

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

[Airspace Docket No. 96-AWP-5]

**Amendment of Class E Airspace; Ely, NV**

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule.

**SUMMARY:** This action amends the Class E airspace area at Ely, NV. The establishment of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 18 has made this action necessary. The intended effect of this action is to provide additional controlled airspace for Instrument Flight Rules (IFR) operations at Ely Airport (Yelland Field), Ely, NV.

**EFFECTIVE DATE:** 0901 UTC August 15, 1996.

**FOR FURTHER INFORMATION CONTACT:** William Buck, Airspace Specialist, Operations Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725-6556.

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

On March 11, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Class E airspace area at Ely, NV (61 FR 9656). On April 8, 1996, the FAA issued a supplemental notice to amend this proposal to establish a Class E airspace area at Ely, NV (61 FR 15432).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposals to the FAA. No comments to the proposals were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, 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 Rule**

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class E airspace area at Ely, NV. The development of a GPS SIAP to RWY 18 has made this action necessary. The intended effect of this action is to provide additional

controlled airspace for IFR operations at Ely Airport (Yelland Field), Ely, NV.

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. Therefore, this 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 10034; 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—[AMENDED]**

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; 14 CFR 11.69.

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designation and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

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

\* \* \* \* \*

AWP NV E5 Ely, CA [Revised]

Ely VOR/DME

(Lat. 39°17'53" N, long. 114°50'54" W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of Ely VOR and within 4.3-miles northeast and 8.3 miles southwest of the Ely VOR 303° radial, extending from the Ely VOR to 16.1 miles northwest and within 3 miles each side of the Ely VOR 014° radial, extending from the Ely VOR to 12.6 miles northeast and within 3 miles each side of the Ely VOR 167° radial, extending from the Ely VOR to 7.7 miles south of the Ely VOR. That airspace extending upward from 1,200 feet above the surface within 19.1-mile radius of Ely VOR and within 6.1 miles northeast and 8.7 miles southwest of the Ely VOR 335°

radial, extending from the 19.1-mile radius to 33 miles northwest of the Ely VOR and within 4.3 miles east and 6.5 miles west of the Ely VOR 014° radial, extending from the 19.1-mile radius to 21.3 miles north of the Ely VOR and within 14 miles east and 12.5 west of the Ely VOR 169° radial, extending from the 19.1-mile radius to 53 miles south of the Ely VOR.

\* \* \* \* \*

Issued in Los Angeles, California, on May 17, 1996.

Thomas S. Kamman,

*Acting Manager, Air Traffic Division,  
Western-Pacific Region.*

[FR Doc. 96-13555 Filed 5-29-96; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration**

**21 CFR Parts 172, 173, 175, 176, 177, 178, 180, 181, and 189**

**Change of Names and Addresses; Technical Amendment; Correction**

AGENCY: Food and Drug Administration, HHS.

ACTION: Technical amendment; correction.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a technical amendment that appeared in the Federal Register of April 2, 1996 (61 FR 14481). The document amended the regulations in 21 CFR parts 172, 173, 175, 176, 177, 178, 180, 181, and 189 to reflect a change in the name and mailing address for the Association of Official Analytical Chemists International. The document was published with some errors. This document corrects those errors.

**DATES:** Effective April 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** LaJuana D. Caldwell, Office of Policy (HF-27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

**SUPPLEMENTARY INFORMATION:** In FR doc. 96-7919, appearing on p.14481, in the Federal Register of Tuesday, April 2, 1996, the following correction is made:

**§§ 172, 173, 175, 176, 177, 178, 180, 181, and 189 [Corrected]**

On page 14482, in the 1st column, under the “Supplementary Information” caption, beginning in line 12, the name and mailing address for the Association of Official Analytical Chemists International is corrected to read: “AOAC INTERNATIONAL, 481 North Frederick, suite 500, Gaithersburg, MD 20877-2417”.

