

(OHAFilings@sba.gov), the appellant must serve copies of the entire appeal petition upon each of the following:

(1) The D/HUB at [hzappeals@sba.gov](mailto:hzappeals@sba.gov);

(2) The contracting officer responsible for the procurement affected by a HUBZone determination;

(3) The protested concern (the business concern whose HUBZone status is at issue) or the protester; and

(4) SBA's Office of General Counsel, Associate General Counsel for Procurement Law at [OPLservice@sba.gov](mailto:OPLservice@sba.gov).

(c) *Certificate of service.* The appellant must attach to the appeal petition a signed certificate of service meeting the requirements of § 134.204(d).

(d) *Dismissal.* An appeal petition that does not meet all the requirements of this section may be dismissed by the Judge on the Judge's own initiative or upon motion of a respondent.

#### **§ 134.1306 What are the service and filing requirements?**

The provisions of § 134.204 apply to the service and filing of all pleadings and other submissions permitted under this subpart, unless otherwise indicated in this subpart.

#### **§ 134.1307 What are the requirements for transmitting the protest file?**

Upon receipt of an appeal petition, the D/HUB will send to OHA a copy of the protest file relating to that determination. The D/HUB will certify and authenticate that the protest file, to the best of the D/HUB's knowledge, is a true and correct copy of the protest file.

#### **§ 134.1308 What is the standard of review?**

The standard of review for an appeal of a HUBZone status protest determination is whether the D/HUB's determination was based on clear error of fact or law. The appellant has the burden of proof, by a preponderance of the evidence.

#### **§ 134.1309 When will a Judge dismiss an appeal?**

The presiding Judge must dismiss the appeal if:

(a) The appeal is untimely filed under § 134.1303;

(b) The appeal does not, on its face, allege facts that if proven to be true, warrant reversal or modification of the determination; or

(c) The matter has been decided or is the subject of adjudication before a court of competent jurisdiction over such matters; however, once an appeal has been filed, initiation of litigation of the matter in a court of competent jurisdiction will not preclude the Judge

from rendering a final decision on the matter.

#### **§ 134.1310 Who can file a response to an appeal petition and when must such a response be filed?**

(a) *Who may respond.* Although not required, any person served with an appeal petition may file and serve a response supporting or opposing the appeal if he or she wishes to do so. The response should present arguments related to the issues presented on appeal.

(b) *Time limits.* If a person decides to file a response, the response must be filed within fifteen (15) business days after service of the appeal petition.

(c) *Service.* The respondent must serve its response upon the appellant and upon each of the persons identified in the certificate of service attached to the appeal petition pursuant to § 134.1305.

(d) *Reply to a response.* No reply to a response will be permitted unless the Judge directs otherwise.

#### **§ 134.1311 Will the Judge permit discovery and oral hearings?**

Discovery will not be permitted, and oral hearings will not be held.

#### **§ 134.1312 What are the limitations on the introduction of new evidence?**

The Judge may not admit evidence beyond the written protest file nor permit any form of discovery. All appeals under this subpart will be decided solely on a review of the evidence in the written protest file, arguments made in the appeal petition, and response(s) filed thereto.

#### **§ 134.1313 When is the record closed?**

The record will close when the time to file a response to an appeal petition expires pursuant to § 134.1310.

#### **§ 134.1314 When must the Judge issue the decision?**

The Judge shall issue a decision, insofar as practicable, within forty-five (45) calendar days after close of the record.

#### **§ 134.1315 What are the effects of the Judge's decision on the procurement at issue?**

The Judge's decision is the final agency decision and becomes effective upon issuance. For the effects of the decision on the procurement at issue, see § 126.803(e) of this chapter.

#### **§ 134.1316 Can a Judge reconsider an appeal decision?**

(a) Any party who has appeared in the proceeding, or SBA, may request reconsideration of the OHA appeal decision by filing with the Judge and

serving a petition for reconsideration on all the parties to the appeal within twenty (20) calendar days after service of the written decision. The request for reconsideration must clearly show an error of fact or law material to the decision. The Judge may also reconsider a decision on the Judge's own initiative, within twenty (20) calendar days after issuance of the written decision.

(b) The Judge may remand a proceeding to the D/HUB for a new HUBZone status protest determination if the D/HUB fails to address issues of decisional significance sufficiently, does not address all the relevant evidence, or does not identify specifically the evidence upon which it relied. Once remanded, OHA no longer has jurisdiction over the matter, unless a new appeal is filed as a result of the new HUBZone status protest determination.

**Isabella Casillas Guzman,**  
*Administrator.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

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

[Docket No. FAA-2023-0037; Airspace  
Docket No. 23-ASW-1]

RIN 2120-AA66

#### **Amendment of Class E Airspace; Sulphur Springs, TX**

**AGENCY:** Federal Aviation  
Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends the Class E airspace at Sulphur Springs, TX. This action is due to an airspace review conducted as part of the decommissioning of the Sulphur Springs very high frequency omnidirectional range (VOR) as part of the VOR Minimum Operating Network (MON) Program.

**DATES:** Effective 0901 UTC, June 15, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

**ADDRESSES:** A copy of the Notice of Proposed Rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at [www.regulations.gov](http://www.regulations.gov) using the FAA Docket number. Electronic retrieval help and guidelines are

available on the website. It is available 24 hours each day, 365 days each year.

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

**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 amends the Class E airspace extending upward from 700 feet above the surface at Sulphur Springs Municipal Airport, Sulphur Springs, TX, to support instrument flight rule operations at this airport.

**History**

The FAA published a notice of proposed rulemaking for Docket No. FAA-2023-0037 in the **Federal Register** (88 FR 3936; January 23, 2023) amending the Class E airspace at Sulphur Springs, TX. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

**Incorporation by Reference**

Class E airspace designations are published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this

document. These amendments will be published in the next update to FAA Order JO 7400.11.

FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**The Rule**

This amendment to 14 CFR part 71 modifies the Class E airspace extending upward from 700 feet above the surface at Sulphur Springs Municipal Airport, Sulphur Springs, TX, by removing the Brashear radio beacon (RBN) and associated airspace extension as they are no longer needed; and adds an extension 2 miles each side of the 190° bearing from the airport extending from the 6.5-mile radius of the airport to 9.4 miles south of the airport.

**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. 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 5-6.5.a. 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 71**

Airspace, Incorporation by reference, Navigation (air).

**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 14 CFR 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 JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

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

\* \* \* \* \*

**ASW TX E5 Sulphur Springs, TX [Amended]**

Sulphur Springs Municipal Airport, TX (Lat. 33°09'35" N, long. 95°37'16" W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sulphur Springs Municipal Airport; and within 2 miles each side of the 190° bearing from the airport extending from the 6.5-mile radius to 9.4 miles south of the airport.

Issued in Fort Worth, Texas, on April 3, 2023.

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

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA-2023-0039; Airspace Docket No. 23-AEA-1]

**RIN 2120-AA66**

**Amendment of Class E Airspace; Altoona, PA**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends the Class E airspace at Altoona, PA. This action is the result of an airspace review caused by the decommissioning of the Revloc very high frequency omnidirectional range (VOR) navigation aid as part of the VOR Minimum Operating Network (MON) Program. The name of the airport is also being