

rule reflects the periodic integration of these final rule amendments into a revised edition of Airspace Designations and Reporting Points, Order 7400.9L. The Director of the Federal Register has approved the incorporation by reference of FAA Order 7400.9L in § 71.1, as of September 16, 2003, through September 15, 2004. This rule also explains the procedures the FAA will use to amend the airspace designations incorporated by reference in part 71. Sections 71.5, 71.31, 71.33, 71.41, 71.51, 71.61, 71.71, and 71.901 are also updated to reflect the incorporation by reference of FAA Order 7400.9L.

### The Rule

This action amends 14 CFR part 71 to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9L, effective September 16, 2003, through September 15, 2004. During the incorporation by reference period, the FAA will continue to process all proposed changes of the airspace listings in FAA Order 7400.9L in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings will be published in full text as final rules in the **Federal Register**. The FAA will periodically integrate all final rule amendments into a revised edition of the Order, and submit the revised edition to the Director of the Federal Register for approval for incorporation by reference in § 71.1.

The FAA has determined that this action: (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. This action neither places any new restrictions or requirements on the public, nor changes the dimensions or operating requirements of the airspace listings incorporated by reference in part 71. Consequently, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Because this action will continue to update the changes to the airspace designations, which are depicted on aeronautical charts, and to avoid any unnecessary pilot confusion, I find that good cause exists, under 5 U.S.C. 553(d), for making this amendment effective in less than 30 days.

### 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—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE 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, 1959–1963 Comp., p. 389.

■ 2. Section 71.1 is revised to read as follows:

#### **§ 71.1 Applicability.**

The complete listing for all Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points can be found in FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The approval to incorporate by reference FAA Order 7400.9L is effective September 16, 2003, through September 15, 2004. During the incorporation by reference period, proposed changes to the listings of Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points will be published in full text as proposed rule documents in the **Federal Register**. Amendments to the listings of Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points will be published in full text as final rules in the **Federal Register**. Periodically, the final rule amendments will be integrated into a revised edition of the Order and submitted to the Director of the Federal Register for approval for incorporation by reference in this section. Copies of FAA Order 7400.9L may be obtained from the Airspace and Rules Division, ATA-400, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267-8783. Copies of FAA Order 7400.9L may be inspected in Docket No. 29334 at the Federal Aviation Administration, Office of the Chief Counsel, AGC-200, Room 325, 800 Independence Avenue, SW., Washington, DC, weekdays between 8:30 a.m. and 5 p.m., or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. This section is applicable September 16, 2003, through September 15, 2004.

#### **§ 71.5 [Amended]**

■ 3. Section 71.5 is amended by removing the words "FAA Order

7400.9K" and adding, in their place, the words "FAA Order 7400.9L."

#### **§ 71.31 [Amended]**

■ 4. Section 71.31 is amended by removing the words "FAA Order 7400.9K" and adding, in their place, the words "FAA Order 7400.9L."

#### **§ 71.33 [Amended]**

■ 5. Paragraph (c) of § 71.33 is amended by removing the words "FAA Order 7400.9K" and adding, in their place, the words "FAA Order 7400.9L."

#### **§ 71.41 [Amended]**

■ 6. Section 71.41 is amended by removing the words "FAA Order 7400.9K" and adding, in their place, the words "FAA Order 7400.9L."

#### **§ 71.51 [Amended]**

■ 7. Section 71.51 is amended by removing the words "FAA Order 7400.9K" and adding, in their place, the words "FAA Order 7400.9L."

#### **§ 71.61 [Amended]**

■ 8. Section 71.61 is amended by removing the words "FAA Order 7400.9K" and adding, in their place, the words "FAA Order 7400.9L."

#### **§ 71.71 [Amended]**

■ 9. Paragraphs (b), (c), (d), (e), and (f) of Section 71.71 are amended by removing the words "FAA Order 7400.9K" and adding, in their place, the words "FAA Order 7400.9L."

#### **§ 71.901 [Amended]**

■ 10. Paragraph (a) of Section 71.901 is amended by removing the words "FAA Order 7400.9K" and adding, in their place, the words "FAA Order 7400.9L."

Issued in Washington, DC, September 10, 2003.

