

(Lat. 44° 52' 29"N., long. 93° 12' 23"W.)
Minneapolis, Anoka County-Blaine Airport
(Janes Field), MN

(Lat. 45° 08' 42"N., long. 93° 12' 41"W.)
St. Paul, Lake Elmo Airport, MN

(Lat. 44° 59' 51"N., long. 92° 51' 20"W.)
Minneapolis, Airlake Airport, MN

(Lat. 44° 37' 40"N., long. 93° 13' 41"W.)
Farmington VOTAC

(Lat. 44° 37' 51"N., long. 93° 10' 55"W.)
That airspace extending upward from 700 feet above the surface within a 20.0-mile radius of the Minneapolis-St. Paul International Airport (Wold-Chamberlain) Airport DME antenna, and within a 6.5-mile radius of the Anoka County-Blaine Airport (Janes Field), and within a 6.3-mile radius of Lake Elmo Airport, and within a 6.4-mile radius of the Airlake Airport and within 3.3 miles each side of the 084° bearing from the Farmington VORTAC extending from the 6.4-mile radius to 14.8 miles east of the Airlake Airport.

* * * * *

Issued in Des Plaines, Illinois on August 9, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99-22066 Filed 8-24-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-AGL-31]

Modification of Class E Airspace; Sheridan, IN

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Sheridan, IN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 05, and a GPS SIAP to Rwy 23, have been developed for Sheridan Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action increases the radius of the existing controlled airspace for this airport.

EFFECTIVE DATE: 0901 UTC, September 9, 1999.

FOR FURTHER INFORMATION CONTACT:
Annette Davis, Air Traffic Division,
Airspace Branch, AGL-520, Federal
Aviation Administration, 2300 East
Devon Avenue, Des Plaines, Illinois
60018, telephone (847) 294-7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, May 17, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Sheridan, IN (64 FR 26712). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

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. Class E airspace designations for airspace area extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, 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 Rule

The amendment to 14 CFR part 71 modifies Class E airspace at Sheridan, IN, to accommodate aircraft executing the proposed GPS Rwy 05 SIAP, and the GPS Rwy 23 SIAP, at Sheridan Airport by modifying the existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

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. Therefore, this regulation—(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 part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

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

* * * * *

AGL IN E5 Sheridan, IN [Revised]

Sheridan Airport, IN
(Lat. 40°10'41"N., long. 86°13'02"W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Sheridan Airport, excluding that airspace within the Indianapolis Terry Airport, IN, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on August 9, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99-22067 Filed 8-24-99; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Parts 2, 3 and 4

Rules of Practice Amendments

AGENCY: Federal Trade Commission (FTC).

ACTION: Final rules with request for comments.

SUMMARY: To streamline the process of providing effective relief where parties consent to the entry of a cease and desist order, the FTC is amending its Rules of Practice to shorten the period for public comment on consent settlements from 60 days to 30 days. The amended rules also provide for more effective interim relief in cases involving mergers or acquisitions, by providing that hold-separate or asset-

maintenance orders will be made immediately effective when the Commission accepts the consent agreement or settlement proposal for public comment.

DATES: These rule amendments are effective on August 25, 1999. Agreements that have been executed by any or all respondents before the effective date will not be affected by these amendments without the consent of the parties.

Comments must be received on or before September 24, 1999.

ADDRESSES: Written comment on these rule revisions must be submitted in 20 copies to the Office of the Secretary, Room 159, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Individuals filing comments need not submit multiple copies.

