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## DEPARTMENT OF HOMELAND SECURITY

### 6 CFR Part 27

[Docket No. CISA–2021–0007]

### Chemical Facility Anti-Terrorism Standards: Technical Amendments

**AGENCY:** Cybersecurity and Infrastructure Security Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule makes non-substantive technical, organizational, and conforming amendments to the Chemical Facility Anti-Terrorism Standards.

**DATES:** This final rule is effective August 4, 2021.

**FOR FURTHER INFORMATION CONTACT:** Lona Saccomando, (202)–579–0590, [CISARegulations@cisa.dhs.gov](mailto:CISARegulations@cisa.dhs.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Regulatory History

We did not publish a notice of proposed rulemaking for this rule. Under Title 5 of the United States Code (U.S.C.), Section 553(b)(A), the Cybersecurity and Infrastructure Security Agency (CISA) finds that this final rule is exempt from notice and public comment rulemaking requirements because notice and comment procedures are unnecessary for this final rule under 5 U.S.C. 553(b)(B), as this rule consists of only technical and editorial corrections and these changes will have no substantive effect on the public. Under 5 U.S.C. 553(d)(3), CISA finds that, for the same reasons, good cause exists for making this final rule effective upon publication in the **Federal Register**.

#### II. Basis and Purpose

CISA is issuing technical, organizational, and conforming amendments to existing regulations in part 27 of title 6 of the Code of Federal Regulations (CFR), relating to the

Chemical Facility Anti-Terrorism Standards (CFATS). These technical amendments provide the public with more accurate and current regulatory information, but do not change the effect on the public of these regulations.

This final rule makes technical and editorial corrections to the CFATS regulations. These changes are necessary to correct errors, change addresses, update titles, and make other non-substantive amendments that improve the clarity of the CFR. This rule does not create or change any substantive requirements.

This final rule is issued under the authority of 5 U.S.C. 552(a), 5 U.S.C. 553, and 6 U.S.C. 627.

#### III. Discussion of the Rule

Until 2018, the CFATS program was administered by the Office of Infrastructure Protection of the National Protection and Programs Directorate (NPPD) of the Department of Homeland Security (DHS). In 2018, Congress passed the Cybersecurity and Infrastructure Security Agency Act of 2018, redesignating NPPD as CISA, and establishing CISA as a component of DHS. To account for the organizational changes, throughout the regulatory text of 6 CFR 27, in this rule CISA is replacing the titles for various organizations within the Department, previously responsible for operating the CFATS program, with the appropriate titles of CISA personnel and organizations. We have replaced references to “National Protection and Programs” and “Office of Infrastructure Protection” with “Cybersecurity and Infrastructure Security Agency.” We have replaced references to the “Chemical Security Division” with “Chemical Security.” We have also replaced references to the Under Secretary, Assistant Secretary, and Director of the Chemical Security Division with references to the Director, Executive Assistant Director, and Associate Director for Chemical Security, respectively. CISA has also replaced references to the Office of General Counsel of DHS with references to the Office of the Chief Counsel of CISA, where appropriate. These changes have been made throughout 6 CFR part 27. We have also removed the definition of “Deputy Secretary” because it is not referenced in the regulatory text.

We have replaced references to “section 550,” which refers to the

original numbering from the Homeland Security Appropriations Act 2007, with language referring to “this part” or references to the U.S. Code citation—6 U.S.C. 621 *et seq.*—to reflect changes in statutory numbering. We have removed gendered references to officials (*e.g.*, “his designee,” or “his staff”) and used gender-neutral terms where appropriate. In several sections, CISA has made grammatical or stylistic corrections to fix minor errors in the regulation such as consistent use of the Oxford comma and consistently hyphenating the term “high-risk” when it is used as an adjective. We discuss select additional specific changes below, and note that this is not an exhaustive list of changes. For an exhaustive list of changes, please see the amendatory instructions at the end of this document.

