

Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on March 18, 1999.

Issued in Renton, Washington, on February 4, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97-AWA-4]

RIN 2120-AA66

Establishment of Class C Airspace and Revocation of Class D Airspace, Austin-Bergstrom International Airport, TX; and Revocation of Robert Mueller Municipal Airport Class C Airspace; TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class C airspace area and revokes the existing Class D airspace area at the Austin-Bergstrom International Airport, Austin, TX. In addition, this action revokes the existing Class C airspace area at the Robert Mueller Municipal Airport, Austin, TX. The FAA is taking this action in support of the planned closure of the Robert Mueller Municipal Airport, and the transfer of airport operations from the Robert Mueller Municipal Airport to the Austin-Bergstrom International Airport. The Austin-Bergstrom International Airport is a public-use facility serviced by a Level IV control tower and a Radar Approach Control. The establishment of this Class C airspace area will require pilots to maintain two-way radio communications with air traffic control (ATC) while in Class C airspace. Implementation of the Class C airspace area will promote the efficient use of airspace, and reduce the risk of midair collision in the terminal area. Additionally, this action corrects the coordinates for the Austin-Bergstrom International Airport.

EFFECTIVE DATE: 0601 UTC, May 2, 1999.

FOR FURTHER INFORMATION CONTACT:

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Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the ATC system. Among the main objectives of the NAR was the improvement of the ATC system by increasing efficiency and reducing complexity. In its review of terminal airspace, NAR Task Group 1-2 concluded that Terminal Radar Service Areas (TRSA's) should be replaced. Four types of airspace configurations were considered as replacement candidates and Model B, the Airport Radar Service Area (ARSA) configuration, was recommended by a consensus of the task group.

The FAA published NAR Recommendation 1-2.2-1, "Replace Terminal Radar Service Areas with Model B Airspace and Service" in Notice 83-9 (48 FR 34286, July 28, 1983), proposing the establishment of ARSA's at the Robert Mueller Municipal Airport, Austin, TX, and the Port of Columbus International Airport, Columbus, OH. ARSA's were designated at these airports on a temporary basis by Special Federal Aviation Regulation No. 45 (48 FR 50038; October 28, 1983) to provide operational confirmation of the ARSA concept for potential application on a national basis.

Following a confirmation period of more than a year, the FAA adopted the NAR recommendation and, on February 27, 1985, issued a final rule (50 FR 9252; March 6, 1985) defining ARSA airspace and prescribing rules for operation within such an area.

Concurrently, by separate rulemaking action, ARSA's were permanently established at the Austin, TX, Columbus, OH, and the Baltimore/Washington International Airports (50 FR 9250; March 6, 1985). The FAA stated that future notices would propose ARSA's for other airports at which TRSA procedures were in effect.

Additionally, the NAR Task Group recommended that the FAA develop quantitative criteria for establishing ARSA's at locations other than those which were included in the TRSA replacement program. The task group recommended that these criteria include, among other things, traffic mix, flow and density, geographical features, collision risk assessment, and ATC capabilities to provide service to users. These criteria have been developed and are published via the FAA directives

system (Order 7400.2, Procedures for Handling Airspace Matters).

The NAR Task Group also recommended that each ARSA be of the same airspace configuration insofar as is practicable. The FAA adopted this recommendation. The standard ARSA consists of airspace within 5 nautical miles (NM) of the primary airport, extending from the surface to an altitude of 4,000 feet above airport elevation (AEE), and that airspace between 5 and 10 NM from the primary airport from 1,200 feet above ground level to an altitude of 4,000 feet AEE. Proposed deviations from this standard have been necessary at some airports because of adjacent regulatory airspace, international boundaries, topography, or unusual operational requirements.

Related Rulemaking Actions

On December 17, 1991 the FAA published the Airspace Reclassification Final Rule (56 FR 65638). This rule, in part, discontinued the use of the term "airport radar service area (ARSA)" and replaced it with the designation "Class C airspace area." This change in terminology is reflected in the remainder of this final rule.

