DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71
[Airspace Docket No. 96-ASW-22]

Revision of Class E Airspace; Perry, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Perry, OK. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) for Runway (RWY) 17 at Perry Municipal Airport, Perry, OK, requires the revision of the Class E airspace at Perry, OK, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 17 at Perry Municipal Airport, Perry, OK. The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Control Procedure (49 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71
Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:


§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

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

ASW OK E5 Perry, OK [Revised]
Perry Municipal Airport, OK
(Lat. 36°23′08″ N., long. 97°16′38″ W.)

That airspace extending upward room 700 feet above the surface within a 6.5-mile radius of Perry Municipal Airport and within 2 miles each side of the 359° bearing from the airport extending from the 6.5-mile radius to 10.5 miles north of the airport.

* * * * *

Issued in Fort Worth, TX, on June 23, 1997.

Albert L. Viselli,
Acting Manager, Air Traffic Division, Southwest Region.
[FR Doc. 97–18850 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M
approval to the VOC and NO\textsubscript{X} generic RACT rules and is approving the I/M provisions for Weber County.

**EFFECTIVE DATE:** August 18, 1997.

**ADDRESSES:** Copies of the State’s redesignation request, maintenance plan and other documents relevant to this action are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region 8, Air Program, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Documents that are incorporated by reference are available for public inspection at the: United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, D.C. 20460 as well as the above address.

**FOR FURTHER INFORMATION CONTACT:** Tim Russ, Air Program (8P2-A), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466; Telephone number: (303) 312–6479.

**SUPPLEMENTARY INFORMATION:**

I. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Pub. L. 101–154, 104 Stat. 3239, codified at 42 U.S.C. 7401–7671q). Under section 107(d)(1)(C) of the CAA, EPA designated the SLDC area as nonattainment for ozone because the area had been designated as nonattainment before November 15, 1990. The SLDC area was classified as a moderate nonattainment area (see section 181 of the CAA for further information regarding classifications and attainment dates for ozone nonattainment areas).

Under the Clean Air Act (CAA), designations can be changed if sufficient data are available to warrant such changes and if certain other requirements are met. See CAA section 107(d)(3)(D). Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a redesignation of a nonattainment area to attainment unless:

(i) the Administrator determines that the area has attained the national ambient air quality standard;

(ii) the Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);

(iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

EPA has reviewed the State’s redesignation request, maintenance plan, related SIP elements, and the partial NO\textsubscript{X} RACT exemption request. EPA has also considered all public comments submitted in response to the NPR for this action (EPA only received one comment letter from the Utah Mining Association which was in support of the NPR). EPA has determined that all required SIP elements, including the maintenance plan, have either been approved previously or will be fully approved with this action, that the area has attained the ozone National Ambient Air Quality Standard (NAAQS), and that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from the implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions. Thus, the five criteria in section 107(d)(3)(E) of the Clean Air Act (CAA) have been met and approval of the redesignation request is warranted. Detailed descriptions of how the section 107(d)(3)(E) requirements have been met are provided in the May 23, 1997, NPR for this action (62 FR 28396) and will not be repeated here.

In addition to the SIP elements related to the redesignation request, EPA also proposed action in the May 23, 1997, NPR on three unrelated SIP elements. First, EPA proposed to give limited approval to the State’s generic VOC and NO\textsubscript{X} RACT rules. In the NPR, EPA noted deficiencies in these rules that prevent full approval, and thus, EPA is only giving limited approval to these rules for their strengthening effect, not as meeting the CAA’s requirements for VOC and NO\textsubscript{X} RACT. Second, EPA proposed to approve I/M provisions for Weber County and is now fully approving these I/M provisions. A detailed description of EPA’s rationale for these actions is contained in the May 23, 1997, NPR for this action (62 FR 28396).

II. Final Action

A. In this action, EPA is approving the following:

1. The SLDC redesignation request—EPA is approving the Governor’s November 12, 1993, request to redesignate the SLDC ozone nonattainment area to attainment.

2. The SLDC maintenance plan—EPA is approving the maintenance plan that the Governor submitted on February 19, 1997 (“maintenance plan”). EPA notes that a key aspect of the maintenance plan is its implications with respect to the conformity regulations. These regulations require a demonstration that emissions from the transportation plan and Transportation Improvement Program are consistent with the emissions budget in the SIP (40 CFR 93.118 and 93.119). The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment area. The rule’s requirements and EPA’s policy on emissions budgets are found in the Preamble to the transportation conformity rule (58 FR 62193–62196) and in the sections of the rule referenced above.