In section 27.105, CISA updates the definition of *A Placarded Amount* to spell out the acronym STQ. In the definition of Alternative Security Program we capitalize the word “State.” In the definition of *Chemical Security Assessment Tool or CSAT* we remove the list of examples from the definition. CISA is adding a new definition for the term *Office of the Chief Counsel* to clearly indicate the term refers to the Office of the Chief Counsel within CISA. In the definition of *CUM 100g*, CISA is clarifying that the term is used only in the context of chemical weapons themselves, which are a subset of the “Theft—CW/CWP” category. In the definition of *Secretary*, CISA is replacing the citation to section 550 with a citation to 6 U.S.C. 621 *et seq.*, to make the citation easier to find. Finally, we are correcting a citation in the definition of *Terrorist attack or terrorist incident* by replacing a citation to the definition of *terrorism or terrorist activity*, previously noted as 6 U.S.C. 101(15), with a citation to 6 U.S.C. 101(16).

In section 27.110(b), CISA is rewording the reference to excluded facilities by replacing the existing language with a clear reference to statutory exclusions in 6 U.S.C. 621(4) and breaking down the long paragraph on excluded facilities into four subsections to make clear that the regulatory language does not change the scope of the statutory exemption.

In section 27.210, CISA is adjusting the language in paragraph (b)(1) to make clear that the requirement to complete

and submit a new Top-Screen is calculated from the date of the approval of the facility's latest Security Plan. Additionally, CISA is splitting the paragraph into two sub-paragraphs to improve readability, and removing an extra space in paragraph (b)(3).

In section 27.400, CISA is correcting a citation to the Federal Records Act in paragraph (k), replacing an inaccurate U.S. Code reference to the proper citation to that Act.

Numerous other changes to style, language, and punctuation are being made in this technical amendment. In the text above, we discussed the particulars of some of the more significant changes. Examination of the amendments to the regulatory text below will detail numerous additional edits to grammar, punctuation, abbreviation, and numbering that have been made in this document.

**List of Subjects in 6 CFR Part 27**

Reporting and recordkeeping requirements, Security measures.

For the reasons set forth in the preamble, the Department of Homeland Security amends 6 CFR part 27 as follows:

**PART 27—CHEMICAL FACILITY ANTI-TERRORISM STANDARDS**

- 1. The authority citation for part 27 is revised to read as follows:

**Authority:** 6 U.S.C. 624; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114–74, 129 Stat. 599; Pub. L. 113–254, 128 Stat. 2898, as amended by Pub. L. 116–150, 134 Stat. 679.

**§ 27.100 [Amended]**

- 2. Amend § 27.100 by removing the “\$” symbol after the term “6 U.S.C.”.
- 3. Amend § 27.105 as follows:
  - a. In the definition of “*A Placarded Amount*” remove the term “STQ” and add, in its place, the term “screening threshold quantity (STQ)”;
  - b. In the definition of “*Alternative Security Program or ASP*”:
    - i. Remove the word “state” and add, in its place, the word “State”;
    - ii. Add a comma after the term “Federal government program”; and
    - iii. Remove the term “Assistant Secretary” and add in its place the term “Executive Assistant Director”;
  - c. Add, in alphabetical order the definition of “*Associate Director for Chemical Security*”;
  - d. Remove the definition of “*Assistant Secretary*”;
  - e. In the definition of “*Chemical Facility or facility*”, remove the term “Assistant Secretary” and add in its

place the term “Executive Assistant Director”;

- f. In the definition of “*Chemical Security Assessment Tool or CSAT*”, remove the phrase “four applications, including User Registration, Top-Screen, Security Vulnerability Assessment, and Site Security Plan,” and add in its place the word “applications”;
- g. In the definition of “*Chemical-terrorism Vulnerability Information*”, remove the phrase “or CVI” and add, in its place, the term “(CVI)”;
- h. In the definition of “*Coordinating Official*”:
  - i. Remove the word “his”; and
  - ii. Remove the term “Assistant Secretary” and add, in its place, the term “Executive Assistant Director”;
- i. In the definition of “*Covered Facility or Covered Chemical Facility*”, remove the term “Assistant Secretary” wherever it appears and add in its place, the term “Executive Assistant Director”;
- j. Revise the definition of *CUM 100g*;
- k. Remove the definition of “*Deputy Secretary*”;
- l. Add, in alphabetical order the definition of “*Director*”;
- m. Remove the definition of “*Director of the Chemical Security Division or Director*”;
- n. Add, in alphabetical order the definition of “*Executive Assistant Director*”;
- o. Remove the definition of “*General Counsel*”;
- p. Add, in alphabetical order the definition of “*Office of the Chief Counsel*”;
- q. In the definition of “*Present high levels of security risk and high risk*”, add a comma after the term “national security”;
- r. In the definition of “*Risk profiles*”, remove the term “Assistant Secretary” and add, in its place, the term “Executive Assistant Director”;
- s. In the definition of “*Secretary or Secretary of Homeland Security*”:
  - i. Add a comma after the word “officer”; and
  - ii. Remove the term “section 550” and add, in its place, the term “6 U.S.C. 621 *et seq.*”;
- t. In the definition of “*Security Issue*”:
  - i. Remove the comma from the end of paragraph (2) and add in its place a semicolon;
  - ii. Remove the comma from the end of paragraph (3) and add in its place “; and”
- u. In the definition of “*Terrorist attack or terrorist incident*”:
  - i. Remove the term “6 U.S.C. 101(15)” and add, in its place, the term “6 U.S.C. 101(16)”;
  - ii. Add a comma after the word “misappropriation”;

