

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

[Docket No. FAA-2002-14180; Airspace  
Docket No. 02-AGL-17]

**Modification of Class E Airspace;  
Saginaw, MI**

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies Class E airspace at Saginaw, MI. Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPS) have been developed for Jack Barstow Airport, Midland, MI. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing these approaches. This action increases the area of the existing controlled airspace at Jack Barstow Airport.

**EFFECTIVE DATE:** 0901 UTC, July 10, 2003.

**FOR FURTHER INFORMATION CONTACT:** Denis C. Burke, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294-7568.

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

On Friday, January 17, 2003, the FAA proposed to amend 14 CFR part 71 to modify class E airspace at Saginaw, MI (68 FR 2463). The proposal was to modify controlled airspace extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, 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 Rule**

This amendment to 14 CFR part 71 modified Class E airspace at Saginaw,

MI, to accommodate aircraft executing instrument flight procedures into and out of Jack Barstow Airport. The area will be depicted on appropriate aeronautical charts.

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 proposed regulation—(1) is not a “significant regulation 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. 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—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, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

\* \* \* \* \*

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

\* \* \* \* \*

**AGL MI E5 Saginaw, MI [Revised]**

MBS International Airport, MI  
(Lat. 43°31'58" N., long. 84°04'47" W.)  
Saginaw County H.W. Browne Airport, MI  
(Lat. 43°26'00" N., long. 83°51'45" W.)  
Bay City, James Clements Municipal Airport,  
MI  
(Lat. 43°32'49" N., long. 83°53'44" W.)

Midland, Jack Barstow Airport, MI  
(Lat. 43°39'46" N., long. 84°15'41" W.)  
Saint Mary's Hospital, MI  
Point in Space Coordinates  
(Lat. 43°24'54" N., long. 83°56'27" W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of MBS International Airport, within a 6.5-mile radius of Saginaw County H.W. Browne Airport, within a 6.4-mile radius of James Clements Municipal Airport, within a 6.4-mile radius of Jack Barstow Airport, and within a 6-mile radius of the Point in Space serving Saint Mary's Hospital.

\* \* \* \* \*

Issued in Des Plaines, Illinois on April 1, 2003.

**Nancy B. Shelton,**

*Manager, Air Traffic Division, Great Lakes Region.*

[FR Doc. 03-9726 Filed 4-18-03; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF LABOR****Mine Safety and Health Administration****30 CFR Parts 56 and 57****RIN 1219-AA98 (Phase 6)****Seat Belts for Off-Road Work Machines and Wheeled Agricultural Tractors at Metal and Nonmetal Mines**

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** MSHA is issuing a direct final rule that updates the Agency's requirements for operator restraint systems (seat belts) for off-road work machines and wheeled agricultural tractors at metal and nonmetal mines. The existing standards require seat belts for off-road work machines to meet the requirements of the Society of Automotive Engineers' (SAE) consensus standard SAE J386-1985, and seat belts for wheeled agricultural tractors to meet the requirements of SAE J1194-1983. Since MSHA promulgated these standards, however, the SAE has revised them to reflect technological advances in seat belt design and materials. Seat belts meeting the specifications of earlier versions of these SAE standards are no longer routinely installed by manufacturers. The direct final rule will permit seat belts to meet the requirements of the more recent revisions of the SAE J386 and SAE J1194 standards.

**DATES:** This direct final rule is effective June 20, 2003, without further notice, unless we receive significant adverse comments by May 21, 2003. If we

receive such comments, we will publish a timely withdrawal of this direct final rule in the **Federal Register**.

The incorporation by reference of certain publications in this rule is approved by the Director of the Federal Register as of June 20, 2003.

**ADDRESSES:** Clearly identify comments as such and submit them either electronically to [comments@msha.gov](mailto:comments@msha.gov); by facsimile to 202-693-9441; or by regular mail or hand delivery to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209-3939. Comments are posted for public viewing at [www.msha.gov/currentcomments](http://www.msha.gov/currentcomments).

**FOR FURTHER INFORMATION CONTACT:** Marvin W. Nichols, Director; Office of Standards, Regulations, and Variances, MSHA; Phone: 202-693-9442; FAX: 202-693-9441; E-mail: [nichols-marvin@msha.gov](mailto:nichols-marvin@msha.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

Copies of the SAE publications incorporated by reference may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209-3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096-0001.

