

71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

#### The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment, and, therefore, issues it as a direct final rule. 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. 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

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications must identify both docket numbers. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

#### Agency Findings

This rule does not have federalism implications, as defined in Executive Order No. 13132, because it does 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this rule.

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) does not warrant preparation of a Regulatory Evaluation as these routine matters will only affect air traffic procedures and air navigation. It is certified that these proposed rules will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with issuing regulations to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority since it defines controlled airspace in the vicinity of the Palmer Metropolitan Airport to ensure the safety of aircraft operating near that airport and the efficient use of that airspace.

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

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends part 71 of the Federal Aviation Regulations (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. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

#### § 71.1 [Amended]

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

\* \* \* \* \*

#### ANE ME E5 Brunswick, ME [Revised]

Brunswick NAS, ME

(Lat. 43°53'32" N, long. 69°56'19" W)

Wiscasset Airport, ME

(Lat. 43°57'40" N, long. 69°42'48" W)

That airspace extending upward from 700 feet above the surface within a 7.8-mile radius of Brunswick NAS and within 3 miles each side of the 169° bearing from the Brunswick NAS extending from the 7.8-mile radius to 10 miles south of the airport and within an 8.4-mile radius of Wiscasset Airport and within 4 miles south and 6 miles north of the 109° bearing from the Wiscasset Airport extending from the 8.4-mile radius to 15.5 miles east of the airport.

\* \* \* \* \*

Issued in Jamaica, New York, on May 18, 2005.

**John G. McCartney,**

*Acting Area Director, Eastern Terminal Operations.*

[FR Doc. 05–10418 Filed 5–24–05; 8:45 am]

**BILLING CODE 4910–13–M**

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2005–21142; Airspace Docket No. 05–AEA–12]

#### Amendment of Class E Airspace; Brunswick, ME

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

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

**SUMMARY:** This action amends the Class E–4 airspace area at Brunswick Naval Air Station (NAS), ME. This action is prompted by the relocation of the Brunswick Navy TACAN navigational aid. Portions of the designated airspace were described using the TACAN

radials and distances. This action describes the airspace using the Airport Reference Point (ARP) as the sole point of origin instead of the airport and TACAN.

**DATES:** Effective 0901 UTC, September 1, 2005.

Comments for inclusion in the Rules Docket must be received on or before June 24, 2005.

**ADDRESSES:** Send comments on the rule 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-2005-21142/Airspace Docket No. 05-AEA-12, 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 at the Dockets Office between 9 am and 5 pm, Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527) is located on the plaza level of the Department of Transportation NASSIF Building at the street address stated above.

An informal docket may also be examined during normal business hours at the office of the Area Director, Eastern Terminal Operations, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, NY 11434-4809; telephone (718) 553-4501; fax (718) 995-5691.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis Jordan, Airspace Specialist, Airspace and Operations, ETSU, 1 Aviation Plaza, Jamaica, NY 11434-4809; telephone (718) 553-4521; fax (718) 995-5693.

**SUPPLEMENTARY INFORMATION:** The FAA is revising the Class E-4 airspace designation at Brunswick, ME from one based on the Brunswick TACAN and the airport location to one based solely on the airport location. The FAA uses the Brunswick, ME E-4 airspace to accommodate aircraft using standard instrument approach procedures (SIAPs) to Brunswick NAS under Instrument Flight Rules (IFR). The current definition of the airspace area uses the Brunswick Navy TACAN as a reference point. Since the United States Navy is changing the location of the TACAN, the airspace description must be changed to reference only the Airport Reference Point (ARP). This change will not result in any changes in the size of the Brunswick E-4 controlled airspace area. Class E-4 airspace designations for airspace areas extending upward from the surface are published in paragraph 6004 of FAA Order 7400.9M, dated August 30, 2004, and effective

September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

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#### Agency Findings

This rule does not have federalism implications, as defined in Executive Order No. 13132, because it does 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this rule.

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**PART 71—[AMENDED]**

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

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■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

**§ 71.1 [Amended]**

*Paragraph 6004—Class E airspace areas extending upward from the surface of the earth.*

\* \* \* \* \*

**ANE ME E4 Brunswick, ME [Revised]**

Brunswick NAS, ME

(Lat. 43°53'32"N, long. 69°56'19"W)

That airspace extending upward from the surface within 3 miles each side of the 169° bearing from the Brunswick NAS extending from the 4.3-mile radius of the airport to 6.5 miles south of the airport and within 2 miles each side of the 017° bearing from the Brunswick NAS extending from the 4.3-mile radius of the airport to 9.5 miles northeast of the airport.

