

within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Northway Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

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, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR 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 7400.9V, *Airspace Designations and Reporting Points*, signed September 9, 2011, and effective September 15, 2011, is amended as follows:

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

AAL AK E2 Northway, AK [Revised]

Northway Airport, AK
(Lat. 62°57'40" N., long. 141°55'41" W.)
Northway VORTAC
(Lat. 62°56'50"N., long. 141°54'46"W.)

Within a 4-mile radius of the Northway Airport, AK and within 2 miles each side of the 077° radial from the Northway Airport, AK extending from the 4-mile radius to 12.7 miles east of the Northway Airport, AK and within 3.1 miles each side of the 312° radial from the Northway VORTAC extending from the 4-mile radius to 11.4 miles northwest of the Northway Airport AK.

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

* * * * *

AAL AK E5 Northway, AK [Revised]

Northway Airport, AK
(Lat. 62°57'40" N., long. 141°55'41" W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Northway Airport, AK and within 2 miles each side of the 077° radial from Northway Airport, AK extending from the 8-mile radius to 13.7 miles east of Northway Airport, AK and that airspace extending upward from 1,200 feet above the surface within a 66-mile

radius of Northway Airport, AK excluding the airspace east of 141°00'00" West longitude.

Issued in Anchorage, AK on September 23, 2011.

Michael A. Tarr,

Manager, Alaska Flight Services.

[FR Doc. 2011–25150 Filed 9–29–11; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 435

Mail or Telephone Order Merchandise Rule

AGENCY: Federal Trade Commission ("Commission" or "FTC").

ACTION: Final rule amendments.

SUMMARY: The FTC announces it is retaining the Mail or Telephone Order Merchandise Rule ("MTOR" or "Rule"). Based on previous Rule proceedings and after reviewing public comments received regarding the Rule's overall costs, benefits, and regulatory and economic impact, the Commission concludes that the Rule continues to benefit consumers and the Rule's benefits outweigh its costs. For clarity, the Commission is reorganizing the Rule by alphabetizing the definitions at the beginning of the Rule.

DATES: *Effective Date:* September 30, 2011.

ADDRESSES: Requests for copies of the Final MTOR should be sent to: Public Reference Branch, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Room 130, Washington, DC 20580. The complete record of this proceeding is also available at that address.

Relevant portions of this proceeding, including the public comments received in response to the Advance Notice of Proposed Rulemaking are available at: <http://www.ftc.gov/os/comments/mailortelephoneorder/index.shtm> and the related News Release is available at: <http://www.ftc.gov/opa/2007/09/fy07262.shtm>.

FOR FURTHER INFORMATION CONTACT: Jock Chung, (202) 326–2984, or Gregory Madden, (202) 326–2426, Attorneys, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., M–8102B, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The MTOR prohibits sellers from soliciting mail or telephone order sales unless the sellers have a reasonable basis to expect that they will be able to

ship the ordered merchandise within the time stated on the solicitation, or, if no time is stated, within 30 days of receipt of an order. The MTOR further requires a seller to seek the buyer's consent to the delayed shipment when the seller learns that it cannot ship within the time stated or, if no time is stated, within 30 days. If the buyer does not consent, the seller must promptly refund all money paid for the unshipped merchandise.

The Commission originally promulgated the Mail Order Rule (as the Rule was originally known) in 1975 in response to complaints that many mail order sellers failed to ship ordered merchandise, failed to ship merchandise on time, or failed to provide prompt refunds for unshipped merchandise. The Commission issued the Rule pursuant to its authority under sections 5 and 18 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 45 and 57a, to proscribe these deceptive and unfair acts or practices.¹

A second proceeding, ending in 1993, demonstrated that consumers who ordered merchandise by telephone experienced the same shipment and refund problems. Accordingly, the Commission amended the Rule to cover merchandise ordered by telephone and renamed the Rule the "Mail or Telephone Order Merchandise Rule."²

The Commission reviews all its rules and guides periodically to obtain information about their costs and benefits and their economic and regulatory impact. As part of this review process, the Commission published a request seeking public comments on the costs and benefits of the Rule and the continuing need for the Rule.³ In

