

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

[Docket No. FAA-2001-10912; Airspace
Docket No. 00-AWA-6]

RIN 2120-AA66

**Proposed Modification of the
Cincinnati/Northern Kentucky
International Airport Class B Airspace
Area; KY**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking
(NPRM).

SUMMARY: This action proposes to modify the current Cincinnati/Northern Kentucky International Airport (CVG) Class B airspace area. Specifically, this action proposes to expand the lateral limits of Area C; reduce the lateral limits of Area F; eliminate Area G; and raise the upper limit of the entire Class B airspace area from 8,000 feet mean sea level (MSL) to 10,000 feet MSL. The FAA is proposing this action to enhance safety, reduce the potential for midair collisions, and to improve the management of air traffic operations in the CVG terminal area. Further, this effort supports the FAA's National Airspace Redesign project goal of optimizing terminal and enroute airspace areas to reduce aircraft delays and improve system capacity.

DATES: Comments must be received on or before March 1, 2002.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify both docket numbers, FAA-2001-10912/ Airspace Docket No. 00-AWA-6, at the beginning of your comments.

You may also submit comments through the Internet to <http://dms.dot.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1-800-647-5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, ASO-500, Federal Aviation

Administration, 1701 Columbia Avenue, College Park, GA 30337.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, 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:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both airspace docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

"Comments to Docket Nos. FAA-2001-10912/Airspace Docket No. 00-AWA-6." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the internet at <http://dms.dot.gov>. Internet users may reach the FAA's web page at <http://www.faa.gov> or the **Federal Register's** web page at <http://www.access.gpo.gov/nara> for access to recently published rulemaking documents.

Any person may also obtain a copy of this NPRM by submitting a request to the FAA, Office of Air Traffic Airspace Management, ATA-400, 800 Independence Avenue, SW.,

Washington, DC 20591, or by calling (202) 267-8783. Communications must identify both docket numbers of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA, Office of Rulemaking, (202) 267-9677, to request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Related Rulemaking Actions

On May 21, 1970, the FAA published the Designation of Federal Airways, Controlled Airspace, and Reporting Points Final Rule (35 FR 7782). This rule provided for the establishment of Terminal Control Airspace (TCA) areas (now known as Class B airspace areas).

On June 21, 1988, the FAA published the Transponder With Automatic Altitude Reporting Capability Requirement Final Rule (53 FR 23356). This rule requires all aircraft to have an altitude encoding transponder when operating within 30 nautical miles (NM) of any designated TCA (now known as Class B airspace areas) primary airport from the surface up to 10,000 feet MSL. This rule excluded those aircraft that were not originally certificated with an engine-driven electrical system (or those that have not subsequently been certified with such a system), balloons, or gliders.

On October 14, 1988, the FAA published the Terminal Control Area Classification and Terminal Control Area Pilot and Navigation Equipment Requirements Final Rule (53 FR 40318). This rule, in part, requires the pilot-in-command of a civil aircraft operating within a Class B airspace area to hold at least a private pilot certificate, except for a student pilot who has received certain documented training.

On December 17, 1991, the FAA published the Airspace Reclassification Final Rule (56 FR 65638). This rule discontinued the use of the term "Terminal Control Area" and replaced it with the designation "Class B airspace area." This change in terminology is reflected in the remainder of this NPRM.

Petitions

On April 28, 1999, Sportsman's Market, Inc., (herein after referred to as "the petitioner" or "Sporty's") petitioned the FAA for a modification to the current CVG Class B airspace area by raising the upper limit and modifying the lateral dimensions of certain sub-areas. Specifically, the petitioner requested that the FAA raise the upper limit of the CVG Class B airspace area from 8,000 feet MSL to 8,400 feet MSL, lower the floor of area F and change its

lateral boundaries on the western side to include part of area G, and eliminate the rest of area G. The petitioner is of the opinion that the existing CVG Class B rule causes significant adverse economic effects to businesses located at Clermont County Airport because the airport is located under, but not in, an area of Class B airspace. Essentially, the petitioner contended in part that the 25 NM outer ring impedes access to Clermont County Airport. However, as the floor of the Class B airspace area is 6,000 feet MSL in the vicinity of the airport, the airport is located outside of, and beneath the Class B airspace area. This configuration provides access to the airport, and businesses located at the airport, for pilots not desiring to participate in Class B services.