Public Input

As announced in the **Federal Register** on June 10, 1998 (63 FR 31678), pre-NPRM airspace meetings were held on August 11, 1998, in Georgetown, TX; August 12, in Austin, TX; and August 13, in San Marcos, TX. These meetings provided local airspace users an opportunity to present input on the design of the planned establishment of the Austin-Bergstrom International Airport Class C airspace area.

On July 30, 1998, the FAA proposed to amend 14 CFR part 71 as follows: (1) establish a Class C airspace area at the Austin-Bergstrom International Airport; (2) revoke the Class D airspace area at the Austin-Bergstrom International Airport; and (3) revoke the Class C airspace area at the Robert Mueller Municipal Airport (63 FR 40668, Notice 97-AWA-4). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes a Class C airspace area and revokes the existing Class D airspace area at the Austin-Bergstrom International Airport located in Austin, TX. In addition, this action revokes the existing Class C airspace area at the Robert Mueller Municipal Airport

located in Austin, TX. The FAA is taking this action in support of the planned closure of the Robert Mueller Municipal Airport, and the transfer of airport operations from the Robert Mueller Municipal Airport to the Austin-Bergstrom International Airport. The Austin-Bergstrom International Airport is a public-use facility serviced by a Level IV control tower and a Radar Approach Control. The establishment of this Class C airspace area will require pilots to establish two-way radio communications with the ATC facility providing air traffic services prior to entering the airspace and thereafter maintain those communications while within the Class C airspace area. Implementation of the Class C airspace area will promote the efficient use of airspace and reduce the risk of midair collision in the terminal area.

The establishment of a Class C airspace area and revocation of the Class D airspace area at the Austin-Bergstrom International Airport, as well as the revocation of the Robert Mueller Municipal Airport Class C airspace area, will be effective on May 2, 1999. The effective date for this final rule does not correspond with a scheduled publication date for the appropriate aeronautical chart for this area. The Austin-Bergstrom International Airport Class C airspace area will, therefore, be published on the San Antonio Sectional Aeronautical Chart effective May 20, 1999, and the Houston Sectional Aeronautical Chart effective October 7, 1999. In the interim, the FAA will disseminate information regarding the implementation of the Austin-Bergstrom Class C airspace area in the Notices to Airmen publication and will publish a special notice in the Airport/Facility Directory to ensure that pilots and airspace users are advised of the status. Additionally, the FAA's Southwestern Regional Office will distribute Letters to Airmen that will advertise the implementation of the airspace area. The revocation of the Austin-Bergstrom International Airport Class D airspace area, as well as the revocation of the Robert Mueller Municipal Airport Class C airspace area, coincides with the effective date for the Austin-Bergstrom International Airport Class C airspace area.

Additionally, this action corrects the coordinates for the Austin-Bergstrom International Airport. Except for editorial changes and the correction to the airport coordinates, this amendment is the same as that proposed in the notice.

Definitions and operating requirements applicable to Class C airspace can be found in section 71.51

of part 71 and sections 91.1 and 91.130 of part 91 of Title 14 Code of Federal Regulations (14 CFR). The coordinates for this airspace docket are based on North American Datum 83. Class C and Class D airspace designations are published, respectively, in paragraphs 4000 and 5000 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR Section 71.1. The Class C airspace designation listed in this document will be published subsequently in the Order, and the Class C, as well as the Class D airspace designation listed in this document will be removed subsequently from the Order.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule is not "a significant regulatory action" as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. This final rule will not have a significant impact on a substantial number of small entities, will not constitute a barrier to international trade, and does not contain any Federal intergovernmental or private sector mandate. These analyses, available in the docket, are summarized below.

