

AFB Airports, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

### The Rule

This amendment to Part 71 of the Federal Aviation Regulations 914 CFR part 71) removes Class E2 airspace at Melbourne, FL and Cocoa Patrick AFB, FL.

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. 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 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 14 CFR Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

#### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, as amended as follows:

*Paragraph 6002 Class E Airspace Designated as Surface Areas.*

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**ASO FL E2 Melbourne, FL [Remove]**

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**ASO FL E2 Cocoa Patrick AFB, FL [Remove]**

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Issued in College Park, GA, on July 18, 2000.

**Wade T. Carpenter,**

*Acting Manager, Air Traffic Division, Southern Division.*

[FR Doc. 00–21201 Filed 8–18–00; 8:45 am]

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## FEDERAL TRADE COMMISSION

### 16 CFR Part 2

#### Requests To Reopen

**AGENCY:** Federal Trade Commission (FTC).

**ACTION:** Final rule.

**SUMMARY:** The FTC is amending its Rule of Practice 2.51(b), which governs requests to reopen a Commission decision containing an order that has become effective. The amendment clarifies the "satisfactory showing" that a requester must make to support a request that the Commission reopen the proceeding to determine whether the order should be modified on public interest grounds.

**DATES:** This amendment is effective on August 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** Alex Tang, Attorney, Office of the General Counsel, FTC, 600 Pennsylvania Ave., NW., Washington, DC 20580; 202–326–2447.

**SUPPLEMENTARY INFORMATION:** FTC Rule of Practice 2.51(b), 16 CFR 2.51(b), sets forth certain requirements for requests to reopen and modify Commission orders either because of "changed conditions of law or fact" or on the ground that "the public interest so requires." As presently drafted, the Rule could be read to require that all requests be accompanied by affidavits "demonstrating in detail the nature of the changed conditions," even if the request itself is based on the "public interest." If there are no changed conditions, however, such a requirement is unnecessary.

Accordingly, the Commission is amending the second sentence of Rule 2.51(b) to make clear that changed conditions must be demonstrated only when the request alleges that changes in fact or law warrant reopening and modification.<sup>1</sup> In the case of "public interest" requests, the Rule continues to

<sup>1</sup>The amended sentence is redesignated as Rule 2.51(b)(1), and the remaining subsequent sentences of Rule 2.51(b), which are not amended, are redesignated as Rule 2.51(b)(2).

require that such a request be supported by a factual affidavit, as described in further detail below, explaining why the Commission should reopen and modify the order in the public interest. A showing of changed conditions would be permitted but not mandated.

The amendment does not alter the requirement in the first sentence of Rule 2.51(b) that a requester make a "satisfactory showing" of "changed conditions of law or fact" or the "public interest" in support of its request. While the FTC Act expressly requires a "satisfactory showing" of changed conditions of law or fact before the Commission is required to reopen an order on those grounds, the Act does not specify the threshold showing needed to reopen a Commission order on general "public interest" grounds. See FTC Act § 5(b), 15 U.S.C. 45(b). Nonetheless, when the Commission incorporated the "satisfactory showing" requirement of section 5(b) into Rule 2.51, the Commission extended the requirement to all requests filed under the Rule, including "public interest" requests.<sup>2</sup> In a subsequent letter ruling, the Commission, without referring to the existing language of the statute or the Rule, further stated that a request to reopen and modify an order in the "public interest" must make a threshold showing of "affirmative need."<sup>3</sup> Some have interpreted that showing of need as a narrow showing of the requester's need for relief from competitive burdens imposed by the order.<sup>4</sup>

<sup>2</sup> See 45 FR 36338, 36339 (May 29, 1980) (amending Rule 2.51); e.g., *Glendinning Cos.*, 97 F.T.C. 163 (1981); *Coca-Cola Co.*, 97 F.T.C. 927 (1981); *National Dairy Prods. Ass'n*, 100 F.T.C. 431 (1982); *Hammermill Paper Co.*, 100 F.T.C. 454 (1982); *Morton Thiokol, Inc.*, 101 F.T.C. 353 (1983); *Illinois Cent. Indus., Inc.*, 101 F.T.C. 409 (1983).

<sup>3</sup> See Letter to Joel Hoffman, *Damon Corp.*, Docket No. C–3916 (Mar. 29, 1983), reprinted in [1979–1983 Transfer Binder] Trade Reg. Rep. (CCH) ¶ 22,207. In that letter, the Commission stated: "As a threshold matter, [to reopen an order on public interest grounds] under [section 5(b) and Commission Rule 2.51], a requester must demonstrate some affirmative need to modify the original order. Once such a showing of need has been made, the Commission will balance the reasons favoring the modification requested against any reasons not to make that modification." Letter at 2. The letter states that this approach was modeled on the two-step analysis used by courts in modifying final court orders, where a requester must present reasons that "justify modification" as a "threshold matter." *Id.* at 2 n.1 (quoting *Gautreaux v. Pierce*, 535 F. Supp. 423, 426 (N.D. Ill. 1982)).

<sup>4</sup> See, e.g., Concurring Statement of Comm'r Starek, *Columbia/HCA Healthcare Corp.*, 121 F.T.C. 611, 615 (1996); Concurring Statement of Comm'r Starek, *California & Hawaiian Sugar Co.*, 119 F.T.C. 39, 51–52 (1995); Dissenting Statement of Comm'r Azcuenaga, *Service Corp. Int'l*, 117 F.T.C. 700, 718 (1994). Nothing in the Commission's letter ruling in *Damon*, however, suggested or was intended to indicate that a showing of competitive injury is the only way to demonstrate "affirmative need."



or in part, or that the public interest so requires.

