

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2004-19504; Airspace  
Docket No. 04-ACE-64]

**Establishment of Class E2 Airspace;  
Wichita Colonel James Jabara Airport,  
KS**

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

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a Class E surface area at Wichita Colonel James Jabara Airport, KS. The effect of this rule is to provide appropriate controlled Class E airspace for aircraft executing instrument approach procedures to Colonel James Jabara Airport and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

**EFFECTIVE DATE:** 0901 UTC, March 17, 2005.

**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:****History**

On Wednesday, November 10, 2004, the FAA proposed to amend 14 CFR part 71 to establish a Class E surface area at Wichita Colonel James Jabara Airport, KS (69 FR 65107). The proposal was to establish a Class E surface area at Wichita Colonel James Jabara Airport, KS. 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.

**The Rule**

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace designated as a surface area for an airport at Wichita Colonel James Jabara Airport, KS. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing instrument approach procedures. Weather observations will be provided by an Automated Surface Observing System (ASOS) and communications will be direct with Wichita Approach Control. The area

will be depicted on appropriate aeronautical charts.

Class E airspace areas designated as surface areas are published in Paragraph 6002 of FAA Order 7400.9M, Airspace Designations and Reporting Points, 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 the Order.

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, 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 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 regulation is within the scope of that authority since it contains aircraft executing instrument approach procedures to Colonel James Jabara Airport.

**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 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 7400.9M, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

*Paragraph 6002 Class E airspace designated as surface areas.*

\* \* \* \* \*

**ACE KS E2 Wichita Colonel James Jabara  
Airport, KS**

Wichita, Colonel James Jabara Airport, KS,  
(Lat. 37°44' 51" N., long. 97°13' 16" W.)

Within a 4-mile radius of Colonel James Jabara Airport, excluding that airspace within the Wichita Mid-Continent Airport, KS Class C airspace area and the Wichita, McConnell AFB, KS Class D airspace area.

\* \* \* \* \*

Issued in Kansas City, MO, on December 23, 2004.

**Rosalyn R. Ward,**

*Acting Area Director, Western Flight Services  
Operations.*

[FR Doc. 05-372 Filed 1-6-05; 8:45 am]

**BILLING CODE 4910-13-M**

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**DEPARTMENT OF HOMELAND  
SECURITY**

**Coast Guard****33 CFR Part 117**

[CGD08-04-032]

**RIN 1625-AA09**

**Drawbridge Operation Regulation;  
Boeuf River, Mason, LA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is removing the existing drawbridge operation regulation for the draw of the SR 4 bridge across the Boeuf River, mile 32.3, near Mason, Louisiana. The existing bridge has been removed from service and a replacement bridge has been constructed on the same alignment. Since the movable span of the bridge has been removed, the regulation controlling the opening and closing of the bridge is no longer necessary.

**DATES:** This rule is effective January 7, 2005.

**ADDRESSES:** Documents referred to in this rule are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 500 Poydras Street, New Orleans, Louisiana 70130-3310, between 7 a.m. and 3 p.m., Monday

through Friday, except Federal holidays. The telephone number is (504) 589-2965. The Eighth District Bridge Administration Branch maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** David Frank, Bridge Administration Branch, at (504) 589-2965.

**SUPPLEMENTARY INFORMATION:**

**Good Cause for not Publishing an NPRM**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds good cause exists for not publishing an NPRM. Public comment is not necessary since the bridge that the regulation governed is out of service and is being completely removed. The bridge no longer affects navigation through the area.

**Good Cause for Making Rule Effective in Less Than 30 Days**

Under 5 U.S.C. 553(d)(3), the Coast Guard finds good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. There is no need to delay the implementation of this rule because the bridge it governs is already out of service and is being removed.

**Background and Purpose**

The existing swing span bridge across the Boeuf River, mile 32.3, which had previously serviced the area is in the process of being removed and no longer affects navigation. The regulation governing the operation of the bridge is found in 33 CFR 117.431. The purpose of this rule is to remove 33 CFR 117.431 from the Code of Federal Regulations since it governs a bridge that is no longer in service and is being removed. This final rule removes the regulation regarding the SR 4 bridge.

**Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This rule removes the special regulation for a bridge that is already out of service and is being removed.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

This rule will have no impact on any small entities because the regulation being removed applies to a bridge that has already been taken out of service and is being removed.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

**Collection of Information**

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

**Federalism**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in the preamble.

**Taking of Private Property**

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

**Civil Justice Reform**

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

**Protection of Children**

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not cause an environmental risk to health or risk to safety that may disproportionately affect children.

**Indian Tribal Governments**

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

**Energy Effects**

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not

require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g. specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this temporary rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. This final rule only involves removal of the drawbridge operation regulation for a drawbridge that has been removed from service. It will not have any impact on the environment.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

#### § 117.431 [Removed]

■ 2. Section 117.431 is removed.

Dated: December 29, 2004.

**Kevin L. Marshall,**

*Captain, U.S. Coast Guard, Commander, 8th Coast Guard Dist., Acting.*

[FR Doc. 05–380 Filed 1–6–05; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Jacksonville 04–134]

RIN 1625–AA00

#### Safety Zone; Indian River, Cocoa Village Mardi Gras, Cocoa, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary fixed safety zone on the Indian River at Lee Wenner Park, Cocoa, FL. This safety zone is for the Cocoa Village Mardi Gras firework display and is needed to protect participants, vendors, and spectators from the hazards associated with the launching of fireworks. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

**DATES:** This rule is effective from 11:30 p.m. on February 26, 2005, until 12:30 a.m. on February 27, 2005.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket, are part of docket [COTP Jacksonville 04–134] and are available for inspection and copying at Coast Guard Marine Safety Office Jacksonville, 7820 Arlington Expressway, Suite 400, Jacksonville, Florida, 32211, between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant Junior Grade Carol M. Swinson at Coast Guard Marine Safety Office, Jacksonville, FL, tel: (904) 232–2640, ext. 155.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued, and delaying the rule's effective date is contrary to public safety because immediate action is necessary to protect the public and waters of the United States.

The Coast Guard will issue a broadcast notice to mariners and may place Coast Guard vessels in the vicinity of this zone to advise mariners of the restriction.

### Background and Purpose

This rule is needed to protect spectator craft in the vicinity of the fireworks presentation from the hazards associated with the transport, storage, and launching of fireworks. Anchoring, mooring, or transiting within this zone is prohibited, unless authorized by the Captain of the Port, Jacksonville, FL. The temporary safety zone encompasses all waters within a 700-foot radius of the fireworks platform at Lee Wenner Park during the storage, preparation, transport, and launching of fireworks. During the fireworks show, the platform will be located at approximate position 28°21.03' N, 080°43.13' W.

### Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential cost and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has exempted it from review under the order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS) because these regulations will only be in effect for a short period of time, and the impacts on routine navigation are expected to be minimal.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. “Small entities” include small businesses, not-for-profit organizations that are independently owned and operated and are not dominate in their field, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605(b) that this rule will not have a significant economic impact upon a substantial number of small entities because the regulation will only be enforced for approximately one hour and the impact on routine navigation is expected to be minimal because traffic may transit safely around the zone and traffic may enter upon permission of the Captain of the Port or his representative.