SAIF ADJUSTED ASSESSMENT SCHEDULE—Continued

Capital group	Supervisory subgroup		
	A	B	C
3	10	24	27

(ii) *Institutions exempt from the special assessment*—(A) *Rate schedule.* An institution that, pursuant to former § 327.43 (a) or (b) as in effect on November 27, 1996 (See 12 CFR 327.43 as revised January 1, 1997.), was exempt from the special assessment prescribed by 12 U.S.C. 1817 Note shall pay regular semiannual assessments to the SAIF from the first semiannual period of 1996 through the second semiannual period of 1999 according to the schedule of rates specified in former § 327.9(d)(1) as in effect for SAIF members on June 30, 1995 (See 12 CFR 327.9 as revised January 1, 1996.), as follows:

Capital group	Supervisory subgroup		
	A	B	C
1	23	26	29
2	26	29	30
3	29	30	31

(B) *Termination of special rate schedule.* An institution that makes a pro-rata payment of the special assessment shall cease to be subject to paragraph (b)(3)(ii)(A) of this section. The pro-rata payment must be equal to the following product: 16.7 percent of the amount the institution would have owed for the special assessment, multiplied by the number of full semiannual periods remaining between the date of the payment and December 31, 1999.

* * * * *

Subpart C—[Removed]

4. Subpart C is removed.

By order of the Board of Directors.

Dated at Washington, DC, this 6th day of May 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 97–12587 Filed 5–16–97; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 543, 552, and 571

[No. 97–48]

RIN 1550–AA76

De Novo Applications for a Federal Savings Association Charter

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is issuing its final regulation describing the requirements for *de novo* applications for federal savings association charters. The term ''*de novo* application'' generally refers to any application to establish a new federal savings association, rather than applications from existing institutions that merely wish to convert to federal savings association charters. This final rule converts the agency's existing policy statement on *de novo* applications into a regulation, conforms the regulation to current law, and simplifies the regulatory requirements for establishing a *de novo* federal association, thereby reducing compliance costs.

EFFECTIVE DATE: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Gary Masters, Financial Analyst, Corporate Activities Division (202) 906–6729; Edward O'Connell, Project Manager, Thrift Policy (202) 906–5694; Kevin Corcoran, Assistant Chief Counsel, Business Transactions Division, Chief Counsel's Office (202) 906–6962; or Valerie J. Lithotomos, Counsel (Banking and Finance), Regulations and Legislation Division, Chief Counsel's Office, (202) 906–6439, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

I. Background

The OTS is issuing a new regulation to revise and update its treatment of *de novo* applications for federal savings association charters.

The Federal Home Loan Bank Board (FHLBB), the OTS's predecessor agency, originally promulgated a policy statement (policy statement), which currently appears at 12 CFR 571.6, to explain its policies relating to the approval of applications for *de novo* federal associations. When the policy statement was issued, the FHLBB was the operating head of the Federal Savings and Loan Insurance Corporation, the insurance fund for thrifts. At that time, *de novo* applications included not only applications for permission to organize and requests for a federal charter, but also applications for insurance of accounts.

Subsequently enacted statutes, including the Financial Institutions Reform, Recovery, and Enforcement Act of 1989[1] (FIRREA) and the Federal Deposit Insurance Corporation Improvement Act of 1991[2] (FDICIA), made significant changes in the federal regulatory structure for savings associations. Under FIRREA, the OTS succeeded to the chartering and supervisory functions of the FHLBB, but the insurance function was transferred to the Federal Deposit Insurance Corporation (FDIC). FIRREA and FDICIA also revised much of the law applicable to the *de novo* approval process.[3] Accordingly, the OTS determined that revisions were needed to update and streamline the *de novo* application requirements.

Accordingly, on March 6, 1995, the OTS published in the **Federal Register** a notice of proposed rulemaking

[1] Pub. L. 101–73, 103 Stat. 183 (1989).

[2] Pub. L. 102–242, 105 Stat. 2236 (1991).