The final rule will effectively move the Class C airspace area, presently located at the Robert Mueller Municipal Airport, 5 miles to the south to the Austin-Bergstrom International Airport when Robert Mueller Municipal Airport closes (in May 1999) and all operations are transferred to Austin-Bergstrom International Airport.

Costs of approximately \$850 will be incurred by the FAA in order to send a Letter to Airmen to pilots within a 50-mile radius of the Austin-Bergstrom International Airport informing them of the airspace change. The FAA will not incur any other costs for ATC staffing, training, or equipment. Changes to sectional charts will occur during the chart cycle and will cause no additional costs beyond the normal update of the charts. Any public meeting and safety

seminar will not result in costs to the aviation community because they will occur regardless of this final rule. Aircraft owners and operators will not incur costs for equipment because they are already operating in Class C airspace at the Robert Mueller Municipal Airport. As for Austin-Bergstrom International Airport, though it is currently surrounded by Class D airspace, most of its air traffic comes from cargo aircraft. These aircraft already have the necessary equipment to transition Class C airspace.

The FAA contends that moving the Class C airspace area from Robert Mueller Municipal Airport to Austin-Bergstrom International Airport will maintain the level of safety for the operations that will be transferred from Robert Mueller Municipal Airport to Austin-Bergstrom International Airport when Robert Mueller Municipal Airport closes and Austin-Bergstrom International Airport opens for air carrier operations. Furthermore, using Austin-Bergstrom International Airport, instead of Robert Mueller Municipal Airport, as the primary commercial airport will allow future airport expansion that is not possible at Robert Mueller Municipal Airport. Therefore, the FAA has determined that the final rule will be cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of business, organizations, and governmental jurisdictions subject to regulation." To achieve that principal, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and an RFA is not required. The certification must include

a statement providing the factual basis for this determination, and the reasoning should be clear.

All commercial and general aviation operators who presently use the Robert Mueller Municipal Airport are currently equipped to use the Austin-Bergstrom International Airport. As for Austin-Bergstrom International Airport, though it is currently surrounded by Class D airspace, most of its air traffic comes from cargo aircraft. These aircraft already have the necessary equipment to transition Class C airspace. Those general aviation operators who currently transit the Austin-Bergstrom International Airport terminal area without Mode C transponders can circumnavigate the Austin-Bergstrom Class C airspace area at negligible cost, without significantly deviating from their regular flight paths. For those aircraft operators who choose not to circumnavigate or fly below the Class C airspace, standard procedures may be used to enter the Austin-Bergstrom Class C airspace area. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

This rule will not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries or the import of foreign goods and services into the United States.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104-4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the

expenditure of \$100 million or more (when adjusted annually for inflation) in any one year by state, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of state, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon state, local, and tribal governments in the aggregate of \$100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan, which, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity for those small governments to provide input in the development of regulatory proposals.

This rule does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

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 proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

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 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 4000—Subpart C—Class C Airspace

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ASW TX C Austin-Bergstrom International Airport, TX [New]

Austin-Bergstrom International Airport, TX
(Lat. 30°11'41" N., long. 97°40'12" W.)
AUS

That airspace extending upward from the surface to, and including, 4,500 feet MSL within a 5-mile radius of the Austin-Bergstrom International Airport, and that airspace extending upward from 2,100 feet MSL to and including 4,500 feet MSL within a 10-mile radius of the Austin-Bergstrom International Airport.

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ASW TX C Austin, Robert Mueller Municipal Airport, TX [Removed]

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Paragraph 5000—Subpart D—Class D Airspace

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ASW TX D Austin Bergstrom, TX [Removed]

