

The regulations adopted herein will not have substantial direct effects 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, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

#### **List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### **Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### **PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

#### **§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

**95-06-52 Dornier:** Amendment 39-9189. Docket 95-NM-33-AD.

**Applicability:** Model 328-100 series airplanes, serial numbers 3005 through 3033 inclusive, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or

repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent ingestion of ice into an engine, which could result in engine power rollback/flameout, accomplish the following:

(a) Prior to further flight into known or forecast icing conditions, remove the bypass outlet plate having part number (P/N) 001A716A2002000 or P/N 001A716E2012000 from the lower cowlings of the engines, in accordance with Dornier Service Bulletin SB-328-71-086, dated March 6, 1995.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The removal shall be done in accordance with Dornier Service Bulletin SB-328-71-086, dated March 6, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Daimler-Benz Aerospace, Dornier, P.O. Box 1103, D-82230 Wessling, Federal Republic of Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on April 21, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T95-06-52, issued on March 10, 1995, which contained the requirements of this amendment.

Issued in Renton, Washington, on March 31, 1995.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 95-8447 Filed 4-5-95; 8:45 am]

**BILLING CODE 4910-13-U**

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

**[Airspace Docket No. 94-ANM-1]**

#### **Amend Class E Airspace; North Bend, OR**

**AGENCY:** Federal Aviation Administration [FAA], DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends Class E airspace at North Bend, Oregon, to encompass a new Standard Instrument Approach Procedure (SIAP) at North Bend Municipal Airport, Oregon. The area will be depicted on aeronautical charts for pilot reference.

**EFFECTIVE DATE:** 0901 UTC, May 25, 1995.

**FOR FURTHER INFORMATION CONTACT:** Ted Melland, System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 94-ANM-1, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone number: (206) 227-2536.

#### **SUPPLEMENTARY INFORMATION:**

##### **History**

On December 5, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the North Bend, OR, Class E airspace (59 FR 62361). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraphs 6002 and 6005 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document will be published subsequently in the Order.

##### **The Rule**

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the North Bend, OR, Class E airspace by enlarging portions of the class E airspace to encompass new instrument procedures for aircraft operations within controlled airspace.

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. 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 will not have a 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).

#### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

#### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

*Paragraph 6002 Class E airspace area designated as a surface area for an airport*

\* \* \* \* \*

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

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°10'06" W)

Empire, LOM/NDB  
(lat. 43°23'41" N, long. 124°18'37" W)

Within a 4.2-mile radius of the North Bend Municipal 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 Empire LOM/NDB extending from the 4.2-mile radius to 6.1 miles southwest of the LOM/NDB.

\* \* \* \* \*

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

\* \* \* \* \*

#### ANM OR E5 North Bend, OR [Revised]

North Bend VORTAC  
(Lat. 43°24'56" N, long. 124°10'06" W)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the North Bend VORTAC from the 142° radial CW to the 352° radial, and within a 14-mile radius of the VORTAC from the 352° radial CW to the 142° radial, and within 2.7 miles north of the North Bend VORTAC 268° radial extending from the 8-mile radius to 11 miles west of the VORTAC, and within 1.8 miles south and 5.7 miles north of the VORTAC 241° radial extending from the 8-mile radius to 14.8 miles southwest; that airspace extending upward from 1,200 feet above the surface within a 19.2-mile radius of the North Bend VORTAC extending clockwise from the west edge of V-27 south of the VORTAC, to the west edge of V-287 north of the VORTAC, and within 2.2 miles southeast and 10.1 miles northwest of the North Bend VORTAC 241° radial, extending from the VORTAC to 22.2 miles southwest.

\* \* \* \* \*

Issued in Seattle, Washington, on March 17, 1995.

**Richard E. Prang,**

*Acting Manager, Air Traffic Division,  
Northwest Mountain Region.*

[FR Doc. 95-8507 Filed 4-5-95; 8:45 am]

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#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Social Security Administration

##### 20 CFR Part 404

RIN 0960-AD72

#### Computing Benefit Amounts, Disposing of Underpayments, Resolving Overpayments, and Payment Restriction

**AGENCY:** Social Security Administration, HHS.

**ACTION:** Final rules.

**SUMMARY:** We are revising our rules on computation of benefits to define the term “first becomes eligible” as it relates to a pension based on noncovered employment. We are also revising the computation rules to provide that we will consider all government service used by a pension-paying agency when we determine whether an individual first became eligible before 1986 for a pension based on noncovered employment. Further, we are also revising our rule on determining fault regarding overpayments to state that benefit deductions because of net

earnings from self-employment are not applicable after an individual attains age 70. Additionally, we are revising our rules on underpayments to clarify a misleading cross-reference. Finally, we are updating the list of countries to which benefit payments are withheld because of Treasury Department restrictions.

**DATES:** These regulations are effective April 6, 1995.

**FOR FURTHER INFORMATION CONTACT:** Jack Schanberger, Legal Assistant, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-8471 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free number 1-800-772-1213.

**SUPPLEMENTARY INFORMATION:** Section 215(a)(7) of the Social Security Act (the Act) requires us to use a modified formula for computing the primary insurance amount (the basic benefit amount) of an individual’s old-age or disability insurance benefit if the individual first becomes eligible after 1985 for such a benefit and for a monthly periodic payment based on noncovered employment. The modified formula applies to individuals who are concurrently entitled to such a monthly periodic payment and to old-age or disability benefits under title II of the Act. It results in a lower primary insurance amount than would have been computed if the monthly periodic payment had not been considered.

However, neither the Act nor our regulations at 20 CFR 404.213 define the phrase “first becomes eligible.”

In defining “first becomes eligible,” we have identified two interpretations which pertain to the date creditable service is acquired. One interpretation is that an individual first becomes eligible when he or she has currently acquired enough service to qualify for a pension. The other interpretation is that an individual first becomes eligible when he or she has acquired enough service to qualify for a pension, regardless of when the service was acquired.

We recently became aware that some individuals have purchased credit for prior service, e.g., military service, which could affect their eligibility date and allow them to become eligible before 1986 for a monthly pension based on noncovered employment. Such an individual would thus be excluded from the modified computation because he or she first became eligible for the monthly pension before 1986. There is no restriction in the Act which precludes using purchased credit to establish eligibility before 1986 for a monthly pension based on noncovered