On May 12, 1999, the Aircraft Owners and Pilots Association (AOPA) petitioned the FAA to reconsider the dimension of the current Class B airspace area. Specifically, AOPA requested that the outer ring of the airspace be reduced to 20 NM from 25 NM and that the reference point for the Class B airspace area be centered on the very high frequency omnidirectional radio range/tactical air navigational aid (VORTAC).

This rulemaking proposal will address the concerns and substance of both the Sportsman's Market, Inc., and the AOPA petitions which will be discussed later in the document. Although AOPA's petition stated that it was a request for reconsideration, the relief sought by AOPA could not be accomplished without rulemaking.

Related Rulemaking

The TCA (now Class B airspace) program was developed to reduce the potential for midair collision in the congested airspace surrounding airports with high density air traffic by providing an area wherein all aircraft are subject to certain operating rules and equipment requirements.

The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increase the probability of midair collisions. In 1970, an extensive study found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier or military aircraft, and another GA aircraft. The basic causal factor common to these conflicts was the mix of aircraft operating under visual flight rules (VFR) and aircraft operating under instrument flight rules (IFR). Class B airspace areas provide a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of these airspace areas afford the

greatest protection for the greatest number of people by giving air traffic control (ATC) increased capability to provide aircraft separation service, thereby minimizing the mix of controlled and uncontrolled aircraft.

The standard configuration of these areas contains three concentric circles centered on the primary airport extending to 10, 20, and 30 NM, respectively. The standard vertical limit of these airspace areas normally should not exceed 10,000 feet above MSL, with the floor established at the surface in the inner area and at levels appropriate to the containment of operations in the outer areas. However, variations if this configuration may be utilized contingent on the terrain, adjacent regulatory airspace, and factors unique to the terminal area.

On November 30, 1998 the FAA published a final rule establishing the CVG Class B airspace area and revoking the existing Class C airspace area (63 FR 65972). The new Class B airspace area, implemented on July 15, 1999, consisted of that airspace within a 25-NM radius of the CVG International Airport, from the surface or higher up to and including 8,000 feet above MSL.

Pre-NPRM Public Input

FAA policy requires a biennial evaluation of existing Class B airspace areas to ensure that the airspace is configured to enhance safety and that it is being used efficiently. Based on a need for this evaluation, an Ad Hoc Committee, representing a cross section of aviation users, was formed to determine if the dimensions of the CVG Class B airspace area were meeting the original intent and, if needed, to develop recommendations for modifications to that airspace. The Committee held a series of meetings between November 1999 and April 2000.

As announced in the **Federal Register** on June 28, 2000 (65 FR 39979) pre-NPRM informal airspace meetings were held on August 16 and 17, 2000, in Cincinnati, OH, to allow local interested airspace users an opportunity to present input on planned modifications to the CVG Class B airspace area and recommendations from the Ad Hoc group. The proposed modifications discussed in this notice were developed as a result of an FAA airspace analysis completed in accordance with the agency's policy to periodically review Class B airspace area designations, and the recommendations submitted by the Ad Hoc Committee. All comments received during the informal airspace meetings and the subsequent comment

period were considered and are addressed in this NPRM.

Discussion

What follows is a discussion of the proposal, analysis of the comments received during the pre-NPRM stage, and petitions received.

Vertical Dimension Modification

Seven commenters expressed opposition to the proposed raising of the CVG Class B airspace area ceiling to 10,000 MSL. Reasons for this opposition included: the impact on the ability of VFR traffic to fly over the top of the Class B airspace area (without the need for supplemental oxygen); the fact that other, apparently busier, Class B terminals have ceilings below 10,000 feet MSL; and, that air carrier aircraft operating above 8,000 feet do not need expanded Class B airspace because the existing Mode C veil requirements and the equipage of air carrier aircraft with the Traffic Alert and Collision Avoidance System (TCAS) already provide adequate protection.

