

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2003-15628; Airspace
Docket No. 03-AWP-10]

**Modification of Class E Airspace;
Waimea-Kohala Airport, HI**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Direct final rule; request for
comments.

SUMMARY: An Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) RNAV (GPS) Runway (RWY) 04/22 SIAP and a VHF Navigation Aid/Distance Measuring Equipment (VOR/DME) RWY 22/04 SIAP have been developed to serve Waimea-Kohala Airport, Kamuela, HI. This action expands Class E airspace extending upward from 700 feet or more above the surface at Waimea-Kohala Airport to contain aircraft executing these approaches. This action provides controlled airspace for Instrument Flight Rules (IFR) operations.

DATES: This direct final rule is effective on 0901 UTC, October 30, 2003. Comments for inclusion in the Rules Docket must be received on or before August 29, 2003.

ADDRESSES: Send comments on this rule to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2003-15628/Airspace Docket No. 03-AWP-10, at the beginning of your comments. You may also submit comments on the Internet at <http://dms.dot.gov>. You may review the public docket containing the proposal, any comments received, and any final dispositions in person in the Docket 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 plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Air Traffic Division, Airspace Branch, AWP-520, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725-6613.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 modifies the Class E airspace at Waimea-Kohala, HI. An RNAV (GPS) RWY 22/04 SIAP

and a VOR/DME RWY 22/04 SIAP have been developed to serve Waimea-Kohala Airport, HI. These SIAPs require additional controlled airspace to contain aircraft executing the new approach procedures. This action expands Class E airspace to support Instrument Flight Rules (IFR) operations to Waimea-Kohala Airport, Kamuela, HI. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, view, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and

determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 03-AWP-10." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, this regulation only involves an established body of technical regulations that require frequent and routine amendments to keep operationally current. Therefore, this 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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; 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 7400.9K, dated August 30, 2002, and effective September 16, 2002, is 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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AWP HI E5 Waimea-Kohala, HI [Revised]

Waimea-Kohala Airport, HI
(Lat. 20°00'05" N, long. 155°40'05" W)
Kamuela VOR/DME
(Lat. 19°59'53" N, long. 155°40'12" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Waimea-Kohala Airport and within 2 miles each side of the Kamuela VOR/DME 068° radial, extending from the 6.4-mile radius 12.6 miles northeast of the Kamuela VOR/DME and within 2 miles each side of the Kamuela VOR/DME 246° extending from the 6.4-mile radius to the 13.4 miles southwest of the Kamuela VOR/DME

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Issued in Los Angeles, California, on July 23, 2003.

Stephen J. Lloyd,

*Acting Manager, Air Traffic Division,
Western-Pacific Region.*

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 549

[BOP–1086–F]

RIN 1120–AA81

Over-The-Counter (OTC) Medications

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) establishes procedures governing inmate access to Over-The-Counter (OTC) medications. Currently, the inmate population can

only buy approved OTC medications through the commissary at their institutions. Our commissaries will continue to sell medications such as aspirin, acetaminophen, ibuprofen, chlorpheniramine, antacids, hemorrhoidal ointment, hydrocortisone cream, and a fiber supplement (*e.g.* Metamucil®), and other such medications used for symptomatic relief of common conditions. For inmates in inpatient status at our medical referral facilities, we will continue dispensing OTC medications at sick call. For all other inmates, we will continue dispensing OTC medications at sick call to inmates in the general population only if the inmate does not already have the OTC medication, and health services staff determine there is an immediate medical need which must be addressed before the inmate's regularly scheduled commissary visit, or that the inmate has no funds.

We intend that these procedures will help us allocate medical resources efficiently and cost-effectively, while remaining consistent with the Bureau's scope of services which meet inmates' medically mandatory and medically necessary needs.

EFFECTIVE DATE: September 11, 2003.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION: We amend our regulations on Over-The-Counter (OTC) medications (28 CFR part 549, subpart B). We published a proposed rule on this subject in the **Federal Register** on March 1, 1999 (64 FR 10094).

Summary of Public Comment

We received six comments. One generally supported the proposed rule, but five commenters objected.

Citing statutory authority requiring the Bureau to provide for the subsistence of persons charged to its custody, one commenter alleged that the proposed rule promoted the Bureau's economic interests over inmates' health needs and would further erode the quality of health care available to inmates.

This commenter argued that conditions in Bureau facilities leave inmates vulnerable to infection. The commenter further stated that Bureau health services staff do not act responsibly. For example, the commenter states that, at one

institution, sick call appointments may be scheduled 3 to 5 work days after the initial request. The commenter suggests that this is intended to discourage inmates from coming to sick call and that requiring inmates to buy OTC medications would deter inmates from making sick call appointments. The commenter further charges that the Bureau would use profits from the sale of OTC medications to fund tort claim or law suit settlements.

Two additional commenters alleged that costs associated with the upkeep of inmates are the government's responsibility and should remain so. These commenters also objected to the pricing of OTC medications currently available in the institution's commissary. One commenter suggested that if the cost of OTC medications was passed on to the inmate, the inmate should be given a wider choice of medications. The other commenter alleged that staff were likely to abuse the administration of the proposed regulations and that staff improperly followed outdated procedures for addressing inmate complaints. The commenter also criticized the general quality of staff and the level of professional training available to staff.

Another commenter stated that having OTC medications available through the commissary does not justify discontinuing sick call distribution. This commenter states that access to the commissary at some institutions is limited to one scheduled visit per week, that the commissary closes quarterly for inventory, and that the medications are not affordable or are overpriced. This commenter suggested that the proposed procedures may encourage inmates to break other Bureau rules, namely the prohibition on sharing personal property with other inmates.

One commenter believes it is dangerous to permit mental health patients to purchase OTC medications which may adversely interact with prescribed medications. Another also objected to potential negative interactions between prescribed and OTC medications.

Another commenter raised administrative procedural objections to the proposed rule and various Bureau policies for providing inmate health care. This commenter stated that the proposed rule did not cite a need for the change nor expected results from application of the new regulation. The commenter argued that OTC medications can be used for illnesses, and consequently the Bureau is contradicting itself when it states that OTC medications are being used for cosmetic and general hygiene issues.