

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

\* \* \* \* \*

#### ACE KS E5 Benton, KS

Benton Airport, KS  
(Lat. 37°46'40" N., long. 97°06'49" W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Benton Airport.

\* \* \* \* \*

Issued in Kansas City, MO, on December 30, 2003.

**Paul J. Sheridan,**

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

[FR Doc. 04–488 Filed 1–9–04; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2003–16746; Airspace Docket No. 03–ACE–90]

#### Modification of Class E Airspace; Independence, IA

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

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action modifies the Class E airspace area at Independence, IA. A review of controlled airspace for Independence Municipal Airport indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures. The area is modified and enlarged to conform to the criteria in FAA Orders.

**DATES:** This direct final rule is effective on 0901 UTC, April 15, 2004. Comments for inclusion in the Rules Docket must be received on or before February 20, 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–2003–16746/ Airspace Docket No. 03–ACE–90, 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:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Municipal Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

**SUPPLEMENTARY INFORMATION:** This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet above the surface at Independence, IA. An examination of controlled airspace for Independence Municipal Airport reveals it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2E,

Procedures for Handling Airspace Matters. The criteria in FAA Order 7400.2E for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the Airport Reference Point (ARP) to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. This amendment brings the legal description of the Independence, IA Class E airspace area into compliance with FAA Order 7400.2E. This area will be depicted on appropriate aeronautical charts. 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–2003–16746/Airspace Docket No. 03–ACE–90.” 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 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 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

#### **ACE IA E5 Independence, IA**

Independence Municipal Airport, IA  
(Lat. 42°27'13" N., long. 91°56'51" W.)

Wapsie NDB  
(Lat. 42°27'08" N., long. 91°57'04" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Independence Municipal Airport and within 2.6 miles each side of the 008° bearing from the Wapsie NDB extending from the 6.4-mile radius to 7.9 miles north of the airport.

\* \* \* \* \*

Dated: Issued in Kansas City, MO, on December 30, 2003.

**Paul J. Sheridan,**

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

[FR Doc. 04–489 Filed 1–9–04; 8:45 am]

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

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

**[Docket No. FAA–2003–16410; Airspace Docket No. 03–ACE–79]**

#### **Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Hutchinson, KS**

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

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a Class E surface area at Hutchinson, KS for those times when the air traffic control tower (ATCT) is closed. It also modifies the Class E airspace area extending upward from 700 feet above the surface at Hutchinson, KS by correcting the identified type of one navigational aid and the location of another.

The effect of this rule is to provide appropriate controlled Class E airspace for aircraft executing instrument approach procedures to Hutchinson Municipal Airport and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

**EFFECTIVE DATE:** 0901 UTC, February 19, 2004.

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

Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT

Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

#### **SUPPLEMENTARY INFORMATION:**

#### **History**

On Thursday, November 20, 2003, the FAA proposed to amend 14 CFR part 71 to establish a Class E surface area and to modify other Class E airspace at Hutchinson, KS (68 FR 65417). The proposal was to establish a Class E surface area at Hutchinson, KS, for those times when the air traffic control tower (ATCT) is closed. It was also to modify the Class E5 airspace and its legal description by revising the identified type of one navigational aid and the location of another navigational aid serving Hutchinson Municipal Airport and used in the Class E airspace legal description. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

#### **The Rule**

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E airspace designated as a surface area for an airport at Hutchinson, KS. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing instrument approach procedures. This airspace will be in effect during those times when the ATCT is closed. Weather observations will be provided by an Automated Surface Observing System (ASOS) and communications will be directed with Wichita ATCT.

This rule also revises the Class E airspace area extending upward from 700 feet above the surface at Hutchinson, KS. An examination of this Class E airspace area for Hutchinson, KS revealed a discrepancy in the identified type of one navigational aid and a discrepancy in the location of another navigational aid serving Hutchinson Municipal Airport and used in the Class E airspace legal description. The Hutchinson Very High Frequency Omni-Directional Range (VOR)/Distance Measuring Equipment (DME) is misidentified as a VHF Omni-Directional Range/Tactical Air Navigation (VORTAC). The location of the SALTT Outer Compass Locator (LOM) is erroneous. This action corrects these discrepancies. The areas will be depicted on appropriate aeronautical charts.

Class E airspace areas designated as surface areas are published in Paragraph