FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace beginning at 700 feet above the surface at Meade Municipal Airport, KS to contain Instrument Flight Rule (IFR) operations in controlled airspace. The area will be depicted on appropriate aeronautical charts. Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, 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 Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this 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 and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2005–21783/Airspace Docket No. 05–ACE–24.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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 11034; February 26, 2479); 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.

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 since it contains aircraft executing instrument approach procedures to Meade Municipal Airport.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, 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 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, 2459–2463 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ACE KS E5 Meade, KS

Meade Municipal Airport, KS
(Lat. 37°16′37″ N., long. 100°21′23″ W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Meade Municipal Airport.

* * * * *

Issued in Kansas City, MO, on July 11, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–14256 Filed 7–19–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 155 and 156

[USCG–2001–9046]

RIN 1625–AA94

Tank Level or Pressure Monitoring Devices on Single-Hull Tank Ships and Single-Hull Tank Barges Carrying Oil or Oil Residue as Cargo

AGENCY: Coast Guard, DHS.

ACTION: Final rule; suspension of regulations and request for public comment.

SUMMARY: The Coast Guard is suspending for three years the regulations in Title 33 Code of Federal Regulations Parts 155 and 156 for tank level or pressure monitoring (TLPM) devices published in the **Federal Register** of September 17, 2002 (67 FR 58515). Furthermore, we are seeking

public comments on the status of TLPM technology development and other means of detecting leaks from oil cargo tanks into the water.

DATES: This rule is effective August 19, 2005. Comments and related material must reach the Docket Management Facility on or before September 19, 2005.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2001–9046), U.S. Department of Transportation, Room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL 401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this rulemaking. Comments and materials received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact LCDR Roger K. Butturini, P.E., Regulatory Development Manager, Office of Standards Evaluation and Development (G–MSR–2), Coast Guard, at 202–267–2857 or e-mail address *RButturini@comdt.uscg.mil.* For technical questions concerning tank level or pressure monitoring devices contact Ms. Dolores Mercier, Technical Program Manager, Systems Engineering Division (G–MSE–3), Coast Guard, telephone 202–267–0658 or e-mail *DMercier@comdt.uscg.mil.* If you have questions on viewing the docket, contact Ms. Andrea M. Jenkins, Program Manager, Docket Operations, Department of Transportation, at telephone 202–366–5149.

SUPPLEMENTARY INFORMATION: The Oil Pollution Act of 1990 (OPA 90), Public Law 101–380, directed the Coast Guard to promulgate a number of regulations, including a variety of standards for the design and operation of equipment to reduce the number and severity of tank vessel oil spill incidents. Section 4110 of OPA 90 (46 U.S.C. 3703 note) addressed initiatives to:

- Establish standards for devices that measure oil levels in cargo tanks or devices that monitor cargo tank pressure level (Functionally, these tank level or pressure monitoring (TLPM) devices measure changes in cargo volume, thereby detecting possible oil leaks into the water), and
- Issue regulations establishing requirements concerning the use of these devices on tank vessels carrying oil or oil residue as cargo.

In May of 1991, the Coast Guard published in the **Federal Register** an Advance Notice of Proposed Rulemaking (ANPRM) (56 FR 21116) seeking public comments related to TLPM devices on tank vessels carrying oil cargo. In August of 1992, the Volpe National Transportation Systems Center completed a feasibility study (Volpe study) on TLPM devices for the Coast Guard Marine Technical and Hazardous Materials Division at Coast Guard Headquarters. Some important features of the Volpe study were:

- Identifying ship motions, sloshing, air pocketing, and the formation of foam in cargo tanks as the major obstacles to accurate tank level detection;
- Finding that the attainable accuracy with electronic surface level sensing systems is within 2% of the actual cargo level; and
- Concluding that the high cost of installing a modern tank level sensing system will naturally lead to development of alternative approaches to leak detection and alarming.

In January of 1993, we asked for public comment on the study via another **Federal Register** Notice (58 FR 7292) and we held a public meeting at Coast Guard Headquarters in December 1994 to discuss proposed standards and rules for TLPMs (59 FR 58810). As a result of the comments, in 1995 we published a Notice of Proposed Rulemaking (NPRM) to establish minimum performance standards for TLPMs (60 FR 43427).