**Reginald C. Matthews,**

*Manager, Airspace and Rules Division.*

[FR Doc. 03-23768 Filed 9-15-03; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2003-14402; Airspace Docket No. 01-AWA-4]

RIN 2120-AA66

#### Modification of the Houston Class B Airspace Area; TX

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies the current Houston, TX, Class B airspace area to contain large turbine-powered aircraft during operations to the new Runway 8L/26R at George Bush Intercontinental Airport (IAH), and to the new primary runway (Runway 4) at William P. Hobby Airport (HOU). The FAA is taking this action to enhance safety and improve the management of aircraft operations in the Houston terminal area. Further, this action supports the FAA's national airspace redesign goal of optimizing terminal and en route airspace areas to reduce aircraft delays and improve system capacity.

**EFFECTIVE DATE:** 0901 UTC, October 30, 2003.

**FOR FURTHER INFORMATION CONTACT:** Steve Rohring, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

**SUPPLEMENTARY INFORMATION:**

**Background**

On April 17, 2003, the FAA proposed to modify the Houston Class B airspace area (68 FR 18910). The FAA proposed this action due to a significant growth in aircraft operations in the last ten years. To accommodate this growth, the City of Houston is scheduled to complete construction of the new Runway 8L/26R for IAH in October 2003. Additionally, the flow of aircraft operations at HOU will be adjusted to use Runway 4 as the primary runway. To provide protection for operations to the new runway at IAH and the planned traffic flow adjustments at HOU, the FAA is taking this action to modify the Houston Class B airspace area.

Subsequent to the proposal, further technical analysis conducted by the FAA revealed that the proposed modification to Area A will not be required to contain large turbo-jet operations to the new Runway 8L/26R within the Houston Class B airspace area. Therefore, this action does not reflect the proposed modification to Area A.

**Discussion of Comment**

In response to the notice of proposed rulemaking, the FAA received 68 comments.

Sixty-four commenters expressed concerns that aerobatic operations over the Sack-O-Grande Airport would be impacted. The FAA believes that there will be no impact on aerobatic operations in this area because the current waiver that permits aerobatic operations over the Sack-O-Grande

Airport will remain in effect. The upper portion of the waived area (3,000 feet to 3,500 feet) will be within the modified Houston Class B airspace area where an additional margin of safety will be provided through the application of appropriate Class B separation standards.

One commenter expressed a concern that noise from large turbine-powered aircraft at lower altitudes over populated areas to the east and west of IAH would be a problem. The noise issue was addressed during the environmental analysis for Runway 8L/26R at IAH. The noise impact was determined to be minimal because the affected areas east and west of the airport are largely unpopulated farmland and prairie. The same commenter also expressed a concern with increasing the Class B airspace area to a 50-nautical mile (NM) radius of IAH. The FAA, however, notes that the proposal did not expand the lateral dimensions of the Houston Class B airspace area beyond the current 30-NM radius of IAH.

One commenter expressed a concern that the proposed expansion of Areas B and C would compress general aviation traffic down to lower altitudes. The FAA recognizes that in order to remain clear of the Houston Class B airspace area, aircraft will either fly lower or further east or west of IAH. However, this is necessary to separate them from large turbine-powered aircraft arriving and departing IAH.

The Aircraft Owners and Pilots Association concurred with the FAA's efforts to add waypoints to the Class B airspace area chart to assist pilots navigating the busy terminal area. With the aid of the Aircraft Owners and Pilot's Association, the FAA has developed eight waypoints in the Houston terminal area. These waypoints are scheduled to be charted October 30, 2003.

The Air Line Pilots Association recommended that the FAA raise the 3,000-foot floor to 4,000 feet to the east and west of IAH to realistically reflect the air traffic control requirements for conducting triple, simultaneous approaches and to allow the efficient operation of aircraft. The FAA notes that the Houston Class B airspace area is designed to contain large turbine-powered aircraft within the Houston Class B airspace area while they are conducting triple, simultaneous instrument approaches at IAH. When conducting triple, simultaneous instrument approaches each aircraft must be assigned an altitude that differs by at least 1,000 feet from the altitude of the other two aircraft conducting

simultaneous approaches. This requires the use of additional lower altitudes to the east and west of IAH. Thus, the FAA is not amending the proposed altitudes.

