

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

[Docket No. FAA-2003-14855; Airspace  
Docket No. 03-AAL-04]

**Establishment of Class E Airspace;  
Pilot Point, AK**

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace at Pilot Point, AK to provide adequate controlled airspace to contain aircraft executing two new Standard Instrument Approach Procedures (SIAP) and one Departure Procedure (DP). This rule results in new Class E airspace upward from 700 ft. and 1,200 ft. above the ground at Pilot Point, AK.

**EFFECTIVE DATE:** 0901 UTC, October 30, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Derril Bergt, AAL-531, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587; telephone number (907) 271-2796; fax: (907) 271-2850; email: [Derril.Bergt@faa.gov](mailto:Derril.Bergt@faa.gov). Internet address: <http://www.alaska.faa.gov/at>.

**SUPPLEMENTARY INFORMATION:****History**

On Monday, May 5, 2003, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to create new Class E airspace upward from 700 ft. above the surface at Pilot Point, AK (68 FR 23624). The action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing two new SIAPs and one new DP for the Pilot Point Airport. The new approaches are (1) Area Navigation-Global Positioning System (RNAV GPS) Runway 25 original, and (2) RNAV (GPS) Runway 07 original and the new DP is the Zilko One RNAV Departure. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received, thus, the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9K, *Airspace Designations and Reporting Points*, dated August 30,

2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be revoked and revised subsequently in the Order.

**The Rule**

This revision to 14 CFR part 71 establishes Class E airspace at Pilot Point, Alaska. This additional Class E airspace is being created to accommodate aircraft executing new SIAPs and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at Pilot Point Airport, Pilot Point, Alaska.

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 will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List 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, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; 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 Federal Aviation Administration Order 7400.9K, *Airspace Designations and Reporting Points*, dated August 30, 2002, and effective

September 16, 2002, is amended as follows:

\* \* \* \* \*

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

\* \* \* \* \*

**AAL AK E5 Pilot Point, AK [New]**

Pilot Point Airport, AK

(Lat. 57°34'49"N., long. 157°74'03"W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Pilot Point Airport and that airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 57°51'00"N. long. 158°03'00"W., to lat. 57°51'00"N. long. 157°05'00"W., to lat. 57°24'45"N. long. 157°05'00"W., to lat. 57°24'45"N. long. 158°03'00"W., to the point of beginning.

\* \* \* \* \*

Issued in Anchorage, AK, on July 29, 2003.

**Judith G. Heckl,**

*Acting Manager, Air Traffic Division, Alaskan Region.*

[FR Doc. 03-20404 Filed 8-8-01; 8:45 am]

**BILLING CODE 4910-13-P**

**FEDERAL TRADE COMMISSION****16 CFR Part 305****Rule Concerning Disclosures  
Regarding Energy Consumption and  
Water Use of Certain Home Appliances  
and Other Products Required Under  
the Energy Policy and Conservation  
Act (“Appliance Labeling Rule”)**

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Trade Commission (“Commission”) amends its Appliance Labeling Rule (“Rule”) by publishing new ranges of comparability to be used on required labels for standard dishwashers. The Commission also announces that the current ranges of comparability for compact dishwashers, central air conditioners, and heat pumps will remain in effect until further notice. Finally, the Commission amends the portions of Appendices H (Cooling Performance and Cost for Central Air Conditioners) and I (Heating Performance and Cost for Central Air Conditioners) to reflect the current (2003) Representative Average Unit Cost of Electricity.

**EFFECTIVE DATE:** The amendments announced in this document will become effective November 10, 2003.

**FOR FURTHER INFORMATION CONTACT:** Hampton Newsome, Attorney, Division of Enforcement, Federal Trade

Commission, Washington, DC 20580 (202-326-2889).

**SUPPLEMENTARY INFORMATION:** The Rule was issued by the Commission in 1979, 44 FR 66466 (Nov. 19, 1979), in response to a directive in the Energy Policy and Conservation Act of 1975 ("EPCA").<sup>1</sup> The Rule covers several categories of major household appliances including dishwashers.