The maintenance plan defines emissions budgets for each year between 1994 and 2007, and for 2015 and 2020. The 1994–2007 emissions budgets are based on the maintenance plan’s emissions inventory—EPA is approving the maintenance plan’s emissions inventory for Weber County individually or for the entire nonattainment area at its option. The plan also identifies a safety margin (called the “emissions credit”) for each year, which is the difference between total emissions from all sources in the attainment year and in each future year. The plan provides that this safety margin may be used for conformity purposes if authorized by the Utah Air Quality Board.

3. The 1990 SLDC ozone base year emissions inventory—EPA is approving the 1990 SLDC ozone base year emissions inventory that the Governor submitted on January 13, 1995, (with corrections submitted on April 20, 1995, by Russell Roberts, Director, Utah Division of Air Quality).

4. VOC RACT—EPA is approving the State’s VOC RACT requirements as presented in specific sections of the maintenance plan (described below) and
as reflected in the following State Approval Orders (AO):
(b) VOC RACT, as described in the maintenance plan, was addressed for the Amoco, Chevron, Crysen, Flying J, and Phillips refineries through the Governor's submittals of VOC RACT rules on May 4, 1990 and July 25, 1991, as approved by EPA on June 26, 1992 (57 FR 28621).
5. NOX RACT—EPA is approving the State's NOX RACT requirements as reflected in the following State Approval Orders (AO):
6. Basic Inspection and Maintenance (I/M) for Salt Lake and Davis Counties—EPA is approving the Basic I/M provisions for Salt Lake and Davis Counties that the Governor submitted on February 19, 1997.
7. Improved I/M for Salt Lake and Davis Counties—EPA is approving the Improved I/M provisions for Salt Lake and Davis Counties that the Governor submitted on February 19, 1997.
8. Partial NOX RACT Exemption Request—EPA is approving the Partial NOX RACT Exemption Request for the SLDC area as was submitted by Ursula Trueman, Director, Utah Division of Air Quality on May 2, 1997. It is important to note that EPA is only approving an exemption from the NOX RACT requirements for those major stationary sources of NOX in the SLDC nonattainment area other than the Pacificorp Gadsby Power Plant and the Kennelecott Utah Copper Utah Power Plant. EPA is not approving an exemption from the NOX NSR requirements, NOX Conformity requirements, or the motor vehicle I/M requirements related to NOX.
Furthermore, EPA notes that NOX limits for some or all of the major stationary sources of NOX other than the Pacificorp Gadsby and Kennelecott Utah Copper Power Plants are necessary for the SLDC nonattainment area to demonstrate maintenance of the ozone NAAQS through 2007 (2020 for conformity purposes).
9. Revisions to UACR R307–1–3.3.3.C, a portion of "Control of Installations" and revisions to UACR R307–3.5.3.B(1), a portion of "Emission Statement Inventory," both as submitted by the Governor on February 19, 1997.
10. Unrelated to the SLDC ozone redesignation request, EPA is also taking the following actions:
1. EPA is approving the Weber County Basic I/M provisions as submitted by the Governor on February 19, 1997.
2. EPA is granting limited approval of revisions to UACR R307–14–1 "Requirements for Ozone Nonattainment Areas and Davis and Salt Lake Counties" as submitted by the Governor on February 6, 1996. UACR R307–14–1 requires RACT for existing major sources of VOC and NOX for which no specific emission limits or other control requirements have been established in R307–14. This generic RACT rule strengthens the SIP, but does not meet all the CAA requirements for RACT. Thus, EPA is approving this rule for its strengthening effect only. For a full discussion of the reasons EPA is unable to fully approve the revisions to UACR R307–14–1, please refer to the May 23, 1997, NPR for this action (62 FR 28396, 28399–28400, 28404).
Nothing in this action should be construed as permitting or allowing or establishing precedent for any future request for revision to any State Implementation Plan. Each request for revision to any State Implementation Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

### III. Administrative Requirements
A. Executive Order 12866
The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act
Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Redesignation of an area to attainment under sections 107(d)(3)(D) and (E) of the CAA does not impose any new requirements on small entities. Redesignation to attainment is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Therefore, I certify that the approval of the redesignation request will not affect a substantial number of small entities.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds.

