

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**JEFFERY A. STALLWORTH** **PLAINTIFF**

**VS.** **CIVIL ACTION NO. 3:16cv246-CWR-FKB**

**GOVERNOR DEWEY PHILLIP**  
**“PHIL” BRYANT, ET AL.** **DEFENDANTS**

**and**

**TONY T. YARBER, Mayor of the City of  
Jackson, Mississippi, on behalf of the  
Citizens of the City of Jackson, ET AL.** **INTERVENOR-PLAINTIFFS**

**VS.**

**PHIL BRYANT, in his Official Capacity as  
Governor of the State of Mississippi, ET AL.** **DEFENDANTS**

---

**GOVERNOR PHIL BRYANT’S AND LT. GOVERNOR TATE REEVES’  
MOTION FOR JUDGMENT ON THE PLEADINGS  
AS TO THE COMPLAINT’S COUNTS I THROUGH IV**

---

Defendants Phil Bryant, in his official capacity as Governor of the State of Mississippi, and Tate Reeves, in his official capacity as Lt. Governor of the State of Mississippi (collectively “defendants”), pursuant to Fed. R. Civ. P. 12(c), move for judgment on the pleadings as to the Complaint’s Counts I, II, III and IV [Dkt. 42]:

1. On July 29, 2016, the intervenor-plaintiffs filed their eight count Complaint attacking 2016 Senate Bill 2162 (“S.B. 2162”), passed by 2016 Mississippi Legislature and which took effect July 1, 2016. [Dkt. 42]. The defendants subsequently answered the Complaint. [Dkt. 48, 62].

2. The Complaint’s Count I asserts federal law preempts S.B. 2162 under the

Supremacy Clause (U.S. Const., art. VI, § 2). Count II asserts federal law preempts S.B. 2162 under the Mississippi Constitution (Miss. Const., art. 3, §§ 6, 7). Count III asserts S.B. 2162's passage violated the Mississippi Constitution's due process provision (Miss. Const., art. 3, § 14). Count IV asserts S.B. 2162 violates the federal and Mississippi Contracts Clauses (U.S. Const., art I, § 10; Miss. Const., art. 3, § 16).

3. Counts I through IV fail to state any valid legal claim against the defendants for all the reasons.

4. The defendants' motion is supported by the foregoing, the pleadings and attached exhibits on file, their separately filed Memorandum of Authorities, and the public record affixed hereto as Exhibit "1": Federal Aviation Administration's June 6, 2016 "Notice of Policy on Evaluating Disputed Changes of Sponsorship at Federally Obligated Airports" (published in the Federal Register at vol. 81, no. 108 at 36144).

FOR THESE REASONS, and those set forth in their separately filed Memorandum of Authorities, defendants Phil Bryant, in his official capacity as Governor of the State of Mississippi, and Tate Reeves, in his official capacity as Lt. Governor of the State of Mississippi, respectfully request that the Court enter an order dismissing Counts I, II, III, and IV of the intervenor-plaintiffs' Complaint [Dkt. 42] with prejudice.

THIS the 6<sup>th</sup> day of January, 2017.

Respectfully submitted,

GOVERNOR PHIL BRYANT and  
LT. GOVERNOR TATE REEVES

By: JIM HOOD, ATTORNEY GENERAL

By: S/Justin L. Matheny  
Justin L. Matheny (Bar No. 100754)  
Krissy C. Nobile (Bar No. 103577)  
Office of the Attorney General  
P.O. Box 220  
Jackson, MS 39205  
Telephone: (601) 359-3680  
Facsimile: (601) 359-2003  
*jmath@ago.state.ms.us*  
*knobi@ago.state.ms.us*

*Counsel for Governor Phil Bryant and Lt. Governor  
Tate Reeves*

Whitney H. Lipscomb (Bar No. 104326)  
Office of Governor Phil Bryant  
550 High Street  
Jackson, MS 39201  
Telephone: (601) 359-3150  
Facsimile: (601) 359-3741  
*whitney.lipscomb@governor.ms.gov*

