

requirements and duplication by industry and public sector agencies.

The AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2010 fiscal year began on January 1, 2010, and the marketing order requires that the rate of assessment for each fiscal year apply to all assessable olives handled during such fiscal year; (2) the Committee needs sufficient funds to pay its expenses, which are incurred on a continuous basis; and (3) handlers are aware of this action, which was discussed by the Committee and unanimously recommended at a public meeting, and is similar to other assessment rate actions issued in past years.

#### List of Subjects in 7 CFR Part 932

Olives, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is proposed to be amended as follows:

#### PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 932 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 932.230 is revised to read as follows:

##### § 932.230 Assessment rate.

On and after January 1, 2010, an assessment rate of \$44.72 per ton is established for California olives.

Dated: February 25, 2010.

**David R. Shipman,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2010–4338 Filed 3–2–10; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2010–0049; Airspace Docket No. 08–AWA–1]

RIN 2120–AA66

#### Proposed Modification of Class B Airspace; Charlotte, NC

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to modify the Charlotte, NC, Class B airspace area to ensure the containment of aircraft, accommodate the implementation of area navigation (RNAV) departure procedures, and to support operations of the third parallel runway planned for commissioning in early 2010. The FAA is proposing this action to improve the flow of air traffic, enhance safety, and reduce the potential for midair collision in the Charlotte terminal area.

**DATES:** Comments must be received on or before May 3, 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–2010–0049 and Airspace Docket No. 08–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:** Paul Gallant, 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–2010–0049 and Airspace Docket No. 08–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–2010–0049 and Airspace Docket No. 08–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 NPRM's

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/](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 Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

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 1989, the FAA issued a final rule which established the Charlotte, NC, Terminal Control Area (TCA) to replace the Charlotte Airport Radar Service Area (ARSA) (54 FR 32604). 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 Charlotte Class B airspace area was last modified in 1995 (60 FR 26594). Only minor changes were made at that time. Since that modification, the Charlotte/Douglas International Airport (CLT) has experienced significant growth in operations. For calendar year 2008, CLT was ranked number 8 in the list of the "50 Busiest FAA Airport Traffic Control Towers" and number 14 in the list of the "50 Busiest Radar Approach Control Facilities." Calendar year 2008 passenger enplanement data list Charlotte as number 13 among Commercial Service Airports. Enplanements at CLT in 2008 grew just over four percent compared to calendar year 2007 figures.

Several factors point to a need to modify the Charlotte Class B airspace area. Experience has shown that, with the current Class B airspace configuration, aircraft routinely enter, exit, and then reenter Class B while flying published instrument approach procedures, contrary to FAA directives. Modeling of projected traffic flows shows that future traffic also would not be fully contained within the existing Class B airspace structure. In addition, expanded Class B airspace will be needed to accommodate operations of a third parallel runway (36L/18R) now under construction and planned for commissioning in early 2010. The proposed Class B airspace modifications described in this NPRM are intended to address these issues.

### Pre-NPRM Public Input

In February 2008, an ad hoc committee was formed to develop recommendations for the FAA to consider in designing a proposed modification of the Charlotte/Douglas International Airport Class B airspace

area. The ad hoc committee membership consisted of representatives from the North Carolina Department of Transportation, Division of Aviation; South Carolina Department of Commerce, Division of Aeronautics; Aircraft Owners and Pilots Association (AOPA); and representatives of the following airports: Concord Regional, NC (JQF); Lincolnton-Lincoln County Regional, NC (IPJ); Monroe Regional, NC (EQY); Wilgrove Airpark, NC (8A6); Chester-Catawba Regional, SC (DCM); Lancaster County-McWhirter Field, SC (LKR); and Rock Hill (York County) Airport-Bryant Field, SC (UZA).

On October 7, 2008, a meeting was held in Charlotte to discuss parachute operations at Chester-Catawba Regional Airport (DCM). Attending the meeting were representatives of the FAA, the ad hoc committee, South Carolina Department of Transportation, and Skydive Carolina.

As announced in the **Federal Register** (73 FR 63407), informal airspace meetings were held on January 7, 2009, at the Concord Regional Airport, Concord, NC; and on January 8, 2009, at the Rock Hill (York County) Airport-Bryant Field, Rock Hill, SC. The purpose of the meetings was to provide interested airspace users an opportunity to present their views and offer suggestions regarding planned modifications to the Charlotte Class B airspace area.

### Discussion of Recommendations and Comments

#### *Ad hoc Committee Recommendations*

The ad hoc committee recommended that the radius of the Class B 1,800 foot floor area (Area B) be kept at 11 nautical miles (NM) from the point where it intersects I-77 clockwise around to the cutout for Gastonia Airport instead of the proposed expansion to a full 14 NM radius. The FAA adopted this recommendation. The expansion of Area B to a 14 NM radius will be limited to an area north of CLT from a point where the 14 NM arc intersects Highway 321 then clockwise to intersect the Charlotte VOR/DME 029° (M) radial. Three ad hoc committee recommendations were not adopted. These recommendations were: (1) A cutout over the Chester-Catawba Regional Airport (DCM); (2) a cutout over the Lancaster County-McWhirter Field (LKR); and (3) that the floor of Class B airspace over Lincolnton-Lincoln County Regional Airport (IPJ) be raised from the current 4,600 feet to 6,000 feet. The request for a cut-out over DCM was not adopted because a large number of turbine powered aircraft