This direct final rule only updates §§ 56/57.14130, paragraph (h), *Seat belts construction*. MSHA is not updating §§ 56/57.14130, paragraph (b)(2), which also incorporates by reference SAE J1194-1983, because paragraph (b)(2) addresses the construction of roll-over protective structures (ROPS), not seat belts. The construction of ROPS is beyond the scope of this rulemaking.

##### A. Direct Final Rule and Significant Adverse Comments

MSHA has determined that this rulemaking is suitable for a direct final rule because we do not expect that updating the metal and nonmetal seat belt standards, to include the revised SAE consensus standards, will elicit any significant adverse comments. A significant adverse comment is one that explains (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach, or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining

whether a comment necessitates withdrawal of this direct final rule, we will consider whether it warrants a substantive response in a notice and comment process.

Elsewhere in this issue of the **Federal Register**, we are publishing a companion proposed rule under § 553 of the Administrative Procedure Act to speed notice and comment rulemaking should we withdraw this direct final rule. The companion proposed rule and this direct final rule are substantively identical. All interested parties should comment by May 21, 2003, because we will not initiate an additional comment period.

##### B. Regulatory History

Existing standards §§ 56/57.14130 derived from standards promulgated by MSHA's predecessor, the Mining Enforcement and Safety Administration (MESA) in 1977. Like these existing standards, the standards under MESA required seat belts to meet specific SAE requirements that were incorporated by reference. MSHA's requirements for seat belts at metal and nonmetal mines remained substantively unchanged until 1988.

In 1984, MSHA issued a proposed rule (49 FR 49201) revising the loading, hauling, and dumping standards at metal and nonmetal mines. MSHA had considered removing the incorporation by reference provisions relating to seat belts and accompanying roll-over protective structures (ROPS) on equipment and replace them with performance criteria (49 FR 49201 and 49203). At that time, however, commenters urged MSHA to retain the incorporation by reference and update it.

In 1988, MSHA promulgated final §§ 56/57.14130 for ROPS and seat belts for certain off-road work machines. The final rule (53 FR 32496 and 32524) updated the references to SAE J386-1985 and SAE J1194-1983 to reflect the most current revision. The final rule also added a provision, §§ 56/57.14131, requiring that seat belts on haulage trucks meet the same SAE requirements as MSHA required for seat belts on off-road work machines.

##### II. Discussion of Seat Belt Requirements

Existing standards §§ 56/57.14130(h) and 56/57.14131(c) require that seat belts for off-road work machines meet the requirements set forth in the Society of Automotive Engineers' (SAE) consensus standard J386-1985. Existing standards §§ 56/57.14130(h) also require that seat belts for agricultural tractors meet SAE consensus standard J1194-1983. These SAE consensus standards

are incorporated by reference. Paragraphs §§ 56/57.14130(j) and 56/57.14131(d) contain the required information about the Federal Register's approval of the incorporation by reference and the addresses for examining or obtaining copies.

*Compliance Difficulties.* MSHA enforcement of its seat belt standards relies on the labeling of seat belts in accordance with the SAE standards. For example, SAE J386-1985 states—

4.1.5 Marking (Labeling)—Each seat belt assembly and/or each section of belt assembly shall be permanently and legibly labeled with year of manufacture, model or style number, and name or trademark of manufacturer or importer, and shall state compliance with SAE J386 JUN85, Part II.

Since 1988, however, SAE has updated SAE J386 twice and SAE J1194 three times, each time reaffirming the previous version or incorporating advances in safety technology. Seat belts and assemblies currently manufactured for off-road work machines and haulage trucks comply with SAE J386-1997 and those currently manufactured for tractors comply with SAE J1194-1999. Seat belts meeting the superceded SAE J386-1985 or SAE J1194-1983 standards are no longer available, except through special orders at considerable cost. Consequently, because manufacturers no longer construct or label seat belts in accordance with the outdated SAE standards, mine operators have difficulty complying with MSHA's existing standards.

*Equivalent Protection.* MSHA bases its requirements for roll-over protective structures (ROPS) and operator restraint systems (seat belts) on technical documents developed by the SAE, a nationally and internationally recognized consensus standards-setting organization. ROPS and seat belts provide a predictable level of performance when their construction meets the specifications of SAE's consensus standards. For example, SAE's testing of seat belt assemblies verifies that the strength and construction under the 1993 and 1997 revisions of SAE J386 meet the minimum requirements set forth by the society. Engineers and safety professionals agree that SAE J386 performance and test requirements provide a safe operator restraint system for off-road work machines commonly used in mining. The direct final rule expands compliance alternatives to accommodate advances in seat belt technology without reducing protection for miners.

