

from the hearing record. Amendments to these manufacturing allowances would directly affect the milk component values used in Federal order milk price formulas for all classes of milk.

**Proposed by Dairy Programs,  
Agricultural Marketing Service**

*Proposal No. 2*

For all Federal Milk Marketing Orders, make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrator of each of the aforesaid marketing areas, or from the Hearing Clerk, United States Department of Agriculture, STOP 9200—Room 1083, 1400 Independence Avenue, SW., Washington, DC 20250—9200, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decision-making process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.

Office of the Administrator,  
Agricultural Marketing Service.

Office of the General Counsel.

Dairy Programs, Agricultural Marketing Service (Washington office) and the Offices of all Market Administrators.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Dated: December 30, 2005.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 05-24707 Filed 12-30-05; 4:31 pm]

**BILLING CODE 3410-02-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA-2005-23374; Airspace Docket No. 05-ACE-34]

**Proposed Establishment of Class E5 Airspace; David City, NE**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing a Class E airspace area extending upward from 700 feet above the surface at David City Municipal Airport, NE.

**DATES:** Comments for inclusion in the Rules Docket must be received on or before January 27, 2006.

**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-2005-23374/Airspace Docket No. 05-ACE-34, 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:**

**Comments Invited**

Interested parties are invited to participate in this proposed 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-2005-23374/Airspace Docket No. 05-ACE-34." The postcard will be date/time stamped and returned to the commenter.

**Availability of NPRM's**

An electronic copy of this document may be downloaded through the Internet at <http://dms.dot.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.faa.gov> or the Superintendent of Documents' Web page at <http://www.access.gpo.gov/nara>.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration (FAA), Office of Air Traffic Airspace Management, ATA-400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267-9677, to request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

**The Proposal**

This notice proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing a Class E airspace area extending upward from 700 feet above the surface at David City Municipal Airport, NE. The establishment of a Very High Frequency Omni-directional Range (VOR)/Distance Measuring Equipment (DME) Instrument Approach Procedure (IAP) to Runway (RWY) 32 and Area Navigation (RNAV) Global Positioning System (GPS) IAPs to RWYs 14 and 32 have made this action necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules operations at David City Municipal Airport, NE. The area would 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 7400.9N, dated September 1, 2005, and effective September 16, 2005, which is incorporated by reference in 14 CFR

71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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. 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.

This proposed 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 the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority since it would contain aircraft executing instrument approach procedures to David City Municipal Airport.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 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 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 16, 2005, 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 David City, NE**

David City Municipal Airport, NE  
(Lat 41°13'51"N., long. 97°07'23"W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of David City Municipal Airport.

\* \* \* \* \*

Issued in Kansas City, MO, on December 19, 2005.

**Paul J. Sheridan,**

*Area Director, Western Flight Services Operations.*

[FR Doc. 06–81 Filed 1–4–06; 8:45 am]

**BILLING CODE 4910–13–M**

## **FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

### **29 CFR Parts 2700, 2704, and 2705**

#### **Procedural Rules**

**AGENCY:** Federal Mine Safety and Health Review Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Mine Safety and Health Review Commission (the "Commission") is an independent adjudicatory agency that provides trials and appellate review of cases arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq. (2000) (the "Mine Act"). Trials are held before the Commission's Administrative Law Judges and appellate review is provided by a five-member Review Commission appointed by the President and confirmed by the Senate. The Commission is proposing to revise its procedural rules, regulations implementing the Equal Access to Justice Act, and regulations implementing the Privacy Act in order to aid the efficient adjudication of proceedings at the Commission's trial and appellate levels and to ensure consistency with the statutes underlying those regulations.

**DATES:** Written and electronic comments must be submitted on or before March 6, 2006.

**ADDRESSES:** Written comments should be mailed to Thomas A. Stock, General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001, or sent via facsimile to 202–434–9944. Persons mailing written comments shall provide an original and three copies of their comments. Electronic comments should state

"Comments on Notice of Proposed Rulemaking" in the subject line and be sent to [tstock@fmshrc.gov](mailto:tstock@fmshrc.gov).

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

Thomas A. Stock, General Counsel, Office of the General Counsel, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001; telephone 202–434–9935; fax 202–434–9944.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

In October 2004, the Commission published an Advance Notice of Proposed Rulemaking ("ANPRM") in which it sought suggestions for improving its procedural rules (29 CFR part 2700), Government in the Sunshine Act regulations (29 CFR part 2701), regulations implementing the Freedom of Information Act ("FOIA") (29 CFR part 2702), and regulations implementing the Equal Access to Justice Act ("EAJA") (29 CFR part 2704). See 69 FR 62632, Oct. 27, 2004. In the ANPRM, the Commission identified several procedural rules set forth in part 2700 that require further revision, clarification, or expansion. See *id.* at 62632–35. The Commission also stated that it would examine its procedures for processing requests for relief from final judgments. *Id.* at 62632. The Commission did not include in the ANPRM any specific proposed revisions to the Commission's regulations implementing the Government in the Sunshine Act (part 2701), the FOIA (part 2702), the EAJA (part 2704), or the Privacy Act (part 2705).

Although notice-and-comment rulemaking requirements under the Administrative Procedure Act ("APA") do not apply to rules of agency procedure (see 5 U.S.C. 553(b)(3)(A)), the Commission invited members of the interested public to submit comments until January 25, 2005. The Commission invited comments on the revisions described in the ANPRM and on any other revisions not in the ANPRM but which the interested public believed could lead to the more efficient adjudication of Commission proceedings under the Commission's procedural rules (part 2700). The Commission also invited comments on its regulations implementing the Government in the Sunshine Act (part 2701), FOIA (part 2702), and EAJA (part 2704). 69 FR at 62632.

The Commission received comments from the Secretary of Labor through the U.S. Department of Labor's Office of the Solicitor; the Pennsylvania Coal Association; the United Mine Workers of America; the National Stone, Sand & Gravel Association; and other