**The Rule**

This amendment to part 71 of Title 14, Code of Federal Regulations (14 CFR part 71) modifies the Houston Class B airspace area. Specifically, this action expands the lateral limits of Area B to the east and west of IAH; expands the lateral limits of Area C to the east and west of IAH and to the southwest of HOU; and expands the lateral limits of Area D to the southwest of HOU to improve the containment of turbo-jet aircraft operating within the Houston Class B airspace area.

*Area A.* Area A is not modified.

*Area B.* Area B is modified to the east and west of IAH incorporating into Area B, two segments of the Class B airspace area that are currently contained within Area C. Specifically, Area B is extended to the east incorporating that part of Area C airspace that lies on the extended ILS localizer course and downwind legs for Runway 26R, 26L, and 27, between the IAH 15- and 20-NM arcs. Area B is extended to the west incorporating that part of Area C airspace that lies on the extended ILS localizer course and downwind legs for Runway 8L, 8R, and 9, between the IAH 15- and 20-NM arcs.

*Area C.* Area C is modified to the east and west of IAH incorporating into Area C, two segments of the Class B airspace area that are currently contained within Area D. Specifically, Area C is extended to the east incorporating that part of Area D airspace that lies on the extended ILS localizer course and downwind legs for Runway 26R, 26L, and 27, between the IAH 20- and 30-NM arcs and to the west incorporating that part of Area D airspace that lies on the extended ILS localizer course and downwind legs for Runway 8L, 8R, and 9, between the IAH 20- and 30-NM arcs of the airport. Area C is also modified to the southwest of HOU by incorporating into Area C, one segment of the Class B airspace area that is currently contained within Area D. Specifically, Area C is extended to the southwest incorporating that part of Area D airspace that lies on the extended ILS localizer course and downwind legs for Runway 4, between the IAH 15- and 20-NM arcs.

*Area D.* Area D is modified by expanding the boundaries of Area D to the southwest of HOU. Specifically, Area D is extended to the southwest of HOU incorporating airspace that lies on the extended ILS localizer course and downwind legs for Runway 4, between the IAH 20- and 25-NM arcs.

*Area E.* Area E is not modified.

These modifications improve the management of aircraft operations in the Houston terminal area, and enhance safety by extending and lowering the floor of Class B airspace to protect a high volume of instrument approaches to IAH and HOU airports. Additionally, this action supports various efforts to enhance the efficiency and capacity of the National Airspace System including the National Airspace Redesign project and the FAA's Operational Evolution Plan.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR section 71.1. The Class B airspace area listed in this document will be published subsequently in the Order.

#### **Regulatory Evaluation Summary**

Changes to Federal Regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act requires agencies to analyze the economic effect of regulatory changes on small businesses and other small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this final rule: (1) Will generate benefits that justify its circumnavigation costs and is not a "significant regulatory action" as defined in the Executive Order; (2) is not significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; (4) will not constitute a barrier to international trade; and (5) will not contain any Federal intergovernmental or private sector mandate. These analyses are summarized here in the preamble, and the full Regulatory Evaluation is in the docket.

This Final Rule will modify the Houston, TX, Class B airspace. The final rule will reconfigure the sub-area boundaries, raise the altitude ceiling in certain segments of the airspace and lower the altitude floor in certain segments.

The final rule will generate benefits for system users in the form of enhanced operational efficiency and simplified navigation in the Houston terminal area. These modifications will impose some costs (an additional 5 NM circumnavigation around the expanded controlled airspace) on operators of non-compliant aircraft. However, the cost of circumnavigation is considered to be small. Thus, the FAA has determined this final rule will be cost-beneficial.

#### **Final Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principal, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 Act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule may impose some circumnavigation costs on individuals operating in the Houston terminal area; but the final rule will not impose any costs on small business entities. Operators of GA aircraft are considered individuals, not small business entities and are not included when performing a regulatory flexibility analysis. Flight schools are considered small business entities. However, the FAA assumes that they provide instruction in aircraft equipped to navigate in Class B airspace given they currently provide instruction in the Houston terminal area. Therefore, these small entities should not incur any additional costs as a result of the final rule. Accordingly, pursuant to the

Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies this rule will not have a significant economic impact on a substantial number of small entities.