In 1997, we published a temporary rule (62 FR 14828) on performance standards for TLPM devices. In the temporary rule, we advised the public of our conclusion that current technology could not meet the sensitivity requirements proposed in the NPRM and requested the submission of new or modified TLPM devices that could meet the performance standards set out in the rule. It was our intent to evaluate submitted devices and confirm that they met the performance standards required by the temporary rule. We would, then, have assessed the costs and benefits offered by these devices and used that information to decide whether or not to develop regulations on the installation and use of TLPMs. At the time the temporary rule expired in April 1999, no devices had been submitted to us for evaluation. In our regulatory analysis, we estimated the cost of the regulation as $166.4 million over the 12-year period of analysis between 2003 and 2014. Likewise, we estimated that the regulation would result in a benefit of 874 barrels of oil not spilled over the period of analysis. The cost-effectiveness ratio was calculated by dividing the cost by the projected benefits (if TLPM technology was readily available), resulting in a ratio of $190,000 per barrel of oil not spilled. Therefore, based on the absence of equipment that would satisfy our proposed requirements, the estimated costs of system installations versus the projected benefits realized if TLPM device technology was readily available, and the miniscule contribution TLPMs would make to prevent oil pollution compared to the rest of the OPA 90 initiatives, we decided not to proceed with regulations that required the use of TLPMs on single-hull tank vessels.

In 1999, Bluewater Network and Ocean Advocates brought suit in the U.S. Court of Appeals for the District of Columbia Circuit. In their suit, the petitioners asked the Court for a Writ of Mandamus ordering us to promulgate TLPM regulations. In December of 2000, the Court agreed with the petitioners on this item and directed the Coast Guard to promptly promulgate regulations setting TLPM standards and requiring use of TLPMs on tank vessels.

On October 1, 2001, we published in the **Federal Register**(66 FR 49877) another NPRM entitled ''Tank Level or Pressure Monitoring Devices.'' And, in September 2002, we published the Final Rule for ''Tank Level or Pressure Monitoring Devices'' (67 FR 58515). This Final Rule detailed TLPM performance criteria and described the vessels required to install and use TLPMs by 2007. Between publication of the Final Rule in September 2002 and June 2005, we identified no devices meeting the performance criteria established in the final rule, and none have been submitted by industry for our evaluation.

In 2004, Congress amended the language of section 4110 of OPA 90 in the Coast Guard and Marine Transportation Authorization Act of

2004 (Pub. L. 108–293). Where the original text of OPA 90 mandated rules for TLPMs, the amended language now allows the Coast Guard discretion and mandates that the Coast Guard study leak detection alternatives. As a result, we have the opportunity to revisit the feasibility and practicality of TLPMs on single-hull tank vessels and also to examine other means of detecting leaks into the water. Therefore, we are suspending for three years the rules previously published in 33 CFR parts 155 and 156 that contain requirements for the use of TLPMs.

As Congress has directed that we conduct a study of other means of detecting leaks, we are also using this final rule to solicit detailed public comment on the current state of TLPM technology and other means for detecting leaks from oil cargo tanks into the water. The most helpful comments will be those that include details about

- Physical principles of operation,
- Degree of experience with actual use,
- Performance and limitations,
- Size, weight, and cost,
- Operational complexity,
- Power requirements,
- Capacity to operate in a dynamic environment, including an explosive atmosphere, and
- A point of contact.

In submitting comments on these issues, recognize that we encourage ideas on creative and innovative approaches. The following questions should help guide your comments:

A. What methods or equipment are currently available to detect leaks from oil cargo tanks into the water and what do they cost?

B. What methods or equipment are currently under development and may be available to detect leaks from oil cargo tanks into the water in the next five years and what do they cost?

C. What methods or equipment are under development to detect leaks from oil cargo tanks into the water but will not be available in the next five years?

D. What is the current state of technology for Tank Level or Pressure Monitoring equipment?

E. In what scenarios (e.g., grounding, collision, structural failures, and material wastage) will TLPMs and the possible alternatives prove the most useful?