[3] The preamble to the proposed rule included a detailed discussion of the statutory requirements regarding *de novo* applications. *See* 60 FR 12103 (March 6, 1995).

revising these application requirements.[4] The OTS proposed to codify the policy statement as a regulation, remove obsolete and duplicative provisions, revise minimum capitalization and business plan requirements, and update requirements on management officials.

The public comment period closed on May 5, 1995. The OTS did not receive any comments on the proposal. Accordingly, the final rule adopted today is substantially similar to the proposal, except for certain changes intended to further reduce regulatory burden and to enhance the clarity of the regulation. These changes are fully described below.

II. Description of the Final Rule

A. Recodification

The requirements governing *de novo* applications for federal savings association charters have been moved from Part 571 (Statements of Policy) to Part 543 (Incorporation, Organization, and Conversion of Federal Mutual Associations). In addition, the OTS has incorporated these requirements into Part 552 (Incorporation, Organization, and Conversion of Federal Stock Associations) by including cross-references to Part 543. This recodification will make the *de novo* requirements easier to locate, since the requirements will be grouped with other corporate governance regulations, rather than with policies affecting all savings associations. Recodifying these provisions as regulations also makes the *de novo* provisions regulatory requirements.

B. Scope

A bank or other depository institution that converts to a thrift charter generally is not a *de novo* federal association, as that term is defined under the current OTS policy statement or the new regulation. Rather, a *de novo* association is a federal savings association chartered by the OTS, the business of which has not been conducted previously under any charter nor conducted in the previous three years in substantially the same form as is proposed by the *de novo* federal association.

C. Obsolete Statutory References and Certain Duplicative Factors

Today's final rule adopts without change the proposed deletions of certain obsolete statutory references and other duplicative provisions. The final rule deletes requirements contained in paragraph (b)(1) of § 571.6, which implemented former section 5(a)(2) of the FDIA and required the OTS to certify to the FDIC that it has considered the factors listed under section 6 of the FDIA.[5] FDICIA eliminated this certification requirement from the FDIA. These pre-FDICIA certification requirements are also contained in current §§ 543.2(g)(2) and 552.2–1(b)(2), which address the organization of federal mutual and federal stock institutions, respectively. These provisions have also been deleted. Of course, the FDIC will continue to consider the factors listed in section 6 of the FDIA when evaluating an application for deposit insurance.

Today's final rule also deletes requirements contained in § 571.6(b)(2), regarding certain factors considered in evaluating applications to organize a federal savings association. These factors duplicate requirements currently contained in §§ 543.2(g)(1) and 552.2–1(b)(1).

D. Minimum Initial Capitalization Requirement

The final rule also adopts the proposed provisions governing the minimum initial capitalization requirement for *de novo* federal associations. It is important to distinguish between the minimum initial capitalization requirement, which applies only to *de novo* federal associations at the time they commence operations, and the standard regulatory capital requirements, which apply to all savings associations on a continuous basis.[6] *De novo* federal associations must meet both requirements.

Under the standard regulatory capital requirements, savings associations must maintain prescribed minimum levels of capital measured as a percentage of assets. By contrast, the minimum initial capitalization requirement for *de novo* federal associations is a specified amount. The purpose of the minimum initial capitalization requirement is to ensure that a *de novo* federal association has a sufficient amount of capital to launch its business successfully, support reasonable initial growth, and provide an adequate buffer against losses to the deposit insurance fund. The need for a substantial initial capitalization is accentuated by the fact that *de novo* federal associations have no operating or supervisory history.

It is difficult to pinpoint objectively the precise amount of start-up capital necessary to ensure that a *de novo* federal association will be able to operate safely and soundly. However, the OTS has concluded that the $3 million initial capital requirement in the policy statement has been too high and may unnecessarily discourage community groups and local investors from seeking to establish new savings associations. The FDIC customarily requires a minimum of only $2 million in start-up capital for new institutions applying for federal deposit insurance.[7] The OTS believes that this is an effective and workable standard for the FDIC. Accordingly, the final rule adopts the minimum initial capitalization requirement contained in the proposed rule, which reduces the minimum initial capital requirement for *de novo* federal associations from $3 million to $2 million. The OTS also has retained the authority, at new § 543.3(b)(2), to impose a higher or lower capital requirement on a case-by-case basis.

