were filings from foreign private issuers or foreign governments, filings submitted in paper pursuant to a hardship exemption, and filings on forms not yet required to be filed electronically.

⁶ The Commission staff screens all paper filings to determine if they should have been filed on EDGAR. If the submission should have been filed electronically, the staff calls or writes to the filer, and asks the filer to file an electronic copy of the document, or to apply for a hardship exemption if appropriate.

The Commission's rules take into account the possibility that under certain circumstances electronic filing may be difficult or impossible by allowing filers relief from electronic filing through hardship exemptions. Filers may claim or request, as appropriate, hardship exemptions based on certain criteria, including, for example, technical difficulties in filing, and undue burden and expense of conversion to electronic format.⁷ A temporary hardship exemption, generally for unanticipated technical difficulties, is available automatically but must be followed, within six business days, by a confirming electronic copy so that the electronic database is complete.⁸ A continuing hardship exemption is also available, but must be granted by the staff. It may be granted for a specific period (after which a confirming electronic copy must be filed) or for an indefinite period.⁹

While the rules acknowledge the possible impediments to electronic filing, they also impose sanctions on issuers that do not comply with the electronic filing rules (and that fail to request an exemption, or fully comply with the requirements of the exemption). The sanctions include the inability to use certain short form registration statements,¹⁰ the inability to incorporate the paper filing by reference into other filings,¹¹ and the tolling of certain tender offer periods.¹²

Neither the availability of the hardship exemptions nor the sanctions provided by the rules have completely

⁷ Rule 201 of Regulation S-T (temporary hardship exemption) [17 CFR 232.201] and Rule 202 of Regulation S-T (continuing hardship exemption) [17 CFR 232.202].

⁸ Rule 201 requires paper filings relying on the temporary hardship exemption to be accompanied by a Form TH, Notification of Reliance on Temporary Hardship Exemption, and in the case of exhibits, Form SE, Form for Submission of Paper Format Exhibits by Electronic Filers.

⁹ Rule 202(a) states that requests for a continuing hardship exemption must be submitted at least ten days in advance of filing. Requests must be submitted by either filers or their counsel, and the request may be submitted by fax to the Office of EDGAR Policy in the Division of Corporation Finance at (202) 942-9542. Questions about hardship exemptions should be directed to that Office at (202) 942-2940. Investment company filers should direct their requests and inquiries to the Investment Management EDGAR Branch at (202) 942-0591.

¹⁰ See, e.g., Instruction LH to Form S-2 [17 CFR 239.12], Forms S-3 [17 CFR 239.13], S-8 [17 CFR 239.16b], F-2 [17 CFR 239.32] and F-3 [17 CFR 239.33] contain similar provisions. See also the note to Rule 101(a) of Regulation S-T [17 CFR 232.101(a)], Note 1 to Rule 201(b) of Regulation S-T [17 CFR 232.101(b)] and Note 3 to Rule 202(d) of Regulation S-T [17 CFR 232.101(d)].

¹¹ Rule 303 of Regulation S-T [17 CFR 232.303].

¹² Rule 13e-4(f)(12) [17 CFR 240.13e-4(f)(12)] and Rule 14e-1(e) [17 CFR 240.14e-1(e)].

eliminated paper filings that are filed inappropriately without a hardship exemption. The Commission believes that there is a strong public interest in decreasing the number of non-compliant filings. First, electronic filing makes information available more quickly than paper filing. The electronic filing system is the most efficient and effective way of disseminating filed information to the public. Each filing in paper format that is not the subject of an exemption creates an information gap for a marketplace that has come to rely on EDGAR for immediate and complete access. Second, it appears unfair to those filers who comply with the filing rules to accept the filings of those who do not. Finally, paper filings are more costly to the Commission because they require more staff time to process, maintain, track and retrieve. Paper filings prevent the Commission's staff from taking full advantage of the efficiencies of electronic filing for processing, tracking and staff review of filings. Paper filings also disrupt the continuity of preserving records permanently in an electronic format.

The Commission has determined, therefore, that the EDGAR filing rules should be revised to provide that documents that are required to be filed electronically will not be accepted for filing in paper format in the absence of an available exemption. In reaching this decision, the Commission also considered that the phase-in period for electronic filing has been complete for over a year, giving filers ample time to become familiar with and to comply with the electronic filing requirements. The Commission believes that a specific rule providing for the rejection of non-compliant filings will help to decrease the number of paper filings. The Office of Filings and Information Services will be instructed not to accept paper submissions that should have been filed electronically.¹³ Those brought by courier will be given back to the courier, and those sent by mail or other delivery service will be returned by mail. If a filing is required to be filed within a certain period (e.g., ninety days from the end of the fiscal year for annual reports on Form 10-K), the rejection of an improper paper filing would result in a filer failing to meet its disclosure obligations unless the document is

¹³ Filers submitting paper filings in reliance on a hardship exemption must include on the first page of the filing the legend stating that the filer is relying on a hardship exemption. See Rule 201(a)(2) of Regulation S-T [17 CFR 232.201(a)(2)] and Rule 202(c) of Regulation S-T [17 CFR 232.202(c)].

submitted electronically by the due date.¹⁴

The Commission is aware that the immediate result of returning a paper submission will be that access to the information will be delayed until the sender re-submits it in electronic format, because the filing will not be available even in paper format through the Commission's public reference facilities. In order to minimize this delay, the staff will use its best efforts to notify senders of the problem promptly so they can take immediate steps to re-submit the documents. As filers become accustomed to this policy, improved compliance with the EDGAR rules can be expected. The result will be an improvement in the timeliness of information available to the public.