- v. In the definition “*Tier*”, remove the term “and which” and add, in its place, the word “that”;
- w. In the definition “*Top-Screen*”, remove the term “Assistant Secretary” and add, in its place, the term “Executive Assistant Director”; and
- x. Remove the definition of “*Under Secretary*”;

The revisions and additions read as follows:

**§ 27.105 Definitions.**

\* \* \* \* \*

*Associate Director for Chemical Security* shall mean the Associate Director for Chemical Security, Infrastructure Security Division, Cybersecurity and Infrastructure Security Agency, Department of Homeland Security, or any successors to that position within the Department, or designee.

\* \* \* \* \*

*CUM 100g* shall refer to the cumulative STQ of 100 grams for designated Chemical Weapons (CW), located in appendix A to part 27 as the entry for the STQ and Minimum Concentration of certain Theft-CW/CWP chemicals.

\* \* \* \* \*

*Director* shall mean the Director of the Cybersecurity and Infrastructure Security Agency, Department of Homeland Security, or any successors to that position within the Department, or designee.

\* \* \* \* \*

*Executive Assistant Director* shall mean the Executive Assistant Director for the Infrastructure Security Division, Cybersecurity and Infrastructure Security Agency, Department of Homeland Security, any successors to that position within the Department, or designee.

\* \* \* \* \*

*Office of the Chief Counsel* shall mean the Office of the Chief Counsel of the Cybersecurity and Infrastructure Security Agency, Department of Homeland Security, or any successors within the Department.

- 4. Revise § 27.110 to read as follows:

**§ 27.110 Applicability.**

- (a) This part applies to chemical facilities and to covered facilities as set out herein; and
- (b) This part does not apply to a facility that is excluded as set forth in 6 U.S.C. 621(4):
  - (1) A facility regulated under the Maritime Transportation Security Act of 2002 (Pub. L. 107–295; 116 Stat. 2064);
  - (2) A public water system, as that term is defined in 42 U.S.C. 300f;

(3) A Treatment Works, as that term is defined in 33 U.S.C. 1292;

(4) A facility owned or operated by the Department of Defense or the Department of Energy; or

(5) A facility subject to regulation by the Nuclear Regulatory Commission, or by a State that has entered into an agreement with the Nuclear Regulatory Commission under 42 U.S.C. 2021(b) to protect against unauthorized access of any material, activity, or structure licensed by the Nuclear Regulatory Commission.

#### § 27.115 [Amended]

■ 5. Amend § 27.115 as follows:

■ a. Remove the term “Assistant Secretary” wherever it appears and add, in its place, the term “Executive Assistant Director”; and

■ b. Remove the term “the section 550 program” and add, in its place, the term “this part”.

■ 6. Amend § 27.120 as follows:

■ a. Revise the section heading;

■ b. In paragraph (a) remove the term “Assistant Secretary” and add, in its place, the term “Executive Assistant Director”; and

■ c. In paragraph (b) remove the term “and his staff”.

