Proposed Rules

Federal Register
Vol. 75, No. 75
Tuesday, April 20, 2010

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0514; Airspace Docket No. 07–AWA–1]

RIN 2120–AA66

Proposed Amendment to Class B Airspace; Cleveland, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Cleveland, OH, Class B airspace to contain aircraft conducting Instrument Flight Rules (IFR) instrument approach procedures to Cleveland-Hopkins International Airport (CLE) within Class B airspace. This action also would update two geographic coordinates listed in the description. This action would contain aircraft operations conducting instrument approaches within Cleveland Class B airspace, further supporting the FAA's national airspace redesign goal of optimizing terminal and en route airspace areas to reduce aircraft delays and improve system capacity.

DATES: Comments must be received on or before June 21, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2009–0514 and Airspace Docket No. 07–AWA–1 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace and Rules Group, Office of System Operations Airspace and AIM, 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 docket numbers (FAA Docket No. FAA–2009–0514 and Airspace Docket No. 07–AWA–1) and be submitted in triplicate to the Docket Management Facility (*see* **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Nos. FAA–2009–0514 and Airspace Docket No. 07–AWA–1." 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 action may be changed in light of comments received. All comments submitted will be available for examination in the public 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 NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/regulations_policies/rulemaking/recently_published/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (*see* **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, Operations Support Group, Federal Aviation Administration, 2601 Meacham Blvd. Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

In 1974, the FAA issued a final rule which established the Cleveland, OH (Cleveland-Hopkins International Airport), Terminal Control Area (39 FR 11256). As a result of the Airspace Reclassification final rule (56 FR 65638), which became effective in 1993, the terms "terminal control area" and "airport radar service area" were replaced by "Class B airspace area," and "Class C airspace area," respectively. The primary purpose of a Class B airspace area is to reduce the potential for midair collisions in the airspace surrounding airports with high density air traffic operations by providing an area in which all aircraft are subject to certain operating rules and equipment requirements.

The Cleveland Class B airspace area was last modified in 1970 when it was the Cleveland, Ohio (Cleveland-Hopkins International Airport), control zone, using 1970s air traffic activity levels, and has not been modified since. In recent years, the City of Cleveland has accomplished construction projects to modernize, enhance safety, and provide sufficient capacity at CLE. These projects included the construction of a replacement Runway 6L/24R at CLE that increased the lateral distance between runways 6L/24R and 6R/24L to 1,241 feet. This increase in lateral distance between the runways has allowed simultaneous arrival and departure operations under visual flight rules (VFR) conditions and simultaneous approaches during marginal VFR conditions through the use of Precision Runway Monitor/Simultaneous Offset

Instrument Approaches (PRM/SOIA). Operationally, PRM/SOIA results in higher arrival acceptance rates during lower VFR minimums, but requires aircraft to be established on the final approach courses not less than 15 miles from the airport. During periods with moderate levels of air traffic, this requirement quickly extends the final approach course to a distance of 25–30 miles from the airport; placing aircraft outside the confines of the current Cleveland Class B airspace.

Since the Cleveland Class B airspace area was established, CLE has experienced increased traffic levels, a considerably different fleet mix, and airport infrastructure improvements enabling simultaneous instrument approach procedures. For calendar year 2008, CLE documented 550,171 total operations and was rated number 34 among all Commercial Service Airports with 5,387,625 passenger enplanements.

With the current Class B airspace configuration, aircraft routinely enter, exit, and then reenter Class B airspace while flying published instrument approach procedures, contrary to FAA directives. The procedural requirements for using PRM/SOIA to establish aircraft on final at least 15 miles from the airport has resulted in aircraft exceeding the lateral boundaries of the current Class B airspace by up to 5 to 10 miles during moderate levels of air traffic. Modeling of existing traffic flows has shown that the proposed expanded Class B airspace extensions would enhance safety by containing all instrument approach procedures, and associated traffic patterns, within the confines of Class B airspace and better segregate IFR aircraft arriving/departing CLE and VFR aircraft operating in the vicinity of the Cleveland Class B airspace. The proposed Class B airspace modifications described in this NPRM are intended to address these issues.

Pre-NPRM Public Input

In 2007, the FAA initiated action to form an ad hoc committee to provide comments and recommendations regarding the planned modifications to the Cleveland Class B airspace area. Participants in the committee included representatives from Cleveland Airport System, Reader Botsford Field, Cleveland City Council, Aircraft Owners and Pilots Association, Air Line Pilots Association, Continental Airlines, Soaring Society of America, local soaring clubs, and local communities. One ad-hoc committee meeting was held at Burke Lakefront Airport on January 11, 2008. Although the ad-hoc committee did not reach consensus on an airspace design, a variety of alternatives were recommended.