The Commission also considered whether to revise the rules providing for sanctions. It has been argued that the current rules create an inference that the Commission will accept paper filings because the penalty is imposed in the event a filing is improperly submitted in paper format. The Commission believes that the creation of a general rule providing for the rejection of paper filings where the filing does not satisfy the requirements of a hardship exemption will clear up any possible misinterpretation of the rules. As with its other rules, the Commission will use any appropriate means, including its authority to bring legal actions, to enforce the electronic filing rules. In addition, keeping the current sanctions will provide a backup system of penalties that would apply to a paper filing that is accepted in error. The Commission therefore believes that a change to the rules imposing sanctions is not necessary or appropriate at this time.

II. Effective Date

The new rule is effective on January 1, 1998, and applies to filings made after that date, including amendments to filings made earlier.

III. Certain Findings

Since the new rule relates solely to agency organization, procedure, or practice, publication for notice and comment is not required under the Administrative Procedure Act.¹⁵ It follows that the requirements of the Regulatory Flexibility Act¹⁶ do not apply.

The new rule does not come within the scope of the Paperwork Reduction Act of 1995¹⁷ because the new rule is not a substantive or material change to a collection of information.¹⁸

Under 5 U.S.C. 804, this rule is exempt from the definition of the term "rule" for purposes of Chapter 8, entitled "Congressional Review of Agency Rulemaking," since the rule is a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

Section 23(a)(2)¹⁹ of the Securities Exchange Act of 1934 (the "Exchange Act")²⁰ requires the Commission to consider the anti-competitive effects of any rules it adopts thereunder, if any, and the reasons for its determination that any burden on competition imposed by such rules is necessary or appropriate to further the purposes of the Exchange Act. Because the new rule does not effect any substantive change, it will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

IV. Cost-Benefit Analysis

The benefits of this new procedural rule clearly exceed the costs. The amendment should benefit the investing public by increasing the number of documents filed electronically and therefore the public's knowledge of and timely access to the information in the documents. Based on filings made in May of 1997, the rule could result in an additional 500 filings per month being made electronically rather than on paper. This assumes that all paper filings made without a hardship exemption would have been filed electronically if the new rules had been in effect. Of course, it is possible that one result of the rule will be that more filers will request and receive hardship exemptions. However, any burden resulting from an increase in applications for hardship exemptions is likely to be minimal and only constitutes the costs of complying with an existing standard.

Furthermore, Section 2 of the Securities Act²¹ and Section 3 of the Exchange Act,²² as amended by the recently enacted National Securities Markets Improvement Act of 1996,²³ provide that whenever the Commission

is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission also shall consider, in addition to the protection of investors, whether the act will promote efficiency, competition, and capital formation. Because the amendments will increase the amount of information available on a timely basis to the investing public, the new rule is in the public interest and will promote the efficient dissemination of such information. The new rule will not affect efficiency, competition or capital formation because it does not result in a material change in capital raising or regulatory compliance costs.

V. Statutory Basis

The rule is proposed pursuant to Sections 6, 7, 8, 10 and 19(a) of the Securities Act, Sections 3, 12, 13, 14, 15(a), 23(a) and 35A of the Exchange Act, Sections 3, 5, 6, 7, 10, 12, 13, 14, 17 and 20 of the Public Utility Holding Company Act of 1935,²⁴ Section 319 of the Trust Indenture Act of 1939,²⁵ and Sections 8, 30, 31 and 38 of the Investment Company Act of 1940.²⁶

List of Subjects in 17 CFR Parts 232

Administrative practice and procedure, Reporting and recordkeeping requirements, Securities.

Text of the Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

The authority citation for Part 232 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll(d), 79t(a), 80a-8, 80a-29, 80a-30 and 80a-37.

2. By adding § 232.14 to read as follows:

§ 232.14 Paper filings not accepted without exemption.

The Commission will not accept in paper format any filing required to be submitted electronically under Rules 100 and 101 of Regulation S-T (§§ 232.100 and 232.101 respectively), unless the filing satisfies the requirements for a temporary or continuing hardship exemption under

¹⁷ 44 U.S.C. 3501 *et seq.*

¹⁸ 5 CFR 1320.5(g).

¹⁹ 15 U.S.C. 78w(a)(2).

²⁰ 15 U.S.C. 78a *et seq.*

²¹ 15 U.S.C. 77b.

²² 15 U.S.C. 78c.