The revision reads as follows:

#### § 27.120 Designation of a Coordinating Official; consultations and technical assistance.

\* \* \* \* \*

#### § 27.200 [Amended]

■ 7. Amend § 27.200:

■ a. In paragraph (a) add a comma after the second use of the word “safety”;

■ b. In paragraph (b)(1) remove the term “Assistant Secretary” wherever it appears and add, in its place, the term “Executive Assistant Director”;

■ c. In paragraph (c) amend the paragraph heading by removing the words “High Risk” and adding in their place the words “High-Risk”;

■ d. In paragraph (c)(1):

■ i. In the first sentence, remove the word, “timeframe” and add, in its place, the words “time frame”;

■ ii. Remove the term “Assistant Secretary” wherever it appears, and add, in its place, the term “Executive Assistant Director”; and

■ iii. Add a comma after the citation “§ 27.250”.

#### § 27.203 [Amended]

■ 8. Amend § 27.203 as follows:

■ a. In paragraph (a)(7):

■ i. Remove the term “et. seq.” and add in its place the term “et seq.”; and

■ ii. Add the word “or” after the semicolon at the end of the paragraph;

■ b. In paragraph (a)(8) remove the term “in naturally occurring” and add in its place the term “In naturally occurring”;

■ c. In paragraph (b)(1)(v):

■ i. Add a comma after the word “kerosene”;

■ ii. Remove the term “27.204(a)(2))” and add in its place “§ 27.204(a)(2),”;

■ d. In paragraph (b)(2):

■ i. Remove the term “(c)(2)(i)” and add in its place the term “(b)(2)(i)”;

■ ii. Add a comma after the word “processes”; and

■ e. In paragraph (c) remove the term “theft/diversion-Chemical Weapons (CW)” and add, in its place, the term “theft/diversion-CW”.

■ 9. Amend § 27.204 as follows:

■ a. In paragraph (a)(2):

■ i. Remove terms, “National Fire Protection Association (NFPA)” and “National Fire Protection Association” wherever they appear and add, in their place, the term “NFPA”

■ ii. Revise the sixth sentence;

■ b. In paragraph (b)(1):

■ i. Remove the phrase “Theft/ Diversion-Chemical Weapons (CW) and Chemical Weapons Precursors (CWP Chemicals:” and add a paragraph (b)(1) heading; and

■ ii. Remove the term “theft/diversion-CWC/CWP” and add, in its place, the term “theft/diversion-CW/CWP”;

■ c. In paragraph (b)(2) remove the phrase “Theft/Diversion-Weapon of Mass Effect (WME) Chemicals:” and add a paragraph (b)(2) heading;

■ d. Revise the paragraph (b)(3) heading; and

■ e. In paragraph (c) remove the phrase “For each sabotage/contamination chemical of interest” and add, in its place, the phrase “For each sabotage and contamination chemical of interest”.

The revisions read as follows:

#### § 27.204 Minimum concentration by security issue.

(a) \* \* \*

(2) \* \* \* You may inspect a copy of the incorporated standard at the Department of Homeland Security, 1621 Kent Street, 9th Floor, Rosslyn, VA (please call 703–235–0709 to make an appointment), or at the National Archives and Records Administration (NARA). \* \* \*

\* \* \* \* \*

(b) \* \* \*

(1) *Theft/Diversion-Chemical Weapons (CW) and Chemical Weapons Precursors (CWP) chemicals.* \* \* \*

(2) *Theft/Diversion-Weapon of Mass Effect (WME) chemicals.* \* \* \*

(3) *Theft/Diversion-Explosives/ Improvised Explosive Device Precursor (EXP/IEDP) chemicals.* \* \* \*

\* \* \* \* \*

#### § 27.205 [Amended]

■ 10. Amend § 27.205 as follows:

■ a. In paragraph (a):

■ i. Remove the term “Assistant Secretary” and add, in its place, the term “Executive Assistant Director”; and

■ ii. Add a comma after the term “national security”; and

■ b. In paragraph (b) remove the term “Assistant Secretary” wherever it appears and add, in its place, the term “Executive Assistant Director”.

■ 11. Amend § 27.210 as follows:

■ a. In paragraph (a) remove the word “timeframes” and add in its place the term “time frames”;

■ b. Revise paragraph (b)(1);

■ c. In paragraph (b)(3) remove the extra space after the word “section”; and

■ d. In paragraph (c) remove the term “Assistant Secretary” wherever it appears and add, in its place, the term “Executive Assistant Director”.

