

Issued in Seattle, Washington, on August 14, 2009.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2008–0006; Airspace  
Docket No. 08–ANM–1]

#### Establishment of Class D Airspace and Amendment of Class E Airspace; North Bend, OR

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

**ACTION:** Final rule.

**SUMMARY:** This action will establish Class D airspace and amend Class E airspace at Southwest Oregon Regional Airport, North Bend, OR. The establishment of an air traffic control tower has made this action necessary for the safety and management of aircraft within this airspace. This action will also update the name of the airport from North Bend Municipal Airport, North Bend, OR. This action will also make a minor correction to the geographic coordinates of the North Bend VORTAC and the Emire LOM/NDB.

**DATES:** *Effective Date:* 0901 UTC, October 22, 2009. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

#### SUPPLEMENTARY INFORMATION:

##### History

On March 14, 2008, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class D airspace and amend Class E airspace at North Bend, OR (73 FR 13809). Interested parties were invited to participate in this rulemaking effort by submitting written comments on this proposal to the FAA. No comments were received. With the exception of editorial changes, and the changes described above, this rule is the same as that proposed in the NPRM.

Class D and E airspace areas are published in Paragraph 5000 and 6002, respectively, of FAA Order 7400.9S signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

##### The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class D airspace and amending Class E airspace at Southwest Oregon Regional Airport, North Bend, OR. The establishment of an air traffic control tower has made this action necessary for the safety and management of aircraft within this airspace. This airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. This action will also update the name of the airport from North Bend Municipal Airport, North Bend, OR. Additionally, this action corrects the geographic coordinates of the North Bend VORTAC and the Emire LOM/NDB in the Class E2 airspace area. 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. Therefore, this regulation: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under Department of Transportation 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, when promulgated, will 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 the 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 Class D airspace and amends Class E airspace at Southwest Oregon Regional Airport, North Bend, OR.

#### 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 the Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, signed October 3, 2008, and effective October 31, 2008, is amended as follows:

*Paragraph 5000 Class D Airspace.*

\* \* \* \* \*

##### ANM OR D North Bend, OR [New]

North Bend Municipal Airport, OR  
(Lat. 43°25′02″ N., long. 124°14′46″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.2-mile radius of the Southwest Oregon Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

\* \* \* \* \*

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

\* \* \* \* \*

##### ANM OR E2 North Bend, OR [Amended]

North Bend Municipal Airport, OR  
(Lat. 43°25′02″ N., long. 124°14′46″ W.)  
North Bend VORTAC  
(Lat. 43°24′56″ N., long. 124°10′07″ W.)  
Emire LOM/NDB  
(Lat. 43°23′40″ N., long. 124°18′37″ W.)

Within a 4.2-mile radius of the Southwest Oregon Regional Airport, and within 1.8 miles each side of the North Bend VORTAC 044° radial extending from the 4.2-mile radius to 5.7 miles northeast of the VORTAC, and within 3.7 miles each side of the North Bend VORTAC 092° radial extending from the 4.2-mile radius to 7.5 miles east of the VORTAC, and within 2.7 miles each side of the 241° bearing from the Emire LOM/NDB extending from the 4.2-mile radius to 6.1

miles southwest of the LOM/NDB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1500

#### **Children's Products Containing Lead; Determinations Regarding Lead Content Limits on Certain Materials or Products; Final Rule**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** The Consumer Product Safety Commission (Commission) is issuing a final rule on determinations that certain materials do not exceed the lead content limits specified under section 101(a) of the Consumer Product Safety Improvement Act of 2008 (CPSIA).

**DATE:** *Effective Date:* This regulation becomes effective on August 26, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Kristina Hatlelid, Ph.D., M.P.H.,  
Directorate for Health Sciences,  
Consumer Product Safety Commission,  
4330 East-West Highway, Bethesda,  
Maryland 20814; telephone (301) 504-  
7254, e-mail [khatlelid@cpsc.gov](mailto:khatlelid@cpsc.gov).