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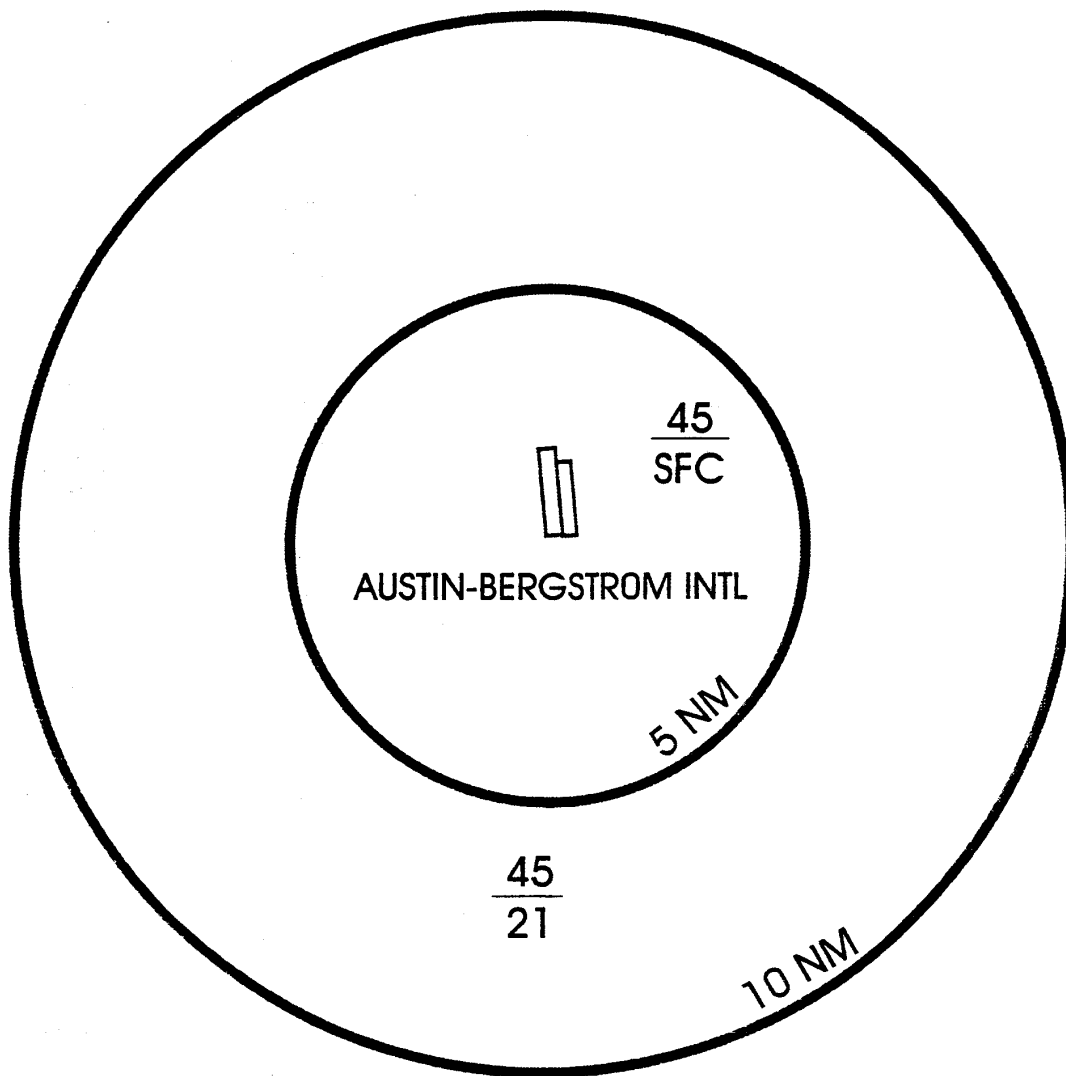
Issued in Washington, DC, on February 4, 1999.

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Acting Program Director for Air Traffic
Airspace Management.

BILLING CODE 4910-13-P

**AUSTIN-BERGSTROM
INTERNATIONAL AIRPORT, TX
CLASS C AIRSPACE AREA**

(Not to be used for navigation)



Prepared by the

FEDERAL AVIATION ADMINISTRATION

AIR Traffic Publications
ATA-10