Issued in College Park, Georgia, on August 10, 2000.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–31]

Amendment of Class D Airspace; Cocoa Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action makes a technical amendment to the Class D Airspace description at Cocoa Beach, FL. Since Patrick Approach Control has closed, St. Petersburg Automated Flight Service Station (AFSS) monitors the hours of operation for the Cape Canaveral Skid Strip.

EFFECTIVE DATE: 0901 UTC, November 30, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

The radar approach control facility at Patrick Air Force Base has been closed. This facility had the responsibility to monitor the hours of operation at the Cape Canaveral Skid Strip. The responsibility now resides with the St. Petersburg AFSS. Therefore, the Class D airspace at Cocoa Beach, FL, must be amended to reflect this change. This rule will become effective on the date specified in the **DATE** section. Since this action is technical in nature and has no impact on users of the airspace in the vicinity of the Cape Canaveral Skid Strip, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class D airspace description at Cocoa Beach, FL, for the Cape Canaveral Skid Strip.

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; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D Cocoa Beach, FL [Revised]

Cape Canaveral Skid Strip, FL
(Lat. 28°28′03″N, long. 80°33′59″W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.49-mile radius of the Cape Canaveral Skid Strip. This airspace lies within the confines of R–2932 and is effective on a random basis. The effective days and times are continuously available from St. Petersburg Automated Flight Service Station.

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Issued in College Park, Georgia, on August 10, 2000.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–27]

Removal of Class E Airspace; Melbourne, FL, and Cocoa Patrick AFB, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes Class E2 airspace at Melbourne, FL, and Cocoa Patrick AFB, FL. The weather and radio communications requirements for Class E2 Airspace at Melbourne International and Patrick AFB Airports, when the respective Air Traffic Control (ATC) towers close, no longer exist. Therefore, the Class E2 airspace for the Melbourne International and Patrick AFB Airports must be removed.

EFFECTIVE DATE: 0901 UTC, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

After Patrick AFB Radar Approach Control (RAPCON) was decommissioned, air traffic control responsibility for the Melbourne International and Patrick AFB Airports was transferred from Miami ARTC Center to Daytona Beach Approach Control, when the Melbourne and Patrick AFB (ATC) towers close. Daytona Beach Approach Control does not have the communications and weather capability to provide ATC service to the surface as required for Class E2 airspace. Therefore, the Class E2 airspace must be removed. This rule will become effective on the date specified in the ''DATE'' section. Since this action removes the Class E2 airspace, and as a result, eliminates the impact of Class E2 airspace on users of the airspace in the vicinity of the Melbourne International and Patrick

AFB Airports, notice and public procedure under 5 U.S.C. 553(b) are unncecessary.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations 914 CFR part 71) removes Class E2 airspace at Melbourne, FL and Cocoa Patrick AFB, FL.

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; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, as amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ASO FL E2 Melbourne, FL [Remove]

* * * * *

ASO FL E2 Cocoa Patrick AFB, FL [Remove]

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Issued in College Park, GA, on July 18, 2000.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Division.

[FR Doc. 00–21201 Filed 8–18–00; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 2

Requests To Reopen

AGENCY: Federal Trade Commission (FTC).

ACTION: Final rule.

SUMMARY: The FTC is amending its Rule of Practice 2.51(b), which governs requests to reopen a Commission decision containing an order that has become effective. The amendment clarifies the ''satisfactory showing'' that a requester must make to support a request that the Commission reopen the proceeding to determine whether the order should be modified on public interest grounds.

DATES: This amendment is effective on August 21, 2000.

FOR FURTHER INFORMATION CONTACT: Alex Tang, Attorney, Office of the General Counsel, FTC, 600 Pennsylvania Ave., NW., Washington, DC 20580; 202–326–2447.