In addition, as announced in the **Federal Register** (73 FR 40446), informal airspace meetings were held on September 16, 2008, at the Wellington Town Hall, Wellington, OH; and on September 17, 2008, at the Burke Lakefront Airport, Cleveland, OH. These meetings provided interested airspace users with an opportunity to present their views and offer suggestions regarding the planned modification of the Cleveland Class B airspace. All comments received as a result of the informal airspace meetings, along with the recommendations made by the ad hoc committee were considered in developing this proposal.

Discussion of Recommendations and Comments

Ad hoc Committee Recommendations

The ad hoc committee recommended the FAA raise the floor of Area F from 5,000 feet mean sea level (MSL) to 6,000 feet MSL or layering it. Area F was originally proposed as a single area extension to the southwest described from the 20-mile arc of the CLE Runway 24L ILS/DME antenna (I–HPI) to the 30-mile arc of I–HPI, with the northern boundary 6 miles north and parallel to the runway 6L localizer (I–LIZ) signal extended and the southern boundary 6 miles south and parallel to the runway 6R localizer (I–EYU) signal extended, from 5,000 feet MSL to and including 8,000 feet MSL. The FAA originally discounted this recommendation based on current operating procedures and flight safety concerns, however, the FAA carried the recommendation forward for further review and consideration.

The ad hoc committee suggested three other recommendations that were not adopted. These recommendations were: (1) Use a Letter of Agreement to delegate a portion of airspace within Area F (as originally proposed) for glider operations and allow tow aircraft to communicate to air traffic control for the gliders when the Class B extension is not needed by air traffic control; (2) retain IFR arrival aircraft turns to the final approach course inside the current 20-mile Class B airspace boundary; and (3) move Area F (as originally proposed) further to the North.

The recommendation to use a Letter of Agreement to delegate airspace and "third-party" communication procedures for gliders operating within Class B airspace, when the airspace is not needed, was not adopted due to the regulatory nature of Class B airspace. The associated operational and equipage requirements to operate within Class B airspace cannot be waived by Letter of Agreement. Additionally, air traffic control must be able to provide positive separation and control of all aircraft within Class B airspace at all times.

The recommendation to retain aircraft turning to the final approach course within the current Class B airspace was not adopted because approximately 15 to 18 percent of IFR arrivals currently extend beyond the existing boundary. This alternative would require imposing in-trail spacing requirements, prohibiting use of PRM/SOIA, and using airborne holding. While these measures might be of minor benefit in keeping aircraft within the confines of the present day Cleveland Class B airspace, the associated detrimental impacts to the national airspace system would be excessive.

The recommendation to move the Area F extension (as originally proposed) further to the North was not adopted because the extension would no longer align with the runway centerlines extended, nor the instrument final approach courses. The purpose for establishing the Class B airspace extensions, *i.e.* to retain IFR arrival aircraft on instrument approaches within Class B airspace, would not be realized and the current situation of IFR arrival aircraft entering, exiting, and reentering the Class B airspace would continue.

Informal Airspace Meeting Comments

Twelve commenters raised concerns that Area F (as originally proposed) would impose on the existing glider operations at Reader-Botsford Airport. The 5,000 feet MSL floor of the area would provide only 4,200 feet above ground level (AGL) airspace for gliders to operate within and they would be unable to reach adequate altitudes for safe departures and returns from cross-country soaring. Six of these commenters suggested dividing Area F into a north area with the 5,000 feet MSL floor the FAA proposed, and a south area with a 6,000 feet MSL floor to support cross-country glider operations. And, four of these commenters further suggested using railroad tracks that run west to east under the originally proposed Area F as a visual reference to mark the boundary between the north and south areas. The FAA partially agrees. The originally proposed Area F has been redefined into a north area (named Area F in the proposal section below) and a south area (named Area G in the proposal section below). The "new" Areas F and G are expected to provide the gliders operating at Reader-Botsford Airport

with additional airspace for their operations while preserving the integrity of the Class B airspace containing IFR aircraft flying instrument approaches to CLE. The FAA does not agree with using the railroad tracks to define the two areas and is proposing the boundary between the proposed Areas F and G be described by the runway 6R localizer (I–CLE) signal extended. The railroad tracks suggested by the commenters does not divide the originally proposed Area F in a manner supportive of containing IFR aircraft on instrument approaches within Class B airspace.