E. Business Plan Requirements

Because *de novo* federal associations have no operating or supervisory history, the OTS believes that a thorough business plan is essential to ensuring that a *de novo* federal association will be operated in a safe and sound manner. In the proposed rule, the OTS proposed to revise existing business plan requirements to consolidate certain provisions, to update the requirements, and to delete obsolete statutory references. The required elements of the business plan were clarified, including descriptions of lending, leasing and investment activity, plans for meeting the qualified thrift lender (QTL) requirements, deposit, savings and borrowing activity, compliance with the Community Reinvestment Act, continuation or succession of competent management, and information on the proposed institution's ability to maintain required minimum regulatory capital levels. The final rule adopts the proposed provisions on business plans without substantive change, except to delete obsolete cross references to the QTL regulations formerly located at § 563.50 and to state expressly that the business plan must include any additional information required by the OTS.

F. Composition of the Board of Directors

Proposed § 543.3(d) included various requirements governing the composition of the *de novo* federal association's board of directors. These provisions require that the board of directors must be representative of the state in which the savings association is located. In addition, the board of directors must be diversified, and must be composed of

[4] *Id.*

[5] 12 U.S.C.A. 1816 (West 1989).

[6] 12 CFR part 567.

[7] *See* FDIC Policy Statement, 57 FR 12822 (April 13, 1992).

individuals meeting specified requirements relating to their experience, personal integrity, and competence. Where a *de novo* federal association is owned by a holding company that does not have substantial independent economic substance, these additional requirements also apply to the holding company's board of directors. The final rule adopts the proposed requirements without change.

G. Policies Pertaining to Management Officials

1. Capital Maintenance Agreements

The OTS proposed to delete existing provisions in § 571.6 governing capital maintenance agreements and pledges of stock. Section 571.6(d)(4) required controlling shareholders to agree to maintain a *de novo* federal association's required regulatory capital level under Part 567 for a minimum of five years. Controlling shareholders were also prohibited from pledging more than 50% of their stock to secure borrowed funds to finance their stock purchase for a period of three years.[8]

The final rule adopts the proposed revisions deleting these requirements. The OTS has not required controlling shareholders applying to charter a *de novo* federal association to execute capital maintenance agreements since 1991. The OTS has recognized that sufficient statutory and regulatory protections now exist to ensure that savings associations maintain adequate capital and to enable the OTS to address capital deficiencies promptly and thoroughly.[9] The restriction on controlling shareholders who pledge their stock is deleted because the restriction is unnecessary and may be unduly burdensome to organizers of a *de novo* federal association.

2. Conflicts of Interest and Usurpation of Corporate Opportunity

Today's rule also adopts the proposal to delete provisions requiring the organizers of a *de novo* federal association to file a plan identifying areas where conflicts of interest and abuse of corporate opportunity may occur, and describing specific policies and actions that the association will institute to avoid that abuse. The OTS has made clear that directors, officers, and other persons having the power to direct the management of a savings association stand in a fiduciary relationship to the association and its accountholders or shareholders. This fiduciary relationship requires them to avoid conflicts of interest and self-dealing. The OTS regulations on conflicts of interest and corporate opportunity provide guidance on these issues.[10] Conflicts of interest and usurpation of corporate opportunity also are addressed by the statutory and regulatory provisions governing transactions between savings associations and their affiliates and insiders.[11]

The OTS continues to believe that the statutory and regulatory structure governing these areas is sufficiently detailed. Accordingly, the final rule does not require organizers of *de novo* federal associations to file plans for avoidance of conflicts of interest and usurpations of corporate opportunity. Of course, if organizers submit a business plan that raises concerns about conflicts of interests or usurpations of corporate opportunity, the OTS will address such concerns before acting on the application.

