

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

**Docket No. FAA-2012-0569; Airspace  
Docket No. 12-ANM-17**

**Proposed Modification of Class E  
Airspace; Wolf Point, MT**

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

**ACTION:** Notice of proposed rulemaking  
(NPRM).

**SUMMARY:** This action proposes to modify Class E airspace at Wolf Point, MT. Controlled airspace is necessary to accommodate aircraft using Nondirectional Radio Beacon (NDB) standard instrument approach procedures at L M Clayton Airport, Wolf Point, MT. The FAA is proposing this action to enhance the safety and management of aircraft operations at the airport.

**DATES:** Comments must be received on or before September 7, 2012.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-9826. You must identify FAA Docket No. FAA-2012-0569; Airspace Docket No. 12-ANM-17, at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203-4537.

**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-2012-0569 and Airspace Docket No. 12-ANM-17) 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://www.regulations.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-2012-0569 and Airspace Docket No. 12-ANM-17”. 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 NPRMs**

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA’s web page at [http://www.faa.gov/airports\\_airtraffic/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the “ADDRESSES” section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRM’s should contact 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.

**The Proposal**

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace at L M Clayton Airport, Wolf Point, MT. Controlled airspace is necessary to accommodate aircraft using

the NDB standard instrument approach procedures at L M Clayton Airport, and would enhance the safety and management of aircraft operations.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9V, dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The FAA has determined 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 this proposed rule, when promulgated, would 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 U.S. Code. Subtitle 1, Section 106, describes the authority for 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 the 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 would modify controlled airspace at Wolf Point, L M Clayton Airport, Wolf Point, MT.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, “Environmental Impacts: Policies and Procedures” prior to any FAA final regulatory action.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal

Aviation Administration proposes to amend 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(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 the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011 is amended as follows:

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

\* \* \* \* \*

**ANM MT E5 Wolf Point, MT [Modified]**

Wolf Point, L M Clayton Airport, MT  
(Lat. 48°05'40" N., long. 105°34'30" W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of L M Clayton Airport; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 48°02'00" N., long. 104°13'00" W.; to lat. 47°48'00" N., long. 104°33'00" W.; to lat. 47°48'00" N., long. 106°00'02" W.; to lat. 48°20'00" N., long. 106°00'02" W.; to lat. 48°20'00" N., long. 104°17'00" W.; thence to the point of beginning.

Issued in Seattle, Washington, on July 16, 2012.

**Robert Henry,**

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

[FR Doc. 2012–18074 Filed 7–23–12; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**18 CFR Parts 2 and 35**

[Docket Nos. AD12–9–000 and AD11–11–000]

**Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects; Priority Rights to New Participant-Funded Transmission**

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Proposed Policy Statement.

**SUMMARY:** The Commission seeks comment on this proposed policy statement, which clarifies and refines current policies governing the allocation of capacity for new merchant transmission projects and new nonincumbent, cost-based, participant-funded transmission projects. The Commission proposes to allow developers of such projects to select a subset of customers, based on not unduly discriminatory or preferential criteria, and negotiate directly with those customers to reach agreement on the key terms and conditions for procuring capacity, when the developers (1) broadly solicit interest in the project from potential customers, and (2) file a report with the Commission describing the solicitation, selection and negotiation process. The Commission proposes these policy reforms to ensure transparency in the capacity allocation process while providing developers the ability to bilaterally negotiate rates, terms, and conditions for the full amount of transmission capacity with potential customers.

**DATES:** Comments on the proposed policy statement are due on or before September 24, 2012.

**FOR FURTHER INFORMATION CONTACT:**

Becky Robinson, Office of Energy Policy and Innovation, 888 First Street NE., Washington, DC 20426, (202) 502–8868, [becky.robinson@ferc.gov](mailto:becky.robinson@ferc.gov).  
Andrew Weinstein, Office of General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502–6230, [andrew.weinstein@ferc.gov](mailto:andrew.weinstein@ferc.gov).  
Brian Bak, Office of Energy Policy and Innovation, 888 First Street NE., Washington, DC 20426, (202) 502–6574, [brian.bak@ferc.gov](mailto:brian.bak@ferc.gov).

**SUPPLEMENTARY INFORMATION:**

**140 FERC ¶ 61,061**

*Before Commissioners:* Jon Wellinghoff, Chairman; Philip D. Moeller, John R. Norris, Cheryl A. LaFleur, and Tony T. Clark.

**Proposed Policy Statement**

Issued July 19, 2012.

**I. Introduction**

1. The Commission seeks comment on this proposed policy statement, which clarifies and refines current policies governing the allocation of capacity for new merchant transmission projects and new nonincumbent, cost-based, participant-funded transmission projects. In recent years, a number of merchant and nontraditional transmission developers have sought guidance from the Commission

regarding application of open access principles to new transmission facilities through petitions for declaratory orders. As the Commission addressed these requests, its policies have evolved over time to provide potential customers adequate opportunities to obtain service while also providing transmission developers adequate certainty to assist with financing transmission projects. As a result of these evolving policies, different rules have been adopted regarding capacity allocation for merchant transmission projects and nonincumbent, cost-based, participant-funded transmission projects.

2. With the benefit of experience regarding the unique characteristics of merchant and other nontraditional transmission project proposals, and in consideration of industry input on Commission policies regarding the allocation of capacity on such projects, the Commission proposes to streamline its capacity allocation policies by establishing consistent policies regarding capacity allocation for both merchant transmission projects and nonincumbent, cost-based, participant-funded transmission projects. Specifically, the Commission proposes to allow developers of such projects to select a subset of customers, based on not unduly discriminatory or preferential criteria, and negotiate directly with those customers to reach agreement on the key terms and conditions for procuring capacity, when they (1) broadly solicit interest in the project from potential customers, and (2) submit a report to the Commission describing the solicitation, selection and negotiation process. The Commission proposes these policy reforms to ensure transparency in the capacity allocation process while providing developers the ability to negotiate bilaterally with potential customers the rates, terms, and conditions for the full amount of transmission capacity. These policy reforms would be implemented within the existing four factor analysis used to evaluate requests for negotiated rate authority.<sup>1</sup> The Commission seeks comment regarding this proposed change in policy, as discussed below.

**II. Background**

3. The Commission first granted negotiated rate authority to a merchant transmission project developer over a decade ago, finding that merchant transmission can play a useful role in expanding competitive generation alternatives for customers.<sup>2</sup> Unlike

<sup>1</sup> See *infra* note 29.

<sup>2</sup> *TransEnergie U.S., Ltd.* 91 FERC ¶ 61,230, at 61,838 (2000) (*TransEnergie*).