#### **International Trade Impact Assessment**

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

The final rule is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

#### **Unfunded Mandates Assessment**

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 0104-4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of \$100 million or more (when adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments in the aggregate of \$100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan, which, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity for these small governments to provide input in the development of regulatory proposals.

This final rule does not contain any Federal intergovernmental or private

sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), there are no requirements for information collection associated with this rule.

#### Conclusion

In view of the minimal or zero cost of compliance of the rule and the enhancements to operational efficiency that do not reduce aviation safety, the FAA has determined that the rule will be cost-beneficial.

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

Airspace, Incorporation by reference, Navigation (air).

#### The Amendment

■ In consideration of the foregoing, 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; AIR TRAFFIC SERVICE 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, 1959-1963 Comp., p. 389.

##### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

*Paragraph 3000 Subpart B-Class B Airspace.*

\* \* \* \* \*

#### ASW TX B Houston, TX (Revised)

George Bush Intercontinental Airport (IAH)  
(Primary Airport)

(Lat. 29°58'50" N., long. 95°20'23" W.)

William P. Hobby Airport (HOU) (Secondary  
Airport)

(Lat. 29°38'44" N., long. 95°16'44" W.)

Ellington Field (EFD)

(Lat. 29°36'27" N., long. 95°09'32" W.)

Humble VORTAC (IAH)

(Lat. 29°57'25" N., long. 95°20'45" W.)

Point of Origin

(Lat. 29°39'01" N., long. 95°16'45" W.)

#### Boundaries

*Area A.* That airspace extending upward from the surface to and including 10,000 feet MSL bounded by a line beginning at the

intersection of the Humble VORTAC 8-mile DME arc and the 090° radial; thence clockwise along the Humble VORTAC 8-mile DME arc to the Humble VORTAC 069° radial; thence east along the Humble VORTAC 069° radial to the 10-mile DME arc of Humble VORTAC; thence clockwise along the Humble VORTAC 10-mile DME arc to the Humble VORTAC 090° radial; thence west to the point of beginning; and that airspace bounded by a line beginning at lat. 29°45'37" N., long. 95°21'58" W.; to lat. 29°45'46" N., long. 95°11'47" W.; thence clockwise along the 8-mile arc from the Point of Origin to intercept the 056° bearing from the point of origin; thence southwest along the 056° bearing to the 5.1-mile fix from the point of origin, thence direct to the point of origin 131° bearing/5.8-mile fix from the point of origin; thence southeast along the 131° bearing from the point of origin to intercept the 7-mile arc from the point of origin; thence clockwise on the 7-mile arc to the 156° bearing from the point of origin; thence north along the 156° bearing to the 6-mile fix from the point of origin; thence clockwise along the 6-mile arc to the 211° bearing from the point of origin; thence south along the 211° bearing from the point of origin to the 8-mile arc from the point of origin; thence clockwise to the point of beginning.

*Area B.* That airspace extending upward from 2,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of State Highway 59 (SH 59) and the 15-mile arc from the point of origin; thence counterclockwise along the 15-mile arc to State Road 6 (SR 6); thence southeast along SR 6 to the intersection of SR 6 and Farm Road 521 (FR 521); thence south along FR 521 to the intersection of FR 521 and the 15-mile arc from the point of origin; thence counterclockwise along the 15-mile arc to the 211° bearing from the point of origin; thence northeast along the 211° bearing to the 10-mile arc from the point of origin; thence counterclockwise along the 10-mile arc to the 156° bearing from the point of origin; thence southeast along the 156° bearing to the 15-mile arc from the point of origin; thence counterclockwise on the 15-mile arc to the intersection of the 15-mile arc and Interstate 10 (I-10); thence east on I-10 to the intersection of I-10 and the Humble VORTAC 20-mile DME arc; thence counterclockwise on the Humble VORTAC 20-mile DME arc to the intersection of the Humble VORTAC 20-mile DME arc and the Humble VORTAC 058° radial; thence west to the intersection of the Humble VORTAC 15-mile DME arc and Humble VORTAC 048° radial; thence counterclockwise along the Humble VORTAC 15-mile DME arc to the intersection of the Humble VORTAC 15-mile DME arc and the Humble VORTAC 303° radial; thence west to the intersection of the Humble VORTAC 20-mile DME arc and the Humble VORTAC 249° radial; thence east to the intersection of the Humble VORTAC 15-mile DME arc and the Humble VORTAC 242° radial; thence counterclockwise along the Humble VORTAC 15-mile DME arc to lat. 29°43'40" N., long. 95°27'40" W.; thence southwest along SH 59 to the point of beginning; and that airspace beginning at the intersection of the 15-mile arc and the 211° bearing from the point of origin; thence clockwise along the 15-mile arc to the intersection of the 15-mile arc and the 254° bearing from the point of origin; thence southwest to the intersection of the 20-mile arc and the 248° bearing from the point of origin; thence counterclockwise along the 20-mile arc from the point of origin to the intersection of the 20-mile arc and the 211° bearing from the point of origin; thence northeast along the 211° bearing from the point of origin to the intersection of the 10-mile arc and the 211° bearing from the point of origin; thence counterclockwise along the 10-mile arc to the intersection of the 10-mile arc and the 156° bearing from the point of