The FAA does not agree with these comments. The proposed increase in the Class B airspace area ceiling would not deny VFR aircraft access to the airspace between 8,000 feet and 10,000 feet MSL. It is anticipated that the proposed higher ceiling would not have a significant adverse impact on VFR traffic based on a finding by the Ad Hoc Committee that, over a 60-day period, only 70 VFR flight tracks were observed between 8,000 and 10,000 feet, within 25 miles of CVG. The FAA believes that the proposed 10,000-foot ceiling would, in fact, enhance the safety of VFR operations in that stratum as these altitudes currently contain a significant volume of turbojet-powered air carrier, general aviation, and cargo aircraft that are climbing rapidly to 10,000 feet to accelerate above 250k; or are descending to 10,000 feet for speed reduction prior to further descent. While TCAS certainly enhances safety, it should be noted that the TCAS requirement does not currently apply to cargo aircraft. A sizeable percentage of CVG's traffic volume consists of large turbojet-powered cargo aircraft. In a separate regulatory action, the FAA issued a Notice of Proposed Rulemaking on November 1, 2001, proposing to add collision avoidance system requirements for certain cargo airplanes (66 FR 55506). Notwithstanding the outcome of that effort, the higher ceiling would augment the safety benefits of the Mode C veil and TCAS by ensuring that ATC has communications with all aircraft operating in that stratum. This would not only reduce controller

workload by enabling ATC to ascertain VFR pilot intentions, route of flight, and destination, but would also allow controllers to offer assistance to such VFR aircraft in avoiding the heavy concentrations of traffic transitioning vertically through these altitudes.

Additionally, although other terminals may have Class B airspace area ceilings below 10,000 feet, the design of each Class B airspace area is unique, site specific, and is based on a variety of factors such as airspace complexity and ATC operational requirements. Operational requirements were in part factors in the development of this proposal. Another factor is that the Cincinnati/Northern Kentucky terminal airspace is bounded by Restricted Areas R-3403A and R-3404B on the west, and the Buckeye military operations area on the east. These areas limit ATC's flexibility in assigning arrival and departure tracks in two quadrants of the terminal area. Also, other terminal areas near CVG have ATC delegated airspace up to 10,000 feet MSL. The proposed raising of the CVG Class B ceiling would simplify terminal area ATC procedures by reducing coordination requirements and frequency changes because, for example the CVG air traffic controller could have the ability to transfer a departing aircraft directly to the center controller without a requirement for the pilot to contact the adjacent terminal facility controller. Indianapolis Air Route Traffic Control (ARTCC) currently delivers aircraft inbound to CVG at 11,000 feet MSL via one of four arrival transition areas (ATA) located northwest, northeast, southeast, or southwest of the airport. Once in the terminal area, these airport arrivals are generally descended to 10,000 feet; while the departures normally climb up to 8,000 or 9,000 feet. When the departures have been laterally separated from the arrivals by ATC, the departures are issued a climb to 13,000 feet and handed off to Indianapolis ARTCC. Concurrently, once this lateral separation is established, the arrivals are given a descent to a lower altitude. This generally cannot occur until the arrivals are abeam the airport, on a downwind leg. With the existing 8,000 feet ceiling, traffic arriving at CVG often must fly 30–35 NM outside of the Class B airspace, depending on the runway in use and the direction of arrival into the terminal area. For example, when the airport is using Runways 18L and 18R for landings (approximately 86 percent of the time), aircraft arriving through the southeast or southwest ATAs are required to travel about 30 flying miles

at 10,000 feet or 11,000 feet, above the existing CVG Class B airspace area, before reaching a point abeam the airport where they can be descended into the Class B airspace area. A similar situation exists for aircraft arriving through the northwest and northeast ATAs when Runways 36L and 36R are in use.

The Ad Hoc Committee did not reach a consensus regarding the issue of raising the Class B airspace area ceiling to 10,000 feet MSL. However, the FAA believes that the airspace analysis supports the increase and is including the proposal in this notice to obtain additional comment on the matter before any final decision is made. If the FAA keeps the Class B ceiling at a lower altitude (i.e., 8,000 feet MSL), more departing aircraft will be required to level off prior to reaching an altitude where they can accelerate above 250 knots. This is not cost effective and does not contribute to system efficiency. Raising the altitude to 10,000 feet MSL decreases the chances that ATC will need to require a departing aircraft to level off prior to cruise altitude. The FAA believes that raising the altitude of the area would lessen economic impacts and increase system efficiency for aircraft operating into and out of CVG. Raising the Class B ceiling to 8,400 feet MSL as requested by Sporty's, would not provide sufficient Class B airspace needed to contain those arriving aircraft that must currently travel a significant distance above Class B airspace as discussed above. For the original establishment of the CVG Class B airspace area, the FAA's analysis indicated that an 8,000 feet MSL ceiling would be sufficient. Operational experience with this configuration since the July 15, 1999 implementation indicates that a 10,000 feet MSL ceiling would benefit safety and efficiency in the CVG terminal area.