The Rule requires manufacturers of all covered appliances to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an "EnergyGuide" label and in catalogs. The Rule requires manufacturers to include, on labels and fact sheets, an energy consumption or efficiency figure and a "range of comparability." This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of other models (perhaps competing brands) similar to the labeled model. The Rule also requires manufacturers to include, on labels for some products, a secondary energy usage disclosure in the form of an estimated annual operating cost based on a specified DOE national average cost for the fuel the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report certain information annually to the Commission by specified dates for each product type.<sup>2</sup> These reports, which are to assist the Commission in preparing the ranges of comparability, contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information on labels consistent with these changes, the Commission will publish new ranges if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission

will publish a statement that the prior ranges remain in effect for the next year.

### **I. 2003 Dishwasher Ranges**

The Commission has analyzed the annual data submissions for dishwashers. The data submissions show a significant change in the low and high ends of the range of comparability scale for standard models.<sup>3</sup> Accordingly, the Commission is publishing a new range of comparability for standard dishwashers in Appendix C2 of the Rule. The range for compact dishwashers has not changed significantly. The new range of comparability for standard dishwashers supersedes the current range, which was published on July 19, 2002 (67 FR 47443). Manufacturers of these dishwashers must base the disclosures of estimated annual operating cost required at the bottom of EnergyGuide labels for standard-sized dishwashers on the 2003 Representative Average Unit Costs of Energy for electricity (8.41 cents per kiloWatt-hour) and natural gas (81.6 cents per therm) that were published by DOE on April 9, 2003 (68 FR 17361) and by the Commission on May 5, 2003 (68 FR 23584).

### **II. 2003 Central Air Conditioner and Heat Pump Information**

The annual submissions of data for central air conditioners and heat pumps have been made to the Commission. The ranges of comparability for central air conditioners and heat pumps have not changed by more than 15% from the current ranges for these products. Therefore, the current ranges for these products, which were published on September 16, 1996 (61 FR 48620), will remain in effect until further notice.

### **III. Cost Figures for Central Air Conditioner and Heat Pump Fact Sheets**

The Commission is amending the cost calculation formulas in Appendices H and I to Part 305 that manufacturers of central air conditioners and heat pumps must include on fact sheets and in directories to reflect this year's energy costs figures published by DOE. These routine amendments will become effective November 10, 2003.

<sup>3</sup> The Commission's classification of "Standard" and "Compact" dishwashers is based on internal load capacity. Appendix C of the Commission's Rule defines "Compact" as including countertop dishwasher models with a capacity of fewer than eight (8) place settings and "Standard" as including portable or built-in dishwasher models with a capacity of eight (8) or more place settings. The Rule requires that place settings be determined in accordance with appendix C to 10 CFR part 430, subpart B, of DOE's energy conservation standards program.

### **IV. Administrative Procedure Act**

The amendments published in this notice involve routine, technical and minor, or conforming changes to the labeling requirements in the Rule. These technical amendments merely provide a routine change to the range and cost information required on EnergyGuide labels and fact sheets. Accordingly, the Commission finds for good cause that public comment for these technical, procedural amendments is impractical and unnecessary (5 U.S.C. 553(b)(A)(B) and (d)).

### **V. Regulatory Flexibility Act**

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603-604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Appliance Labeling Rule. These technical amendments merely provide a routine change to the range information required on EnergyGuide labels. Thus, the amendments will not have a "significant economic impact on a substantial number of small entities." 5 U.S.C. 605. The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities.

### **VI. Paperwork Reduction Act**

In a June 13, 1988 notice (53 FR 22106), the Commission stated that the Rule contains disclosure and reporting requirements that constitute "information collection requirements" as defined by 5 CFR 1320.7(c), the regulation that implements the Paperwork Reduction Act.<sup>4</sup> The Commission noted that the Rule had been reviewed and approved in 1984 by the Office of Management and Budget ("OMB") and assigned OMB Control No. 3084-0068. OMB has reviewed the Rule and extended its approval for its recordkeeping and reporting requirements until September 30, 2004. The amendments now being adopted do not change the substance or frequency of the recordkeeping, disclosure, or reporting requirements and, therefore, do not require further OMB clearance.

### **List of Subjects in 16 CFR Part 305**

Advertising, Energy conservation, Household appliances, Labeling,

<sup>1</sup> 42 U.S.C. 6294. The statute also requires the Department of Energy ("DOE") to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

<sup>2</sup> Reports for dishwashers are due June 1. Reports for central air conditioners and heat pumps are due July 1.

<sup>4</sup> 44 U.S.C. 3501-3520.

Reporting and recordkeeping requirements.

