

reviewed and approved this document, has delegated the authority to electronically sign this document to Sharmistha Das, who is the Deputy General Counsel for DHS, for purposes of publication in the **Federal Register**.

Sharmistha Das,

Deputy General Counsel, U.S. Department of Homeland Security.

Monty Wilkinson,

Acting Attorney General, Department of Justice.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2020-0800; Airspace Docket No. 20-ANM-43]

RIN 2120-AA66

Revocation of Class D and Amendment of Class E Airspace; Gillette, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes the Class D airspace, establishes a Class E surface area, modifies the Class E airspace as an extension to the surface area and modifies the Class E airspace extending upward from 700 feet AGL at Northeast Wyoming Regional Airport, Gillette, WY. In addition, this action removes the VOR/DME from the legal description and replaces the outdated term Airport Facility/Directory with the term Chart Supplement. It also makes two minor administrative corrections noted in the Notice of Proposed Rulemaking (NPRM); the airport name is updated and the Class E surface area is identified as new airspace rather than amended airspace.

After being informed that the Airport Traffic Control Tower at Northeast Wyoming Regional Airport is closed permanently, the FAA found it necessary to create new airspace and amend the existing airspace for the safety and management of Instrument Flight Rule (IFR) operations at this airport.

DATES: Effective 0901 UTC, April 22, 2021. 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 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at https://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 7400.11E at NARA, email fedreg.legal@nara.gov or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FOR FURTHER INFORMATION CONTACT:

Richard Roberts, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198; telephone (206) 231-2245.

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 (U.S.C.). 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 removes the Class D, establishes a Class E surface area, modifies the Class E airspace as an extension to the surface area and modifies the Class E airspace extending upward from 700 feet AGL at Northeast Wyoming Regional Airport, Gillette, WY to support IFR operations.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 57806; September 16, 2020) for Docket No. FAA-2020-0800 to remove the Class D airspace and modify the following: Class E surface area, the Class E airspace as an extension to the surface area and the Class E airspace extending upward from 700 feet AGL at Gillette-County Airport, Gillette, WY, in support of IFR operations. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received with

multiple concerns. The commenter was troubled by the language used in the NPRM and concerned it would create difficulty in converting the airspace from Class D to Class E for the airport management team. This included logistical and technical steps in changing the airport structure, definitions of Class D and Class E airspace, equipment and techniques used for changing the airspace, who will monitor the change process, the airport management team's role and responsibilities in completing the change, and an expected timeline. While additional information needed by the airport management team is available and a point of contact provided, no one got in touch with this office or the facility with jurisdiction for the overlying airspace to enquire about information contained in the NPRM. The request for comment was based on the belief that the commenter has a basic knowledge of and understanding about airspace and the equipment and operating rules for each class of airspace. Controlled airspace is airspace of defined dimensions within which ATC service is provided to IFR and VFR flights in accordance with the airspace classification. Within controlled airspace, all aircraft operators are subject to certain qualification, operating, and aircraft equipage requirements (see Title 14 CFR part 91). Controlled airspace in the United States is designated in 14 CFR part 71. Changing the airspace designation is an administrative task. It involves no actions to the physical environment of the airport or its structures. The "timeline", also known as the effective date, of the change in the airspace designation has been determined by FAA orders to ensure safety in execution of that change.

The commenter was also concerned that issues related to possible effects on the entire airport, including civil aviation and the airport's overall safety, were not considered in the proposed rule. In addition, the commenter had questions regarding what standards and criteria were to be used in considering the effectiveness of the changes. The airspace design specialist establishes, modifies or revokes airspace based on criteria documented in FAA Orders by their Flight Standards Division and Airspace Policy Regulations Group. The specialist takes into account, as a prime consideration, the safety and efficiency of air traffic operations in consultation with local Air Traffic Control. In addition, the facility with jurisdiction over the airspace conducts and documents a safety risk analysis to

consider potential safety issues with the new airspace before implementation. Post implementation, the Air Traffic Control facility managing air traffic in the area takes appropriate action to resolve observed or reported issues.

Additional concerns by the commenter included the lack of details on precautions for airspace changes amid a public health crisis. There is no face-to-face interaction required between FAA personnel and the airport management team so there is no increased risk due to the public health crisis.

Finally, the commenter identified the importance of considering both long-term and short-term environmental costs during the proposed rule to provide a comprehensive expectation of the costs for the public before the application phase of the rule. The proposal is reviewed for environmental impacts and extraordinary circumstances that might arise from the proposal. The FAA completed an environmental review and there are no significant environmental costs anticipated with the rule. It should be noted that the airspace does not define where aircraft can fly or do fly, it only defines specific equipment requirements and pilot responsibilities for each class of airspace.