*Expanded Compliance Alternatives.* Newly manufactured replacement seat belts for off-road work machines and

wheeled agricultural tractors, as well as those installed on new off-road machines or tractors, meet the specifications in the most recent SAE consensus standards. The immediate availability of replacement seat belts "off-the-shelf," as opposed to those requiring a special order, speeds replacement, minimizing equipment down time and the enticement to use off-road work machines without compliant seat belts. Also, allowing the use of seat belts meeting other revisions of the SAE standards, rather than only the most recent, allows mine operators to use the supply of replacement seat belts they already have on hand.

*Enhanced Safety.* The direct final rule improves safety by updating MSHA's standards to allow the use of advances in seat belt technology addressed in the newer industry consensus standards. Many safeguards and improved engineering are integral design features on new products. For example, these revisions address developments, such as tether straps and three and four point systems, which are not included in the 1983 or 1985 revisions. Up-to-date standards are consistent with the goals of the Federal Mine Safety and Health Act of 1977, Executive Order 12866, and the Regulatory Flexibility Act.

### III. The Regulatory Flexibility Act, Executive Order 12866, and the Small Business Regulatory Enforcement Fairness Act

In accordance with Executive Order (E.O.) 12866, we have analyzed the estimated costs and benefits associated with this direct final rule, and have included our Regulatory Economic Analysis (REA) in this preamble. This direct final rule is not an economically significant regulatory action under § 3(f)(1) of E.O. 12866.

In accordance with § 605 of the Regulatory Flexibility Act (RFA), we certify that this direct final rule does not have a significant economic impact on a substantial number of small entities. Under the Small Business Regulatory Enforcement Fairness Act (SBREFA) amendments to the RFA, we must include the factual basis for this certification in the direct final rule. Accordingly, we are publishing the factual basis for our regulatory flexibility certification statement in the **Federal Register**, as part of this preamble, and are providing a copy to the Small Business Administration (SBA), Office of Advocacy. We also will mail a copy of the direct final rule, including the preamble and certification statement, to metal and nonmetal mine operators and miners' representatives

and post it on our Internet Home Page at [www.msha.gov](http://www.msha.gov).

*Factual basis for certification.* This direct final rule provides at least the same level of protection for miners at a lower cost for mine operators. It affects all 11,641 metal and nonmetal mines, 85.3% (9,928) of which employ fewer than 20 miners and 99.8% (11,618) of which employ 500 or fewer miners (PEIR, CY 2001). It includes no additional costs and has no adverse economic impact on the metal and nonmetal mining industry. To the contrary, there are cost savings associated with not having to special order discontinued, older seat belts and not having to replace those seat belts already installed. The direct final rule also eliminates the burden of preparing and responding to petitions for modification. The advantage of being able to obtain seat belts "off-the-shelf" allows mine operators to replace damaged seat belts more quickly, thus reducing machinery and equipment down time which could result in lost production.

### IV. Other Regulatory Considerations

#### A. Paperwork Reduction Act

This direct final rule contains no information collections subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. Although the SAE requires seat belts to have a label indicating compliance with a specific SAE consensus standard, these labels are prepared and attached by the seat belt manufacturer. Both mine operators and MSHA use these labels to determine whether the seat belts comply with the appropriate SAE consensus standard.

#### B. Unfunded Mandates Reform Act of 1995

This direct final rule affects about 220 small metal and nonmetal mines operated by governmental jurisdictions mostly to provide aggregates for the construction and repair of highways and roads. We have determined, for purposes of § 202 of the Unfunded Mandates Reform Act of 1995, that this direct final rule does not include any Federal mandate that may result in increased expenditures by state, local, or tribal governments in the aggregate of more than \$100 million, or increased expenditures by the private sector of more than \$100 million. We also determined, for purposes of § 203, that this direct final rule does not significantly or uniquely affect these entities.

#### C. Executive Order 12630: Government Actions and Interference With Constitutionally Protected Property Rights

This direct final rule is not subject to Executive Order 12630 because it would not involve implementation of a policy with "takings" implications.

#### D. Executive Order 12988: Civil Justice Reform

In accordance with Executive Order 12988, we have determined that this direct final rule will not unduly burden the Federal court system. We wrote the direct final rule to provide a clear legal standard for affected conduct and have reviewed it to eliminate drafting errors and ambiguities.

#### E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

In accordance with Executive Order 13045, we have evaluated the environmental health and safety effects of this direct final rule and have determined that it has no adverse effects on children.