■ Accordingly, 16 CFR Part 305 is amended as follows:

#### **PART 305—[AMENDED]**

■ 1. The authority citation for Part 305 continues to read as follows:

**Authority:** 42 U.S.C. 6294.

■ 2. Appendix C2 to Part 305 is revised to read as follows:

#### **Appendix C2 to Part 305—Standard Dishwashers**

##### **Range Information**

“Standard” includes portable or built-in dishwasher models with a capacity of eight (8) or more place settings. Place settings shall be in accordance with appendix C to 10 CFR

part 430, subpart B. Load patterns shall conform to the operating normal for the model being tested.

Capacity	Range of estimated annual energy consumption (kWh/yr.)	
	Low	High
Standard .....	222	653

##### **Cost Information**

When the above ranges of comparability are used on EnergyGuide labels for standard-sized dishwashers, the estimated annual operating cost disclosure appearing in the box at the bottom of the labels must be derived using the 2003 Representative Average Unit Costs for electricity (8.41¢ per kilowatt-hour) and natural gas (81.6¢ per

therm), and the text below the box must identify the costs as such.

■ 3. Section 2 of Appendix H of Part 305 is amended as follows:

■ a. By removing the figure “8.28¢” wherever it appears and by adding, in its place, the figure “8.41¢”.

■ b. By removing the figure “12.42¢” wherever it appears and by adding, in its place, the figure “12.62¢” in the *Example* after the formula.

■ 4. In section 2 of Appendix H of Part 305 the second formula is removed and the first and third formulas are revised to read as follows:

#### **Appendix H to Part 305—Cooling Performance and Cost for Central Air Conditioners**

\* \* \* \* \*

$$\text{Your estimated cost} = \frac{\text{Listed average annual operating cost}^*}{1,000} \times \frac{\text{Your cooling load hours}^{**}}{1,000} \times \frac{\text{Your electrical rate in cents per KWH}}{8.41¢}$$

\* \* \* \* \*

■ 5. In section 2 of Appendix I of Part 305, the text is amended by removing the figure “8.28¢” wherever it appears and by adding, in its place, the figure “8.41¢”. In addition, the *Examples* and formulas are amended by removing the

figure “12.42¢” wherever it appears and by adding, in its place, the figure “12.62¢”.

■ 6. In section 2 of Appendix I of Part 305, the formula is revised to read as follows in both places that it appears:

#### **Appendix I to Part 305—Heating Performance and Cost for Central Air Conditioners**

\* \* \* \* \*

$$\text{Your estimated cost} = \text{Listed annual heating cost}^* \times \frac{\text{Your electrical cost in cents per KWH}}{8.41¢}$$

\* \* \* \* \*

■ 7. Appendix L is amended by revising Sample Label 4 of part 305 to read as follows:

\* \* \* \* \*

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Based on standard U.S. Government tests

# ENERGYGUIDE

Dishwasher  
Capacity: Standard

XYZ Corporation  
Model(s) MR328, XI12, NAA83



**Compare the Energy Use of this Dishwasher  
with Others Before You Buy.**

**This Model Uses  
500kWh/year**



**Energy use (kWh/year) range of all similar models**

**Uses Least  
Energy  
222**

**Uses Most  
Energy  
653**

**kWh/year (kilowatt-hours per year)** is a measure of energy (electricity) use. Your utility company uses it to compute your bill. Only standard size dishwashers are used in this scale.

**Dishwashers using more energy cost more to operate.  
This model's estimated yearly operating cost is:**

**\$42**

When used with an electric water heater

**\$30**

When used with a natural gas water heater

Based on five wash loads a week using the normal cycle and a 2003 U.S. Government national average cost of 8.41¢ per kWh for electricity and 81.6¢ per therm for natural gas. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

**Sample Label 4**

\* \* \* \* \*

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 03–20372 Filed 8–8–03; 8:45 am]

BILLING CODE 6750–01–C

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

#### 19 CFR Part 103

RIN 1515–AD29

[CBP Decision 03–02]

#### Confidentiality of Commercial Information

**AGENCY:** Customs and Border Protection, Department of Homeland Security.

**ACTION:** Interim rule; solicitation of comments.

**SUMMARY:** This document amends Chapter I of Title 19 of the Code of Federal Regulations on an interim basis regarding the disclosure procedures that the Bureau of Customs and Border Protection (CBP) follows when commercial information is provided to CBP by a business submitter. The predecessor of CBP—the U.S. Customs Service—as a component of the Treasury Department, had followed these procedures consistent with a Department of the Treasury regulation that implemented an Executive Order setting forth the procedure for the treatment of commercial information. As CBP is now a component of the Department of Homeland Security, CBP is setting forth this established policy in its own regulations.