FOR FURTHER INFORMATION CONTACT: Christian S. White, Assistant General Counsel for Legal Counsel, (202) 326-2476, Office of the General Counsel, FTC, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The Commission considers it important to solicit public comment on consent agreements. Nonetheless, the current comment period of 60 days unduly delays implementation of consent orders and the benefits to the public of addressing the conduct alleged to be unlawful in the Commission's complaint. Neither the Administrative Procedure Act, 5 U.S.C. 551, nor the FTC Act, 15 U.S.C. 41-58, requires agencies to offer a public comment period on administrative settlements.¹ Accordingly, the Commission has decided to shorten the comment period to 30 days, as it was before 1974. The 30-day comment period will begin on the date the Commission issues a press release announcing that the Commission has accepted the agreement and placed it on the public record for comment. Press releases are ordinarily posted on the Commission's Web site the day they are released. The Commission believes that the shorter period generally will be

sufficient to allow thoughtful public comment. The Commission may lengthen or shorten the 30-day comment period in the public interest. The Commission also retains discretion to make an order final after acceptance but before the comment period starts but it contemplates doing so only in exceptional cases where, for example, it believes that the allegedly unlawful conduct to be prohibited threatens substantial and imminent public harm. If, in such cases, the Commission, after the comment period, believes that modifications to the order would be appropriate, it will (absent agreement by respondents to the modifications) initiate a proceeding to reopen and modify the order pursuant to Rule 3.72(b) or issue a new administrative complaint to commence a new administrative proceeding in accordance with Rule 3.11.

With regard to competition cases involving planned mergers and acquisitions, when staff negotiates a hold-separate or asset-maintenance agreement, the Commission will issue the agreement as an immediately effective order when it accepts the consent agreement for comment. Although it is the Commission's view that hold-separate agreements, as currently structured, are immediately enforceable, treating such agreements as final Commission orders will make clear that violations are punishable by civil penalties.²

These changes require amending Rules 2.32, 2.34 and 3.25. Technical conforming changes also are being made to Rule 4.9 respecting the Commission's public record. The Commission believes these amendments will improve the protection of consumers and competition by accelerating the effectiveness of Commission consent orders and by increasing incentives to preserve the status quo pending final resolution of planned and allegedly anticompetitive mergers and acquisitions.

These rule revisions relate solely to agency practice and, therefore, are not subject to the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(a)(2), or to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601(2). The revisions do not involve the collection of information subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

² The amendment to § 2.34 specifies that any hold-separate or asset-maintenance orders will be accompanied by an administrative complaint, but that the complaint will neither initiate an adjudicatory proceeding nor trigger the application of the prohibitions on ex parte communications in § 4.7.

Although the revisions are effective as stated in the previous section, the Commission welcomes comment on them and will consider further revision as appropriate.

List of Subjects

16 CFR Part 2

Administrative practice and procedure, Consent agreements, Investigations.

16 CFR Part 3

Administrative practice and procedure, Consent agreements.

16 CFR Part 4

Administrative practice and procedure, Public record.

For the reasons set forth in the preamble, the Federal Trade Commission amends title 16, chapter I, subchapter A, of the Code of Federal Regulations as follows:

PART 2—NONADJUDICATIVE PROCEDURES

1. Revise the authority citation for part 2 to read:

Authority: 15 U.S.C. 46.

Subpart C—Consent Order Procedure

2. Revise § 2.32 to read as follows:

§ 2.32 Agreement.

Every agreement in settlement of a Commission complaint shall contain, in addition to an appropriate proposed order, either an admission of the proposed findings of fact and conclusions of law submitted simultaneously by the Commission's staff or an admission of all jurisdictional facts and an express waiver of the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law. Every agreement also shall waive further procedural steps and all rights to seek judicial review or otherwise to challenge or contest the validity of the order. In addition, where appropriate, every agreement in settlement of a Commission complaint challenging the lawfulness of a proposed merger or acquisition shall also contain a hold-separate or asset-maintenance order. The agreement may state that the signing thereof is for settlement purposes only and does not constitute an admission by any party that the law has been violated as alleged in the complaint. Every agreement shall provide that:

- (a) The complaint may be used in construing the terms of the order;
- (b) No agreement, understanding, representation, or interpretation not

¹ Although public comment periods on consent agreements are not required, the Commission has followed this practice for many years. The Commission's procedure for considering administrative consent orders has existed in one form or another since at least 1939. The procedure did not include a public comment period until 1967, when the Commission promulgated Rule 2.34, providing for a comment period of 30 days. 32 FR 8448-49 (June 13, 1967). In 1974, the Commission extended the comment period from 30 to 60 days. The Commission added a companion provision, Rule 3.25, in 1975 to establish an identical comment procedure for consent agreements in Part 3 matters. 40 FR 15235-36 (April 4, 1975).