F. Do the methods or types of equipment discussed in this rulemaking have uses other than leak detection from oil cargo tanks into the water?

G. Are the current performance standards in 33 CFR part 155.490 reasonable and effective?

H. Should we consider special circumstances for barges being moved by tugs and towboats?

I. Should we consider special circumstances for integrated tug/barge combinations?

J. Should we consider special circumstances for vessels that have cargo or cargo residue aboard but which are unattended, such as fleeted barges?

K. Are methods or equipment being applied for similar purposes in other industries (e.g., the aerospace, rail, military, or over-the-road truck industries) that merit investigation for use aboard vessels?

L. Do emerging industries such as Microelectromechanical Systems (MEMS) or nanotechnology have the potential to provide low-cost solutions for detecting leaks from cargo oil tanks into the water?

Regulatory Evaluation

The events that led to publication of the original rules for TLPMs in 33 CFR parts 155 and 156 suggest that this final rule should be considered a ''significant regulatory action'' because it will likely generate a high level of public interest. We expect that the regulated industry and environmental groups will submit numerous comments supporting both sides of the argument for requiring TLPMs on single-hulled tank vessels. The Office of Management and Budget has reviewed it under that premise and agrees that this rule is ''significant.''

In 2002, we estimated the total cost to the affected industries of implementing the measures outlined in the final rule would be $166.4 million over the 12-year period of analysis between 2003 and 2014. No devices have been submitted to the Coast Guard for approval as a TLPM device. Our research indicates that there are currently no devices that meet the performance requirements of 33 CFR part 150.490 for a TLPM device. While some vessels may have equipment installed to monitor the tank level or pressure, our research indicates these devices do not meet the performance requirements of 33 CFR part 150.490 and are not TLPM devices as discussed in this and previous rulemakings. Since this suspension overlaps the remaining phase-in period, we believe this notice will render the entire $166.4 million in implementation costs to industry unnecessary while the rule is suspended.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

We conclude that suspending the performance standards for TLPM devices and the requirements for their use will not have a significant economic impact on a substantial number of small entities. Therefore, the Coast Guard certifies under 5 U.S.C 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's

obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke* and *Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000)). This rule suspending previously published rules on performance standards and use of TLPM devices falls into the category of vessel equipment and operation. Because the States may not regulate within these categories, preemption under Executive Order 13132 is not an issue.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in the preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order. This rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with the applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation: test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and we have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1 paragraph (34) of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADRESSSES.**

List of Subjects

33 CFR Part 155

Alaska, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

■ For the reasons discussed in the preamble, the Coast Guard is amending 33 CFR parts 155 and 156 as follows:

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

■ 1. The authority citation for 33 CFR part 155 and the note following citation continue to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793. Sections 155.100 through 155.130, 150.350 through 155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) are also issued under 33 U.S.C. 1903(b). Sections 155.480, 155.490, 155.750(e), and 155.775 are also issued under 46 U.S.C. 3703. Section 155.490 also issued under section 4110(b) of Pub. L. 101–380.

Note: Additional requirements for vessels carrying oil or hazardous materials are contained in 46 CFR parts 30 through 40, 150, 151, and 153.

§ 155.200 [Amended]

■ 2. In § 155.200, suspend the definition for ''Sea State 5'' from August 19, 2005 until July 21, 2008.

§ 155.490 [Suspended]

■ 3. Section 155.490 is suspended from August 19, 2005 until July 21, 2008.

PART 156—OIL AND HAZARDOUS MATERIAL TRANSFER OPERATIONS

■ 4. The authority citation for 33 CFR part 156 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3703a, 3715; E.O. 11735, 3 CFR 1971–1975 Comp., p. 793. Section 156.120(bb) and (ee) are also issued under 46 U.S.C. 3703.

§ 156.120 [Amended]

■ 5. In §156.120, suspend paragraph (ee) from August 19, 2005 until July 21, 2008.

Dated: July 12, 2005.

Thomas H. Collins,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 05–14246 Filed 7–19–05; 8:45 am]

BILLING CODE 4910–15–P