3. Standard Approval Conditions

The OTS proposed to incorporate standard approval conditions for *de novo* federal associations into the regulation. The final rule, however, omits these conditions. The OTS recognizes that, in some instances, it may be appropriate to omit or modify one or more standard conditions. Accordingly, this change was made so as to preserve regulatory flexibility and to prevent the imposition of unnecessary regulatory burdens.

To ensure that the public is aware of the conditions that the OTS typically imposes in approving *de novo* applications, these conditions will be published in the OTS Application Processing Handbook (Handbook). The OTS anticipates that its Handbook guidance regarding standard conditions will reflect the conditions suggested in the proposed rule.

4. Oath of Director for Savings Associations

Existing § 571.6(d)(2) required each new director of a *de novo* federal association to sign an Oath of Director for Savings Associations, and submit the original to the Regional Director. The OTS believes that this requirement is more appropriate as guidance in the Handbook. Moreover, the OTS is studying the retention of this requirement in light of the practices of the other federal banking agencies.

III. Executive Order 12866

The Director of the OTS has determined that this final rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

IV. Paperwork Reduction Act

The reporting requirements contained in this final rule have been submitted to and approved by the Office of Management and Budget under OMB Control No. 1550–0005, in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1550), Washington, D.C. 20503, with copies to the Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

Respondents are not required to respond to this collection of information unless it displays a currently valid OMB control number.

The reporting requirements in this final rule are found in 12 CFR 543.3. The information is needed by the OTS to determine whether applicants will operate a federal savings association in a safe and sound manner and to reduce the risk of loss to newly-chartered institutions and the Savings Association Insurance Fund.

V. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The final rule does not impose additional burdens or requirements upon a small entity that files an application to become a *de novo* institution. To the contrary, the final rule reduces burden for all *de novo* federal associations, including those that may be small businesses.

VI. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 104 Pub. L. 104–4 (signed into law on March 22, 1995) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the

[8] *See* 12 CFR 571.6(d)(3)(iii) (1996).

[9] Under the Prompt Corrective Action provisions of section 38 of FDICIA (12 U.S.C.A. 1831o(e)(2)(C) (West Supp. 1996)) and implementing regulations (12 CFR 565.5), the OTS may not approve a capital restoration plan for any ''undercapitalized'' institution unless each company that controls the institution: (1) guarantees that the institution will comply with the plan until the institution has been adequately capitalized for four consecutive quarters; and (2) provides appropriate assurances of performance of the plan.

[10] *See* 12 CFR 563.200 and 563.201.

[11] *See* 12 U.S.C.A. 371c, 371c–1, 375 and 375b (West 1989 and Supp. 1996) and 12 CFR 563.41, 563.42 and 563.43. *See also* 12 U.S.C.A. 1468 (West Supp. 1996).

private sector, of $100 million or more in one year. If the budgetary impact statement is required, section 205 of the Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. As discussed in the preamble, this final rule is limited in application to *de novo* applications for a federal savings association charter. The OTS has therefore determined that the final rule will not result in expenditure by State, local, or tribal governments or by the private sector of more than $100 million. Accordingly, the Unfunded Mandates Reform Act does not apply to this rulemaking.

List of Subjects

12 CFR Part 543

Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 552

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 571

Accounting, Conflict of interests, Investments, Reporting and recordkeeping requirements, Savings associations.

Accordingly, the Director, Office of Thrift Supervision, hereby amends Parts 543, 552, and 571, chapter V, title 12 of the Code of Federal Regulations, as set forth below:

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL MUTUAL ASSOCIATIONS

1. The authority citation for part 543 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

2. Section 543.2 is amended by removing ''and'' at the end of paragraph (g)(1)(iv), by removing the period at the end of paragraph (g)(1)(v) and adding ''; and'' in its place, by adding paragraph (g)(1)(vi), by removing paragraph (g)(2) and by redesignating paragraph (g)(3) as paragraph (g)(2), to read as follows:

§ 543.2 Application for permission to organize.

