

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 73**

RIN 2120-AA66

[Docket No. FAA-2003-15410; Airspace Docket No. 03-AAL-1]

**Establishment of Restricted Area 2204, Oliktok Point; AK****ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to establish a restricted area (R-2204) in the vicinity of Oliktok Point, AK, as part of a Department of Energy (DOE) initiative. The DOE has requested the establishment of this airspace to support its Mixed-Phased Arctic Clouds experiment. This experiment utilizes a moored balloon which will fly up to 7,000 feet mean sea level (MSL). This proposed action supports the DOE, Sandia National Laboratories, National Nuclear Security Administration, climate research project.

**DATES:** Comments must be received on or before December 8, 2003.

**ADDRESSES:** Send comments on this proposal to the Docket Management System, Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify "FAA Docket No. FAA-2003-15529, and Airspace Docket No. 03-AAL-01," at the beginning of your comments. You may also submit comments on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ken McElroy, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers (FAA Docket No. FAA-

2003-15529, and Airspace Docket No. 03-ANM-03) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at <http://dms.dot.gov>.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2003-15410, and Airspace Docket No. 03-AAL-1." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received.

All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRM's**

An electronic copy of this document may be downloaded through the Internet at <http://dms.dot.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.faa.gov> or the **Federal Register's** Web page at <http://www.gpoaccess.gov/fr/index.html>.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see address in "Comments Invited" section) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, #14, Anchorage, AK 99513.

Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267-9677, for a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

**History**

The DOE is conducting the Mixed-Phased Arctic Clouds experiment to improve understanding of the process and uncertainties related to global climate change. The information obtained at this test site will be

combined with information from a broad range of climates from other sites. The knowledge gained through these sites will provide a more credible prediction of global climate change.

**The Proposal**

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (CFR) part 73 (part 73) to establish R-2204 at Oliktok Point, AK, as part of the DOE Mixed-Phased Arctic Clouds experiment. The proposed airspace would be established northeast of Oliktok Point, AK, and would consist of a two nautical mile (nm) area radius from the surface up to but not including 7,000 feet MSL. The proposed area would contain an instrumented, moored balloon on a two-kilometer, unlighted cable for the purpose of collecting air samples during instrument flight conditions. The proposed area would be activated starting October 2004 for approximately 30 days a year, and be effective through the year 2009. The area would be activated by NOTAM 24 hours in advance. The restricted area is necessary for safety reasons.

Section 73.22 of Part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8K dated September 26, 2002.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed 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) 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, 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**

This proposal will be subject to the appropriate environmental analysis in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts, prior to any FAA final regulatory action.

**List of Subjects in 14 CFR Part 73**

Airspace, Navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

**PART 73—SPECIAL USE AIRSPACE**

1. The authority citation for part 73 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.

**§ 73.22 [Amended]**

2. § 73.22 is amended as follows:

\* \* \* \* \*

**R-2204, Oliktok Point, AK [New]**

Boundaries. Within a 2 nautical mile radius centered at (lat. 70°30'35" N., long. 149°51'33" W.).

Designated altitudes. Surface to, but not including, 7,000 feet MSL.

Time of designation. By NOTAM, 24 hours in advance, not to exceed 30 days annually.

Controlling agency. FAA, Anchorage ARTCC.

Using agency. Department of Energy, Sandia National Labs/National Nuclear Security Administration, Albuquerque, NM.

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Issued in Washington, DC, on September 17, 2003.

**Reginald C. Matthews,**

*Manager, Airspace and Rules Division.*

[FR Doc. 03–25422 Filed 10–7–03; 8:45 am]

**BILLING CODE 4910–13–P**

**NATIONAL INDIAN GAMING COMMISSION****25 CFR Part 514**

**RIN 3141-AA16**

**Fees**

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The National Indian Gaming Commission (NIGC or Commission) is proposing to amend its fee regulations. The regulations are being amended to reflect changes in the statutory limit set by Congress.

**DATES:** Comments must be submitted on or before November 30, 2003.

**ADDRESSES:** Comments may be mailed to: Fee Change Comments, 1441 L Street, NW., Suite 9100, Washington, DC, 20005, delivered to that address between 8:30 a.m. and 5:30 p.m., Monday through Friday, or faxed to 202/632–7066 (this is not a toll-free number). Comments received may be inspected between 9 a.m. and noon, and between 2 p.m. and 5 p.m.

**FOR FURTHER INFORMATION CONTACT:** John R. Hay at 202/632–7003; fax 202/632–7066 (these are not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** The Indian Gaming Regulatory Act (IGRA), enacted on October 17, 1988, established the National Indian Gaming Commission (Commission). The Commission is funded entirely from fees collected from Indian gaming operations. The Commission is proposing changing its current regulations to reflect changes in the statutory limit imposed by Congress. This regulation is being amended so that the amount of fees imposed by the Commission is directly related to congressional action. Under the current regulation the Commission may only impose fees not exceeding \$8,000,000, during any fiscal year. For fiscal year 2004, Congress has increased that amount to a maximum of \$12,000,000. The proposed change will allow the Commission to collect up to the statutory maximum and will eliminate the need to regularly amend this regulation as Congress raises or lowers the fee level.

**Regulatory Flexibility Act**

The Commission certifies that the proposed rule will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The factual basis for this certification is as follows:

Of the 330 Indian gaming operations across the country, approximately 150 have revenues under 10 million. Of these, approximately 90 operations have gross revenues of under 3 million. Those operations that gross less than 1.5 million are exempt from fees. Since fee assessments are based on a percentage of gross revenues until the maximum allowed by Congress is reached, and new gaming operations continue to open, the amount individual tribal gaming operations will pay in fees will likely only increase slightly or may in fact decrease. For these reasons, the Commission has concluded that the proposed rule will not have a significant economic impact on those small entities subject to the rule.

**Small Business Regulatory Enforcement Fairness Act**

The proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The proposed rule will not result in an annual effect on the economy of more than \$100 million per year; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government

agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises.

**Unfunded Mandates Reform Act**

The Commission is an independent regulatory agency, and, as such, is not subject to the Unfunded Mandates Reform Act. Even so, the Commission has determined that this final rule does not impose an unfunded mandate on State, local, or tribal governments, or on the private sector, of more than \$100 million per year. Thus, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act, 2 U.S.C. 1501 *et seq.*

**Takings**

In accordance with Executive Order 12630, the Commission has determined that this rule does not have significant takings implications. A takings implication assessment is not required.

**Civil Justice Reform**

In accordance with Executive Order 12988, the Office of General Counsel has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

**Paperwork Reduction Act**

The proposed rule does not contain any information collection requirements for which OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501–3520) would be required.

**National Environmental Policy Act**

The Commission has determined that this proposed rule does not constitute a major Federal Action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

Dated: October 2, 2003.

**Philip N. Hogen,**

*Chairman, National Indian Gaming Commission.*

**List of Subjects in 25 CFR Part 514**

Gambling, Indians-lands, Reporting and recordkeeping requirements.

Accordingly, 25 CFR part 514 is proposed to be amended as follows:

The authority citation for part 514 continues to read as follows:

**Authority:** 25 U.S.C. 2702 *et seq.*

Section 514.1(d) is revised to read as follows:

**§ 514.1 Annual fees.**

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