Humble VORTAC 15-mile DME arc to lat. 29°43'40" N., long. 95°27'40" W.; thence southwest along SH 59 to the point of beginning, excluding Area A.

*Area C.* That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of SH 59 and the Humble VORTAC 20-mile DME arc; thence clockwise along the Humble VORTAC 20-mile DME arc to the intersection of the Humble VORTAC 20-mile DME arc and the Humble VORTAC 249° radial; thence west to the intersection of the Humble VORTAC 30-mile DME arc and the Humble VORTAC 254° radial; thence clockwise on the Humble VORTAC 30-mile DME arc to the intersection of the Humble VORTAC 30-mile DME arc and the Humble VORTAC 283° radial; thence east to the intersection of the Humble VORTAC 20-mile DME arc and the Humble VORTAC 293° radial; thence clockwise on the Humble VORTAC 20-mile DME arc to the intersection of the Humble VORTAC 20-mile DME arc and the Humble VORTAC 058° radial; thence east to the intersection of the Humble VORTAC 30-mile DME arc and the Humble VORTAC 067° radial; thence clockwise on the Humble VORTAC 30-mile DME arc to the intersection of the Humble VORTAC 30-mile DME arc and the Humble VORTAC 096° radial; thence west to the intersection of the Humble VORTAC 20-mile DME arc and the Humble VORTAC 101° radial; thence counterclockwise on the Humble VORTAC 20-mile DME arc to the intersection of the Humble VORTAC 20-mile DME arc and the Humble VORTAC 058° radial; thence west to the intersection of the Humble VORTAC 15-mile DME arc and the Humble VORTAC 048° radial; thence counterclockwise on the Humble VORTAC 15-mile DME arc to the intersection of the Humble VORTAC 15-mile DME arc and the Humble VORTAC 303° radial; thence west to the intersection of the Humble VORTAC 20-mile DME arc and the Humble VORTAC 293° radial; thence counterclockwise on the Humble VORTAC 20-mile DME arc to the intersection of the Humble VORTAC 20-mile DME arc and the Humble VORTAC 249° radial; thence east to the intersection of the Humble VORTAC 15-mile DME arc and the Humble VORTAC 242° radial; thence counterclockwise along the Humble VORTAC 15-mile DME arc to lat. 29°43'40" N., long. 95°27'40" W.; thence southwest along SH 59 to the point of beginning; and that airspace beginning at the intersection of the 15-mile arc and the 211° bearing from the point of origin; thence clockwise along the 15-mile arc to the intersection of the 15-mile arc and the 254° bearing from the point of origin; thence southwest to the intersection of the 20-mile arc and the 248° bearing from the point of origin; thence counterclockwise along the 20-mile arc from the point of origin to the intersection of the 20-mile arc and the 211° bearing from the point of origin; thence northeast along the 211° bearing from the point of origin to the intersection of the 10-mile arc and the 211° bearing from the point of origin; thence counterclockwise along the 10-mile arc to the intersection of the 10-mile arc and the 156° bearing from the point of

bearing to the 15-mile arc and 156° bearing from the point of origin; thence clockwise along the 15-mile arc from the point of origin to the point of beginning.