contained in the order or the aforementioned agreement may be used to vary or to contradict the terms of the order;

(c) The order will have the same force and effect and may be altered, modified or set aside in the same manner provided by statute for Commission orders issued on a litigated or stipulated record;

(d) Except as provided by order of the Commission, any order issued pursuant to the agreement will become final upon service;

(e) The agreement will not become a part of the public record unless and until it is accepted by the Commission; and

(f) If the Commission accepts the agreement, further proceedings will be governed by § 2.34.

3. Revise § 2.34 to read as follows:

§ 2.34 Disposition.

(a) *Acceptance of proposed consent agreement.* The Commission may accept or refuse to accept a proposed consent agreement. Except as otherwise provided in paragraph (c) of this section, acceptance does not constitute final approval, but it serves as the basis for further actions leading to final disposition of the matter.

(b) *Effectiveness of hold-separate or asset-maintenance order.* Following acceptance of a consent agreement, the Commission will, if it deems a hold-separate or asset-maintenance order appropriate, issue a complaint and such an order as agreed to by the parties. Such order will be final upon service. The issuance of a complaint under this paragraph will neither commence an adjudicatory proceeding subject to part 3 of this chapter nor subject the consent agreement proceeding to the prohibitions specified in § 4.7 of this chapter.

(c) *Public comment.* Promptly after its acceptance of the consent agreement, the Commission will place the order contained in the consent agreement, the complaint, and the consent agreement on the public record for a period of 30 days, or such other period as the Commission may specify, for the receipt of comments or views from any interested person. At the same time, the Commission will place on the public record an explanation of the provisions of the order and the relief to be obtained thereby and any other information that it believes may help interested persons understand the order. The Commission also will publish the explanation in the **Federal Register**. The Commission retains the discretion to issue a complaint and a Final Decision and Order, incorporating the order

contained in a consent agreement, in appropriate cases before seeking public comment. Unless directed otherwise by the Commission, such Decision and Order will be final upon service.

(d) *Comment on initial compliance report.* If respondents have filed an initial report of compliance pursuant to § 2.33, the Commission will place that report on the public record, except for portions, if any, granted confidential treatment pursuant to § 4.9(c) of this chapter, with the complaint, the order, and the consent agreement.

(e) *Action following comment period.* (1) Following the comment period, on the basis of comments received or otherwise, the Commission may either withdraw its acceptance of the agreement and so notify respondents, in which event it will take such other action as it may consider appropriate, or issue and serve its complaint in such form as the circumstances may require and its decision in disposition of the proceeding.

(2) The Commission, following the comment period, may determine, on the basis of the comments or otherwise, that a Final Decision and Order that was issued in advance of the comment period should be modified. Absent agreement by respondents to the modifications, the Commission may initiate a proceeding to reopen and modify the decision and order in accordance with § 3.72(b) of this chapter or commence a new administrative proceeding by issuing a complaint in accordance with § 3.11 of this chapter.

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

4. Revise the authority citation for part 3 to read as follows:

Authority: 15 U.S.C. 46, unless otherwise noted.

Subpart C—Prehearing Procedures; Motions; Interlocutory Appeals; Summary Decisions

5. Amend § 3.25 by revising paragraph (f) to read as follows:

§ 3.25 Consent agreement settlements.

* * * * *

(f) After some or all of allegations in a matter have been withdrawn from adjudication, the Commission may accept the proposed consent agreement, reject it and return the matter or affected portions thereof to adjudication for further proceedings or take such other action as it may deem appropriate. If the agreement is accepted, it will be disposed of as provided in § 2.34 of this chapter, except that if, following the public comment period provided for in

§ 2.34, the Commission decides, based on comments received or otherwise, to withdraw its acceptance of such an agreement, it will so notify the parties and will return to adjudication any portions of the matter previously withdrawn from adjudication for further proceedings or take such other action it considers appropriate.