Lateral Dimension Modification

Several commenters contended that the 25–NM ring of the Class B airspace area is excessively large and that the outer ring of the Class B airspace area should be reduced to 20 NM. Conversely, two commenters expressed concern about whether the proposed reduction of the outer ring from 25 miles to 20 miles would still ensure that aircraft are contained within the Class B airspace area throughout all phases of the approach.

In this action, the FAA is proposing to reduce the limit of the outer ring in the east and west quadrants (i.e., portions of area G and area F) to 20 NM. During the rulemaking process to revoke the Class C airspace area and implement

a Class B airspace area at CVG, several commenters recommended reducing the size of the proposed area to a 15- to 20-mile radius rather than at that time the proposed 25-mile radius. At that time, the FAA concluded that, because of the high volume of arrival and departure aircraft at the primary airport, it was necessary to use the area between 20–25 NM, including areas F and G. The Class B airspace area became effective on July 15, 1999 (64 FR 17934) with the outer ring set at 25 NM. After the implementation of the Class B airspace area, modifications were made to local ATC procedures to improve the management of aircraft operations into and out of CVG. Over the past 3 years, the FAA has been studying aircraft operations in the CVG terminal area to assess airspace use and air traffic control procedures and requirements, particularly in light of the conversion of CVG terminal airspace from Class C to Class B. As part of this effort, FAA representatives met on numerous occasions with local pilots, user groups, and airport officials seeking feedback on the effectiveness of the terminal area airspace configuration. These feedback sessions, along with the internal ongoing review, were conducted to determine whether the Class B airspace area was configured to ensure the most efficient use of airspace, and to ensure the safe, orderly, and expeditious flow of traffic. Based on its review, the FAA determined that, based on procedural changes, arrival aircraft are not now being directed into the airspace to the east and west of CVG. Further, operational experience also revealed that departure aircraft on the east and west sides have already reached an altitude between 11,000 to 12,000 feet MSL by the time they pass the 20 NM Class B airspace ring. Another factor that the FAA evaluated is the proximity to special use airspace to the CVG Class B airspace area. On the west side, restricted areas R-3404A and B are situated less than 10 NM west of the current 25 NM Class B boundary. This allows only a small corridor for VFR pilots transiting north and south between the restricted areas and the CVG Class B airspace area who elect not to participate in Class B services. Reducing the outer ring to 20 NM in this area would provide additional airspace for pilots transiting north and south or choosing to circumnavigate the Class B area. Similarly, on the east side, the Buckeye military operations area (MOA) is located approximately 10 NM east of the Class B airspace boundary. Reducing the outer ring to 20 NM in this area would also provide VFR aircraft with a

wider corridor to circumnavigate the Class B airspace area and remain clear of the Buckeye MOA. Additionally, the airspace analysis revealed that the current airspace north and south of CVG is necessary to accommodate arrival traffic and provide needed airspace for simultaneous parallel ILS approaches. A third runway is scheduled to become operational at CVG in 2005. When operational, the third runway is expected to provide a 26% capacity improvement at CVG through the introduction of simultaneous triple ILS approaches.

In their petitions, both Sporty's and AOPA requested adjustments to the outer limits of the CVG Class B airspace area. The retention of the outer ring at 25 NM on the north and south sides will ensure that sufficient Class B airspace is available to contain those procedures and accommodate the projected increase in traffic at CVG. Based on the operational experience gained since the inception of the Class B airspace area and the recommendations of the Ad Hoc committee, the FAA believes that Class B airspace is not required between the 20 NM and 25 NM rings to the east and west of CVG and that the modification of the outer ring as described above would enhance the efficient use of airspace without adversely affecting safety.

