

developed to serve Moundridge Municipal Airport, Moundridge, KS. Controlled airspace extending upward from 700 feet above ground level (AGL) is needed to contain aircraft executing these approaches.

**DATES:** Comments for inclusion in the Rules Docket must be received on or before February 15, 2003.

**ADDRESSES:** Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket Number 02-ACE-12, Manager, Airspace Branch, Air Traffic Division, ACE-520, DOT Regional Headquarters Building, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE-520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust Kansas City, MO 64106; telephone (816) 329-2525.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 02-ACE-12." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for

examination in the Office of the Regional Counsel for Central Region, Room 506, DOT Regional Headquarters Building, 901 Locust, Kansas City, MO 64106, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRMs**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, Air Traffic Division, ACE-520, DOT Regional Headquarters Building, 901 Locust, Kansas City, MO 64106. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Moundridge, KS by creating controlled airspace for Moundridge Municipal Airport. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designated as extending upward from 700 feet above the surface of the earth listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule,

when promulgated, 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).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 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 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

\* \* \* \* \*

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

\* \* \* \* \*

**ACE MO E5 Moundridge, KS**

Moundridge Municipal Airport, KS  
(Lat. 38°12'25" N., long. 97°30'11" W.)

That airspace extending upward from 700 feet above the surface of the earth within a 6.5-mile radius of Moundridge Municipal Airport.

\* \* \* \* \*

Issued in Kansas City, MO, on November 15, 2002.

**Paul J. Sheridan,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 02-30334 Filed 11-29-02; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF THE TREASURY**

**Customs Service**

**19 CFR Parts 101 and 122**

**Customs Service Field Organization; Fargo, North Dakota**

**AGENCY:** Customs Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Customs Regulations pertaining to Customs field organization by establishing a new port of entry at Fargo, North Dakota. The new port of entry would include Hector International Airport, located in the city of Fargo, Cass County, North Dakota, which is currently operated as a user-fee airport, and a portion of Clay County in Minnesota. This change will assist the Customs Service in its continuing efforts to provide better service to carriers, importers, and the general public.

**DATES:** Comments must be received on or before January 31, 2003.

**ADDRESSES:** Written comments may be addressed to the U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, NW., Washington, DC 20229. Submitted comments may be inspected at U.S. Customs Service, 799 9th Street, NW., Washington, DC, during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** Richard L. Balaban, Mission Support, Office of Field Operations, (202) 927-0031.

**SUPPLEMENTARY INFORMATION:****Background**

As part of its continuing efforts to provide better service to carriers, importers, and the general public, Customs is proposing to amend § 101.3(b)(1) of the Customs Regulations (19 CFR 101.3(b)(1)) by establishing a new port of entry at Fargo, North Dakota. The new port of entry would include Hector International Airport, located in the city of Fargo, Cass County, North Dakota, which currently operates and is listed as a user-fee airport at § 122.15(b) of the Customs Regulations (19 CFR 122.15(b)). A portion of Clay County in Minnesota would also be part of the proposed port. This proposed change of status for Hector International Airport from a user fee airport to being included within the boundaries of a port of entry would subject the airport to the passenger processing fee provided for at 19 U.S.C. 58c(a)(5)(B).

*Port of Entry Criteria*

The criteria considered by Customs in determining whether to establish a port of entry are found in T.D. 82-37 (47 FR 10137), as revised by T.D. 86-14 (51 FR 4559) and T.D. 87-65 (52 FR 16328).

Under these criteria, Customs will evaluate whether there is a sufficient volume of import business (actual or potential) to justify the expense of maintaining a new office or expanding service at an existing location.

Specifically, Customs will consider if the proposed port of entry location can:

(1) Demonstrate that the benefits to be derived justify the Federal

Government expense involved;

(2) Except in the case of land border ports, be serviced by at least two major modes of transportation (rail, air, water, or highway); and

(3) Except in the case of land border ports, have a minimum population of 300,000 within the immediate service area (approximately a 70-mile radius).

In addition, at least one of the following actual or potential workload criteria (minimum number of transactions per year) must be met in the area to be serviced by the proposed port of entry:

(1) 15,000 international air passengers;

(2) 2,500 (formal) consumption entries, with the applicant location committing to optimal use of electronic data input means to permit integration with any Customs system for electronic processing of entries, with no more than half of the 2,500 entries being attributed to one private party;

(3) For land border ports, 150,000 vehicles;

(4) 2,000 scheduled international aircraft arrivals (passengers and/or crew);

(5) 350 cargo vessel arrivals; or

(6) Any appropriate combination of the above.

Finally, facilities at the proposed port of entry must include, where appropriate, wharfage and anchorage adequate for oceangoing vessels in the case of a water port, cargo and passenger facilities, warehouse space for the secure storage of imported cargo pending final Customs inspection and release, and administrative office space, inspection areas, storage areas, and other space as necessary for regular Customs operations.

In certain cases, where the potential workload at a given location shows pronounced growth, Customs will consider granting conditional port-of-entry status to the location, pending further review of the actual workload generated within the new port of entry. See T.D. 96-3 and 97-64.

*Fargo's Workload Statistics*

The proposal in this document to establish Fargo, North Dakota as a port of entry is based on Customs analysis of the following information:

1. Fargo is serviced by three modes of transportation:

(a) Rail (the Burlington Northern Santa Fe railroad);

(b) air (at Hector International Airport, two passenger carriers (Northwest and United Express) and five courier-delivery carriers (Air Bourne Express, Corporate Express, DHL, FED EX, and UPS); and

(c) highway (two U.S. interstate highways: I-29 and I-94);

2. The Fargo, North Dakota area has a population of approximately 175,000, with the potential to increase even further;

3. Regarding the five actual or potential workload criteria:

(a) Hector International Airport had 2,911 international air passengers for FY 2001, an increase of 61% over FY 2000;

(b) Hector International Airport had 151 formal consumption entries for FY 2001, with no single company accounting for more than half of the projected entries; and

(c) Hector International Airport had 814 scheduled international aircraft arrivals for FY 2001, an increase of 65% over FY 2000.