* * * * *

PART 4—MISCELLANEOUS RULES

6. Revise the authority citation for part 4 to read as follows:

Authority: 15 U.S.C. 46, unless otherwise noted.

7. Amend § 4.9 by revising paragraph (b)(6) to read as follows:

§ 4.9 The public record.

* * * * *

(b) * * *

(6) *Consent Agreements (16 CFR 2.31 through 2.34, 3.25).* (i) Agreements containing orders, after acceptance by the Commission pursuant to §§ 2.34 and 3.25(f) of this chapter;

(ii) Comments and other materials filed or placed on the public record under §§ 2.34 and 3.25(f) concerning proposed consent agreements and related orders; and

(iii) Decisions and orders issued and served under §§ 2.34 and 3.25(f), including separate statements of Commissioners.

* * * * *

By direction of the Commission.

Donald S. Clark,
Secretary.

Statement of Commissioner Orson Swindle Concerning Amendments to Commission Rules 2.32, 2.34, 3.25, and 4.9

I have voted for the amendments to the Commission's Rules of Practice that would shorten the public comment period on consent agreements and would make hold-separate and asset-maintenance agreements immediately effective. In my judgment, shortening the comment period to 30 days achieves a sensible balance between forestalling violations of Commission orders and affording the public sufficient time to comment on Commission settlements. I also see obvious benefits from issuing hold-separate and asset-maintenance agreements as immediately enforceable orders.

Nevertheless, I would have preferred to subject these rule revisions to advance public comment, rather than—as the Commission has done—issuing them as final rules with a request for comments after the fact. Whatever my judgment (and that of my colleagues) concerning whether the revisions are prudent and in the public interest, I would have thought we would also try to appraise the judgment of the public—those for whom we in government work, and to whom we are ultimately accountable—before issuing a

final rule that halves the comment period on consent agreements.¹

One might respond to my concern with the argument that since the public comment period itself is for the benefit of the Commission and not of the public, any decision to shorten or eliminate the period should be in the hands of the sole beneficiary of the public comment mechanism—the Commission. To argue thus, however, would be to disregard a core element of our system of government: the public's stake in the decisions reached by government agencies, and our responsibility to take the public's views into account. Although I would not have voted to shorten the comment period to 30 days if I believed that such an action would nullify the public's role, getting public comment beforehand on this very issue would have been valuable.

Instead, the Commission has decided to allow 30 days for public comment after these final rules have been published in the **Federal Register**. I fear that this is not an adequate surrogate for the advance comment that we should have solicited. Once something such as an order or a rule revision is issued "in final," it is often a *fait accompli* that is unlikely to be undone even in the face of inexorable logic.² We should have invited public participation before taking these steps.

[FR Doc. 99-22015 Filed 8-24-99; 8:45 am]

BILLING CODE 6750-01-P

¹ The Administrative Procedure Act ("APA") generally requires that agencies engage in notice-and-comment procedures before issuing a final rule, 5 U.S.C. 553(c), but rules of agency procedure or practice are exempt from this requirement. 5 U.S.C. 553(b)(A). Nevertheless, "[a]lthough the APA provides this exemption for rules of agency procedure or practice, agency rulemakers should consider providing notice and an opportunity for comment where possible if the rules will affect the public." Administrative Conference of the United States, *A Guide to Federal Agency Rulemaking* 51 (2d ed. 1991) (emphasis added); see also American Bar Ass'n, Government and Public Sector Lawyers Division and Section of Administrative Law and Regulatory Practice, *A Guide to Federal Agency Rulemaking* 54-55 (3d ed. 1998). Although I do not believe that the Commission must put every change in its procedural rules out for public comment, doing so is warranted here because the proposed change may significantly affect the public.