#### F. Executive Order 13132: Federalism

In accordance with Executive Order 13132, we have reviewed this direct final rule and have determined that it does not have "federalism" implications.

#### G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we certify that this direct final rule does not impose substantial direct compliance costs on Indian tribal governments.

#### H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, we have reviewed this direct final rule and have determined that it has no significant adverse effect on the supply, distribution, or use of energy, and no reasonable alternatives to this action are necessary.

#### I. Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking

In accordance with Executive Order 13272, MSHA has thoroughly reviewed the direct final rule to assess and take appropriate account of its potential impact on small businesses, small governmental jurisdictions, and small organizations. As discussed previously in this preamble, MSHA has determined

that the direct final rule does not have a significant economic impact on a substantial number of small entities.

#### List of Subjects

##### 30 CFR Part 56

Incorporation by reference, Mine safety and health, Surface mining.

##### 30 CFR Part 57

Incorporation by reference, Mine safety and health, Underground mining.

Dated: April 14, 2003.

**Dave D. Lauriski,**

*Assistant Secretary of Labor for Mine Safety and Health.*

■ For the reasons set out in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, MSHA is amending chapter I, parts 56 and 57 of title 30 of the Code of Federal Regulations as follows:

#### PART 56—[AMENDED]

■ 1. The authority citation for part 56 continues to read as follows:

**Authority:** 30 U.S.C. 811.

■ 2. Section 56.14130 is amended by revising paragraphs (h) and (j) to read as follows:

##### § 56.14130 Roll-over protective structures (ROPS) and seat belts.

\* \* \* \* \*

(h) *Seat belts construction.* Seat belts required under this section shall meet the requirement of SAE J386, "Operator Restraint System for Off-Road Work Machines" (1985, 1993, or 1997), or SAE J1194, "Roll-Over Protective Structures (ROPS) for Wheeled Agricultural Tractors" (1983, 1989, 1994, or 1999), as applicable, which are incorporated by reference.

\* \* \* \* \*

(j) *Publications.* The incorporation by reference of these publications is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209-3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096-0001.

■ 3. Section 56.14131 is amended by revising paragraphs (c) and (d) to read as follows:

##### § 56.14131 Seat belts for haulage trucks.

\* \* \* \* \*

(c) Seat belts required under this section shall meet the requirements of SAE J386, "Operator Restraint System for Off-Road Work Machines" (1985, 1993, or 1997), which are incorporated by reference.

(d) The incorporation by reference of these publications is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209-3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096-0001.

#### PART 57—[AMENDED]

■ 4. The authority citation for part 57 continues to read as follows:

**Authority:** 30 U.S.C. 811.

■ 5. Section 57.14130 is amended by revising paragraphs (h) and (j) to read as follows:

##### § 57.14130 Roll-over protective structures (ROPS) and seat belts for surface equipment.

\* \* \* \* \*

(h) *Seat belts construction.* Seat belts required under this section shall meet the requirement of SAE J386, "Operator Restraint System for Off-Road Work Machines" (1985, 1993, or 1997), or SAE J1194, "Roll-Over Protective Structures (ROPS) for Wheeled Agricultural Tractors" (1983, 1989, 1994, or 1999), as applicable, which are incorporated by reference.

\* \* \* \* \*

(j) *Publications.* The incorporation by reference of these publications is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209-3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096-0001.

■ 6. Section 57.14131 is amended by revising paragraphs (c) and (d) to read as follows:

##### § 57.14131 Seat belts for surface haulage trucks.

\* \* \* \* \*

(c) Seat belts required under this section shall meet the requirements of SAE J386, "Operator Restraint System for Off-Road Work Machines" (1985, 1993, or 1997), which are incorporated by reference.

(d) The incorporation by reference of these publications is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209-3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096-0001.

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#### DEPARTMENT OF LABOR

#### Mine Safety and Health Administration

#### 30 CFR Parts 71 and 75

RIN: 1219-AA98 (Phase 9)

#### Standards for Sanitary Toilets in Coal Mines

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** MSHA is removing an application and approval requirement from existing mandatory standards. Currently, MSHA must approve sanitary toilets for use in underground coal mines, and MSHA and the National Institute for Occupational Safety and Health (NIOSH) must jointly approve sanitary toilets for use in surface coal mines. MSHA and NIOSH base their approval on criteria drawn from the American National Standard Institute's (ANSI's) *American National Standard for Sanitation—Nonsewered Waste-Disposal Systems—Minimum Requirements*. MSHA is amending its regulations to state which sanitary toilets meet the standard in order to eliminate the need for an application for