Other Comments

One commenter suggested that a corridor be developed through the Class B airspace area, within which the Mode C veil requirement would not apply.

The FAA does not have the latitude to exclude areas within a 30-NM radius of the Class B airspace primary airport from the requirement for an altitude encoding transponder (this area is commonly referred to as the "Mode C Veil"). The Mode C veil requirement originated from several Congressional mandates (Public Law 100-202, etc.) that the FAA issue regulations requiring that all aircraft operating in certain terminal airspace areas be equipped with a transponder with Mode C. On June 21, 1988, the FAA issued a rule requiring that, as of July 1, 1989, all aircraft, with certain exceptions, operating within 30 miles of any designated terminal control area (now Class B airspace area) primary airport must be equipped with a transponder with Mode C (53 FR 23368). However, the commenter is advised that FAA included provisions in 14 CFR 91.215(d) to allow for ATC-authorized deviations from this requirement, under certain conditions, to accommodate non-transponder operations to, from, or within the Mode C veil.

One commenter stated that the FAA should use physical features instead of radials to describe the boundaries of the Class B airspace area. In its petition, AOPA requested that the reference point for the Class B airspace area be centered on the Cincinnati VORTAC as opposed to the airport.

The Class B airspace area description proposed in this notice is based on the recommendations of the Ad Hoc Committee and represents only minor changes to the existing format used to describe the lateral dimensions of the area. The current and proposed boundary descriptions consist of a mix of prominent landmarks, latitude/longitude coordinates, radials from the Cincinnati VORTAC, and arcs of the airport. Considering the availability of landmarks in the area, the FAA believes that this mix of descriptors should effectively assist pilots in identifying the lateral boundaries of the Class B airspace area. The FAA will consider the addition of a very high frequency omnidirectional radio range radial/Distance Measuring Equipment (DME) cross-reference table to the Cincinnati terminal area chart, similar to the tables found on the Los Angeles and San Diego terminal area charts, to define various points of the CVG Class B airspace area. This table would provide radial/DME references to further assist pilots in navigating in the Cincinnati area.

Two commenters recommended that the FAA establish VFR corridors through the Class B airspace area and one commenter recommended the establishment of a VFR/IFR corridor to facilitate transiting the Cincinnati area.

The FAA does not agree with the recommendation to establish VFR corridors because the establishment of such corridors could interfere with safe and efficient operations in the CVG Class B airspace area. Low altitude VFR transition routes have been published on the reverse side of the Cincinnati VFR Terminal area chart to assist pilots since the original inception of the Class B airspace area. If the proposed modifications are implemented, the transition routes will basically remain the same except for minor adjustments to the suggested altitudes in Area D, to the north and south of the airport. Regarding the recommendation to establish a VFR/IFR corridor, there would be no operational advantage to be gained over the services currently provided by ATC to assist both VFR and IFR overflights in avoiding the high concentrations of IFR traffic.

The Proposal

The FAA proposes to amend 14 CFR part 71 by modifying the CVG Class B

airspace area. Specifically, this action (depicted on the attached chart) proposes to expand the lateral limits of Area C to the north and south of the airport; modify the lateral limits of Area F on the east and west sides of the Class B area; eliminate Area G; and raise the upper limit of the Class B airspace area from 8,000 feet MSL to 10,000 feet MSL. These modifications would better accommodate nonparticipating aircraft operations by providing both easier access to satellite airports, and additional airspace on the east and west sides for aircraft desiring to circumnavigate the CVG Class B airspace area. In addition, these modifications would improve the management of air traffic operations in the CVG terminal area, and enhance safety by extending Class B airspace protection to a significant volume of aircraft currently operating between 8,000 feet MSL and 10,000 feet MSL. This proposed action supports various efforts to enhance the efficiency and capacity of the National Airspace System, such as the National Airspace Redesign and the Operational Evolution Plan.

Area A and Area B. The FAA is not proposing any changes to the lateral dimensions of Area A or Area B.