Class D and E airspace designations are published in paragraph 5000, 6002, 6004 and 6005 of FAA Order 7400.11E, dated July 21, 2020 and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class D and 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 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending 14 CFR part 71 by removing the Class D airspace and establishing a Class E surface area. The FAA is also modifying the Class E airspace as an extension to the Class E surface area and the Class E airspace extending upward from 700 feet AGL at Northeast Wyoming Regional Airport, Gillette, WY.

The FAA was informed that the Airport Traffic Control Tower at Northeast Wyoming Regional Airport is closed, which is a basic qualification for the establishment of Class D airspace. As a result, the FAA is removing the Class D airspace and establishing a Class E surface area at the airport. The Class E surface airspace is established at 5 miles to ensure departures are contained in the surface area until reaching 700 feet AGL.

The Class E airspace extending upward from the surface as an extension to the Class E surface area is expanded to 3.4 miles each side of the 170° bearing from 3 miles to 12 miles (formerly 12.2 miles) south of the airport. This adjustment will protect aircraft as they descend through 1,000 feet AGL, while using the RNAV and ILS approaches to runway 34.

The Class E airspace extending upward from 700 feet is modified to within 4 miles each side of the 170° and 350° bearings (reduced from 6.1 miles east and 8.3 miles west) and extends 14 miles south (reduced from 15.3 miles) and 11 miles north (reduced from 16.1 miles). The additional airspace is no longer needed to protect departing aircraft to 1,200 feet and arrivals as they descend through 1,500 feet AGL. This action removes the Class E airspace extending upward from 1,200 feet as it is redundant with the Denver E6 airspace and no longer needed.

In addition, the use of the term Airport Facility/Directory is replaced with Chart Supplement and the legal descriptions for the Class E airspace extending upward from the surface as an extension to the Class E surface area and the Class E airspace extending upward from 700 feet is rewritten to eliminate the use of the VOR/DME as a reference point. The VOR/DME is no longer needed to adequately describe the airspace.

Following publication of the NPRM in the **Federal Register** the name of the airport was changed to Northeast Wyoming Regional Airport this action updates the name and the geographical coordinates to match the FAA database. Also, the Class E surface area was identified in the NPRM as being amended. This was in error. This airspace was new airspace established to replace the Class D airspace. This action correctly defines the Class E surface area as new airspace.

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

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 (E.O.) 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, will 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 7400.11E, Airspace Designations and Reporting Points, dated July, 21, 2020 and effective September 15, 2020, is amended as follows:

Paragraph 5000 Class D Airspace.
* * * * *

ANM WY D Gillette, WY [Remove]

Gillette-Campbell County Airport, WY
(Lat. 44°20'56" N, long. 105°32'22" W)

*Paragraph 6002 Class E Airspace
Designated as Surface Areas.*

* * * * *

ANM WY E2 Gillette, WY [New]

Northeast Wyoming Regional Airport, WY
(Lat. 44°20'56" N, long. 105°32'22" W)

That airspace extending upward from the surface to and including 6,900 feet MSL within a 5-mile radius of the Northeast Wyoming Regional Airport. This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

*Paragraph 6004 Class E Airspace Areas
Designated as an Extension to a Class D or
Class E Surface Area.*

* * * * *

ANM WY E4 Gillette, WY [Amended]

Northeast Wyoming Regional Airport, WY
(Lat. 44°20'56" N, long. 105°32'22" W)

That airspace extending upward from the surface within 3.4 miles each side of the Northeast Wyoming Regional Airport 170° bearing extending from the 5-mile radius to 12 miles south of the airport.

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

* * * * *

ANM WY E5 Gillette, WY [Amended]

Northeast Wyoming Regional Airport, WY
(Lat. 44°20'56" N, long. 105°32'22" W)

That airspace extending upward from 700 feet above the surface of the earth within 4 miles each side of the Northeast Wyoming Regional Airport 170° bearing extending from the 5-mile radius to 14 miles south of the airport, and that airspace 4 miles each side of the 350° bearing extending from the 5-mile radius to 11 miles north of the airport.

Issued in Seattle, Washington, on January 14, 2021.

Byron Chew,

*Acting Group Manager, Operations Support
Group, Western Service Center.*

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 23

RIN 3038-AF06

Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is amending the margin requirements for uncleared swaps ("Final Rule") for swap dealers ("SD") and major swap participants ("MSP") for which there is not a prudential regulator ("CFTC Margin Rule"). The Final Rule amends the CFTC Margin Rule to permit the application of a minimum transfer amount ("MTA") of up to \$50,000 for each separately managed account ("SMA") of a legal entity that is a counterparty to an SD or MSP in an uncleared swap transaction and to permit the application of separate MTAs for initial margin ("IM") and variation margin ("VM").

