

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

[Docket No. FAA–2022–0999; Airspace
Docket No. 22–AWA–2]

RIN 2120–AA66

**Amendment of Class C Airspace;
Chicago, IL**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Chicago, IL, Class C airspace area surrounding the Chicago Midway International Airport, IL (MDW), by extending the existing Class C airspace shelf within 10 nautical miles (NM) of MDW from the southeast counterclockwise to the northeast. The FAA is taking this action to reduce the risk of midair collisions and enhance the efficient management of air traffic operations in the MDW terminal area.

DATES: Effective date 0901 UTC, June 15, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the NPRM, all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at www.federalregister.gov.

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in

Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the Class C airspace surrounding MDW to reduce the potential for midair collisions and enhance the management of air traffic in the terminal area as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System (NAS).

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2022–0999 in the **Federal Register** (87 FR 64737; October 26, 2022) proposing to modify the Class C airspace area surrounding MDW. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. Two comments were received.

Discussion of Comments

The first commenter, the Airline Pilots Association (ALPA), affirmed their support for the new MDW Class C airspace design. They also commented against any proposals the FAA may receive aiming to raise the proposed Class C airspace floor over Lake Michigan above 2,300 feet mean sea level (MSL). In their concern, they cited such a proposed action may result in increased Traffic Collision Avoidance System (TCAS) Resolution Advisory (RA) events, unstable and/or missed approaches, near midair collisions (NMAC), or midair collisions between commercial and general aviation aircraft.

The FAA appreciates ALPA's support for the new MDW Class C airspace design. To their comment associated with any proposals submitted to the FAA aiming to raise the Class C airspace floor over Lake Michigan, no comments or proposals addressing that concern were received. Further, the FAA is not considering any amendment to the Class C airspace design that was proposed in the NPRM published in the **Federal Register** of October 26, 2022.

The second commenter, the Aircraft Owners and Pilots Association (AOPA), was supportive of the proposed change. In addition, AOPA commented that

changes were needed to the Letter of Agreement (LOA) between Chicago Terminal Radar Approach Control (TRACON) and Midway Airport Traffic Control Tower (ATCT) regarding visual approaches to Runway 22L. They referenced the FAA's response to a pre-NPRM Ad Hoc Committee recommendation which stated the aforementioned LOA currently required that IFR aircraft conducting visual approaches to Runway 22L must only maintain 2,500 feet MSL until contacting the MDW ATCT. AOPA's concern was that the altitude constraint could easily lead to IFR aircraft crossing the Chicago lakefront VFR flyway only 200 feet above the proposed 2,300-foot Class C floor and result in possible wake turbulence issues, loss of separation, or more frequent TCAS RAs. AOPA acknowledged Runway 22L visual approaches are rarely used but believed the FAA should alter the LOA to require IFR aircraft conducting Runway 22L visual approaches to remain at or above 3,000 feet AGL until reaching the Chicago lakefront (or until reaching the DXXON waypoint).

The FAA appreciates AOPA's support and offers the following to their comment. In response to AOPA's comment with respect to requiring IFR aircraft conducting Runway 22L visual approaches to remain at or above 3,000 feet MSL until reaching the Chicago lakefront or the DXXON waypoint, the FAA revisited the Ad Hoc Committee's recommendation on the same requirement for aircraft flying visual approaches to Runway 22L from the east. The FAA reconsidered the Ad Hoc Committee's recommendation and AOPA's request for IFR aircraft conducting Runway 22L visual approaches to remain at or above 3,000 feet MSL until the Chicago lakefront or DXXON waypoint. After reconsideration of the recommendation and the request, the FAA agrees and will support the requested altitude requirement, to the maximum extent possible, for visual approaches flown to Runway 22L from the east.

The transfer of communications and control point from the Chicago TRACON to the MDW ATCT for IFR aircraft inbound to MDW Runway 22L from the east, whether on an instrument or visual approach, is over land beyond the Chicago lakefront VFR flyway and the DXXON waypoint. As such, IFR aircraft inbound to MDW Runway 22L remain under Chicago TRACON's control until after they pass the Chicago lakefront VFR flyway or DXXON waypoint. As an alternative to AOPA's request to update the LOA between Chicago TRACON and MDW ATCT, the

FAA determined that documenting the operational guidance for keeping IFR aircraft flying visual approaches to MDW Runway 22L from the east at or above 3,000 feet MSL would be better located in Chicago TRACON's operating procedures. Therefore, the existing LOA between Chicago TRACON and MDW ATCT will not be amended as requested.