Four commenters expressed concern that the planned establishment of Areas E and F (as originally proposed) with a 5,000 feet MSL floor would compress general aviation traffic into lower altitudes and cause traffic compression. The FAA partially agrees with these comments. For general aviation aircraft to remain clear of the Cleveland Class B airspace areas, they would have to fly either below or above the Class B airspace extensions. However, these areas are necessary to (1) retain IFR aircraft on instrument approaches in the Cleveland Class B airspace area and (2) ensure general aviation traffic and the large turbine-powered aircraft conducting instrument approaches are segregated. Additionally, aircraft conducting simultaneous, parallel instrument approaches may not be assigned the same altitude during turn-on to the final approach course, resulting in aircraft being assigned altitudes that may differ by a minimum of 1,000 feet. In order to accommodate containment of these aircraft flying simultaneous instrument approaches within Class B airspace, and ensure segregation from general aviation traffic, the Cleveland Class B airspace area must be modified to establish the additional extensions as proposed.

One commenter cited Area F (as originally proposed) would be an impediment to general aviation aircraft operating at Elyria and Lorain County Regional Airports, as descents and climbs would have to be modified to get below the proposed 5,000 feet MSL extension. The FAA does not agree. Both Elyria and Lorain County Regional Airports are located under the Cleveland Class B airspace Area C (floor altitude 3,000 feet MSL), which is unchanged by this proposal. The current Cleveland Class B airspace Area D extends 5 miles west of the airports (floor altitude 4,000 feet MSL) and is also unchanged by this proposal. The newly proposed Class B airspace extension, comprised of Areas F and G, would be established at 5,000 feet MSL and 6,000 feet MSL, respectively, and located beyond the existing Area D. The flight profile impacts for general aviation aircraft operating at Elyria and Lorain County Regional Airports should be minimal since departures to or arrivals from the West or South are expected to be unaffected by the proposed extension.

Ten commenters, including a representative from the Village of Wellington, stated concerns regarding potential loss of revenue to the village, the Reader-Botsford Airport land owner, and the Fun Country Soaring Club should the glider operations cease because of the Class B airspace proposal. The FAA does not agree. As noted above, the Area F extension (as originally proposed) was modified to provide additional airspace to the soaring club operators at Reader-Botsford Airport. Since the majority of glider operations occur to the south and west, the new Areas F and G are expected to enable glider operations to continue with negligible impact to local area or cross-country glider flights. As such, the FAA does not expect the soaring club operation at Reader-Botsford Airfield to relocate; thus, averting the financial impacts to the Village of Wellington, the airport land owner, or the soaring club, as raised by the commenters.

Two commenters questioned the need for the Cleveland Class B modifications in light of the recent reduction of air carrier traffic at CLE. The FAA does not agree. The Class B airspace extensions proposed are aimed at ensuring IFR aircraft flying instrument approaches to CLE are contained within Class B airspace during their arrival. As noted in the ad hoc committee recommendations section, even with the reduced air carrier traffic levels today, there continues to be approximately 15 to 18 percent of IFR aircraft arrivals to CLE that enter, exit, and re-enter the Class B airspace. The FAA considers this proposed modification to the Cleveland Class B airspace to be the minimum amount of airspace necessary to contain all IFR arrivals within Class B airspace.

Four commenters stated the FAA should determine a way to "turn the airspace [original proposed Area F extension] on and off", while one suggested the use of a Letter of Agreement to enable gliders to gain access/entry to the Class B airspace extension proposed overhead Reader-Botsford Airfield. The FAA does not agree. Class B airspace is established via rulemaking and when established, the airspace and the regulatory requirements associated with accessing and operating within it are specific and in effect at all times for all operations. The regulatory requirements for aircraft to enter and operate within Class B airspace may not be waived, modified, or exempted by Letter of Agreement.