Dated: May 22, 1996.  
 William K. Hubbard,  
 Associate Commissioner for Policy  
 Coordination.  
 [FR Doc. 96-13537 Filed 5-29-96; 8:45 am]  
 BILLING CODE 4160-01-F

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 8666]

RIN 1545-AS74

#### Payment by Employer of Expenses for Meals and Entertainment, Club Dues, and Spousal Travel

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to reimbursement and other expense allowance arrangements for expenses of business meals and entertainment that are disallowed as a deduction under section 274(n), and working condition fringe benefit treatment for expenses for club dues and spousal travel that are disallowed as a deduction under sections 274(a)(3) and 274(m)(3). The final regulations reflect changes to the law made by the Omnibus Budget Reconciliation Act of 1993. The persons affected by the final regulations are persons who provide or receive the use of business meals and entertainment, club membership dues, or spousal travel expenses.

**EFFECTIVE DATE:** May 30, 1996.

**FOR FURTHER INFORMATION CONTACT:** Concerning regulations under sections 62 and 132, David N. Pardys, (202) 622-6040; concerning regulations under section 274, John T. Sapienza, Jr., (202) 622-4920 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 16, 1994, a notice of proposed rulemaking relating to payment by an employer of expenses for business meals and entertainment, club dues, and spousal travel was published in the Federal Register (59 FR 64909). A public hearing was held on April 14, 1995.

Written comments responding to the notice were received. After consideration of all the comments, the proposed regulations are adopted as revised by this Treasury decision. The significant comments on the proposed

regulations and the principal revisions made in the final regulations are discussed below.

#### Explanation of Provisions

This Treasury decision contains final regulations to the Income Tax Regulations under sections 62(c), 132(d), and 274 of the Internal Revenue Code (Code) to reflect changes made to section 274 of the Code by sections 13209, 13210, and 13272 of OBRA (107 Stat. 469, 542). The OBRA provisions amended section 274 of the Code by (1) limiting the deductible portion of meal and entertainment expenses to 50 percent; (2) eliminating the deduction for club dues; and (3) restricting the deduction for spousal travel. The amendments to the regulations under sections 62 and 132 of the Code concern the income tax consequences to employees when their employer's (or third party payor's) deduction is disallowed by the amendments to section 274 of the Code.

Comments to the proposed regulations concerned whether payment of expenses for club dues and spousal travel by an employer exempt from taxation under subtitle A of the Internal Revenue Code were eligible for the working condition fringe exclusion. The final regulations provide that any reference in the regulations to an employer's deduction disallowed by sections 274(a)(3) or 274(m)(3) of the Code will be treated as a reference to the amount which would be disallowed as a deduction to the employer if the employer were not exempt from taxation.

Other comments suggested that the final regulation extend the section 274(e)(2) option of an employer to avoid the section 274 disallowance for payment of spousal travel to persons who pay expenses described in section 274(e)(9). To achieve consistent results for payments to independent contractors and employees with respect to spousal travel, the final regulations adopted this suggestion.

A number of comments requested clarification of the term *other individual* in section 274(m)(3). In particular, the comments asked that the term be clarified so as not to preclude the deduction for travel expenses of a business associate accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel. The regulation was amended to reflect these comments.

One comment concerned the person to whom a fringe benefit is taxable. The rules concerning to whom a fringe benefit is taxable are set forth in § 1.61-

21(a)(4). For rules concerning volunteers, see § 1.132-5(r).

Several comments involved the amount of the employer's disallowed deduction when the expenses of a spouse, dependent, or other individual accompanying an employee on a noncommercial flight qualify as a working condition fringe benefit. This issue is under further consideration. In addition, other comments requested clarification of what constitutes a deductible expenditure for spousal travel under the general rule of section 162(a). The rules for deducting travel expenses of a spouse are in § 1.162-2(c).

#### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

**Drafting Information.** The principal authors of these regulations are David N. Pardys, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), and John T. Sapienza, Jr., Office of the Assistant Chief Counsel (Income Tax and Accounting), IRS. Personnel from other offices of the IRS and Treasury Department also participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 \* \* \*.

Par. 2. In § 1.62-2, paragraph (h)(1) is amended by adding a second sentence at the end of the paragraph to read as follows:

#### § 1.62-2 Reimbursements and other expense allowance arrangements.

\* \* \* \* \*