Additionally, visual approaches are never advertised as the approach in use at MDW and all IFR aircraft arriving from the east are sequenced on the final approach course for the Area Navigation (RNAV) approaches when Runway 22L is the active runway. Should an IFR pilot established on the Runway 22L final approach course from the east report visual contact with MDW and request a visual approach, Chicago TRACON controllers would issue an altitude restriction of 3,000 feet MSL until reaching the DXXON waypoint, then clear the aircraft for the visual approach as a routine practice. However, in the event of emergency situations or safety of flight requirements, the Chicago TRACON may require IFR aircraft to operate at other Class C airspace altitudes as the situation requires.

Incorporation by Reference

Class C airspace designations are published in paragraph 4000 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. This amendment will be published in the next update to FAA Order JO 7400.11.

FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by modifying the Chicago, IL, Class C airspace surrounding MDW by extending the airspace shelf further around the airport on the east side to end northeast of the airport. This amendment enhances flight safety in the MDW terminal area (see the attached chart).

The current Chicago, IL, Class C airspace consists of two concentric circles, a surface area and an airspace shelf, centered on the MDW airport reference point: (1) that airspace extending upward from the surface to

3,600 feet MSL within a 5 NM radius of the airport; and (2) that airspace extending upward from 1,900 feet MSL to 3,600 feet MSL between 5 NM and 10 NM from 2-miles northeast of and parallel to the MDW RWY 31C localizer course southeast of the airport, clockwise to the Chicago O'Hare Class B airspace area northwest of the airport. The Class C airspace area excludes the airspace within the adjacent Chicago, IL, Class B airspace area.

This action modifies the Chicago, IL, Class C airspace area by extending the existing airspace shelf between 5 NM and 10 NM further around MDW on the east side from the existing boundary located 2 NM northeast of and parallel to the MDW RWY 31C localizer course to a new boundary defined by the 090° bearing of the intersection of the 10-mile radius around the Chicago O'Hare International Airport and the 5-mile radius around MDW. The new Class C airspace shelf extends from the Chicago Class B airspace located northwest of MDW counterclockwise around MDW to a boundary slightly south of Interstate 290 located northeast of MDW and includes the airspace over Chicago and Lake Michigan between 5 NM and 10 NM of MDW. The portion of the Class C airspace shelf over land retains the existing airspace shelf altitudes extending upward from 1,900 feet MSL to 3,600 feet MSL and the portion of the Class C airspace shelf over Lake Michigan extends upward from 2,300 feet MSL to 3,600 feet MSL. The exclusion of the airspace within the Chicago, IL, Class B airspace area is retained.

This modified Class C airspace shelf enhances flight safety in the MDW terminal area by encompassing the MDW RNAV RWY 22L approaches for IFR aircraft, retaining the VFR flyway along the Lake Michigan shoreline outside Class C airspace for VFR pilots that elect not to communicate with ATC and fly within the Class C airspace, and preserving the VFR sightseeing operations north of Interstate 290 without impact.

Regulatory Notices and Analyses

Federal agencies consider impacts of regulatory actions under a variety of executive orders and other requirements. First, Executive Order 12866 and Executive Order 13563 direct 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 of 1980 (Pub. L. 96-354) requires agencies to analyze the economic impact of regulatory changes on small

entities. Third, the Trade Agreements Act (Pub. L. 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). The current threshold after adjustment for inflation is \$165,000,000, using the most current (2021) Implicit Price Deflator for the Gross Domestic Product. This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

In conducting these analyses, the FAA determined that this final rule: will result in minimal cost; is not an economically "significant regulatory action" as defined in section 3(f) of Executive Order 12866; will not have a significant economic impact on a substantial number of small entities; will not create unnecessary obstacles to the foreign commerce of the United States; and will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector. These analyses are summarized below.