The Proposal

The FAA is proposing an amendment to Title 14 of the Code of Federal Regulations (14 CFR) part 71 to modify the Cleveland, OH, Class B airspace area. This action (depicted on the attached chart) would add two airspace extensions (one, Area E, to the Northeast and one, defined by Areas F and G, to the Southwest) in order to provide additional airspace needed to contain aircraft conducting instrument approach operations within the confines of Class B airspace, especially when PRM/SOIA are utilized. Additionally, the proposed modifications would better segregate IFR aircraft arriving/departing CLE and VFR aircraft operating in the vicinity of the Cleveland Class B airspace area. The current Cleveland Class B airspace area consists of four subareas (A through D) while the proposed configuration would consist of seven subareas (A through G). The proposed modifications to the Cleveland Class B airspace area are:

Areas A–D. Except for a proposed administrative correction to the legal description in Area B, which excludes the airspace within a 2-mile radius of Burke Lakefront Airport in error, there are no changes to the airspace descriptions of Area A through D. The airspace contained within Area B does not overlap with the airspace contained within a 2-mile radius of the Burke Lakefront Airport. Therefore, the Area B exclusion language addressing that airspace within a 2-mile radius of Burke Lakefront Airport is unnecessary.

Area E. The FAA proposes to establish Area E to the Northeast of CLE. This modification would extend from the existing Area D boundary defined by the 20-mile arc of I–HPI to the 30-mile arc of I–HPI. The northern boundary is proposed to be defined 6-miles north and parallel to the Runway 24R localizer (I–PVY) signal extended, and the southern boundary is proposed to be defined 6-miles south and parallel to the Runway 24L localizer (I–FVZ) signal extended. This new area would be established with the floor extending upward from 5,000 feet MSL to and including 8,000 feet MSL, overlying the Willoughby Lost Nation Airport in Willoughby, OH. The effect of this new area would be to ensure IFR aircraft flying instrument approaches to runways 24L and 24R are contained within the confines of Class B airspace throughout the approach, yet provide

airspace below and above this area for VFR aircraft operations outside of the Class B airspace.

Area F. The FAA proposes to establish Area F to the Southwest of CLE. This modification would extend from the existing Area D boundary defined by the 20-mile arc of I–HPI to the 30-mile arc of I–HPI. The northern boundary is proposed to be defined 6-miles north and parallel to the Runway 6L localizer (I–LIZ) signal extended, and the southern boundary is proposed to be defined by the Runway 6R localizer (I–CLE) signal extended. This new area would be established with the floor extending upward from 5,000 feet MSL to and including 8,000 feet MSL, and to the north and west of the town of Wellington, OH. Similar to the effect of Area E, this new area, with Area G described below, would ensure IFR aircraft flying instrument approaches to runways 6L and 6R are contained within the confines of Class B airspace throughout the approach, yet provide airspace below and above this area for VFR aircraft operations outside of the Class B airspace.

Area G. The FAA proposes to establish Area G to the Southwest of CLE. This modification would extend from the existing Area D boundary defined by the 20-mile arc of I–HPI to the 30-mile arc of I–HPI. The northern boundary is proposed to be defined by the Runway 6R localizer (I–CLE) signal extended, and the southern boundary is proposed to be defined 6-miles south and parallel to the Runway 6R localizer (I–EYU) signal extended. This new area would be established with the floor extending upward from 6,000 feet MSL to and including 8,000 feet MSL, overlying the Reader-Botsford Airport located in Wellington, OH. Similar to the effect of Areas E and F, this new area, with Area F described above, would ensure IFR aircraft flying instrument approaches to runways 6L and 6R are contained within the confines of Class B airspace throughout the approach, yet provide airspace below and above this area for VFR aircraft operations outside of the Class B airspace.

Finally, this proposed action would update the CLE airport reference point coordinates and the I–HPI coordinates in the legal description to reflect current National Airspace System data.

Implementation of these proposed modifications to the Cleveland Class B airspace area would enhance the efficient use of the airspace for the safety and management of aircraft operations in the Cleveland terminal area.

Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9T, Airspace Designations and Reporting Points, dated August 27, 2009, and effective September 15, 2009, 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 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 United States standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of United States 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). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this proposed rule. The reasoning for this determination follows:

After consultation with a diverse cross-section of stakeholders that participated in the Cleveland airport ad hoc advisory committee, in addition to thorough review of public comments as a result of an informal meeting, the FAA expects the proposed modifications to the Cleveland Class B airspace to result in minimal cost. Existing traffic flow modeling to CLE shows commercial aircraft routinely enter, exit and then reenter the current Class B airspace while flying published instrument approach procedures, contrary to FAA directives. The Class B extension proposed will increase safety by encompassing the actual flight paths of commercial aircraft on instrument approach. Commercial aircraft are already performing instrument approaches to CLE in accordance to the proposed extensions to Class B airspace.