*Counsel for Governor Phil Bryant*

Phil B. Abernethy (Bar No. 1023)  
Charles E. Griffin (Bar No. 5015)  
P. Ryan Beckett (Bar No. 88524)  
Butler Snow LLP  
1020 Highland Colony Pkwy, Suite 1400 (39157)  
Post Office Box 6010  
Ridgeland, MS 39158-6010  
Telephone: (601) 985-4557  
Facsimile: (601) 985-4500  
*phil.abernethy@butlersnow.com*  
*charles.griffin@butlersnow.com*  
*ryan.beckett@butlersnow.com*

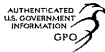
*Counsel for Lt. Governor Tate Reeves*

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document has been filed with the Clerk of Court using the Court's ECF system and thereby served on all counsel of record who have entered their appearance in this action to date.

THIS the 6<sup>th</sup> day of January, 2017.

S/Justin L. Matheny  
Justin L. Matheny



36144

Federal Register / Vol. 81, No. 108 / Monday, June 6, 2016 / Rules and Regulations

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Chapter I****Notice of Policy on Evaluating Disputed Changes of Sponsorship at Federally Obligated Airports**

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

**ACTION:** Notice of policy.

**SUMMARY:** This document clarifies the FAA's legal authority and policy for addressing disputed changes of sponsorship at federally obligated, publicly owned airports. This document also explains the requirements for state or local government entities to coordinate with the FAA when contemplating actions that may impact an airport's ownership, sponsorship, governance, or operations.

**DATES:** June 6, 2016.

**FOR FURTHER INFORMATION CONTACT:**

Kevin C. Willis, Manager, Airport Compliance Division, ACO-100, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-3085; facsimile: (202) 267-4629.

**SUPPLEMENTARY INFORMATION:****I. Introduction**

This document clarifies the FAA's legal authority and policy for monitoring and approving requests to change the sponsorship of, and/or operational responsibility for, an airport from one public agency to another public agency when there is a dispute surrounding the proposed change.<sup>1</sup> This document also describes the requirements for coordination between the FAA and state or local governments contemplating actions that may impact an airport's ownership, sponsorship, governance, or operations, to ensure that such actions are consistent with Federal requirements. Where the current sponsor/operator and the proposed new sponsor/operator agree to a change of sponsorship and/or operational control, Section IV of this document does not apply.

**II. FAA Legal Authority and Responsibility**

While state or local legislative action, or a judicial action, as the case may be, may seek to change an airport's

<sup>1</sup> The policy does not apply to a change of sponsorship or ownership of a privately-owned airport, transfers under the Airport Privatization Pilot Program, or changes when the Federal Government exercises its right of reverter.

ownership, sponsorship, governance, or operations, only the FAA has the authority to determine sponsor eligibility, approve and formally change airport sponsorship, and approve and issue a new Airport Operating Certificate pursuant to 14 CFR part 139. The FAA has a statutory obligation to ensure that an airport sponsor/operator is capable of assuming all grant assurances, safety compliance, and other Federal obligations, and has the expertise to operate the airport. Specifically, an airport sponsor/operator must meet the requirements set out in title 49 U.S.C. 44706, as implemented by 14 CFR part 139, for obtaining an Airport Operating Certificate, (if applicable) or in 49 U.S.C. 47102, as implemented by FAA Order 5100.38D (which includes provisions governing sponsor eligibility for Airport Improvement Program (AIP) funding) and/or 14 CFR part 158 (which governs the Passenger Facility Charge (PFC) program pursuant to 49 U.S.C. 40117).

The FAA's obligation extends to reviewing sponsor/operator eligibility when state and local governments propose a change in the airport governance structure to ensure that there is no ambiguity regarding responsibility for Federal obligations and that any proposed changes will not impact compliance with Federal law. (In the event of a local or state dispute regarding sponsorship/operation of the airport, the FAA will apply the policy set out in Section IV below.) If any proposed changes give rise to such concerns by the FAA, the agency will work with state and/or local government(s) to resolve the concerns or, if the concerns cannot be addressed, deny the request.

Airport sponsors and operators are required to maintain compliance with Federal requirements at all times, and this document does not preclude the FAA from taking enforcement action if a sponsor or operator fails to fulfill its obligations, even if the FAA has approved the transfer.