**SUPPLEMENTARY INFORMATION:**

#### **A. Background**

Under section 101(a) of CPSIA, consumer products designed or intended primarily for children 12 years old and younger that contain more than 600 ppm of lead (as of February 10, 2009); 300 ppm of lead (as of August 14, 2009); and 100 ppm after three years (as of August 14, 2011), unless the Commission determines that it is not technologically feasible to have this lower limit, are considered to be banned hazardous substances under the Federal Hazardous Substances Act (FHSA). Products below these lead content limits are not banned; however, in the absence of Commission action, these products and materials used to make children's products remain subject to the lead limits and consequently, the testing requirements of certain provisions of

section 14(a) of the Consumer Product Safety Act (CPSA), as amended by section 102(a) of the CPSIA.<sup>1</sup> By this rule, the products and materials determined by the Commission to fall under the lead content limits, are no longer subject to section 101(a) of the CPSIA and no testing of these products and materials is required under section 102(a) of the CPSIA.

#### **B. Statutory Authority**

Section 3 of the CPSIA grants the Commission general rulemaking authority to issue regulations, as necessary, to implement the CPSIA. The Commission has the authority under section 3 of the CPSIA to make determinations that certain commodities or classes of materials or products do not, and, by their nature, will not exceed the lead limits prescribed in section 101(a) of the CPSIA. Accordingly, in this rule, the Commission has determined that certain products or materials inherently do not contain lead or contain lead at levels that do not exceed the lead content limits under section 101(a) of the CPSIA. The effect of such a Commission determination would be to relieve the material or product from the testing requirement of section 102 of the CPSIA for purposes of supporting the required certification. However, if the material or product changes such that it exceeds the lead limits of section 101(a) of the CPSIA, then the determination is not applicable to that material or product. The changed or altered material or product must then meet the statutory lead level requirements. The Commission intends to obtain and test products in the marketplace to assure that products comply with the CPSIA lead limits and will take appropriate enforcement action if it finds a product to have lead levels exceeding those allowed by law.

#### **C. Notice of Proposed Rulemaking**

In the **Federal Register** of January 15, 2009 (74 FR 2433), the Commission

<sup>1</sup> Currently, there is a stay of enforcement of testing and certification requirements of certain provisions of subsection 14(a) of the CPSA, as amended by section 102(a) of the CPSIA until February 10, 2010 (see 74 FR 6936 (February 9, 2009)). The stay does not cover those requirements where testing and certification was required by subsection 14(a) of the CPSA before the CPSIA's enactment, and third party testing and certification requirements for lead paint, full-size and non-full size cribs and pacifiers, small parts, metal components of children's metal jewelry, certifications expressly required by CPSC regulations, certifications required under the Virginia Graeme Baker Pool and Spa Safety Act, certifications of compliance required for All-Terrain Vehicles in section 42(a)(2) of the CPSA, and any voluntary guarantees provided for in the Flammable Fabrics Act.

issued a notice of proposed rulemaking on preliminary determinations that certain natural materials do not exceed the lead content limits under section 101(a) of the CPSIA. The preliminary determinations were based on materials that are untreated and unadulterated with respect to the addition of materials or chemicals, including pigments, dyes, coatings, finishes or any other substance, and that did not undergo any processing that could result in the addition of lead into the product or material. These materials included:

- Precious gemstones (diamond, ruby, sapphire, emerald);
- Certain semiprecious gemstones provided that the mineral or material is not based on lead or lead compounds and is not associated in nature with any mineral that is based on lead or lead compounds (minerals that contain lead or are associated in nature with minerals that contain lead include, but are not limited to, the following: Aragonite, bayldonite, boleite, cerussite, crocoite, linarite, mimetite, phosgenite, vanadinite, and wulfenite);
- Natural or cultured pearls;
- Wood;
- Natural fibers (such as cotton, silk, wool, hemp, flax, linen); and
- Other natural materials including coral, amber, feathers, fur, untreated leather.

See 74 FR at 2435.

In addition, in the proposed rule, the Commission preliminarily determined that certain metals and alloys did not exceed the lead content limits under section 101(a) of the CPSIA provided that no lead or lead-containing metal is intentionally added. The metals and alloys considered included surgical steel, precious metals such as gold (at least 10 karat); sterling silver (at least 925/1000); platinum; palladium; rhodium; osmium; iridium; ruthenium. (See 74 FR at 2435). The preliminary determinations did not extend to the non-steel or non-precious metal components of a product, such as solder or base metals in electroplate, clad, or fill applications.

#### **D. Discussion of Comments to the Proposed Rule**

The proposed rule generated several hundred comments from a diverse range of interests, including advocacy groups, consumer groups, a State's attorney general's office, and small businesses including crafters. No comment opposed the proposed determinations, and, therefore, the final rule retains those determinations. The proposed rule considered those initial determinations in the context of whether the lead limits