As a result of the aforementioned public meeting, only four commenters—all of whom are individual glider pilots—mentioned concerns over general aviation compression with the extended Class B airspace extension. However, the FAA discounts such compression arguments because as mentioned above current commercial procedures for approach to CLE are occurring in the proposed Class B extension. The FAA also adjusted the proposed extension of Class B airspace by bifurcation of the affected area and increasing the floor altitude from 5,000 MSL to 6,000 MSL in the area most trafficked by the gliders out of Reader-Botsford Airport, to the south and to the west of the airport.

Commenters worry a soaring club may discontinue operation resulting in a loss of revenue to the Village of Wellington, the landowner of Reader-Botsford Airport, as a result of the proposed extension. The FAA does not believe the proposed Class B extension will cause the soaring club to close down; therefore, the costs would be minimal, if any. The FAA included accommodations to the proposed extension. The area to the south and the west of Reader-Botsford Airport included in the proposed Class B airspace extension gives a 6,000 MSL minimal floor as compared to 5,000 MSL minimal floor in other portions of the proposed extension to the Class B airspace. This accommodation would allow for a vaster amount of airspace for gliders. Additionally, this rule does not regulate any nearby airspace outside of the current and proposed Class B airspace which is available to general aviation and gliders but not to commercial aircraft on approach to CLE.

The benefits of the proposed extension of Cleveland Class B airspace far exceed any minimal cost associated with this proposed rule. As mentioned earlier this change is primarily to encapsulate already practiced instrument landing approaches thereby increasing the safety of not only the commercial traffic but also the general aviation community already being affected. The FAA also recognizes the

significant benefits of having increased number of simultaneous lateral approaches of commercial aircraft both for instrument approaches and visual approaches.

Initial Regulatory Flexibility Determination

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 FAA believes the proposal would not have a significant economic impact on a substantial number of small entities as the economic impact is expected to be minimal. Based on the Small Business Administration small entity criterion for small government jurisdictions the rule would impact a substantial number of small entities. Reader-Botsford Airport is a regional airport that's land is owned by a government with a population less than 50,000, the Village of Wellington, Ohio. The FAA does not believe Wellington will be significantly impacted by the proposed extension of Cleveland Class B airspace because the proposed rule would not force a local soaring club to cease operations. The FAA proposed a higher ceiling to accommodate the soaring club. Additionally, commercial flights are currently using the proposed Class B extended airspace. The FAA believes these changed patterns result in a minimal economic impact. Therefore the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. We request comments from the potentially affected entities which would include estimated compliance cost and revenue, such that we could provide a measure of economic impact.

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 United States standards. The FAA has assessed the potential effect of this proposed rule to change the airspace classification for CLE and determined that it would not have a potential effect on trade-sensitive activities as discussed above.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of $136.1 million in lieu of $100 million. This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

Conclusion

FAA has, therefore, determined that the extension of Cleveland Class B airspace is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is not "significant" as defined in DOT's Regulatory Policies and Procedures.

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9T, Airspace Designations and Reporting Points, dated August 27, 2009, and effective September 15, 2009, is amended as follows:

Paragraph 3000 Subpart B—Class B Airspace

* * * * *

AGL OH B Cleveland, OH [Modified]

Cleveland-Hopkins International Airport (Primary Airport)
(Lat. 41°24′34″ N., long. 81°51′18″ W.)
Cleveland-Hopkins International Airport Runway 24L ILS/DME Antenna (I–HPI)
(Lat. 41°23′44″ N., long. 81°52′18″ W.)
Gilbert Airport (Pvt)
(Lat. 41°22′00″ N., long. 81°58′00″ W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 5-mile radius of I–HPI, excluding that airspace within a 1-mile radius of Gilbert Airport.

Area B. That airspace extending upward from 1,900 feet MSL to and including 8,000 feet MSL within an 8.5-mile radius of I–HPI, excluding Area A previously described.

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL within a 15-mile radius of I–HPI, excluding Areas A and B previously described.

Area D. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL within a 20-mile radius of I–HPI, excluding Areas A, B, and C previously described.

Area E. That airspace extending upward from 5,000 feet MSL to and including 8,000 feet MSL starting at point lat. 41°30′41″ N., long. 81°27′22″ W., then northeast to point lat. 41°37′00″ N., long. 81°16′29″ W., then northwest along the 30-mile arc of I–HPI to point lat. 42°47′20″ N., long. 81°27′36″ W., then southwest to point lat. 42°40′43″ N., long. 81°38′13″ W., then southeast along the

20-mile arc of I–HPI to the point of beginning.

