

**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(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 Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, effective September 15, 2010, is amended as follows:

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

\* \* \* \* \*

**ASO FL E5 Homestead, FL [NEW]**

Homestead General Aviation Airport, FL (Lat. 25°29'57" N., long. 80°33'15" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Homestead General Aviation Airport.

Issued in College Park, Georgia, on September 15, 2010.

**Myron A. Jenkins,**

*Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA–2010–0248; Airspace Docket No. 10–ANE–10]

**Revocation of Class E Airspace, Brunswick, ME; and Establishment of Class E Airspace, Wiscasset, ME**

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

**ACTION:** Final rule.

**SUMMARY:** This action removes Class E Airspace at Brunswick NAS, Brunswick, ME, as the airport has closed and the associated Standard Instrument Approach Procedures (SIAPs) removed, and establishes Class E airspace at Wiscasset, ME, to accommodate the SIAPs developed for the airport. This action will enhance the safety and management of Instrument Flight Rules (IFR) operations within the National Airspace System.

**DATES:** Effective 0901 UTC, November 18, 2010. 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 7400.9 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:** Melinda Giddens, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

**SUPPLEMENTARY INFORMATION:**

**History**

On March 29, 2010, the FAA published in the **Federal Register** a notice of proposed rulemaking to remove Class E airspace at Brunswick, ME and establish Class E airspace at Wiscasset, ME (75 FR 15361) Docket No. FAA–2010–0248. 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 7400.9U dated August 18, 2010, and effective September 15, 2010, 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.

**The Rule**

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 removes the Class E airspace at Brunswick NAS, Brunswick, ME to reflect the closing of the airport and the removal of the SIAPs, and establishes Class E airspace extending upward from 700 feet above the surface at Wiscasset Airport, Wiscasset, ME. This action is necessary for the safety and management of IFR operations at the airport.

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 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.

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 removes controlled airspace at Brunswick, ME and establishes controlled airspace at Wiscasset Airport, Wiscasset, ME.

**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(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 Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, effective September 15, 2010, is amended as follows:

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

\* \* \* \* \*

**ANE ME E5 Brunswick, ME [REMOVED]**

\* \* \* \* \*

**ANE ME E5 Wiscasset, ME [NEW]**

Wiscasset Airport, ME (Lat. 43°57'40" N., long. 69°42'45" W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Wiscasset Airport and within 2 miles each side of the 232° bearing from the

airport, extending from the 6.3-mile radius to 10.2 miles southwest of the airport and within 2 miles each side of the 052° bearing from the airport, extending from the 6.3-mile radius to 9.8 miles to the northeast of the airport.

Issued in College Park, Georgia, on September 15, 2010.

**Myron A. Jenkins,**

*Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.*

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**BILLING CODE 4910-13-P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### 30 CFR Part 75

**RIN 1219-AB76**

#### Maintenance of Incombustible Content of Rock Dust in Underground Coal Mines

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Emergency Temporary Standard; public hearings; close of comment period.

**SUMMARY:** The Mine Safety and Health Administration (MSHA) is issuing an emergency temporary standard (ETS) under section 101(b) of the Federal Mine Safety and Health Act of 1977 in response to the grave danger that miners in underground bituminous coal mines face when accumulations of coal dust are not made inert. MSHA has concluded, from investigations of mine explosions and other reports, that immediate action is necessary to protect miners.

Accumulations of coal dust can ignite, resulting in an explosion, or after an explosion, they can intensify flame propagation, increasing the severity of explosions. The ETS requires mine operators to increase the incombustible content of combined coal dust, rock dust, and other dust to at least 80 percent in underground areas of bituminous coal mines. The ETS further requires that the incombustible content of such combined dust be raised 0.4 percent for each 0.1 percent of methane present. The ETS strengthens the protections for miners by reducing the potential for a coal mine explosion and reducing the severity of explosions should they occur.

**DATES:** *Effective date:* September 23, 2010.

*Compliance dates:* Each mine operator shall comply with the ETS by the dates listed below.

1. October 7, 2010. Newly mined areas.
2. November 22, 2010. All other areas of the mine.

Persons and organizations are encouraged to submit comments on the ETS by October 19, 2010. The ETS must be replaced with a final rule within 9 months.

*Hearing dates:* October 26, 2010, October 28, 2010, November 16, 2010, and November 18, 2010. The locations are listed in the Public Hearings section below under the **SUPPLEMENTARY INFORMATION** section of this document. Post-hearing comments must be received by midnight Eastern Standard Time on December 20, 2010.

**ADDRESSES:** Comments must be identified with “RIN: 1219-AB76” and may be sent to MSHA by any of the following methods:

- *Federal E-Rulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Electronic mail:* [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include “RIN: 1219-AB76” in the subject line of the message.
- *Facsimile:* 202-693-9441. Include “RIN: 1219-AB76” in the subject line of the message.
- *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939.
- *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Sign in at the receptionist’s desk on the 21st floor.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, at [silvey.patricia@dol.gov](mailto:silvey.patricia@dol.gov) (e-mail), 202-693-9440 (voice), or 202-693-9441 (facsimile).

**SUPPLEMENTARY INFORMATION:** MSHA is including the following outline to assist the public in finding information in the preamble.

- I. Introduction
  - A. Availability of Information
  - B. Public Hearings
- II. Basis for Emergency Temporary Standard
  - A. Regulatory Authority
  - B. Grave Danger
- III. Discussion of Emergency Temporary Standard (ETS)
  - A. Background
  - B. Discussion
- IV. Regulatory Economic Analysis
  - A. Executive Order (E.O.) 12866
  - B. Population at Risk
  - C. Benefits
  - D. Compliance Costs
  - E. Net Benefits
- V. Feasibility

- A. Technological Feasibility
- B. Economic Feasibility
- VI. Regulatory Flexibility Act (RFA) and Small Business Regulatory Enforcement Fairness Act (SBREFA)
  - A. Definition of a Small Mine
  - B. Factual Basis for Certification
- VII. Paperwork Reduction Act of 1995
- VIII. Other Regulatory Considerations
  - A. The Unfunded Mandates Reform Act of 1995
  - B. Executive Order 13132: Federalism
  - C. The Treasury and General Government Appropriations Act of 1999: Assessment of Federal Regulations and Policies on Families
  - D. Executive Order 12630: Government Actions and Interference With Constitutionally Protected Property Rights
  - E. Executive Order 12988: Civil Justice Reform
  - F. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
  - G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- IX. References
- X. Emergency Temporary Standard—Regulatory Text

#### I. Introduction

This ETS is issued under section 101(b) of the Federal Mine Safety and Health Act of 1977 (Mine Act) as amended by the Mine Improvement and New Emergency Response (MINER) Act of 2006, 30 U.S.C. 811(b). This ETS revises existing 30 CFR 75.403 on the incombustible content of combined coal dust, rock dust and other dust to strengthen the protection for miners by greatly minimizing the potential for a coal dust explosion in an underground bituminous coal mine.

In accordance with section 101(b)(3) of the Mine Act, the ETS serves as an emergency temporary final rule with immediate effect and provides an opportunity for notice and comment, after which time a final rule will be issued. That final rule may differ from the ETS. The Mine Act states that the ETS is a temporary standard and must be superseded by a final rule within nine months. The legislative history of the Mine Act reinforces the statutory language regarding the ETS providing opportunity for comment “so that all views can be carefully considered in connection with the issuance of a permanent standard.” S. Rept. No. 95-181, 24 (1977). The preamble discusses the specific provision that MSHA intends to address in the final rule. MSHA solicits comments from the mining community on this ETS.