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Issued in Jamaica, New York, on May 18, 2005.

**John G. McCartney,**

*Acting Area Director, Eastern Terminal Operations.*

[FR Doc. 05–10419 Filed 5–24–05; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 73**

[Docket No. FAA–2004–17178; Airspace Docket No. 03–AWA–7]

**RIN 2120–AA66**

**Establishment of Prohibited Area 51; Bangor, WA**

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes a prohibited area (P–51) over the U.S. Naval Submarine Base, at Bangor, WA. The prohibited area replaces a Temporary Flight Restriction (TFR) that is currently in effect. The FAA is taking this action in response to a request from the U.S. Navy as part of its efforts to enhance the security of the Naval Submarine Base, Bangor, WA.

**EFFECTIVE DATE:** 0901 UTC, December 22, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ken McElroy, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:****History**

On June 28, 2004, the FAA published a notice in the **Federal Register**, proposing to establish a prohibited area over the U.S. Naval Submarine Base, Bangor, WA (69 FR 36031). The FAA proposed this action, at the request of the U.S. Navy, to enhance the security of the Bangor facility. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. The FAA received 576 comments in response to this notice. All comments, including those addressed to Members of Congress, were considered. Although the official comment period ended August 12, 2004, comments were received through September, 2004, and were considered in this rulemaking action. The FAA believed due to the intense public interest and the comments on file, that extending the official deadline would not have resulted in any additional information that would have contributed to our decision making process.

**Analysis of Comments**

The vast majority of these comments expressed general opposition to the proposal. The following is a discussion of the substantive comments received.

A number of comments suggested that other large military facilities in California and Virginia do not have Temporary Flight Restrictions (TFR's) and that the restrictions were established in an inconsistent manner. They also pointed out that there is no credible terrorism threat here in the United States that would warrant such restrictions.

Other large naval facilities, such as those in California and Virginia, do not have the same operational requirements or mission as that at U.S. Naval Submarine Base, Bangor, WA. The attacks of September 11, 2001, exposed weaknesses in the defense of U.S. assets. Today, some critics still claim the necessary steps to prevent terrorist attacks have not been taken. P–51 will allow the Navy to protect vital U.S. assets (TRIDENT submarines) by preventing aircraft over flights at low altitude.

A few commenters stated there is not enough time to scramble aircraft to intercept hostile aircraft.

The FAA does not agree. Establishing a prohibited area will give the government the time to react if an aircraft enters the area. The government's intention would be for taking defensive measures on the surface to preparing to use lethal force from air or ground naval assets.

Some commenters stated that if a terrorist wants to fly an aircraft into a submarine, P–51 will not prevent them from doing so. Terrorists don't follow the rules.

The FAA agrees. However, the Navy aggressively pursues a multitude of defense measures to deter an airborne attack. Each of these measures includes identification of potential hostile aircraft. The only feasible way for early identification is to prevent low altitude flight over the facilities. Aircraft violating P–51 will draw the attention of security forces and may provide the time needed to take the actions necessary to protect the people, submarines, and buildings on the ground.

Numerous comments were received stating that general aviation aircraft (GA) are not viable threats. (The commenters cited the suicidal pilot in a small aircraft that crashed his plane into an office building, in Florida causing very little damage.) They stated that a small aircraft fully loaded with explosives would not damage a submarine.

The FAA does not agree. The characteristics and design of TRIDENT submarines are classified and, therefore, we are unable to discuss them in specifics. However, the FAA does believe the potential for serious damage to the submarine does exist, whether it is from a direct impact or from collateral damage (fire, flood, etc.) around or near the submarine.

Some commenters pointed out that P–51 will only serve to advertise U.S. Naval Submarine Base Bangor as a target for terrorist.

The FAA does not agree. There has never been any secrecy to the existence or the location of U.S. Naval Submarine Base, Bangor, in Washington state; which can be sourced and confirmed on the Internet. The important issue is that we protect our national assets instead of hoping terrorists are not aware of the locations.

Several commenters including the Aircraft Owners and Pilots Association (AOPA) stated that P–51 conflicts with V–165/V–287 because the width of these airways is 4NM each side of the centerline.