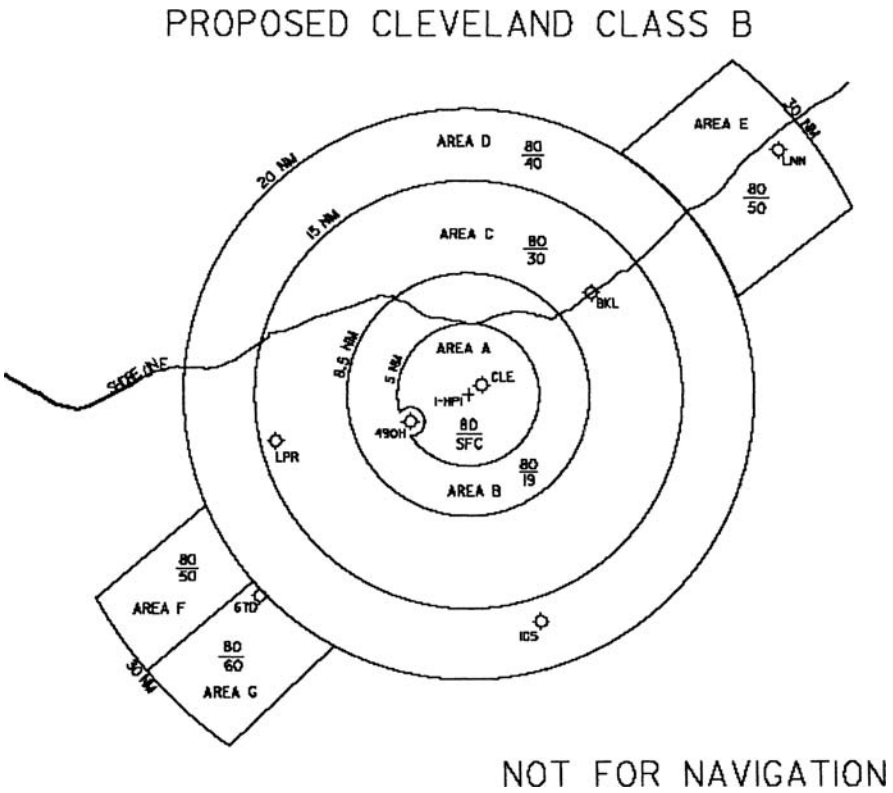
Area F. That airspace extending upward from 5,000 feet MSL to and including 8,000 feet MSL starting at point lat. 41°16′17″ N., long. 82°16′56″ W., then southwest to point lat. 41°09′35″ N., long. 82°27′23″ W., then southeast along the 30-mile arc of I–HPI to point lat. 41°04′24″ N., long. 82°22′43″ W., then northeast to point lat. 41°10′52″ N., long. 82°12′37″ W., then northwest along the 20-mile arc of I–HPI to the point of beginning.

Area G. That airspace extending upward from 6,000 feet MSL to and including 8,000 feet MSL starting at point lat. 41°06′13″ N., long. 82°05′07″ W., then southwest to point lat. 40°59′08″ N., long. 82°15′03″ W., then northwest along the 30-mile arc of I–HPI to point lat. 41°04′24″ N., long. 82°22′43″ W., then northeast to point lat. 41°10′52″ N, long. 82°12′37″ W, then southeast along the 20-mile arc of I–HPI to the point of beginning.

Issued in Washington, DC, on April 13, 2010.

Edith V. Parish,

Manager, Airspace and Rules Group.



[FR Doc. 2010–9024 Filed 4–19–10; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

[Docket No. CPSC–2010–0029]

Interpretation of "Children's Product"

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed interpretative rule.

SUMMARY: The Consumer Product Safety Commission ("CPSC," "Commission," or "we") is issuing a proposed interpretative rule that would interpret the term "children's product" as used in the Consumer Product Safety Improvement Act of 2008 ("CPSIA"), Public Law 110–314. The proposal would provide additional guidance on the factors that must be considered when evaluating what is a children's product.

DATES: Written comments and submissions in response to this notice must be received by June 21, 2010.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2010–0029, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way: *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail) except through *http://www.regulations.gov.*

Written Submissions

Submit written submissions in the following way: Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this proposed rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jonathan D. Midgett, Office of Hazard Identification, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; telephone