The revision reads as follows:

#### § 27.210 Submissions schedule.

\* \* \* \* \*

(b) \* \* \*

(1) *Top-Screen.* Unless otherwise notified:

(i) Tier 1 and Tier 2 covered facilities must complete and submit a new Top-Screen no less than two years, and no more than two years and 60 calendar days, from the date of the Department’s approval of the facility’s most recent Site Security Plan.

(ii) Tier 3 and Tier 4 covered facilities must routinely complete and submit a Top-Screen no less than three years, and no more than three years and 60 calendar days, from the date of the Department’s approval of the facility’s most recent Site Security Plan.

\* \* \* \* \*

#### § 27.215 [Amended]

■ 12. Amend § 27.215 as follows:

■ a. In paragraph (a) introductory text:

■ i. Remove the term “Assistant Secretary” and add, in its place, the term “Executive Assistant Director”; and

■ ii. Remove the term “high-risk” and add, in its place, “high risk”;

■ b. In paragraph (a)(3) remove the term “Risk-Based Performance Standards” and add, in its place, the term “risk-based performance standards”;

■ c. In paragraph (b) remove the term “Assistant Secretary” and add, in its place, the term “Executive Assistant Director”; and

■ d. In paragraph (d)(2):

■ i. Add a comma after the word “revise”; and

■ ii. Remove the term “Assistant Secretary” and add, in its place, the term “Executive Assistant Director”.

**§ 27.220 [Amended]**

■ 13. In § 27.220 remove the term “Assistant Secretary” wherever it appears and add, in its place, the term “Executive Assistant Director”.

**§ 27.225 [Amended]**

■ 14. Amend § 27.225 as follows:

- a. Remove the term “Assistant Secretary” wherever it appears and add, in its place, the term “Executive Assistant Director”; and
- b. In paragraph (d)(1) add a comma after the word “revises”.

**§ 27.230 [Amended]**

■ 15. In § 27.230 remove the term “Assistant Secretary” wherever it appears, and add, in its place, the term “Executive Assistant Director”.

**§ 27.235 [Amended]**

■ 16. In § 27.235 amend paragraph (a) introductory text by:

- a. Removing the first use of the term, “Alternate Security Program” and adding, in its place, the term, “Alternative Security Program”;
- b. Removing the term “Assistant Secretary” and adding, in its place, the term “Executive Assistant Director”; and
- c. Removing the second and third uses of the term “Alternate Security Program” and adding, in their places, the term, “ASP”.

**§ 27.240 [Amended]**

■ 17. Amend § 27.240 as follows:

- a. In paragraph (a) remove the term “Alternative Security Programs” and add, in its place, the term “ASPs”; and
- b. In paragraph (b) remove the term “SVA” wherever it appears, and add, in its place, the term “Security Vulnerability Assessment”.

**§ 27.245 [Amended]**

■ 18. Amend § 27.245 as follows:

- a. In paragraph (a)(1) introductory text:
  - i. Remove the phrase “review and approve or disapprove all” and add, in its place, the phrase “review, and either approve or disapprove, all”;
  - ii. Remove the term “Alternative Security Programs” and add, in its place, the term “ASPs”;
- b. In paragraph (a)(1)(i) remove the phrase “Upon receipt of Site Security Plan” and add, in its place, the phrase “Upon receipt of the Site Security Plan”; and
- c. In paragraph (b) remove the term “SSP” wherever it appears and add, in its place, the term “Site Security Plan”.

**§ 27.250 [Amended]**

■ 19. Amend § 27.250 as follows:

- a. In paragraph (c)(1) remove the term “Under Secretary or Assistant Secretary” and add, in its place, the term “Director or Executive Assistant Director”;
- b. In paragraph (c)(2) remove the term “Director of the Chemical Security Division” and add, in its place, the term “Associate Director for Chemical Security”;
- c. In paragraph (d)(3) in the second sentence, remove the phrase “object and electronically stored” and add, in its place, the phrase “objects, and electronically stored”;
- d. In paragraph (e) remove the term “CVI” and add, in its place, the term “Chemical-terrorism Vulnerability Information”; and
- e. In paragraph (f) remove the term “Assistant Secretary” and add, in its place, the term “Executive Assistant Director”.

