

Proposed Rules

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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 ENERGY

10 CFR Part 707

RIN 1991-AA90

Workplace Substance Abuse Programs at DOE Sites; Random Alcohol Abuse Testing

AGENCY: Department of Energy (DOE).

ACTION: Withdrawal of proposed rule.

SUMMARY: DOE withdraws a proposed rule that would have amended substance abuse testing regulations applicable to contractor employees who are authorized to have access to DOE-owned, contractor-operated sites. The proposed rule would have provided for testing for alcohol abuse on a random basis. This rulemaking is no longer necessary because DOE has successfully implemented an employee assistance program that appears effectively to deal with the potential for alcohol abuse at which the proposed rule was aimed.

FOR FURTHER INFORMATION CONTACT: Stephanie Weakley, Office of Contract and Resource Management (HR-53), Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20085, (202) 586-4156.

SUPPLEMENTARY INFORMATION: DOE began this rulemaking by publishing a notice of proposed rulemaking on July 22, 1992 (57 FR 32664). The contractor employees at whom the proposed regulations were aimed are authorized to have access to sites where DOE carries out programs under the Atomic Energy Act of 1954.

In response to the notice of proposed rulemaking, DOE received a variety of public comments. Some commenters maintained that the rule is overly broad in that it does not establish a nexus between job responsibilities and testing. Others opposed any form of random testing for alcohol, requesting that such testing be only for reasonable suspicion or probable cause, while some believed that the proposed regulatory rates set forth for random testing should be reviewed or revised. Some commenters

raised a general legal objection to the institution of alcohol tests, arguing that such tests were beyond the scope of the current case law regarding testing for illegal drugs, and they expressed concerns about the privacy implications of the proposed alcohol testing policy. One commenter was concerned that the proposed rule did not properly take into account the collective bargaining rights of union members. One commenter observed that the declaration of an impasse after a year of bargaining over implementation of the substance abuse program was too arbitrary.

Since DOE published the notice of proposed rulemaking and received public comments, DOE has successfully tried an alternative, non-regulatory approach to dealing with alcohol abuse that substantially avoids the concerns articulated by the commenters and appears adequately to deal with DOE's actual experience with the potential for alcohol abuse. In 1993, DOE established its Employee Assistance Program Referral Option (EAPRO). Since its inception, DOE has used EAPRO as a tool to encourage individuals with alcohol or drug abuse problems that also hold access authorizations (*i.e.*, security clearances) to seek and participate in rehabilitation programs while maintaining their access authorizations. EAPRO provides incentives for cleared individuals to seek professional assistance from qualified providers in dealing with alcohol and drug abuse problems.

On the basis of the foregoing, DOE concludes that it would be appropriate to withdraw the proposed rule at this time without prejudice to possible reconsideration of the matter should future circumstances warrant. Accordingly, the proposed revisions to 10 CFR Part 707, which were announced in a notice of proposed rulemaking in the July 22, 1992, **Federal Register** (57 FR 32664), are hereby withdrawn.

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

Mary Anne Sullivan,

General Counsel.

[FR Doc. 99-5875 Filed 3-9-99; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-AEA-05]

Proposed Amendment to Class E Airspace; Babylon, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Babylon, NY. The development of new Standard Instrument Approach Procedures (SIAP) based on the Global Positioning System (GPS) and amendments to the Instrument Landing System (ILS) SIAP and the Non Directional Radio Beacon (NDB) SIAP at Republic Airport, Farmingdale, NY, has made this proposal necessary. Amendments to the controlled airspace extending upward from 700 feet Above Ground Level (AGL) are needed to accommodate the SIAPs and for Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before April 9, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA-520, Docket No. 99-AEA-05, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

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

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA-520, 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, Airspace Branch, AEA-520 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 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. 99-AEA-05." 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 Regional 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 Babylon, NY. A GPS RWY 01 SIAP, GPS RWY 14 SIAP, GPS RWY 19 SIAP have been developed and the ILS RWY 14 SIAP and NDB RWY 01 SIAP have been revised for Republic Airport, Farmingdale, NY. Amendments to the controlled airspace extending upward from 700 feet AGL are needed to accommodate the SIAPs 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 7400.9F, dated September 10, 1998, and effective September 16, 1998, 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 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 CFR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, 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.

* * * * *

AEA NY E5 Babylon, NY [Revised]

Republic Airport, Farmingdale, NY
(Lat. 40°43'44"N., long. 73°24'49"W.)
Babylon NDB
(Lat. 40°40'21"N., long. 73°23'03"W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Republic Airport and within 3.1 miles each side of a 155° bearing from the Babylon

NDB extending from the 8-mile radius to 7 miles southeast of the NDB, excluding that portion that coincides with the Islip, NY, Class E airspace area.

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Issued in Jamaica, New York, on March 1, 1999.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 99-5926 Filed 3-9-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-AEA-04]

Proposed Amendment to Class E Airspace; Frederick, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Frederick, MD. Amendments to the Global Positioning System (GPS) Runway (RWY) 05 Standard Instrument Approach Procedure (SIAP), Instrument Landing System (ILS) RWY 23 SIAP and VHF Omni-directional Radio Range (VOR) or GPS-A SIAP at Frederick Municipal Airport have made this proposal necessary. Amendments to the controlled airspace extending upward from 700 feet Above Ground Level (AGL) are needed to accommodate the amended SIAPs and for Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before April 9, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA-520, Docket No. 99-AEA-04, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

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

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FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA-520 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International