

# Proposed Rules

Federal Register

Vol. 74, No. 208

Thursday, October 29, 2009

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2009-0941; Airspace Docket No. 09-ANM-17]

#### Proposed Modification of Class E Airspace; Grand Junction, CO

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This action proposes to modify Class E airspace at Grand Junction Regional, Grand Junction, CO. Additional controlled airspace is necessary to facilitate vectoring of Instrument Flight Rules (IFR) traffic from Grand Junction Regional, Grand Junction, CO to en route. The FAA is proposing this action to enhance the safety and management of aircraft operations at Grand Junction Regional, Grand Junction, CO. This action also would update the airport name from Grand Junction, Walker Field.

**DATES:** Comments must be received on or before December 14, 2009.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone (202) 366-9826. You must identify FAA Docket No. FAA-2009-0941; Airspace Docket No. 09-ANM-17, at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 203-4537.

#### 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 both docket numbers (FAA Docket No. FAA-2009-0941 and Airspace Docket No. 09-ANM-17) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at <http://www.regulations.gov>.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2009-0941 and Airspace Docket No. 09-ANM-17". The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket 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

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at [http://www.faa.gov/airports\\_airtraffic/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket

may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Area, Operations Support Group, 1601 Lind Avenue, SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267-9677, for a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

#### The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace at Grand Junction Regional, Grand Junction, CO. Additional controlled airspace extending upward from 1,200 feet above the surface is necessary to accommodate vectoring IFR aircraft departing Grand Junction Regional, Grand Junction, CO to en route airspace. This would also update the airport name from Grand Junction, Walker Field, Grand Junction, CO.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this 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. Therefore, this proposed 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 proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1,

Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. 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 airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes additional controlled airspace at Grand Junction Regional, Grand Junction, CO.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 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 the FAA Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009 is amended as follows:

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

\* \* \* \* \*

#### ANM CO E5 Grand Junction, CO [Modified]

Grand Junction Regional, Grand Junction, CO (Lat. 39°07'21" N., long. 108°31'36" W.)  
Grand Junction VORTAC (Lat. 39°03'34" N., long. 108°47'33" W.)  
Grand Junction Localizer (Lat. 39°07'04" N., long. 108°30'48" W.)

That airspace extending upward from 700 feet above the surface within 7 miles northwest and 4.3 miles southeast of the Grand Junction VORTAC 247° and 067° radials extending from 11.4 miles southwest to 12.3 miles northeast of the VORTAC, and within 1.8 miles south and 9.2 miles north of the Grand Junction VORTAC 110° radial extending from the VORTAC to 19.2 miles southeast of the VORTAC; that airspace extending upward from 1,200 feet above the surface within a 30.5-mile radius of the Grand Junction VORTAC, within 6.5 miles

each side of the Grand Junction VORTAC 099° radial extending from the 30.5-mile radius to 58 miles east of the VORTAC, and within 4.3 miles each side of the Grand Junction VORTAC 166° radial extending from the 30.5-mile radius to 33.1 miles south of the VORTAC, and within 4.3 miles northeast and 4.9 miles southwest of the Grand Junction ILS localizer northwest course extending from the 30.5-mile radius to the intersection of the localizer northwest course and the Grand Junction VORTAC 318° radial.

\* \* \* \* \*

Issued in Seattle, Washington, on October 15, 2009.

**H. Steve Karnes,**

*Acting Manager, Operations Support Group, Western Service Center.*

[FR Doc. E9–26096 Filed 10–28–09; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 199

[DOD–2008–HA–0057]

RIN 0720–AB24

#### TRICARE Program; Morbid Obesity

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Defense (DoD) proposes to amend the TRICARE regulation on surgery for morbid obesity to allow benefit consideration for the newest bariatric surgical procedures that are considered appropriate medical care. The amendment also removes language that limits the types of surgical procedures to treat co-morbid conditions associated with morbid obesity, revises the TRICARE Program definition of morbid obesity, and retains the TRICARE Program exclusion of non-surgical interventions related to morbid obesity, obesity and/or weight reduction. These changes are necessary to allow coverage for other surgical procedures that reduce or resolve co-morbid conditions associated with morbid obesity and the use of the Body Mass Index (BMI), which is the more accurate measure for excess weight to estimate relative risk of disease. Additionally, as new technologies or procedures evolve from investigational into generally accepted norms for medical practice, beneficiaries are entitled to TRICARE coverage of the new technology or procedures.

**DATES:** Comments must be received on or before December 28, 2009. Do not submit comments directly to the point of contact or mail your comments to any

address other than what is shown below. Doing so will delay the posting of the submission.

**ADDRESSES:** You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, OSD Mailroom 3C843, Washington, DC 20301–1160.

*Instructions:* All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Gail L. Jones (303) 676–3401.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

This document contains proposed regulation amending the requirements and procedures in 32 CFR, part 199 relating to surgery for morbid obesity, under section 2 (Definitions) and section 4 (Basic Program Benefits) of the regulation. On December 27, 1982, the DoD published a final rule in the **Federal Register** (47 FR 57491–57493) that restricted surgical intervention for morbid obesity to gastric bypass, gastric stapling, or gastropasty method (excluding all other types) when the primary purpose of surgery is to treat a severe related medical illness or medical condition. The severe medical conditions or illness associated with morbid obesity included diabetes mellitus, hypertension, cholecystitis, narcolepsy, Pickwickian Syndrome (and other severe respiratory disease), hypothalamic disorders, and severe arthritis of the weight-bearing joints. The DoD also limited program payments to two categories of patients: (1) Those that weigh 100 pound over their ideal weight with a specific severe medical condition; and (2) those who are 200 percent or more over their ideal weight with no medical complications required. Program payment was made available as well for special consideration of those unique cases in which the patient received an intestinal bypass, or other surgery for obesity and, because of complications, required a