**III. Coordination of Potential Actions To Change Sponsorship/Operations**

Any state or local legislative body or public agency considering whether to take an action, such as drafting legislation, that would impact airport ownership, sponsorship, governance, or operations should (1) consult with and obtain the consent of the current sponsor/operator (absent extraordinary circumstances, such as substantial evidence of mismanagement on the part

of the current sponsor/operator);<sup>2</sup> and (2) request technical assistance from the FAA about the interrelationship between Federal and state or local requirements, and seek the FAA's review and comment as early in the deliberative process as is practicable. A failure to consult may cause FAA to deny a proposed change to airport sponsorship and/or operating authority. In all cases, final decisions regarding the proposed change will be made by FAA's Office of Airport Compliance and Management Analysis.

In seeking technical assistance, representatives of the existing and/or proposed sponsors and operators must contact the appropriate Regional Office or Airport District Office (ADO) as early in the process as practicable. The Regional Office or ADO will inquire as to whether the proposed change is disputed, and the FAA will not act upon the proposed change until the dispute is resolved in accordance with Section IV below. In the absence of a dispute or upon final resolution of a dispute, the Regional Office or ADO will work with prospective airport sponsors and operators to ensure understanding of and compliance with the legal obligations associated with being an airport sponsor or operator (including those under part 139 as well as the AIP grant assurances and the PFC program requirements).

As soon as Regional Offices and ADOs become aware of a proposed change in ownership, sponsorship, governance, or operations, they must alert the FAA Office of Airport Compliance and Management Analysis, which will advise the Office of Airport Safety and Standards and Office of Airport Planning and Programming. The Office of Airport Compliance and Management Analysis is responsible for approving all changes to an airport's ownership, sponsorship, governance, or operations. The Office of Airport Safety and Standards is responsible for administering 14 CFR part 139. The Regional Airport Safety and Standards Offices are responsible for approving changes to the part 139 Airport Certification Program Handbook. The Office of Airport Planning and Programming also plays a role in determining sponsor eligibility, and

<sup>2</sup> Consent from the current sponsor/operator before a change of sponsorship or operational authority is a critical factor for the FAA in determining whether safety, efficiency, and compliance with grant assurances as required by Federal law will be fully satisfied prior to, during, and after any transition period between sponsors/operators. Even when consent is obtained, the FAA independently will determine whether the proposed sponsor/operator is able to satisfy Federal requirements for airport sponsorship or operation.

EXHIBIT "1"

administers the AIP and PFC programs, as well as several associated programs and requirements.

**IV. FAA Policy on Disputed Changes to Airport Sponsorship or Operations**

The determination of whether to seek a new applicant for airport sponsorship is a state or local decision. The FAA expects that all disputes about whether to change airport sponsorship and/or operating authority will be resolved through a legally-binding agreement between the parties involved in the dispute or a final, non-reviewable legal decision. While parties should seek technical assistance from the FAA as early as practicable, parties are encouraged to wait until a dispute has been resolved before submitting an application to the FAA seeking the agency's approval of a change in sponsorship of, and/or operational responsibility for, an airport. In matters in which a proposed change is contested by a current sponsor or operator, the FAA will not act on a part 139 application or a change of airport sponsorship and/or operating authority until the dispute is definitively resolved to the satisfaction of the FAA. Resolution may be demonstrated by issuance of a final, non-reviewable judicial decision requiring such a change, by the issuance of a consent letter between the existing airport sponsor and/or operator and the proposed new sponsor and/or operator, or by other legally definitive means deemed acceptable to the FAA.

The FAA will accept an application for a change in airport sponsorship/operation only upon a legally definitive resolution of a dispute. At that time, the FAA will evaluate whether an application is complete and whether the proposed airport sponsor/operator is capable of assuming all grant assurances, safety compliance, and other Federal obligations, and has the

expertise to operate the airport as required by law.