**§ 27.255 [Amended]**

■ 20. Amend § 27.255 as follows:

- a. In paragraph (a)(1) remove the period at the end of the paragraph and add, in its place, a semicolon;
- b. In paragraph (a)(2) add a comma after the term “lessons learned”; and
- c. In paragraph (a)(6) remove the period at the end of the paragraph and add, in its place “; and”.

**§ 27.300 [Amended]**

■ 21. Amend § 27.300 as follows:

- a. Remove the term “Assistant Secretary” wherever it appears and add, in its place, the term “Executive Assistant Director”;
- b. In paragraph (b)(1) remove the phrase “the Assistant may enter an Order Assessing Civil Penalty” and add, in its place, the phrase “the Executive Assistant Director may enter an Order Assessing Civil Penalty”;
- c. In paragraph (b)(2) add the word, “the” before the word “Department”;
- d. In paragraph (c)(1)(iv) remove the word “and” after the semicolon at the end of the paragraph;
- e. In paragraph (c)(1)(v):
  - i. Remove the comma after the word “statement”; and
  - ii. Remove the word “chemical” and add, in its place, the word “facility”;
- f. In paragraph (d) remove the term “Notice for Application for Review” and add, in its place, the term “Notice of Application for Review”; and
- g. In paragraph (f) remove the term “Notice of Application of Review” and add, in its place, the term “Notice of Application for Review”.

**§ 27.305 [Amended]**

■ 22. Amend § 27.305(a) by removing the word “which” and add, in its place, the word “that”.

**§ 27.310 [Amended]**

■ 23. Amend § 27.310 by:

- a. Removing the terms “Assistant Secretary” and “Assistant Secretary’s” wherever they appear and adding in their places the terms “Executive Assistant Director” and “Executive Assistant Director’s”, respectively;
- b. In paragraph (b)(1) removing the phrase, “with the office of the Department hereinafter designated by the Secretary”;
- c. In paragraph (b)(3) removing the term “General Counsel” and adding, in its place, the term “Office of the Chief Counsel”;
- d. In paragraph (b)(5) removing the phrase “fourteen calendar days” and adding, in its place, the phrase “14 calendar days”; and
- e. In paragraph (c):
  - i. Removing the term “Office of General Counsel” and adding, in its place, the term “Office of the Chief Counsel”;
  - ii. Adding a comma after the word “affidavits”; and
  - iii. Removing the phrase “fourteen calendar days” and adding, in its place, the phrase “14 calendar days”; and
- f. In paragraph (d) introductory text, removing the phrase “(as determined in his sole discretion)” and adding, in its place, the phrase “(as determined in his or her sole discretion)”.

**§ 27.315 [Amended]**

■ 24. Amend § 27.315(b) by removing the phrase “this subpart, to serve generally in the capacity” and adding, in its place, the phrase “this subpart, to serve, generally, in the capacity”.

**§ 27.320 [Amended]**

■ 25. Amend § 27.320 by:

- a. Removing the term “*ex parte*” wherever it appears and adding in its place the term “*ex parte*”; and
- b. In paragraph (b) removing the phrase “which is relevant” and adding, in its place, the phrase “that is relevant”.

**§ 27.325 [Amended]**

■ 26. Amend § 27.325 by removing the term “Assistant Secretary” and adding, in its place, the term “Executive Assistant Director”.

**§ 27.330 [Amended]**

■ 27. Amend § 27.330(b) by adding the word “a” before the phrase “decision as a matter of law”.

**§ 27.335 [Amended]**

■ 28. Amend § 27.335 as follows:

- a. In paragraph (b)(1) remove the word “his” wherever it appears and add, in its place, the phrase “his or her”; and

- b. In paragraph (b)(2):
- i. Remove the phrase “facility of other person” and add, in its place, the phrase “facility or other person”;
- ii. Add a comma after the term “direct testimony”;
- iii. Remove the word “he” and add, in its place, the phrase “he or she”; and
- iv. Add a comma after the phrase “administrative action”.