*Area D.* That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of SH 59 and the Humble VORTAC 30-mile DME arc; thence clockwise along the Humble VORTAC 30-mile DME arc to the intersection of the Humble VORTAC 30-mile DME arc and the Humble VORTAC 254° radial; thence east to the intersection of the Humble VORTAC 20-mile DME arc and the Humble VORTAC 249° radial; thence counterclockwise on the Humble VORTAC 20-mile DME arc to the intersection of the Humble VORTAC 20-mile DME arc and SH 59; thence southwest to and along SH 59 to the intersection of the 15-mile arc from the point of origin and SH 59; thence counterclockwise on the 15-mile arc from the point of origin to the intersection of the 15-mile arc from the point of origin and the 254° bearing from the point of origin; thence southwest to the intersection of the 20-mile arc from the point of origin and the 248° bearing from the point of origin; thence clockwise on the 20-mile arc from the point of origin to the intersection of the 20-mile arc from the point of origin and SH 59; thence southwest along SH 59 to the point of beginning; and that airspace beginning at the intersection of the 211° bearing and the 20-

mile arc from the point of origin; thence northeast to the intersection of the 15-mile arc from the point of origin and the 211° bearing from the point of origin; thence counterclockwise on the 15-mile arc from the point of origin to the intersection of the 15-mile arc from the point of origin and I-10; thence east along I-10 to the intersection of the Humble VORTAC 20-mile DME arc and I-10; thence counterclockwise on the Humble VORTAC 20-mile DME arc to the intersection of the Humble VORTAC 20-mile DME arc and the Humble VORTAC 101° radial; thence east to the intersection of the Humble VORTAC 30-mile DME arc and the Humble VORTAC 096° radial; thence clockwise on the Humble VORTAC 30-mile DME arc until the intersection of the Humble VORTAC 30-mile DME arc and the 20-mile arc from the point of origin; thence clockwise on the 20-mile arc from the point of origin to the intersection of the 20-mile arc from the point of origin and the 248° bearing from the point of origin; thence southwest to the intersection of the 25-mile arc from the point of origin and the 245° bearing from the point of origin; thence counterclockwise on the 25-mile arc from the point of origin to the intersection of the 25-mile arc from the point of origin and the 211° bearing from the point of origin; thence northeast on the 211° bearing from the point of origin to the point of beginning; and that airspace beginning at the intersection of the Humble VORTAC 20-

mile DME arc and the Humble VORTAC 293° radial; thence west to the intersection of the Humble VORTAC 30-mile DME arc and the Humble VORTAC 283° radial; thence clockwise along the Humble VORTAC 30-mile DME arc to the intersection of the Humble VORTAC 30-mile DME arc and the Humble VORTAC 067° radial; thence west to the intersection of the Humble VORTAC 20-mile DME arc and the Humble VORTAC 058° radial; thence counterclockwise along the Humble VORTAC 20-mile DME arc to the point of beginning.

*Area E.* That airspace extending upward from 2,500 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of the 15-mile arc from the point of origin and SR 6; thence southeast along SR 6 to the intersection of SR 6 and FR 521; thence south along FR 521 to the intersection of FR 521 and the 15-mile arc from the point of origin; thence clockwise along the 15-mile arc from the point of origin to the point of beginning.

\* \* \* \* \*

Issued in Washington, DC, on September 9, 2003.

**Reginald C. Matthews,**

*Manager, Airspace and Rules Division.*

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**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT****24 CFR Part 982**

[Docket No. FR-4759-F-03]

RIN 2577-AC39

**Housing Choice Voucher Program  
Homeownership Option: Eligibility of  
Units Owned or Controlled By a Public  
Housing Agency****AGENCY:** Office of the Assistant  
Secretary for Public and Indian  
Housing, HUD.**ACTION:** Final rule.

**SUMMARY:** This final rule provides that units owned or substantially controlled by a public housing agency (PHA) are eligible for purchase under the Housing Choice Voucher Program homeownership option. The inclusion of PHA-owned or controlled properties among properties eligible for purchase under the homeownership option will expand the availability of housing and affordable homeownership opportunities for voucher families participating in the homeownership option. The final rule also establishes procedures to remove potential conflicts of interest where the PHA is the seller. These provisions are modeled on the requirements for PHA-owned units in the voucher rental program. The final rule follows publication of an October 28, 2002, interim rule. After consideration of the issues raised by the single public commenter on the interim rule, HUD has decided to adopt the interim rule without change.