(1) This requirement shall not be deemed satisfied if a request is merely conclusory or otherwise fails to set forth by affidavit(s) specific facts demonstrating in detail:

(i) The nature of the changed conditions and the reasons why they require the requested modifications of the rule or order; or

(ii) The reasons why the public interest would be served by the modification.

(2) Each affidavit shall set forth facts that would be admissible in evidence and shall show that the affiant is competent to testify to the matters stated therein. All information and material that the requester wishes the Commission to consider shall be contained in the request at the time of filing.

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By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 00-21185 Filed 8-18-00; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Parts 125 and 225

[Docket No. RM99-8-000; Order No. 617]

#### Preservation of Records of Public Utilities and Licensees, Natural Gas Companies, and Oil Pipeline Companies

Issued August 15, 2000.

**AGENCY:** Federal Energy Regulatory Commission

**ACTION:** Final rule; correction.

**SUMMARY:** The Federal Energy Regulatory Commission published in the **Federal Register** of August 7, 2000, a final rule amending its records retention regulations for public utilities and licensees, natural gas companies, and oil pipeline companies ("regulated companies"). The Commission inadvertently omitted a cross reference in the schedule of records and periods of retention in Parts 125 and 225. The Commission also did not revise a record retention period in § 225.3 that it had agreed to do in the final rule's preamble language. This document corrects these omissions.

**EFFECTIVE DATE:** These corrections are effective on August 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mary C. Lauermaun, Office of Finance, Accounting and Operations, 888 First Street, N.E., Washington, DC 20426, (202) 208-0087.

**SUPPLEMENTARY INFORMATION:** The Federal Energy Regulatory Commission published a final rule in the **Federal Register** of August 7, 2000 (65 FR 48148). The following corrections are made to the final rule.

#### § 125.3 [Corrected]

1. On pages 48157-48159 in § 125.3, in the second column of the table, add the phrase "See § 125.2(g)." after the years shown for the following item numbers: Item No. 8(b)(1); Item No. 10; Item No. 11(a), (b) and (d); Item No. 12(b); Item No. 13.1(c)(1) and (c)(2); Item No. 16(a) and (b); Item No. 25(a)(1) and (b); and Item No. 27.

#### § 225.3 [Corrected]

2. On pages 48162-48165 in § 225.3, in the second column of the table, add the phrase "See § 225.2(g)." after the years shown for the following item numbers: Item No. 8(b)(1); Item No. 10; Item No. 11(a), (b) and (d); Item No. 12(b); Item No. 16(a) and (b); Item No. 25(a)(1) and (b); and Item No. 27.

3. On page 48165, also in § 225.3, in the second column for Item No. 31, remove the words "7 months." and add in their place the words "1 year."

**David P. Boergers,**

*Secretary.*

[FR Doc. 00-21147 Filed 8-18-00; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 8897]

RIN 1545-AQ91

#### Rules for Property Produced in a Farming Business

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to the application of section 263A of the Internal Revenue Code to property produced in the trade or business of farming. These regulations also provide guidance regarding the election available to certain taxpayers to not have section 263A apply to any plant produced by the electing taxpayers in each taxpayer's

farming trade or business. These regulations affect taxpayers engaged in the trade or business of farming.

**DATES:** *Effective Date:* These regulations are effective August 21, 2000.

*Applicability Date:* For dates of applicability, see § 1.263A-4(f) of these regulations.

**FOR FURTHER INFORMATION CONTACT:** Grant D. Anderson, (202) 622-4970 (not a toll-free call).

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 30, 1987, the IRS published in the **Federal Register** a notice of proposed rulemaking (REG-208151-91) (52 FR 10118) by cross reference to temporary regulations published the same day (TD 8131, 52 FR 10052). Amendments to the notice of proposed rulemaking and temporary regulations were published in the **Federal Register** on August 7, 1987, by a notice of proposed rulemaking (52 FR 29391) that cross referenced to temporary regulations published the same day (TD 8148, 52 FR 29375). Notice 88-24 (1988-1 C.B. 491), provided that forthcoming regulations would modify the proposed regulations and the regulations under § 1.471-6. Notice 88-86 (1988-2 C.B. 401), provided that forthcoming regulations would clarify the definition of *members of family* for purposes of the election out of section 263A. In addition, Notice 88-86 provided that forthcoming regulations would provide that certain taxpayers could elect to use the simplified production method for property used in the trade or business of farming. On August 5, 1994, the temporary regulations relating to property produced in a farming business were reissued and published in the **Federal Register** (TD 8559, 59 FR 39958). On August 22, 1997, proposed and revised temporary regulations were issued and published in the **Federal Register** (TD 8729, 62 FR 44542). A public hearing was held on November 19, 1997.

Written comments responding to the notice of proposed rulemaking were received. After consideration of all the public comments, the regulations are adopted as revised by this Treasury decision and the corresponding temporary regulations are withdrawn.

##### Explanation of Provisions and Summary of Comments

Section 263A provides uniform capitalization rules that govern the treatment of costs incurred in the production of property or the acquisition of property for resale. Section 263A generally requires