#### § 27.345 [Amended]

- 29. Amend § 27.345 by:
  - a. Removing the term “Under Secretary” wherever it appears and adding, in its place, the term “Director”;
  - b. Removing the term “Assistant Secretary” wherever it appears and adding, in its place, the term “Executive Assistant Director”;
  - c. In paragraph (b)(3) removing the phrase “General Counsel” and adding, in its place, the phrase “Office of the Chief Counsel”;
  - d. In paragraph (d)(1) removing the phrase “his designee” and adding, in its place, the phrase “his or her designee”; and
  - e. Removing the term “*ex parte*” wherever it appears in paragraphs (d)(1) through (d)(3), and adding in its place “*ex parte*”;
  - f. In paragraph (d)(2):
  - i. Removing the phrase “his designee” wherever it appears, and adding, in its place, the phrase “his or her designee”;
  - ii. Removing the phrase “information which is relevant” and adding, in its place, the phrase “information that is relevant”;
- 30. Amend § 27.400 by:
  - a. Removing the term “Assistant Secretary” wherever it appears and adding, in its place, the term “Executive Assistant Director”
  - b. In paragraph (a):
  - i. Removing the phrase “section 550(c) of the Homeland Security Appropriations Act of 2007” and adding, in its place, the term “6 U.S.C. 621 *et seq.*”;
  - ii. Adding a comma after the word “State”; and
  - c. In paragraph (b) introductory text, removing the phrase “section 550(c) of the Department of Homeland Security Appropriations Act of 2007” and adding, in its place, the term “6 U.S.C. 623”;
  - d. In paragraph (b)(3) adding a comma after the term “Letters of Approval”;
  - e. In paragraph (b)(4) removing the word “Alternate” and adding in its place, the word “Alternative”;
  - f. In paragraph (b)(7) adding a comma after the word “notices”;
  - g. In paragraph (b)(9) after the word “his”, adding the term “or her”;

- h. In paragraph (c)(1) adding the word “and” after the semicolon at the end of the paragraph;
- i. In paragraph (d) introductory text removing the dash from the end of the paragraph and add in its place a colon.
- j. In paragraph (d)(6) removing the dash from the end of the paragraph and adding in its place, a colon
- k. In paragraph (d)(7) removing the period at the end of the paragraph and adding in its place, “; and”;
- l. In paragraph (d)(8):
- i. Removing the term “critical infrastructure information” and adding in its place, the term “Protected Critical Infrastructure Information”;
- ii. Removing the term “section 214 of the Homeland Security Act” and adding in its place, the term “6 U.S.C. 133”; and
- iii. Removing the phrase “section 214 and any implementing regulations” and adding in its place, the phrase “6 U.S.C. 133 and any implementing regulations”;
- m. In paragraph (f)(1) introductory text removing the dash from end of the paragraph and adding in its place, a colon;
- n. In paragraph (f)(2) revising the paragraph heading to read “*Protective markings.*”;
- o. In paragraph (f)(4) removing the term “audio recording” and adding in its place, the term “audio recordings”;
- p. In paragraph (g):
- i. Revise the paragraph heading;
- ii. Add a heading to paragraph (g)(1);
- iii. In paragraph (g)(2), remove the first sentence and add a paragraph heading;
- q. In paragraph (h)(1):
- i. Removing the term “section 550” wherever it appears and adding, in its place, the term “6 U.S.C. 621 *et seq.*”; and
- ii. Removing the term “his counsel” and adding in its place, the term “his or her counsel”;
- r. In paragraph (i)(1) introductory text:
  - i. Removing the term “section 550” and adding, in its place, the term “6 U.S.C. 621 *et seq.*”; and
  - ii. Removing the phrase “his sole discretion” and adding in its place the phrase “his or her sole discretion”;
- s. In paragraph (i)(2) introductory text:
  - i. Removing the term “of section 550” and adding in its place, the term “under 6 U.S.C. 621 *et seq.*”; and
  - ii. Removing the dash from the end of the paragraph and adding in its place, a colon;
- t. In paragraph (i)(6) removing the term “of section 550” and adding in its place, the term “under 6 U.S.C. 621 *et seq.*”;
- u. In paragraph (i)(7):

- i. In the introductory text, removing the dash at the end of the sentence and adding a period;
  - ii. In paragraph (i)(7)(i) removing the word “Objection—” and adding a paragraph heading;
  - iii. In paragraph (i)(7)(ii) removing the words “Action by court—” and adding a paragraph heading; and
  - iv. In paragraph (i)(7)(iii) removing the words “Obligation by defendant—” and adding a paragraph heading; and
  - v. In paragraph (k)(1) removing the citation “(5 U.S.C. 105)” and adding, in its place, the citation “(codified at 44 U.S.C. 3101 *et seq.* and 3301 *et seq.*)”.
- The revision reads as follows:

#### § 27.400 Chemical-terrorism vulnerability information.

\* \* \* \* \*

(f) \* \* \*

(2) *Protective markings.* \* \* \*

\* \* \* \* \*

(g) *Disclosure by the Department—(1) In general.* \* \* \*

(2) *Disclosure of Segregable Information under the Freedom of Information Act and the Privacy Act.* \* \* \*

\* \* \* \* \*

(i) \* \* \*

(7) \* \* \*

(i) *Objection.* \* \* \*

(ii) *Action by court.* \* \* \*

(iii) *Obligation of defendant.* \* \* \*

\* \* \* \* \*

#### § 27.405 [Amended]

- 31. Amend § 27.405 as follows:
  - a. In paragraph (a) introductory text:
    - i. Remove the term “state law” and add, in its place, the term “State law”;
    - ii. Add a comma after the phrase “poses an obstacle to”; and
    - iii. Add a comma after the word “disapproval”;
  - b. In paragraph (b):
    - i. Add a comma after the phrase “State law, regulation” wherever it appears; and
    - ii. Remove the phrase, “promulgated regulation, ordinance, administrative action, order or decision, or common law standard” and, in its place, add the phrase “promulgated regulation, ordinance, administrative action, order, decision, or common law standard”;
  - c. In paragraph (c) remove the phrase “regulation, or administrative action, or decision or” and add, in its place, the phrase “regulation, administrative action, decision, or”;
  - d. In paragraph (d)(1)
    - i. Remove the phrase “administrative actions, or opinions or orders” and add, in its place, the phrase “administrative actions, opinions, or orders”; and
    - ii. Add a comma after the term “pose an obstacle to”; and

■ e. In paragraph (d)(2) remove the term “Assistant Secretary” and add, in its place, the term “Executive Assistant Director”.

#### § 27.410 [Amended]

■ 32. Amend § 27.410 as follows:

■ a. In the section heading, remove the term “Third party” and add, in its place, the term “Third-party”; and

■ b. In paragraph (b) remove the term “Assistant Secretary” and add, in its place, the term “Executive Assistant Director”.

**Alejandro Mayorkas,**

*Secretary, Department of Homeland Security.*

[FR Doc. 2021-14398 Filed 8-3-21; 8:45 am]

BILLING CODE 9110-9P-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2021-0417; Airspace Docket No. 21-AGL-23]

RIN 2120-AA66

#### Amendment of Class E Airspace; Eveleth, MN

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

**ACTION:** Final rule.

**SUMMARY:** This action amends the Class E airspace extending upward from 700 feet above the surface at Eveleth-Virginia Municipal Airport, Eveleth, MN. This action is the result of an airspace review caused by the decommissioning of the Eveleth non-directional beacon (NDB). The geographic coordinates of the airport are also being updated to coincide with the FAA’s aeronautical database.

**DATES:** Effective 0901 UTC, October 7, 2021. 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 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [https://www.faa.gov/air\\_traffic/publications/](https://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For

information on the availability of FAA Order 7400.11E at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov) or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

#### 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 Eveleth-Virginia Municipal Airport, Eveleth, MN, to support instrument flight rule operations at this airport.

##### History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (86 FR 28728; May 28, 2021) for Docket No. FAA-2021-0417 to amend the Class E airspace extending upward from 700 feet above the surface at Eveleth-Virginia Municipal Airport, Eveleth, MN. 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 7400.11E, dated July 21, 2020, and effective September 15, 2020, 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.

##### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E 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 amends the Class E airspace extending upward from 700 feet above the surface to within an 8.7-mile (increased from a 7-mile) radius of Eveleth-Virginia Municipal Airport, Eveleth, MN; and updates the geographic coordinates of the airport to coincide with the FAA’s aeronautical database.

This action is necessary due to an airspace review caused by the decommissioning of the Eveleth NDB which provided navigation information for the instrument procedures at this airport.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

##### 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, 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 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.

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

Airspace, Incorporation by reference, Navigation (air).