

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

\* \* \* \* \*

#### **ASW AR E5 Batesville, AR [Amended]**

Batesville Regional Airport, AR  
(Lat. 35°43'34" N., long. 91°38'51" W.)

That airspace extending upward from 700 feet above the surface within a 9.3-mile radius of Batesville Regional Airport and within 4 miles each side of the 260° bearing from the airport extending from the 9.3-mile radius to 12.2 miles west of the airport.

Issued in Fort Worth, TX, on February 24, 2010.

**Walter Tweedy,**

*Acting Manager, Operations Support Group,  
ATO Central Service Center.*

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**BILLING CODE 4910-13-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 71**

[Docket No. FAA-2009-0697; Airspace  
Docket No. 09-ACE-10]

#### **Class E Airspace; Beatrice, NE**

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

**ACTION:** Notice of proposed rulemaking  
(NPRM).

**SUMMARY:** This action proposes to amend Class E airspace at Beatrice, NE. Decommissioning of the Shaw non-directional beacon (NDB) at Beatrice Municipal Airport has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

**DATES:** 0901 UTC. Comments must be received on or before April 29, 2010.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001. You must identify the docket number FAA-2009-0697/Airspace Docket No. 09-ACE-10, at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527), is on the ground floor of the building at the above address.

**FOR FURTHER INFORMATION CONTACT:**  
Scott Enander, Central Service Center,

Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321-7716.

#### **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 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 Docket No. FAA-2009-0697/Airspace Docket No. 09-ACE-10." The postcard will be date/time stamped and returned to the commenter.

##### **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 **ADDRESSES** section for 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 office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

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

##### **The Proposal**

This action proposes to amend Title 14, Code of Federal Regulations (14

CFR), Part 71 by amending Class E airspace extending upward from 700 feet above the surface for standard instrument approach procedures at Beatrice Municipal Airport, Beatrice, NE. Airspace reconfiguration is necessary due to the decommissioning of the Shaw NDB and cancellation of the NDB approach. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9T, dated 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 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. 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, 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 of 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 would amend controlled airspace at Beatrice Municipal Airport, Beatrice, NE.

##### **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 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 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 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.*

\* \* \* \* \*

**ACE NE E5 Beatrice, NE [Amended]**

Beatrice Municipal Airport, TX

(Lat. 40°18'05" N., long. 96°45'15" W.)

Beatrice VOR/DME

(Lat. 40°18'05" N., long. 96°45'17" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Beatrice Municipal Airport and within 2.4 miles each side of the 320° radial from the Beatrice VOR/DME extending from the 6.5-mile radius to 7.5 miles northwest of the airport, and within 2.4 miles each side of the 003° radial from the Beatrice VOR/DME extending from the 6.5-mile radius to 7.5 miles north of the airport.

Issued in Fort Worth, TX, on February 24, 2010.

**Walter Tweedy,**

*Acting Manager, Operations Support Group, ATO Central Service Center.*

[FR Doc. 2010–5569 Filed 3–12–10; 8:45 am]

**BILLING CODE 4901–13–P**

**CONSUMER PRODUCT SAFETY COMMISSION**

**16 CFR Part 1450**

**Virginia Graeme Baker Pool and Spa Safety Act; Public Accommodation**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Proposed interpretive rule.

**SUMMARY:** The Consumer Product Safety Commission (“Commission” or “CPSC”) is issuing this proposed rule to interpret the term “public accommodation” as used in the Virginia Graeme Baker Pool and Spa Safety Act.

**DATES:** Written comments in response to this document must be received no later than April 14, 2010.

**ADDRESSES:** You may submit comments, identified by Docket No. CPSC–2010–0018, by any of the following methods:

**Electronic Submissions**

Submit electronic comments in the following way:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail) except through <http://www.regulations.gov>.

**Written Submissions**

Submit written submissions in the following way:

*Mail/Hand delivery/Courier (for paper (preferably in five copies), disk, or CD-ROM submissions), to:* Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

*Docket:* For access to the docket to read background comments or comments received, go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Barbara E. Little, Regulatory Affairs Attorney, Office of General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814–4408; [blittle@cpsc.gov](mailto:blittle@cpsc.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Background**

The Virginia Graeme Baker Pool and Spa Safety Act, 15 U.S.C. 8001, (“VGB Act” or “Act”) requires that drains in public pools and spas be equipped with ASME/ANSI A112.19.8 compliant drain covers, and that each public pool and spa with a single main drain other than an unblockable drain be equipped with certain secondary anti-entrapment systems. Section 1404(c) of the Act. The Act defines “public pool and spa” to include a swimming pool or spa that is “open exclusively to patrons of a hotel or other public accommodations facility.” Section 1404(c)(2)(B)(iii) of the Act. The term “public accommodations facility” is not defined in the Act.

The Commission has received numerous inquiries regarding what constitutes a public accommodations facility under the VGB Act. This proposed interpretive rule would define “public accommodation” as the term in used in the Virginia Graeme Baker Pool and Spa Safety Act.<sup>1</sup>

**B. Legal Analysis**

In adopting a reasonable interpretation of “public accommodations facility,” the Commission examined how other federal statutes define this same term. The Americans with Disabilities Act (ADA) defines “public accommodation” in relevant part as “an inn, hotel, motel, or other place of lodging, *except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor*” (emphasis added). 42 U.S.C. § 12181(7). Under this definition, pools or spas found at bed and breakfasts with five or fewer rooms for rent or hire and that are actually occupied by the proprietor would not be considered “public pools or spas” under the VGB Act, nor would pools or spas that are located on single family home rental properties.

The Civil Rights Act (CRA) employs the same definition of “public accommodation” in relevant part as does the ADA, i.e., “any inn, hotel, motel, or other establishment which provides lodging to transient guests, *other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence*” (emphasis added). 42 U.S.C. 2000(b). This definition, then, is used in two prominent federal statutes addressing civil rights. Operators of inns, hotels, and lodging establishments likely are aware of these statutes addressing civil rights and the definitions they employ.

The phrase “public accommodation” also appears in a Federal statute administered by the CPSC. Section 104(c) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) provides that it is a violation of the Consumer Product Safety Act for “any person to which this subsection applies to manufacture \* \* \* or otherwise place in the stream of commerce a crib that is not in compliance with a

<sup>1</sup> The Commissioners voted 4–1 (Commissioner Robert Adler dissenting) to issue this proposed interpretive rule. Commissioner Robert Adler filed a statement, a copy of which is available from the Office of the Secretary or on the Commission’s Web site at <http://www.cpsc.gov>.