Customs believes that significant benefits would be provided to the North Dakota business community by creating a port of entry at Fargo and that the cost of providing the services of one full-time and one part-time Customs official would be minimal to the Federal Government.

Customs believes that the Fargo-area community is committed to making optimal use of electronic data transfer capability to permit integration with the Customs Automated Commercial System for processing entries. In addition, Customs has been informed that the Fargo-area community is developing adequate cargo and passenger facilities, that passenger areas can be secured to accommodate international arrival passenger clearance, and that there are several warehouse facilities in close proximity to Hector International Airport that are being developed for the secure storage of cargo pending inspection and release by Customs. The Fargo-area community is also committed to providing administrative office space, inspection areas, storage areas, and other space necessary for regular Customs operations and will also furnish the Customs office with necessary communications equipment such as a computer, a telephone, a facsimile machine, and computer lines as well as access to photocopiers.

### Conditional Status

Based on the information above and the level and pace of development in the Fargo area, Customs believes that there is sufficient justification for the establishment of Fargo, North Dakota, as a port of entry on a conditional basis. If, after reviewing the public comments, Customs decides to create a port of entry at Fargo and terminate Hector International Airport's designation as a user-fee airport, then Customs will notify the airport of that determination in accordance with the provisions of 19 CFR 122.15(c). However, it is noted that this proposal relies on potential, rather than actual, workload figures. Therefore, even if the proposed port of entry designation is adopted as a final rule, in 1 year Customs will review the actual workload generated within the new port of entry. If that review indicates that the actual workload is below the T.D. 82-37 standards, as amended, procedures may be instituted to revoke the port of entry status. In such case, the airport may reapply to become a user-fee airport under the provisions of 19 U.S.C. 58b.

### Description of Proposed Port of Entry Limits

The geographical limits of the proposed Fargo port of entry would be as follows:

In Cass County, North Dakota: Northern boundary Cass County highway 20, Southern boundary U.S. Interstate 94, Western boundary U.S. Interstate 29  
 In Clay County, Minnesota: Northern boundary Clay County highway 22, Southern boundary U.S. Interstate 94, Eastern boundary Clay County highway 11

### Proposed Amendments

If the proposed port of entry designation is adopted, the list of Customs ports of entry at § 101.3(b)(1) will be amended to add Fargo as a port of entry in North Dakota, and Hector International Airport will be deleted from the list of user-fee airports at § 122.15(b).

### Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to Customs, including comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.5 of the Treasury Department Regulations (31 CFR 1.5), and § 103.11(b) of the Customs

Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 799 9th Street, NW., Washington, DC Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

### Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66, and 1624.

### The Regulatory Flexibility Act and Executive Order 12866

Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this document is being issued with notice for public comment, it is not subject to the notice and public procedure requirements of 5 U.S.C. 553 because it relates to agency management and organization. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*). Further, matters involving agency management and organization are not subject to Executive Order 12866.

### Drafting Information

The principal author of this document was Gregory R. Vilders, Attorney, Office of Regulations and Rulings, Regulations Branch. However, personnel from other offices participated in its development.

### Robert C. Bonner,

*Commissioner of Customs.*

Approved: November 25, 2002.

### Timothy E. Skud,

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 02-30356 Filed 11-29-02; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Customs Service

#### 19 CFR Parts 122 and 123

RIN 1515-AC73

#### Private Aircraft Programs: Establishment of the General Aviation Telephonic Entry (GATE) Program and Revisions to the Overflight Program

**AGENCY:** Customs Service, Treasury.

**ACTION:** Notice of withdrawal of proposed rulemaking.

**SUMMARY:** This document informs the public that Customs has decided to withdraw its proposal to both establish a regulatory framework for the General Aviation Telephonic Entry (GATE) Program and revise the Overflight Program regulations. The withdrawal of the proposed rulemaking is based on Customs reconsideration of all aircraft entry procedures since the events of September 11, 2001.

**EFFECTIVE DATE:** December 2, 2002.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Tritt, Passenger Processing, Office of Field Operations; telephone (202) 927-4434.

### SUPPLEMENTARY INFORMATION:

#### Background

On August 3, 2001, Customs published a document in the **Federal Register** (66 FR 40649) proposing to amend the Customs Regulations pertaining to private aircraft programs. The amendments proposed to establish the General Aviation Telephonic Entry (GATE) Program—a voluntary program that was designed to facilitate Customs processing of certain pre-qualified frequent travelers on pre-registered general aviation aircraft arriving in the United States directly from Canada.

The amendments also proposed to revise certain aspects of the Overflight Program—a voluntary program that exempts certain private aircraft arriving in the continental United States via certain areas south of the United States from the special landing requirement applicable to such aircraft. The proposed revisions of the Overflight Program would have modified the application process to standardize and streamline the information required and provide for centralized processing of requests for overflight privileges.

Comments on the proposed amendment to the Customs Regulations were solicited for 60 days.

Six comments were received in response to this proposal. All of the comments were favorable to the private aircraft programs, but certain clarifications were requested.

The GATE Program had been operated on a test basis and allowed participating aircraft to report its arrival information to Customs telephonically and exempted to some degree participating frequent travelers in compliance with the program's requirements from the general Customs requirements concerning entry into the United States. On September 11, 2001, the GATE Program was indefinitely suspended following the terrorist attacks on the United States. On August 3, 2002, the program was discontinued. Consistent