As discussed above, the FAA determined that changes put forth in this rule will increase airspace safety with minimal cost impact. The final rule extends the Class C airspace area surrounding MDW Airport to reduce the risk of midair collisions and enhance the efficient management of air traffic operations in the MDW terminal area. The costs of the rule are the value of resources needed to comply with the airspace changes. In this case, VFR pilots desiring to fly at their current altitudes within the proposed Class C airspace are required to establish two-way communications with ATC. VFR pilots flying in the vicinity of MDW are likely equipped for this communication and as such this change would involve only minimal time for awareness and planning. The FAA also does not anticipate increased staffing needs. Therefore, costs are likely minimal.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354) (RFA) establishes "as a principle of regulatory issuance that

agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.” To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.” The RFA 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 rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The final rule amends 14 CFR part 71 by modifying the Chicago, IL, Class C airspace area to extend the airspace shelf around MDW further around the airport on the east side to end northeast of the airport. The FAA is taking this action to reduce the risk of midair collisions and enhance the efficient management of air traffic operations in the MDW terminal area. The rule will affect VFR pilots desiring to fly at their current altitudes within the proposed Class C airspace. These pilots will need to establish two-way communications with ATC; however, they are likely equipped for this communication and as such this change would involve only minimal time for awareness and planning. The final rule results in a minimal economic impact on small entities. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking does not result in a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign

commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that it should improve safety and is consistent with the Trade Agreements Act.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. The FAA determined that the proposed rule will not result in the expenditure of \$165,000,000 or more by State, local, or tribal governments, in the aggregate, or the private sector, in any one year.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA determined that there is no new information collection requirement associated with this proposed rule.

Environmental Review

The FAA determined that this action of amending the Chicago, IL, Class C airspace area by extending the airspace shelf between 5 NM and 10 NM further around MDW on the east side from the existing boundary located southeast of MDW to a new boundary slightly south of Interstate 290 located northeast of MDW qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas;

Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

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, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(f), 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 FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 4000 Class C Airspace.

* * * * *

AGL IL C Chicago, IL [Amended]

Chicago Midway International Airport, IL
(Lat. 41°47′10″ N, long. 087°45′09″ W)

That airspace extending upward from the surface to 3,600 feet MSL within a 5-mile radius of the Chicago Midway International Airport; that airspace extending upward from 1,900 feet MSL to 3,600 feet MSL within an area beginning at a point north of Chicago Midway International Airport at the intersection of the 10-mile radius around a point centered at lat. 41°59′16″ N, long. 087°54′17″ W and the 5-mile radius of the Chicago Midway International Airport, thence extending on a 090° bearing to the Lake Michigan shoreline at lat. 41°52′09″ N, long. 087°36′59″ W, thence southward following the shoreline to the 10-mile radius of the Chicago Midway International Airport at lat. 41°44′59″ N, long. 087°32′06″ W, thence clockwise along that 10-mile radius to the intersection with the 10.5-mile radius around a point centered at lat. 41°59′16″ N,