**DATES:** This interim rule is effective August 11, 2003. Comments must be received on or before October 10, 2003.

**ADDRESSES:** Written comments may be addressed to the Customs and Border Protection Bureau, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, NW., Washington, DC 20229. Submitted comments may be inspected at Customs and Border Protection Bureau, 799 9th Street, NW., Washington, DC during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

**FOR FURTHER INFORMATION CONTACT:** Joanne Roman Stump, Chief, Disclosure Law Branch, Office of Regulations and Rulings, (202) 572–8720.

**SUPPLEMENTARY INFORMATION:**

#### Background

The regulations of the Bureau of Customs and Border Protection (CBP), regarding information requested pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, are set forth in part 103 of Chapter I of Title 19 of the Code of Federal Regulations (19 CFR part 103). These regulations were the regulations of the former U.S. Customs Service (Customs). As a component of the Department of the Treasury, Customs supplemented its regulations with the Department of the Treasury regulations (found at 31 CFR part 1) regarding public access to records. Section 1.6 of the Department of the Treasury regulations (31 CFR 1.6) concerns the treatment of information denominated as “business information”. This section provides that such information provided to the Department of the Treasury by a “business submitter” shall not be disclosed pursuant to a FOIA request except in accordance with the provisions of the section. Part 103 of 19 CFR does not have a similar provision and Customs followed the Department of the Treasury’s disclosure procedure set forth in 31 CFR 1.6 since it was promulgated in 1987.

Section 1.6 was promulgated in accordance with Executive Order 12600 of June 23, 1987, 52 FR 23781, 3 CFR part 1987, 235, 23 Weekly Comp. Pres. Doc. 727. Executive Order 12600 ordered the head of each Executive department to issue a predisclosure notification procedure for FOIA requests concerning confidential commercial information.

On March 1, 2003, Customs was transferred from the Treasury Department to the new Department of Homeland Security (DHS). Pub. L. 107–296, 6 U.S.C. 133, 116 Stat. 2135. DHS published procedures for the public on how to obtain information from DHS in an interim rule published in the **Federal Register** (68 FR 4055) on January 27, 2003. Under this rule, established at 6 CFR, Chapter I, part 5, the DHS FOIA provisions apply to all Department components transferred to the DHS, except to the extent that such component has adopted separate guidance under the FOIA (6 CFR 5.1(a)(2)).

The DHS FOIA regulation at 6 CFR 5.8(c) provides that a submitter of business information will use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers to be protected from disclosure under

exemption 4 of the FOIA. (Exemption 4 of the FOIA protects trade secrets and commercial or financial information that is privileged or confidential.) The regulations go on to say that, before business information will be released, notice will be provided to business submitters whenever (1) a FOIA request is made that seeks the business information that has been designated in good-faith as confidential, or (2) the DHS component agency has reason to believe the information may be protected from disclosure. When notice is provided, the submitter will be required to submit a detailed written statement specifying the grounds for withholding any portion of the information and must show why the information is a trade secret or commercial or financial information that is privileged or confidential.

Customs, in accordance with the Treasury Regulations (31 CFR 1.6), had not required business submitters to designate information as protected from disclosure as privileged or confidential under exemption 4 of the FOIA for the agency to not disclose “commercial information”, defined as trade secret, commercial, or financial information obtained from a person. The Treasury regulations provide that a component of the Treasury Department can determine for itself that information it receives from business submitters will not be disclosed pursuant to a FOIA request. If the agency determines the information is confidential, it can protect the information as confidential without notifying the business submitter that a FOIA request has been received.

For example, Customs routinely considered commercial information appearing on entry documents as confidential and privileged under exemption 4 of the FOIA. Customs did not require business submitters to designate that information as confidential and did not require the business submitters to respond to a notice from Customs with a written detailed statement specifying the reasons for the claim of confidentiality.

Accordingly, CBP is issuing this document to assure the trading community that the transfer of Customs from Treasury to DHS will not affect the treatment of commercial information which business submitters provide to CBP. In this document CBP is amending its regulations on an interim basis to set forth the established policy it had been following pursuant to the Treasury regulations.