SUPPLEMENTARY INFORMATION: FTC Rule of Practice 2.51(b), 16 CFR 2.51(b), sets forth certain requirements for requests to reopen and modify Commission orders either because of ''changed conditions of law or fact'' or on the ground that ''the public interest so requires.'' As presently drafted, the Rule could be read to require that all requests be accompanied by affidavits ''demonstrating in detail the nature of the changed conditions,'' even if the request itself is based on the ''public interest.'' If there are no changed conditions, however, such a requirement is unnecessary.

Accordingly, the Commission is amending the second sentence of Rule 2.51(b) to make clear that changed conditions must be demonstrated only when the request alleges that changes in fact or law warrant reopening and modification.[1] In the case of ''public interest'' requests, the Rule continues to require that such a request be supported by a factual affidavit, as described in further detail below, explaining why the Commission should reopen and modify the order in the public interest. A showing of changed conditions would be permitted but not mandated.

The amendment does not alter the requirement in the first sentence of Rule 2.51(b) that a requester make a ''satisfactory showing'' of ''changed conditions of law or fact'' or the ''public interest'' in support of its request. While the FTC Act expressly requires a ''satisfactory showing'' of changed conditions of law or fact before the Commission is required to reopen an order on those grounds, the Act does not specify the threshold showing needed to reopen a Commission order on general ''public interest'' grounds. *See* FTC Act § 5(b), 15 U.S.C. 45(b). Nonetheless, when the Commission incorporated the ''satisfactory showing'' requirement of section 5(b) into Rule 2.51, the Commission extended the requirement to all requests filed under the Rule, including ''public interest'' requests.[2] In a subsequent letter ruling, the Commission, without referring to the existing language of the statute or the Rule, further stated that a request to reopen and modify an order in the ''public interest'' must make a threshold showing of ''affirmative need.''[3] Some have interpreted that showing of need as a narrow showing of the requester's need for relief from competitive burdens imposed by the order.[4]

[1] The amended sentence is redesignated as Rule 2.51(b)(1), and the remaining subsequent sentences of Rule 2.51(b), which are not amended, are redesignated as Rule 2.51(b)(2).

[2] *See* 45 FR 36338, 36339 (May 29, 1980) (amending Rule 2.51); *e.g., Glendinning Cos.*, 97 F.T.C. 163 (1981); *Coca-Cola Co.*, 97 F.T.C. 927 (1981); *National Dairy Prods. Ass'n*, 100 F.T.C. 431 (1982); *Hammermill Paper Co.*, 100 F.T.C. 454 (1982); *Morton Thiokol, Inc.*, 101 F.T.C. 353 (1983); Illinois Cent. Indus., Inc., 101 F.T.C. 409 (1983).

[3] *See* Letter to Joel Hoffman, *Damon Corp.*, Docket No. C–3916 (Mar. 29, 1983), *reprinted in* [1979–1983 Transfer Binder] Trade Reg. Rep. (CCH) ¶ 22,207. In that letter, the Commission stated: ''As a threshold matter, [to reopen an order on public interest grounds] under [s]ection 5(b) and Commission Rule 2.51[,] a requester must demonstrate some affirmative need to modify the original order. Once such a showing of need has been made, the Commission will balance the reasons favoring the modification requested against any reasons not to make that modification.'' Letter at 2. The letter states that this approach was modeled on the two-step analysis used by courts in modifying final court orders, where a requester must present reasons that ''justify modification'' as a ''threshold matter.'' *Id.* at 2 n.1 (quoting *Gautreaux* v. *Pierce*, 535 F. Supp. 423, 426 (N.D. Ill. 1982)).

[4] *See, e.g.*, Concurring Statement of Comm'r Starek, *Columbia/HCA Healthcare Corp.*, 121 F.T.C. 611, 615 (1996); Concurring Statement of Comm'r Starek, *California & Hawaiian Sugar Co.*, 119 F.T.C. 39, 51–52 (1995); Dissenting Statement of Comm'r Azcuenaga, *Service Corp. Int'l*, 117 F.T.C. 700, 718 (1994). Nothing in the Commission's letter ruling in *Damon*, however, suggested or was intended to indicate that a showing of competitive injury is the *only* way to demonstrate ''affirmative need.''