

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

[Docket No. FAA-2016-9193; Airspace
Docket No. 16-AGL-26]

**Establishment of Class E Airspace;
Wessington Springs, SD**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Wessington Springs Airport, Wessington Springs, SD. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures developed at Wessington Springs Airport, for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, April 27, 2017. 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 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202-267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11A at NARA, call 202-741-6030, or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5857.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code.

Subtitle I, 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 establishes Class E airspace at Wessington Springs Airport, Wessington Springs, SD.

History

On November 16, 2016, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E Airspace extending upward from 700 feet above the surface at Wessington Springs Airport, Wessington Springs, SD (81FR 80618) FAA-2016-9193. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Wessington Springs Airport, Wessington Springs, SD, to accommodate new standard instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Section 6005 of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, 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.

Regulatory Notices and Analyses

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, is non-controversial and unlikely to result in adverse or negative comments. 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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5-6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists 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 part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 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 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and

effective September 15, 2016, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL SD E5 Wessington Springs, SD [New]

Wessington Springs Airport, SD
(Lat. 44°03'43" N., long. 098°31'56" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Wessington Springs Airport

Issued in Fort Worth, Texas, on February 9, 2017.

Vonnie L. Royal,

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

[FR Doc. 2017-03543 Filed 2-24-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Parts 1202 and 1206

[Docket No. ONRR-2012-0004; DS63644000 DR2000000.CH7000 178D0102R2]

RIN 1012-AA13

Postponement of Effectiveness of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform 2017 Valuation Rule

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Notification; postponement of effectiveness.

SUMMARY: On July 1, 2016, the Office of Natural Resources Revenue (ONRR) published the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Final Rule (2017 Valuation Rule or Rule) in the **Federal Register**. On December 29, 2016, three separate petitions challenging the 2017 Valuation Rule were filed in the United States District Court for the District of Wyoming. In light of the existence and potential consequences of the pending litigation, ONRR has concluded that justice requires it to postpone the effectiveness of the 2017 Valuation Rule pursuant to 5 U.S.C. 705 of the Administrative Procedure Act, pending judicial review.

DATES: February 27, 2017.

FOR FURTHER INFORMATION CONTACT: Peter Christnacht, Royalty Valuation team B, at 303-231-3651 or email to peter.christnacht@onrr.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2016, ONRR published the 2017 Valuation Rule in the **Federal Register**.

See 81 FR 43338. The 2017 Valuation Rule changes how lessees value their production for royalty purposes and revises revenue-reporting requirements. Although the 2017 Valuation Rule took effect on January 1, 2017, Federal and Indian Lessees are not required to report and pay royalties under the Rule until February 28, 2017. Under this notification, Lessees will not be required to report and pay royalties under the Rule as of that date.

On December 29, 2016, three separate petitions were filed in the U.S. District Court for the District of Wyoming.¹ The petitions allege that certain provisions of the 2017 Valuation Rule are arbitrary, capricious, and contrary to the law. On February 17, 2017, the petitioners sent the ONRR Director a letter requesting that ONRR postpone the implementation of the 2017 Valuation Rule. The petitioners claim that lessees affected by the Rule face significant hardship and uncertainty in the face of reporting under the rule for the first time on February 28, 2017. The petitioners also claim that the new reporting and payment requirements in the Rule are difficult, and in some cases impossible, to comply with by the royalty reporting deadline; a difficulty exacerbated by the fact that non-compliant lessees may be exposed to significant civil penalties.

Under Section 705 of the Administrative Procedure Act “[w]hen an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review.” 5 U.S.C. 705. In light of the pending litigation, and for the following reasons, ONRR has concluded that justice requires it to postpone the effectiveness of the 2017 Valuation Rule until the judicial challenges to the Rule are resolved.

First, the postponement will preserve the regulatory status quo while the litigation is pending and the Court decides whether to uphold the regulation. While ONRR believes the 2017 Valuation Rule was properly promulgated, the petitioners have raised serious questions concerning the validity of certain provisions of the Rule, including the expansion of the “default provision” and the use of the sales price of electricity for certain coal-royalty valuations. Given this legal uncertainty, maintaining the status quo

is critical for a number of reasons. First, a postponement will avoid the substantial cost of retroactively correcting and verifying all revenue reports if the 2017 Valuation Rule is invalidated, in whole or in part, as a result of the pending litigation. Federal and Indian lessees affected by the 2017 Valuation Rule submit approximately 450,000 reporting lines every production month. If the Court invalidates the 2017 Valuation Rule, affected lessees would be forced to correct and resubmit reporting lines for each production month that the Rule is in effect. ONRR would be required to review and verify the same. Thus, postponing the 2017 Valuation Rule will avoid forcing both the regulated community and ONRR to perform the complicated, time-consuming, and costly task of correcting and verifying revenue reports and payments if the 2017 Valuation Rule is invalidated as a result of the pending litigation.²

In addition, the postponement will enhance the lessees’ ability to timely and accurately report and pay royalties because they will be using a well-known system that has been in place for the last 25 years. ONRR has received numerous legitimate questions from lessees on how to apply the 2017 Valuation Rule, some of which will require additional consideration and time before ONRR can definitively answer them; thus increasing the likelihood that lessees will initially report incorrectly and later need to adjust their reports. In addition, the Court may resolve some of these issues differently than ONRR, again increasing the likelihood that lessees will need to submit corrected reports. Given these judicial and administrative uncertainties, relying on the previous regulatory system while the litigation is pending will reduce uncertainty and enhance ONRR’s ability to collect and verify natural resource revenues, which is in the best interest of all those who benefit from royalty payments, including States, Tribes, individual Indian lessors, and the general public.

The United States will suffer no significant harm from postponing the effectiveness of the 2017 Valuation Rule while the litigation is pending. As noted in the preamble to the final rule, the implementation of the Rule is not expected to have a significant impact on

¹ *Cloud Peak Energy, Inc. v. United States Dep’t of the Interior*, Case No. 16CV315-F (D. Wyo.);

American Petroleum Inst. V. United States Dep’t of the Interior, Case No. 16CV316-F (D. Wyo.); *Tri-State Generation and transmission Ass’n, Inc., Basin Electric Power Cooperative, and Western Fuels-Wyoming, Inc., v. United States Dep’t of the Interior*, Case No. 16CV319-F (D. Wyo.)

² Some lessees have likely converted their accounting systems to report and pay royalties under the new rule. While these lessees will incur a cost to revert back to the pre-existing system, the cost of doing so now, before the first reporting period, will be much less than if the reversion is required later upon judicial order, and the lessee is required to correct its reporting for each month it reported under the Rule.