²³ Pub. L. No. 104-290, § 106, 110 Stat. 3416 (1996).

¹⁴ The only date the Commission will consider in determining compliance with the disclosure requirements will be the filing date of the electronically transmitted document.

¹⁵ 5 U.S.C. 553(b).

¹⁶ 5 U.S.C. 601-612.

²⁴ 15 U.S.C. 79a *et seq.*

²⁵ 15 U.S.C. 77aaa *et seq.*

²⁶ 15 U.S.C. 80a-1 *et seq.*

Rule 201 or 202 of Regulation S-T (§§ 232.201 or 232.202 respectively).

By the Commission.

Dated: October 24, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-28704 Filed 10-29-97; 8:45 am]

BILLING CODE 8010-01-P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2200

Rules of Procedure; E-Z Trial

CFR Correction

In title 29 of the Code of Federal Regulations, part 1927 to end, revised as of July 1, 1997, on page 261, in § 2200.203, paragraph (a) should be removed and reserved.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CCGD08-97-020]

RIN 2115-AE84

Regulated Navigation Area Regulations; Mississippi River, LA-Regulated Navigation Area

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is revising the Regulated Navigation Area (RNA) for vessels operating in the Mississippi River below Baton Rouge, Louisiana including South Pass and Southwest Pass by adding additional requirements for vessels of 1,600 gross tons or greater operating in the RNA. This revision requires enhanced safety procedures for vessels of 1,600 gross tons or greater operating on the Mississippi River. The Coast Guard is also requiring moored or anchored passenger vessels with embarked passengers to maintain a manned pilothouse watch for the safety of the vessel, crew and passengers.

DATES: This interim rule is effective October 30, 1997. Comments must reach the Coast Guard on or before December 29, 1997.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the office of the Eighth Coast Guard District Marine Safety Division, 501 Magazine Street, Room 1341, New Orleans, LA during

normal office hours between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589-4686.

FOR FURTHER INFORMATION CONTACT: Mr. M. M. Ledet, Vessel Traffic Management Specialist, at the Eighth Coast Guard District Marine Safety Division, New Orleans, LA or by telephone at (504) 589-4686.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments specifically pertaining to 33 CFR § 165.810(f)(3)(iii) of this rule. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD08-97-020) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

On August 29, 1997 (62 FR 45775), the Coast Guard published a notice of proposed rulemaking entitled "Regulated Navigation Area Regulations; Mississippi River, LA-Regulated Navigation Area" in the **Federal Register**. No public hearing was requested and none was held. The Coast Guard received 2 letters commenting on the proposed rulemaking. Based on information presented in one of the comments, concerning proposed 33 CFR 165.810(f)(3)(iii), the Coast Guard is reconsidering this provision. This rule is being published as an interim rule and the Coast Guard requests all interested parties to comment on 33 CFR 165.810(f)(3)(iii).

On December 14, 1996, the 36,000 gross ton M/V BRIGHT FIELD, while transiting the Lower Mississippi River, allided with the Riverwalk store complex in New Orleans, Louisiana causing extensive damage and numerous injuries. This marine casualty prompted the Captain of the Port New Orleans to issue Captain of the Port Orders to moored or anchored high capacity passenger vessels operating on the Mississippi River. These orders required those vessels to maintain a manned pilothouse watch in order to monitor river activity and to be immediately available to activate emergency procedures to protect the vessel, crew and passengers in the event of an emergency radio broadcast, danger signal or other visual indication of a problem. The initial intent of this order was to establish an interim measure to prevent future allisions and collisions.

On March 18, 1997 (62 FR 14637, March 27, 1997), the Coast Guard established a temporary regulated navigation area affecting the operation of downbound tows in the Lower Mississippi River from mile 437 at Vicksburg, MS to mile 88 above Head of Passes. These regulations were subsequently amended on March 21 (62 FR 15398, April 1, 1997), March 29 (62 FR 16081, April 4, 1997), April 4 (62 FR 17704, April 11, 1997) and April 20 (62 FR 23358, April 30, 1997). The amendments added additional operating requirements for vessels of 1,600 gross tons or greater; increased the operating limitations on tank barges and ships carrying hazardous chemicals and gasses; and extended the RNA to the boundary of the territorial sea at the approaches to Southwest Pass and South Pass of the Mississippi River.

This RNA and its subsequent amendments was also prompted by unprecedented high waters on the Mississippi River. Conditions on the Lower Mississippi River became so sever that it necessitated the opening of the Bonnet Carre Spillway by the Army Corps of Engineers in order to ease high-water conditions and partially combat very strong river currents. The high-water conditions contributed to numerous barge breakaways and a marked increase in vessel accidents. The additional operating requirements were designed to provide a greater margin of safety for vessels of 1,600 gross tons or greater operating on this waterway.

On April 20 (62 FR 23358, April 30, 1997), the towboat and barge limitations and the chemical and gas ship operating restrictions expired. The regulations affecting self-propelled vessels of 1,600 gross tons or greater were extended until