C. Unfunded Mandates
Under Section 202 of the Unfunded Mandates Reform Act of 1995
("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate or to the private sector. This Federal action will approve a redesignation to attainment, pre-existing requirements under State or local law, and an exemption from requirements otherwise imposed under the CAA; this action will impose no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to the publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 15, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52 Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intrastate regulatory relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81 Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: July 2, 1997.

Jack W. McGraw,
Acting Regional Administrator.

Title 40, chapter I, parts 52 and 81 of the Code of Federal Regulations are amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart TT—UTAH

2. Section 52.2320 is amended by adding paragraph (c)(38) to read as follows:

§52.2320 Identification of plan.

* * * * *    

(c) Revisions to the Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part D, Ozone: Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability; Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County; Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County; Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County; UACR R307–1–3.3.C.C, a portion of Control of Installations; UACR R307–1–3.53.B.(1), a portion of Emission Statement Inventory; all as submitted by the Governor on February 19, 1997. EPA approved the above provisions. In addition, EPA approved, for the limited purpose of strengthening the SIP, revisions to UACR R307–14, Requirements for Ozone Nonattainment Areas and Davis and Salt Lake Counties, as submitted by the Governor on February 6, 1997.

(i) Incorporation by reference.

(A) UACR R307–2–13 adopted by the Utah Air Quality Board on January 8, 1997, effective March 4, 1997, including Section IX, Part D.2 of the Utah State Implementation Plan (SIP) that such rule incorporates by reference (Ozone Maintenance Provisions for Salt Lake and Davis Counties, adopted by the Utah Air Quality Board on January 8, 1997), and excluding any other provisions that such rule incorporates by reference.


(C) UACR R307–2–18, adopted by the Utah Air Quality Board on February 5, 1997, effective February 14, 1997, This rule incorporates by reference (Ozone State Implementation Plan, Vehicle Inspection and Maintenance Program, General Requirements and Applicability.

(D) UACR R307–2–31, adopted by the Utah Air Quality Board on February 5, 1997, effective February 14, 1997, This rule incorporates by reference Section X, Part A of the Utah State Implementation Plan, Vehicle Inspection and Maintenance Program, Davis County.
PART 75—[AMENDED]

1. The authority citation for part 75 continues to read as follows:

Authority: 45 CFR 46.101 et seq.

2. In § 75.1902, the table entitled "Informal grant appeals procedures," as amended by notice 57 FR 30208, dated August 18, 1992, is amended by removing the following entry in its entirety:

<table>
<thead>
<tr>
<th>State</th>
<th>Designated area</th>
<th>Date</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>State of California</td>
<td>March 5, 1995</td>
<td></td>
</tr>
</tbody>
</table>

3. New § 75.1902 is added to read as follows:

§ 75.1902 Informal grant appeals procedures.

The informal grant appeals procedure for disputes arising from determinations made by a Director, Division of Cost Allocation (DCA) in the Department's regional offices, concerning indirect cost rates and certain other cost allocation plans. The Department's Divisions of Cost Allocation have been reorganized into a New Program Support Center and no longer report to the Regional Directors.

SUPPLEMENTARY INFORMATION: On March 5, 1997, HHS published a Notice of Proposed Rulemaking (62 FR 10009) soliciting public comments on a proposal to remove 45 CFR part 75, "Informal grant appeals procedures," together with all references to it. Part 75 provides for an informal appeals process to the Regional Directors (prior to formal appeals under 45 CFR part 16) for disputes arising from determinations made by a Director, Division of Cost Allocation (DCA) in the Department's regional offices, concerning indirect cost rates and other cost issues.

The regional HHS Divisions of Cost Allocation have been reorganized into a new Program Support Center and no longer report to the Regional Directors, making the process obsolete. The Department also sees little value in this informal appeals process because it frequently lengthens the time required for appeals. Deletion of this rule will reduce internal management regulations as required by Executive Order 12861.

(45 CFR part 75)

DATES: Effective August 18, 1997.

FOR FURTHER INFORMATION CONTACT: Ronald Speck, (202) 401–2751. For the hearing impaired only: TDD (202) 690–6415.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 16, 74, 75, and 95

RIN 0991–AA88

Indirect Cost Appeals

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This final rule removes the informal grant appeals procedure for indirect cost rates and other cost issues. The regional HHS Divisions of Cost Allocation have been reorganized into a new Program Support Center and no longer report to the Regional Directors, making the process obsolete. The Department also sees little value in this informal appeals process because it frequently lengthens the time required for appeals. Deletion of this rule will reduce internal management regulations as required by Executive Order 12861.

(45 CFR part 75)

DATES: Effective August 18, 1997.

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