Area C. The FAA proposes to modify Area C by expanding the boundaries of Area C to the north and south of the airport. This modification would incorporate into Area C, two segments of the Class B airspace area that are currently contained within Area D. Specifically, to the north of the airport, the FAA proposes to extend Area C northward to incorporate that part of Area D airspace that lies west of the extended instrument landing system (ILS) localizer course for Runway 18L, between the 20- and 25-NM arcs of the airport. To the south of the airport, the FAA proposes to extend Area C southward to incorporate that portion of Area D that lies west of the extended ILS localizer course for Runway 36R, between the 20- and 25-NM arcs of the airport. The effect of extending Area C as described, would be to lower the floor of Class B airspace in the affected segments from the current 3,500 feet MSL to 3,000 feet MSL. The reason for this change is to provide additional airspace needed to ensure that the required 1,000 feet vertical separation is maintained while multiple aircraft are being radar vectored for simultaneous ILS approaches.

Area D. The FAA proposes to modify Area D to the north and south of the airport as a result of the expansion of Area C as described above. This modification would reduce the size of

the Area D segments located to the north and south of the airport. The Area D segments located to the east and west of the airport would not be changed by this proposal.

Area E. No changes are proposed to the lateral dimensions of Area E.

Area F. The FAA proposes to reduce the overall size of Area F by eliminating certain portions of Area F, between 20 NM and 25 NM, located to the west and east of the airport. On the west side, the portion of Area F that lies within an area bounded by the 20- and 25-NM arcs of the airport, and between the CVG VORTAC 247° radial clockwise to the CVG VORTAC 297° radial, would be eliminated. To the east of the airport, the portion of Area F bounded by the 20- and 25-NM arcs of the airport, and between the CVG VORTAC 056° radial clockwise to the CVG VORTAC 116° radial, would also be eliminated. The FAA proposes to further modify Area F by incorporating two small sections of Area G. Specifically, Area F would absorb small segments of airspace in the western-most point and the southern tip of the existing Area G. The proposed Area F modifications would benefit nonparticipating VFR operations by accommodating easier access to satellite airports and by providing a larger area for circumnavigation between the Class B airspace area and Restricted Area R-3403 on the west side; and between the Class B airspace area and the Buckeye military operations area to the east of the CVG terminal area.

Area G. The FAA proposes to eliminate most of Area G (i.e., that airspace from 6,000 feet MSL to and including 8,000 feet MSL, along the eastern edge of the Class B airspace area), except for two small sections at the western-most and southern-most points in Area G that would be incorporated into Area F, as described above. Three years ago, the FAA believed that it was necessary to have Class B airspace out to 25 NM to the west and to the east of CVG. The FAA believed this was necessary in order to accommodate departure profiles and to provide for the optimum use of the airspace. After two years of operational experience, the FAA now believes that the proposed cutouts to the east and to the west will adequately accommodate the departure profiles. This modification would better accommodate GA operations at satellite airports and allow easier access/transition by nonparticipating aircraft. This would also provide aircraft not desiring to participate in Class B services with additional airspace for circumnavigation of the Class B airspace area on the east side.

The FAA further proposes to raise the upper limit of the Class B airspace area from the current 8,000 feet MSL to 10,000 feet MSL.

This proposal to modify the CVG Class B airspace area would enhance safety and improve the flow of air traffic in the CVG terminal area. In addition, it would better accommodate VFR operations by improving access to satellite airports and providing additional airspace for circumnavigation of the CVG Class B airspace area. The modifications proposed in this notice support 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 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR section 71.1. The Class B airspace area listed in this document would be published subsequently in the Order.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency proposing or adopting a regulation to first make a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this act requires agencies to consider international standards, and use them where appropriate as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs and benefits and other effects of proposed and final rules. An assessment must be prepared only for rules that impose a Federal mandate on State, local or tribal governments, or on the private sector, likely to result in a total expenditure of \$100 million or more in any one year (adjusted for inflation.)

In conducting these analyses, FAA has determined: (1) This rule has benefits that justify its costs. This rulemaking does not impose costs sufficient to be considered "significant" under the economic standards for significance under Executive Order 12866 or under DOT's Regulatory Policies and Procedures. Due to public

interest, however, it is considered significant under the Executive Order and DOT policy. (2) This rule would not have a significant impact on a substantial number of small entities. (3) This rule has no effect on any trade-sensitive activity. (4) This rule does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector.