**DATES:** *Effective Date:* October 17, 2003.**FOR FURTHER INFORMATION CONTACT:**

Gerald J. Benoit, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4210, 451 Seventh Street, SW., Washington, DC 20410-5000; telephone (202) 708-0477. (This is not a toll-free number.) Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION****I. Background**

On October 28, 2002 (67 FR 65864), HUD published an interim rule providing that units owned or substantially controlled by a public housing agency (PHA) are eligible for purchase under the Housing Choice Voucher Program homeownership

option. Under the "homeownership option" of the Housing Choice Voucher Program, a PHA may choose to provide monthly homeownership assistance to an eligible family that purchases a dwelling unit to be occupied by the family. On November 6, 2002 (67 FR 67522), HUD published a technical correction to the October 28, 2002, interim rule, correcting a typographical error concerning the designation of the paragraph being added to the voucher program regulations.

The October 28, 2002, interim rule amended § 982.628 of the homeownership option regulations, which concerns the eligibility of units, to specify that a PHA may provide homeownership assistance for the purchase of a PHA-owned unit. The inclusion of PHA-owned units in the universe of eligible units expands the availability of housing and affordable homeownership opportunities for voucher families participating in the homeownership option.

The October 28, 2002, interim rule provides that PHA-owned units are eligible for purchase through the homeownership option, but provides that an independent entity must perform certain administrative duties for which the PHA would normally be responsible. The independent entity must review the contract of sale, conduct the initial housing quality standards (HQS) inspection, and review the independent inspection report. In addition, the independent entity must determine the reasonableness of the sales price and any PHA-provided financing.

The reviews performed by the independent entity shall be conducted in accordance with the homeownership option regulations. The independent entity must be selected by the PHA and approved by HUD in accordance with existing procedures under the tenant-based assistance program at § 982.352(b)(iv)(B) and (C). The PHA may not steer, direct, or require families to purchase PHA-owned properties.

**II. This Final Rule; Discussion of the  
Public Comment on the October 28,  
2002, Interim Rule**

This final rule follows publication of the October 28, 2002, interim rule. The public comment period on the interim rule closed on December 27, 2002. HUD received a single public comment on the interim rule from the New York City Housing Authority. After consideration of the issues raised by the public commenter, and for the reasons discussed below, HUD has decided to adopt the interim rule without change.

The commenter supported the changes made by the interim rule, writing that the rule "expands the choices available especially in markets where the affordable stock is decreasing." However, the commenter also wrote that high-cost communities, such as New York City, have been unable to implement the voucher homeownership option due to HUD's program design and the nearly prohibitive costs of housing. The commenter suggested that HUD revise the regulations governing the homeownership option to address these concerns. The commenter recommended that HUD authorize the use of project-based voucher assistance to provide voucher homeownership assistance. The commenter also suggested that the maximum term of voucher homeownership assistance (typically fifteen years in most cases under § 982.634) should be made equal to the term of the mortgage obtained by the homebuyer (typically thirty years). Finally, the commenter recommended that HUD allow PHAs to provide voucher homeownership assistance at 120% of the published Fair Market Rent.

As noted, HUD has not revised the interim rule in response to these comments, and is adopting the final rule without change. The changes suggested by the commenter were not included as part of, and are outside the scope of, the October 28, 2002, interim rule which focused on making PHA-owned or controlled properties eligible for purchase under the Housing Choice Voucher Program. The changes recommended by the commenter are more appropriately directed towards the Section 8 homeownership option rule, a separate rulemaking proposed on April 30, 1999 (64 FR 23488), and made final on September 12, 2002 (65 FR 55134). HUD considered the substance of the changes recommended by the commenter in the course of that rulemaking. Since the changes are outside the scope of the interim rule, HUD is not prepared to adopt the suggested changes at this final rule stage. HUD will consider the recommended changes should it decide to undertake future rulemaking to amend the homeownership option regulations.

**III. Findings and Certifications***Executive Order 12866, Regulatory  
Planning and Review*

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled "Regulatory Planning and Review").