DATES: This Final Rule is effective February 24, 2021.

FOR FURTHER INFORMATION CONTACT:

Joshua B. Sterling, Director, 202-418-6056, jsterling@cftc.gov; Thomas J. Smith, Deputy Director, 202-418-5495, tsmith@cftc.gov; Warren Gorlick, Associate Director, 202-418-5195, wgorlick@cftc.gov; Liliya Bozhanova, Special Counsel, 202-418-6232, lbozhanova@cftc.gov; or Carmen Moncada-Terry, Special Counsel, 202-418-5795, cmoncada-terry@cftc.gov, Market Participants Division, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory and Regulatory Background

In January 2016, the Commission adopted Regulations 23.150 through 23.161, namely the CFTC Margin Rule,¹ to implement section 4s(e) of the Commodity Exchange Act ("CEA"),² which requires SDs and MSPs for which there is not a prudential regulator³

¹ See generally Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 636 (Jan. 6, 2016). The CFTC Margin Rule, which became effective April 1, 2016, is codified in part 23 of the Commission's regulations, 17 CFR 23.150–23.159, 23.161. In May 2016, the Commission amended the CFTC Margin Rule to add Regulation 23.160, 17 CFR 23.160, providing rules on its cross-border application. See generally Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants—Cross-Border Application of the Margin Requirements, 81 FR 34818 (May 31, 2016). Commission regulations are found at 17 CFR part 1 *et seq.* (2017), and may be accessed through the Commission's website, <https://www.cftc.gov>.

² 7 U.S.C. 6s(e) (capital and margin requirements).

³ CEA section 1a(39), 7 U.S.C. 1a(39) (defining the term "prudential regulator" to include the Board of Governors of the Federal Reserve System; the Office of the Comptroller of the Currency; the Federal Deposit Insurance Corporation; the Farm Credit Administration; and the Federal Housing Finance Agency). The definition of prudential regulator

("covered swap entity" or "CSE") to meet minimum IM and VM requirements adopted by the Commission by rule or regulation.

Regulations 23.152 and 23.153 require CSEs to collect or post, each business day, VM⁴ for uncleared swap transactions with each counterparty that is an SD, MSP, or financial end user,⁵ and IM⁶ for uncleared swap transactions for each counterparty that is an SD, MSP, or a financial end user that has material swaps exposure.⁷ IM posted or collected by a CSE must be held by one or more custodians that are not affiliated with the CSE or the counterparty.⁸ VM posted or collected by a CSE is not required to be maintained with a custodian.⁹

To alleviate the operational burdens associated with making de minimis margin transfers without resulting in an unacceptable level of uncollateralized credit risk, Regulations 23.152(b)(3) and 23.153(c) provide that a CSE is not required to collect or post IM or VM with a counterparty until the combined amount of such IM and VM, as computed under Regulations 23.154 and 23.155 respectively, exceeds an MTA of \$500,000.¹⁰ The term MTA (or minimum transfer amount) is further defined in Regulation 23.151 as a combined amount of IM and VM, not exceeding \$500,000, under which no exchange of IM or VM is required.¹¹ Once the MTA is exceeded, the SD or MSP must collect or post the full

specifies the entities for which these agencies act as prudential regulators.

⁴ VM (or variation margin), as defined in Regulation 23.151, is the collateral provided by a party to its counterparty to meet the performance of its obligation under one or more uncleared swaps between the parties as a result of a change in the value of such obligations since the trade was executed or the last time such collateral was provided. 17 CFR 23.151.

⁵ See definition of "financial end user" in Regulation 23.151. In general, the definition covers entities involved in regulated financial activity, including banks, brokers, intermediaries, advisers, asset managers, collective investment vehicles, and insurers. 17 CFR 23.151.

⁶ IM (or initial margin) is the collateral (calculated as provided by § 23.154 of the Commission's regulations) that is collected or posted in connection with one or more uncleared swaps pursuant to § 23.152. IM is intended to secure potential future exposure following default of a counterparty (*i.e.*, adverse changes in the value of an uncleared swap that may arise during the period of time when it is being closed out). See CFTC Margin Rule, 81 FR at 683.

⁷ 17 CFR 23.152; 17 CFR 23.153.

⁸ See 17 CFR 23.157(a).

⁹ Regulation 23.157 does not require VM to be maintained in a custodial account. 17 CFR 23.157.

¹⁰ 17 CFR 23.152(b)(3); 17 CFR 23.153(c); 81 FR at 653.

¹¹ 17 CFR 23.151 (defining the term "minimum transfer amount").