The proposed rule would expand the lateral limits of Area C; reduce the lateral limits of Area F; eliminate Area G; and raise the upper limit of the entire Class B airspace area from 8,000 feet MSL to 10,000 feet MSL.

This NPRM would enhance safety in the CVG terminal area and would result in a more efficient use of the airspace. Additionally, this NPRM would generate cost savings to nonparticipating VFR operations by providing a larger area for circumnavigation. Thus, the FAA has determined that this proposed rule would be cost-beneficial.

Initial 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 principle, 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 would have a significant economic impact on a substantial number of small entities. If the determination is that it would, 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.

In view of the minimal cost impact of the rule, the FAA has determined that this proposed rule would not have significant economic impact on a

substantial number of small entities. Consequently, the FAA certifies that the rule would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments from affected entities with respect to this finding and determination.

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.

In accordance with the above statute, the FAA has assessed the potential effect of this proposed rule and has determined that it would have only a domestic impact and therefore create no obstacles to the foreign commerce of the United States.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104-4 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 would 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 proposed 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 proposed rule.

Conclusion

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 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 7400.9J, Airspace Designations and reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 3000—Subpart B—Class B Airspace.

* * * * *

ASO KY B Cincinnati/Northern Kentucky International Airport, KY [Revised]

Cincinnati/Northern Kentucky International Airport (Primary Airport)

(Lat. 39°02'46"N., long. 84°39'44" W.)

Cincinnati VORTAC (CVG)

(Lat. 39°00'57"N., long. 84°42'12" W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 10,000 feet

MSL within a radius of 5 miles from the Cincinnati/Northern Kentucky International Airport.

Area B. That airspace extending upward from 2,100 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the 5-mile arc of the airport and the Kentucky bank of the Ohio River northeast of the airport; thence northeast along the Kentucky bank of the Ohio River to the 10-mile arc of the airport; thence clockwise along the 10-mile arc to the Kentucky bank of the Ohio River southwest of the airport; thence north along the Kentucky bank of the Ohio River to the Indiana-Ohio State line (long. 84°49'00" W); thence north along the State line to Interstate 275; thence northeast along Interstate 275 to Interstate 74; thence east along Interstate 74 to the CVG VORTAC 040° radial; thence southwest along the CVG VORTAC 040° radial to the 5-mile arc of the airport; thence counterclockwise on the 5-mile arc to the point of beginning.

Area C. That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of Interstate 275 and the Indiana-Ohio State line (long. 84°49'00" W); thence north along the Indiana-Ohio State line, to intersect the 20-mile arc of the airport; thence clockwise along the 20-mile arc of the airport to intersect the extended Runway 18L ILS localizer course; then south along the extended Runway 18L ILS localizer course to the 15-mile arc of the airport; thence clockwise on the 15-mile arc to long. 84°30'00" W.; thence south along long. 84°30'00" W. to the 10-mile arc of the airport; thence clockwise on the 10-mile arc to the Kentucky bank of the Ohio River; thence west along the Kentucky bank the Ohio River to the 5-mile arc of the airport; thence counterclockwise along the 5-mile arc to the CVG VORTAC 040° radial; thence northeast along the CVG VORTAC 040° radial to Interstate 74; thence west along Interstate 74 to Interstate 275; thence west along Interstate 275 to the point of beginning. That airspace beginning at the intersection of the 10-mile arc southeast of the airport and long. 84°30'00" W.; thence south along long. 84°30'00" W. to the 15-mile arc of the airport; thence clockwise along the 15-mile arc to intersect the Runway 36R ILS localizer course; thence south along the Runway 36R ILS localizer course to the 20-mile arc of the airport, thence clockwise along the 20-mile arc to long. 84°49'00" W.; thence north along long. 84°49'00" W. to the Kentucky bank of the Ohio River; thence north along the Kentucky bank of the Ohio River to the 10-mile arc of the airport; thence counterclockwise along the 10-mile arc to the point of beginning.

Area D. That airspace extending upward from 3,500 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of lat. 39°09'18" N. and the 10-mile arc northeast of the airport; thence east to the 15-mile arc of the airport; thence clockwise on the 15-mile arc to lat. 38°56'15" N.; thence west along lat. 38°56'15" N. to intersect the 10-mile arc of the airport; thence counterclockwise along the 10-mile arc to the point of beginning.