* * * * *

(g) *Approval.* (1) * * *

(vi) Whether the factors set forth in § 543.3 are met, in the case of an application that would result in the formation of a *de novo* association, as defined in § 543.3(a).

* * * * *

3. Section 543.3 is added to read as follows:

§ 543.3 ''De novo'' applications for a Federal savings association charter.

(a) *Definitions.* For purposes of this section, the term ''*de novo* association'' means any Federal savings association chartered by the Office, the business of which has not been conducted previously under any charter or conducted in the previous three years in substantially the same form as is proposed by the *de novo* association. A ''*de novo* applicant'' means any person or persons who apply to establish a *de novo* association.

(b) *Minimum initial capitalization.* (1) A *de novo* association must have at least two million dollars in initial capital stock (stock institutions) or initial pledged savings or cash (mutual institutions), except as provided in paragraph (b)(2) of this section. The minimum initial capitalization is the amount of proceeds net of all incurred and anticipated securities issuance expenses, organization expenses, pre-opening expenses, or any expenses paid (or funds advanced) by organizers that are to be reimbursed from the proceeds of a securities offering. In securities offerings for a *de novo* association, all securities of a particular class in the initial offering shall be sold at the same price.

(2) On a case by case basis, the Director may, for good cause, approve a *de novo* association that has less than two million dollars in initial capital or may require a *de novo* association to have more than two million dollars in initial capital.

(c) *Business and investment plans of de novo associations.* (1) To assist the Office in making the determinations required under section 5(e) of the Home Owners' Loan Act, a *de novo* applicant shall submit a business plan describing, for the first three years of operation of the *de novo* association, the major areas of operation, including:

(i) Lending, leasing and investment activity, including plans for meeting Qualified Thrift Lender requirements;

(ii) Deposit, savings and borrowing activity;

(iii) Interest-rate risk management;

(iv) Internal controls and procedures;

(v) A Community Reinvestment Act statement, pursuant to 12 CFR part 563e, and plans for meeting the credit needs of the proposed *de novo* association's community (including low- and moderate-income neighborhoods);

(vi) Projected statements of condition;

(vii) Projected statements of operations; and

(viii) Any other information requested by the Office.

(2) The business plan shall:

(i) Provide for the continuation or succession of competent management subject to the approval of the Regional Director;

(ii) Provide that any material change in, or deviation from, the business plan must receive the prior approval of the Regional Director;

(iii) Demonstrate the *de novo* association's ability to maintain required minimum regulatory capital under 12 CFR parts 565 and 567 for the duration of the plan.

(d) *Composition of the board of directors.* (1) A majority of a *de novo* association's board of directors must be representative of the state in which the savings association is located. The Office generally will consider a director to be representative of the state if the director resides, works or maintains a place of business in the state in which the savings association is located. If the association is located in a Metropolitan Statistical Area (MSA), Primary Metropolitan Statistical Area (PMSA) or Consolidated Metropolitan Statistical Area (CMSA) that incorporates portions of more than one state, a director will be considered representative of the association's state if he or she resides, works or maintains a place of business in the MSA, PMSA or CMSA in which the association is located.

(2) The *de novo* association's board of directors must be diversified and composed of individuals with varied business and professional experience. In addition, except in the case of a *de novo* association that is wholly-owned by a holding company, no more than one-third of a board of directors may be in closely related businesses. The background of each director must reflect a history of responsibility and personal integrity, and must show a level of competence and experience sufficient to demonstrate that such individual has the ability to direct the policies of the association in a safe and sound manner. Where a *de novo* association is owned by a holding company that does not have substantial independent economic substance, the foregoing standards will be applied to the board of directors of the holding company.