**V. Reimbursement of Airport Investments**

In circumstances in which a change in sponsorship or operation of an airport is approved and effectuated, the new airport sponsor and/or operator should reimburse the prior sponsor for investments that have been made by the prior sponsor of the airport but have not been fully recouped at the time of the change in airport sponsorship. Any such reimbursements must be consistent with the FAA's *Policy and Procedures Concerning the Use of Airport Revenue*, 64 FR 7696 (Feb. 16, 1999).

Issued in Washington, DC, on May 25, 2016.

**Eduardo A. Angeles,**  
Associate Administrator for Airports.  
[FR Doc. 2016-13177 Filed 6-1-16; 11:15 am]  
BILLING CODE 4910-13-P

**DEPARTMENT OF THE INTERIOR**

**Bureau of Safety and Environmental Enforcement**

**30 CFR Parts 203, 250, 251, 252, 254, 256, 280, 282, 290, and 291**

[Docket ID: BSEE-2016-0006; EEEE500000 16XE1700DX EX1SF0000.DAQ000]

RIN 1014-AA15

**Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Technical Corrections**

**AGENCY:** Bureau of Safety and Environmental Enforcement (BSEE), Interior.

**ACTION:** Final rule.

**SUMMARY:** This rule makes minor edits, changes, and updates to BSEE regulations. These changes include, but are not limited to: correcting all current

Office of Management and Budget (OMB) control numbers from "1010" to "1014"; adding two new control numbers to regulations as required by the Paperwork Reduction Act (PRA); changing the BSEE address from "Herndon, VA" to "Sterling, VA"; changing "shall" to "will" or "must" and changing "which" to "that"; and revising other language where necessary for improved clarity.

**DATES:** This rule becomes effective on July 28, 2016.

**FOR FURTHER INFORMATION CONTACT:** Amy White, Regulations and Standards Branch at (703) 787-1665 or email at [regs@bsee.gov](mailto:regs@bsee.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The technical corrections in this rulemaking affect offshore operators, lessees, pipeline right-of-way holders, and permittees. The corrections are necessary to reflect accurate regulatory citations, add or change a few words for clarification, and revise section numbering. Also, regulatory text that was inadvertently removed in a 2013 regulatory update is being re-inserted where it belongs. These corrections will make the regulations easier to read, understand, and comprehend, but will not change the purpose, scope or effect of the regulations.

Because this rule makes no substantive change in any rule or requirement, BSEE for good cause finds that notice and public comment are unnecessary pursuant to 5 U.S.C. 553(b)(3)(B).

This rulemaking will correct regulations in 30 CFR parts 203, 250, 251, 252, 254, 256, 280, 282, 290, and 291 to reflect the changes discussed below. The following table shows the current regulatory citation and what changes were made.

Section-by-Section Discussion

Current citation	Description of revision
30 CFR part 203 .....	Revises the authority citation for Part 203 from "43 U.S.C. 1331 <i>et seq.</i> " to "43 U.S.C. 1334". Revises the "Herndon, VA" address to reflect the new address in "Sterling, VA".
§ 203.3(b) .....	Provides a correct Web site address for the BSEE <i>Fees for Services</i> page (application fees) for electronic payments of royalty relief fees.
§ 203.5(a) .....	Corrects the OMB Control Number from "1010-0071" to "1014-0005".
30 CFR part 250 .....	Revises the "Herndon, VA" address to reflect the new address in "Sterling, VA".
§ 250.102(b) .....	Adds the word "part" before "250" in paragraphs (b)(1) through (b)(18) in the table of general references for these regulations.
§ 250.102(b) .....	Adds new paragraph (b)(19) to the table of general references for these regulations, to include "Safety and Environmental Management Systems (SEMS), 30 CFR part 250, subpart S".
§ 250.114(a) .....	Adds the cross reference "(as incorporated by referenced in § 250.198)" after the phrase "Division 2".
Undesignated Center Heading before § 250.118.	Adds "Gas Storage or Injection" as an undesignated center heading to assist the reader with the regulatory text that follows.
§ 250.126 .....	Provides a correct Web site address for the BSEE <i>Fees for Services</i> page (application fees) for electronic payments, adds the words "or permit," and makes structural changes so that all text is contained in sub-sections (a) and (b).