That airspace beginning at the intersection of the Kentucky bank of the Ohio River and lat. 38°56'15" N. southwest of the airport; thence west along lat. 38°56'15" N. to the 15-mile arc of the airport; thence clockwise along the 15-mile arc to lat. 39°09'18" N.; thence east along lat. 39°09'18" N. to the Indiana-Ohio State line; thence South along the Indiana-Ohio State line to the Kentucky bank of the Ohio River; thence south along the Kentucky bank of the Ohio River to point of beginning. That airspace beginning at the intersection of the 15-mile arc of the airport and the ILS Runway 18L localizer course; thence north along the extended ILS Runway 18L localizer course to the 20-mile arc of the airport; thence clockwise along the 20-mile arc to long. 84°30'00" W.; thence south along long. 84°30'00" W. to the 15-mile arc of the airport; thence counterclockwise along the 15-mile arc to the point of beginning. That airspace beginning at the intersection of the 15-mile arc south of the airport and the ILS Runway 36R localizer course; thence south along the extended ILS Runway 36R localizer to the 20-mile arc of the airport; thence counterclockwise along the 20-mile arc to long. 84°30'00" W.; thence north along long. 84°30'00" W. to the 15-mile arc of the airport; thence clockwise along the 15-mile arc to the point of beginning.

Area E. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the 20-mile arc of the airport and the Indiana-Ohio State line; thence north along the Indiana-Ohio

State line to the 25-mile arc of the airport; thence clockwise along the 25-mile arc to long. 84°30'00" W.; thence south along long. 84°30'00" W. to the 20-mile arc of the airport; thence counterclockwise on the 20-mile arc to the point of beginning. That airspace beginning at the intersection of the 20-mile arc of the airport and long. 84°30'00" W. southeast of the airport; thence south along long. 84°30'00" W. to the 25-mile arc of the airport; thence clockwise along the 25-mile arc to long. 84°49'00" W.; thence north along long. 84°49'00" W. to the 20-mile arc of the airport; thence counterclockwise along the 20-mile arc to the point of beginning.

Area F. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the 25-mile arc north of the airport and long. 84°30'00" W.; thence clockwise along the 25-mile arc of the airport to the CVG VORTAC 056° radial; thence southwest along the CVG VORTAC 056° radial to the 20-mile arc of the airport; thence clockwise along the 20-mile arc of the airport to the CVG VORTAC 116° radial; thence southeast along the CVG VORTAC 116° radial to the 25-mile arc of the airport; thence clockwise along the 25-mile arc of the airport to long. 84°30'00" W. south of the airport; thence north along long. 84°30'00" W. to the intersection of the 10-mile arc of the airport and lat. 38°56'15" N.; thence east along lat. 38°56'15" N. to the 15-mile arc of the airport; thence clockwise along the 15-mile arc of the airport to lat. 39°09'18" N.; thence west along lat. 39°09'18" N. to the

intersection of the 10-mile arc of the airport and long. 84°30'00" W.; thence north along long. 84°30'00" W. to the point of beginning. That airspace beginning at the intersection of the 25-mile arc of the airport and the Indiana-Ohio State line; thence counterclockwise along the 25-mile arc to the CVG VORTAC 297° radial; thence southeast along the CVG VORTAC 297° radial to the 20-mile arc of the airport; thence counterclockwise along the 20-mile arc of the airport to the CVG VORTAC 247° radial; thence southwest along the CVG VORTAC 247° radial to the 25-mile arc of the airport; thence counterclockwise along the 25-mile arc of the airport to long. 84°49'00" W. south of the airport; thence north along long. 84°49'00" W. to the Kentucky bank of the Ohio River; thence north along the Kentucky bank of the Ohio River to lat. 38°56'15" N.; thence west along lat. 38°56'15" N. to the 15-mile arc of the airport; thence clockwise on the 15-mile arc of the airport to lat. 39°09'18" N.; thence east along lat. 39°09'18" N. to the Indiana-Ohio State line; thence north along the Indiana-Ohio State line to the point of beginning.

Area G. [Revoked]

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Issued in Washington, DC, on December 21, 2001.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

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