² The courts have recognized that seeking comment after making a rule change is not usually a substitute for obtaining comment before such a change is made: "[A]n agency is not likely to be receptive to suggested changes once the agency 'put[s] its credibility on the line in the form of 'final' rules. People naturally tend to be more close-minded and defensive once they have made a 'final' determination.'" *Air Transport Ass'n of America v. Dept. of Transp.*, 900 F.2d 369, 379 (D.C. Cir. 1990) (quoting *National Tour Brokers Ass'n v. United States*, 591 F.2d 896, 902 (D.C. Cir. 1978)), cert. denied, 498 U.S. 1023 (1991).

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 9 and 171

Review of Exchange disciplinary, Access Denial or Other Adverse Actions; Review of NFA Decisions; Corrections

AGENCY: Commodity Futures Trading Commission.

ACTION: Final Rules; technical corrections.

SUMMARY: On October 26, 1995, the Commodity Futures Trading Commission ("Commission") published in the **Federal Register** (60 FR 54801) final regulations amending its Rules Relating to Review of Exchange Disciplinary, Access Denial or Other Adverse Actions ("Rules"), to reflect changes in office titles, personnel titles and address. The Commission has determined to make certain technical corrections to the Rules to clarify its delegation of authority.

In addition, the Commission has determined to make a similar technical correction to its Rules relating to Review of NFA Decisions, to clarify its delegation of authority.

EFFECTIVE DATE: August 19, 1999.

FOR FURTHER INFORMATION CONTACT: Susan Nathan, Assistant General Counsel, Office of General Counsel, (202) 418-5120.

SUPPLEMENTARY INFORMATION: The Commission recently has undertaken a reexamination of its part 9 and part 171 Rules and has identified those rules that require amendment to effect technical or conforming changes.

I. Rules Being Amended

The following Commission rules are being amended.

A. 17 CFR 9.9

Commission Rule 9.9(b) delegates certain authority to the Deputy General Counsel for Opinions and Review. As adopted, the rule authorizes the Deputy General Counsel for Opinions and Review, or a person under his direction designated by him, to handle particular procedural and technical matters and, in his discretion, to submit any matters otherwise falling within the terms of this rule to the Commission for its consideration. There is no longer a Deputy General Counsel for Opinions and Review. Consequently, references in rule 9.9 to "the Deputy General Counsel for Opinions and Review" have been changed to "the General Counsel.

B. 17 CFR 171.50

Commission rule 171.50 delegates certain authority to the Deputy General Counsel for Opinions. As adopted, the rule authorizes the Deputy General Counsel for Opinions, or a person under his direction designated by him, to perform specific procedural and technical functions and, in his discretion, to submit any matters otherwise falling within the terms of this rule to the Commission for its consideration. There is no longer a Deputy General Counsel for Opinions. Consequently, references in Rule 171.50 to "the Deputy General Counsel for Opinions" have been changed to "the General Counsel."

C. Administrative Procedure Act

The Commission has determined that the Administrative Procedure Act, 5 U.S.C. 553, does not require notice of proposed rulemaking and an opportunity for public participation in connection with these corrections. In this regard, the Commission notes that such notice and opportunity for comment is unnecessary because these technical corrections are related solely to agency organization, procedure and practice and make technical corrections. Accordingly, the Commission finds good cause to make these corrections effective immediately upon publication in the **Federal Register**. 5 U.S.C. 553(b)(B), 553(d)(3).

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(4) and 2(a)(11), the Commission corrects Chapter I of title 17 of the Code of Federal Regulations as follows:

List of Subjects in 17 CFR Parts 9 and 171

Administrative practice and procedure, Commodity exchanges, Commodity futures.

PART 9—RULES RELATING TO REVIEW OF EXCHANGE DISCIPLINARY, ACCESS DENIAL OR OTHER ADVERSE ACTIONS

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 4a, 6c, 7a, 12a, 16a.

2. Section 9.9 is amended by revising paragraphs (b)(1) introductory text, (b)(3) and (b)(4) to read as follows:

§ 9.9 Waiver of rules; delegation of authority.

* * * * *

(b) *Delegation of authority.* (1) The Commission hereby delegates, until the Commission orders otherwise, to the