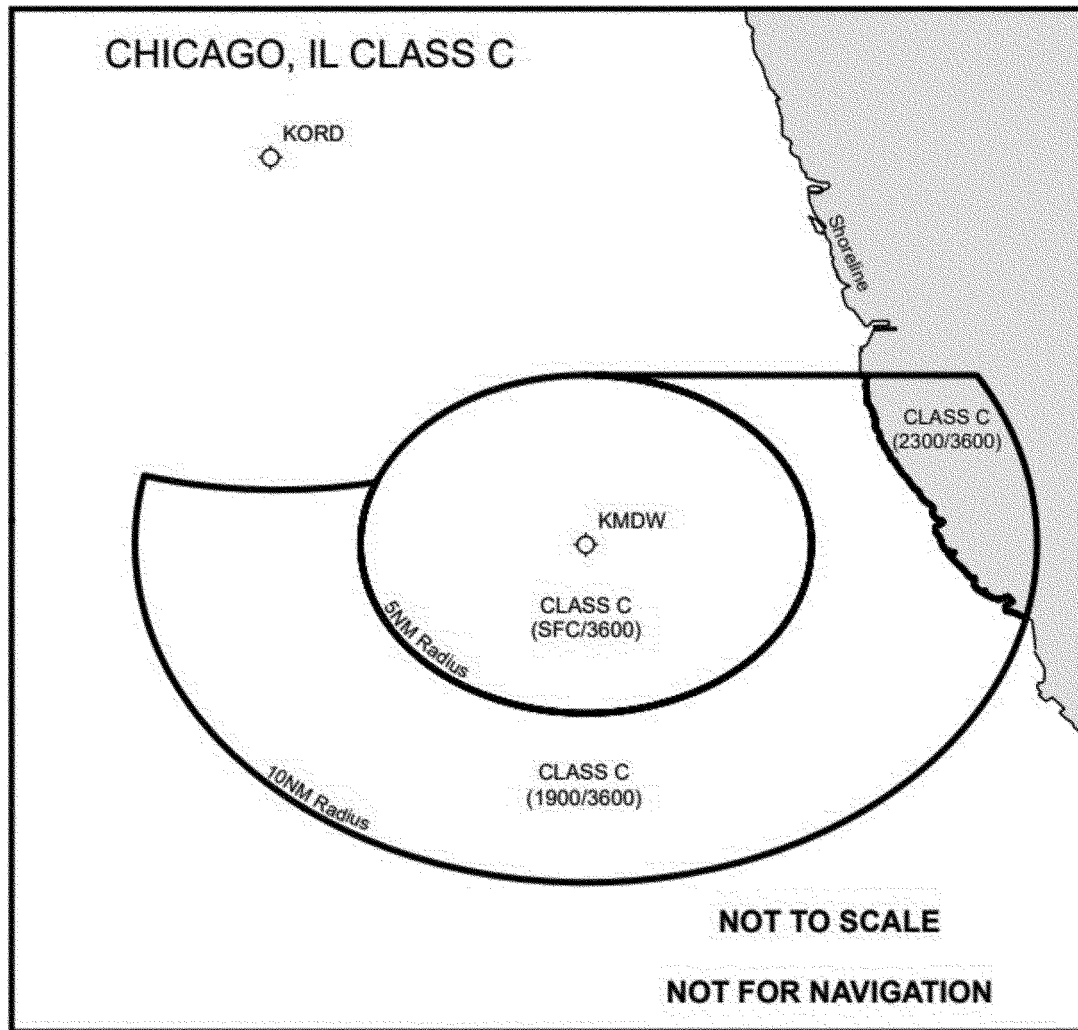
long. 087°54'17" W, thence counterclockwise along that 10.5-mile radius to the intersection with the 5-mile radius of the Chicago Midway International Airport, thence counterclockwise along that 5-mile radius to the intersection with the 10-mile radius around a point centered at lat. 41°59'16" N, long. 087°54'17" W; and that airspace extending upward from 2,300 feet MSL to

3,600 feet MSL within an area beginning at a point on the Lake Michigan shoreline at lat. 41°52'09" N, long. 087°36'59" W, thence extending on a 090° bearing to the 10-mile radius of the Chicago Midway International Airport, thence clockwise along that 10-mile radius to the Lake Michigan shoreline at lat. 41°44'59" N, long. 087°32'06" W, thence northward following the shoreline to lat.

41°52'09" N, long. 087°36'59" W. This Class C airspace area excludes the airspace within the Chicago, IL, Class B airspace area.

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MODIFICATION OF THE CHICAGO MIDWAY INTERNATIONAL AIRPORT CLASS C AIRSPACE AREA (Docket Number 22-AWA-2)



Issued in Washington, DC, on March 15, 2023.

Brian Konie,

Acting Manager, Airspace Rules and Regulations.

[FR Doc. 2023-05632 Filed 3-22-23; 8:45 am]

BILLING CODE 4910-13-P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

RIN 3046-AB17

2023 Adjustment of the Penalty for Violation of Notice Posting Requirements

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: In accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, this final rule adjusts for inflation

the civil monetary penalty for violation of the notice-posting requirements in Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Genetic Information Non-Discrimination Act.

DATES: This final rule is effective March 23, 2023.

FOR FURTHER INFORMATION CONTACT:

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