(e) *Management Officials.* Proposed stockholders of ten percent or more of the stock of a *de novo* association will be considered management officials of the association for the purpose of the Office's evaluation of the character and qualifications of the management of the association. In connection with the Office's consideration of an application for permission to organize and subsequent to issuance of a Federal savings association charter to the association by the Office, any individual

or group of individuals acting in concert under 12 CFR part 574, who owns or proposes to acquire, directly or indirectly, ten percent or more of the stock of an association subject to this section, shall submit a Biographical and Financial Report, on forms prescribed by the Office, to the Regional Director.

(f) *Supervisory transactions.* This section does not apply to any application for a Federal savings association charter submitted in connection with a transfer or an acquisition of the business or accounts of a savings association if the Office determines that such transfer or acquisition is instituted for supervisory purposes, or in connection with applications for Federal charters for interim *de novo* associations chartered for the purpose of facilitating mergers, holding company reorganizations, or similar transactions.

PART 552—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS

4. The authority citation for part 552 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

§ 552.2–1 [Amended]

5. Section 552.2–1 is amended by adding the phrase ''and § 543.3'' after the phrase ''of 543.2'' in paragraph (a), and by removing and reserving paragraph (b)(2).

PART 571—STATEMENTS OF POLICY

6. The authority citation for part 571 continues to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462a, 1463, 1464.

§ 571.6 [Removed]

7. Section 571.6 is removed.

Dated: May 13, 1997.

By the Office of Thrift Supervision.

Nicolas P. Retsinas,

Director.

[FR Doc. 97–12956 Filed 5–16–97; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASW–01]

Removal of Class D Airspace; Shreveport Downtown Airport, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; confirmation of effective date.

SUMMARY: This rule removes the Class D airspace at Shreveport Downtown Airport, LA. This removal of Class D airspace results from the decommissioning of the air traffic control tower at Shreveport Downtown Airport, Shreveport, LA. This rule removes the Class D controlled airspace for aircraft operation in the vicinity of Shreveport Downtown Airport, Shreveport, LA.

EFFECTIVE DATE: 0901 UTC, April 21, 1997.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this final rule with a request for comment in the **Federal Register** on February 20, 1997 (62 FR 7672). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This final rule advised the public that revoking of the Class D airspace would avoid confusion on the part of pilots flying in the vicinity of the airport and would promote the safe and efficient handling of air traffic in the area. No adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on April 21, 1997. No adverse comments were received, and thus this notice confirms that this final rule was effective on that date.

Issued in Fort Worth, TX, on May 7, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–13070 Filed 5–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 97–ACE–4

Amendment to Class E Airspace, Wahoo, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; withdrawal.

SUMMARY: This action withdraws the Direct final rule with request for comments which changed the Class E5 airspace area at Wahoo, NE. The direct final rule is being withdrawn because the airspace was previously published in the **Federal Register** June 17, 1996 (61 FR 30507), as Docket Number 96–ACE–3 and was effective August 15, 1996.

EFFECTIVE DATE: The direct final rule at 62 FR 11766 is withdrawn effective May 19, 1997.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Operations Branch, ACE–530C, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO, 64106; telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule

On March 13, 1997, a Direct final rule with request for comments was published in the **Federal Register** to change the Class E5 airspace area at Wahoo, NE. The Class E5 airspace was published in the **Federal Register**, March 13, 1997 (62 FR 11766), as Docket Number 97–ACE–4 to become effective July 17, 1997.

Conclusion

In consideration of the earlier publication in the **Federal Register** on June 17, 1996 (61 FR 30507) of the Class E5 airspace, action is being taken to withdraw this direct final rule as described in Docket Number 97–ACE–4.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Withdrawal of Direct Final Rule

Accordingly, pursuant to the authority delegated to me, Airspace Docket Number 97–ACE–4, as published in the **Federal Register** on March 13, 1997 (62 FR 11766), is hereby withdrawn.

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

Issued in Kansas City, MO, on March 20, 1997.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 97–12240 Filed 5–16–97; 8:45 am]

BILLING CODE 4910–13–M