¹ *Federal Trade Commission: Part 435—Mail Order Merchandise: Promulgation of Trade Regulation Rule*, 40 FR 49492–94 (Oct. 22, 1975); *Federal Trade Commission: Part 435—Mail Order Merchandise: Promulgation of Trade Regulation Rule: Correction*, 40 FR 51582–597 (Nov. 5, 1975) ("Promulgation of Rule: Correction"). The Commission initiated the rulemaking in 1971 under section 6(g) of the FTC Act, 15 U.S.C. 46(g), and had substantially completed the rulemaking when Congress amended the FTC Act by adopting section 18, 15 U.S.C. 57a. By operation of law, the Mail Order Rule was then treated as having been promulgated under authority of section 18. See *United States v. JS&A Group, Inc.*, 547 F. Supp. 20, 23 (N.D. Ill. 1982); *United States v. Braswell, Inc.*, 1981 U.S. Dist. LEXIS 15444 at *8 (N.D. Ga. 1981). The Mail Order Rule took effect February 2, 1976.

² *Federal Trade Commission: Trade Regulation Rule: Mail or Telephone Order Merchandise: Final Trade Regulation Rule*, 58 FR 49096, 49097 (Sept. 21, 1993).

³ *Federal Trade Commission: Mail or Telephone Order Merchandise: Request For Public Comment*, 72 FR 51728 (Sept. 11, 2007). The Commission also sought public comments, assuming the Commission retained the Rule, on how it might change the Rule to reflect changes in technology and commercial

practices. *Id.* In a separate Notice of Proposed Rulemaking ("NPRM"), the Commission proposes amending the MTOR by: (1) Expressly covering all Internet merchandise orders; (2) allowing sellers to provide refunds and refund notices by any means at least as fast and reliable as first class mail; (3) clarifying sellers' obligations under the Rule for sales made using payment methods not specifically enumerated in the Rule, such as debit cards; and (4) requiring sellers to provide refunds within seven working days where the buyer uses a third party credit card, such as Visa or MasterCard.

⁴ All comments are available at: <http://www.ftc.gov/os/comments/mailortelephoneorder/index.shtm>. This document cites to these comments by indicating the short form for the commenter, e.g., "DMA" for the Direct Marketing Association, and the page of the comment.

⁵ NRF identifies itself as the world's largest retail trade association with membership from all retailing formats and distribution channels (e.g., catalog, Internet). NRF at 1. NRF's membership comprises more than 1.6 million U.S. retail establishments with 2006 sales of \$4.7 trillion. *Id.*

⁶ DMA is a global trade association representing business and nonprofit organizations engaged in direct marketing. DMA at 1. DMA represents more than 1.6 million U.S. retail establishments with 2006 sales of \$4.7 trillion. *Id.*

(a) *Mail or telephone order sales* shall mean sales in which the buyer has ordered merchandise from the seller by mail or telephone, regardless of the method of payment or the method used to solicit the order.

(b) *Prompt refund* shall mean:

(1) Where a refund is made pursuant to paragraph (d)(1) or (2)(iii) of this section, a refund sent to the buyer by first class mail within seven (7) working days of the date on which the buyer's right to refund vests under the provisions of this part;

(2) Where a refund is made pursuant to paragraph (d)(2)(i) or (ii) of this section, a refund sent to the buyer by first class mail within one (1) billing cycle from the the

more than thirty (30) days later than the applicable time set forth in paragraph (a)(1) of this section or where the seller is unable to provide a definite revised shipping date and therefore informs the buyer that it is unable to make any representation regarding the length of the delay, the offer of said option shall also expressly inform the buyer that the buyer's order will automatically be deemed to have been cancelled unless:

(A) The seller has shipped the merchandise within thirty (30) days of the applicable time set forth in paragraph (a)(1) of this section, and has received no cancellation prior to shipment; or

(B) The seller has received from the buyer within thirty (30) days of said applicable time, a response specifically consenting to said shipping delay.

Where the seller informs the buyer that it is unable to make any representation regarding the length of the delay, the buyer shall be expressly informed that, should the buyer consent to an indefinite delay, the buyer will have a continuing right to cancel the buyer's order at any time after the applicable time set forth in paragraph (a)(1) of this section by so notifying the seller prior to actual shipment.

(iv) Nothing in this paragraph shall prohibit a seller who furnishes a

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