

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

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

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AWP CA E5 Grass Valley, CA [Revised]

Nevada County Airpark, CA

(lat. 39°13'28"N, long. 121°00'09"W)

Marysville VOR/DME

(lat. 39°05'55"N, long. 121°34'23"W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of the Nevada County Airpark and within 3.5 miles south of the Marysville VOR/DME 074° radial extending from 13.9 miles east of the Marysville VOR/DME to the 4.3-mile radius of the Nevada County Airpark; thence counterclockwise via the 4.3-mile radius of the Nevada County Airpark to Lat. 39°17'00"N, 121°03'30"W, thence westbound along lat. 37°17'00"N, to a point 13.9 miles northeast of the Marysville VOR/DME, thence clockwise along the 13.9 mile DME of the Marysville VOR/DME, to the point of beginning, excluding the Beale AFB Class C airspace area.

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Issued in Los Angeles, California, on October 23, 1996.

George D. Williams,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96-28106 Filed 10-31-96; 8:45 am]

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14 CFR Part 71**[Airspace Docket No. 96-AEA-11]****Proposed Amendment to Class E Airspace; Staunton, VA**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Staunton, VA. The development of a new Standard Instrument Approach Procedure (SIAP) at Shenandoah Valley Regional Airport based on the Global Positioning System (GPS) has made this proposal necessary. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before December 5, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AEA-530, Docket No. 96-AEA-11, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

An informal docket may also be examined during normal business hours in the Operations Branch, AEA-530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT:

Mr. Francis T. Jordan, Jr., Airspace Specialist, Operations Branch, AEA-530 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430; telephone: (718) 553-4521.

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, 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. 96-AEA-11." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the 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 comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the 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 Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. 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 amend the Class E airspace area at Staunton, VA. A GPS RWY 23 SIAP has been developed for the Shenandoah Valley Regional Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation 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. 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 would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have 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 Pat 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; 14 CFR 11.69.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, is proposed to be amended as follows:

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

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AEA VA E5 Staunton, VA [Revised]

Shenandoah Valley Regional Airport, VA
(lat. 38° 15'49" N, long. 78° 53'47" W)

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Shenandoah Valley Regional Airport and within 8 miles northwest and 4 miles southeast of the Shenandoah Valley Regional Airport localizer southwest course extending from the STAUT NDB to 16 miles southwest of the NDB and within a 6.8-mile radius of Bridgewater Air Park and within 4 miles northwest and 8 miles southeast of the 208° bearing from the Bridgewater NDB extending from the NDB to 16 miles southwest of the NDB.

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Issued in Jamaica, New York, on October 21, 1996.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 96–28109 Filed 10–31–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 382

[Docket OST–96–1880; Notice 96–25]

RIN 2105–AC28

Nondiscrimination on the Basis of Handicap in Air Travel

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The Department is proposing to amend its rules implementing the Air Carrier Access Act of 1986 concerning seating accommodations for individuals with disabilities and the stowage of collapsible electric wheelchairs. These proposals are the result of petitions for rulemaking on which the Department previously received comment. The Department is also proposing to clarify the meaning of the general

nondiscrimination provision in the Air Carrier Access Act rule. The Department is also seeking comment on petitions requesting a smoke-free path through airports for passengers with severe respiratory disabilities.

DATES: Comments are requested within January 30, 1997. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Comments should be sent, preferably in triplicate, to Docket Clerk, Docket No. OST–96–1880, Department of Transportation, 400 7th Street, S.W., Room PL–401, Washington, D.C., 20590. We request that, to facilitate scanning comments into the Department's electronic docket system, commenters put comments on 8½ by 11 inch white paper using dark ink, without tabs and unbound. Comments will be available for inspection at this address from 9:00 a.m. to 5:00 p.m., Monday through Friday. Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date-stamp the postcard and mail it back to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street, S.W., Room 10424, Washington, D.C., 20590. (202) 366–9306 (voice); (202) 755–7687 (TDD); or Nancy Ebersole, Office of the Assistant Secretary for Transportation Policy, same street address, Room 9217, (202) 366–4864.

SUPPLEMENTARY INFORMATION:

Background

In its September 1993 notice of proposed rulemaking on the Air Carrier Access Act (ACAA) rules (58 FR 47681; September 9, 1993), the Department asked for comment on three petitions for rulemaking. These concerned use of oxygen by airline passengers, seating accommodations for passengers with disabilities, and the stowage of collapsible electric wheelchairs. The Department is considering addressing the first of these issues through a negotiated rulemaking. The Department has decided to grant the other two petitions, by issuing this NPRM proposing amendments to the ACAA rule. The public will have the opportunity to comment on these proposals before the Department takes any final action on them. In addition, having become aware of misunderstanding on the part of some parties concerning the scope and nature of the general nondiscrimination

obligation under the ACAA, the Department is proposing a clarification of Part 382's statement of that obligation.

General Nondiscrimination Obligation

The history of the ACAA clearly shows that Congress enacted the statute to fill a gap in nondiscrimination coverage left by a Supreme Court decision that said that section 504 of the Rehabilitation Act did not apply to air carriers, since they do not (with the exception of participants in the Essential Air Service program) receive Federal financial assistance. The intent of the statute was to achieve the same protection from discrimination for airline passengers that section 504 provides persons affected by Federally-assisted programs. For a summary of the history of the Act, see the preamble to the Department's 1990 final ACAA rule (55 FR 8009; March 6, 1990).

When Congress enacted the Americans with Disabilities Act (ADA), it excluded transportation by aircraft from the definition of "specified public transportation." Congress did so specifically because air transportation was covered by the ACAA. (See H. Rept. 101–485, Pt. 1; May 14, 1990; p. 36.) There is no evidence that Congress intended this exclusion, which simply avoids duplication in coverage, to suggest that a weaker standard of nondiscrimination applies to air carriers than to transportation providers covered by the ADA.

Under section 504 and the ADA, providers of transportation and other facilities and services to the public have the obligation to take steps to accommodate customers who have disabilities, though these obligations have limits. For example, places of public accommodation under Title III of the ADA are required to make

reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, or accommodations. (28 CFR § 36.302.(a))

Under the ADA, public accommodations must remove barriers where doing so is "readily achievable i.e., easily accomplishable and able to be carried out without much difficulty or expense" (28 CFR § 36.304(a)). One option open to a public accommodation is making its services available through readily achievable alternative means where barrier removal itself is not