arriving at CLT via the UNARM ONE and ADENA TWO Standard Terminal Arrival Routes (STAR) overfly DCM enroute to the runways 36L and 36R final approach courses. This path makes up the base leg when CLT is on a north operation. The request for a cutout over LKR was not adopted because the base leg for arrivals from the southeast on the CHESTERFIELD THREE or HUSTN ONE STARs overflies LKR. Arriving aircraft in this area need to be descended to 4,000 feet in order to be vertically separated from aircraft approaching the final approach course from the west at 5,000 feet. Since the proposed Class B floor over LKR is 4,000 feet, aircraft will still be able to transition into and out of LKR without entering Class B airspace if they so desire. The recommendation to raise the floor of Class B airspace over Lincolnton-Lincoln County Regional Airport (IPJ) from the current 4,600 feet to 6,000 feet was also not adopted. Initially, the FAA considered lowering the floor of Class B airspace in that area from 4,600 feet to 3,600 feet. However, after further review, it was determined that lowering the floor from 4,600 feet to 4,000 feet (instead of 3,600 feet) would be sufficient to protect aircraft that are transitioning from the west to runway 18L at the initial approach fix altitude of 4,000 feet mean sea level (MSL).

#### *Informal Airspace Meeting Comments*

*Comment:* The cutout surrounding the Gastonia Municipal Airport (AKH) should be changed from a "C" shape to a more open shape. This would help prevent pilots from "clipping" the edges of the cutout when operating to or from AKH.

*Response:* The FAA agrees and proposes a modified cutout. Opening the width of the cutout should reduce the chances of inadvertent Class B incursions.

*Comment:* The "new" Highway 321 should be used as the source for the north-south boundary that lies west of AKH. The new Highway 321 is easier to distinguish from the air.

*Response:* The FAA agrees and will use "new" Highway 321 to define the boundary as suggested.

*Comment:* The diagonal line that originates west of AKH and extends southwesterly should be adjusted to follow the power lines depicted on the Charlotte Terminal Area Chart that roughly coincide with the line. This will give pilots a good visual reference to use.

*Response:* Adjusting the line to coincide with the power lines will still contain runway 5 traffic within Class B

airspace, therefore, the FAA concurs with this comment.

*Comment:* The short line in the north-west section of the proposed Class B airspace (north of Lincolnton-Lincoln County Regional Airport) should be extended to the proposed outer limit of the Class B airspace area to simplify the airspace for pilots.

*Response:* The FAA is unable to adopt this suggestion. The proposed line terminates prior to the Class B outer limit due to the Charlotte ATCT/Atlanta Center airspace boundary. At the altitudes involved, extending the line as suggested would place part of the Class B area in Atlanta Center's airspace.

*Comment:* The slides shown during the [informal airspace meeting] presentation did not show aircraft overflying the Lancaster County, SC airport. Therefore, the proposed design should not include the airspace over that airport.

*Response:* Under current procedures, it is uncommon for arriving traffic to overfly the Lancaster Airport. However, once the new runway is operational at CLT, the Instrument Landing System (ILS) initial approach fixes for all runways will be located further from CLT in order to accommodate the 8,000 foot turn on altitude for runway 36C/18C. Therefore, it is anticipated that traffic will overfly the Lancaster Airport at 8,000 feet enroute to runway 36C. Additionally, traffic assigned to runway 36R will be descended to 4,000 feet, and will have to be vectored over the Lancaster Airport to join the runway 36R final approach course. As a result, the floor of the Class B airspace in this area is proposed to be established at 4,000 feet. In addition, modeling of anticipated aircraft operations indicate that the area between the 25 mile and 30 mile rings of the proposed Class B airspace may be needed for vectoring and sequencing traffic assigned both runways 36C and 36R. During certain operations, particularly the north triple ILS operation, aircraft would overfly the Lancaster Airport while enroute to CLT. For those reasons, the FAA did not adopt this suggestion.

*Comment:* The floor of the proposed Class B airspace at the northern boundary should be set at 6,000 feet instead of 4,000 feet. The concern is that lowering the floor to 4,000 feet in this area would negatively impact IFR operations at the Statesville Regional Airport, NC (SVH).

*Response:* The floor was proposed at 4,000 feet in this area because the initial approach altitude for traffic assigned runway 18L from both the west and the east is 4,000 feet. IFR operations at SVH are not affected by the Class B airspace

boundaries. SVH IFR operations are and will remain under the jurisdiction of Atlanta Center. The airport will not be placed within or under the Class B airspace area by the proposed modifications. The distance between SVH and the proposed outer limit of the Class B airspace will decrease, however, from 9.1 miles to 4.4 miles which will allow room for VFR operations at the airport as well. Therefore, the FAA did not concur with this comment.

*Comment:* AOPA suggested that arrival routes be modified to allow aircraft to remain at a higher altitude and descend at a constant rate; that arrival routes be redesigned to avoid areas that would impact aviation businesses that rely on airspace availability; and that the FAA should modify procedures so that aircraft do not enter, exit, and then reenter the class B airspace. Additionally, AOPA said that the FAA should reduce the ceiling of the Charlotte Class B airspace from 10,000 feet to 8,500 feet.

*Response:* Modifying arrival routes to allow arriving aircraft to remain at higher altitudes and descend at a constant rate would create a confliction with other traffic. Specifically, arriving aircraft must be descended so that departures can be climbed above this traffic. If arriving aircraft are not descended as they are now, then departures would have to be held down below 10,000 feet for an extended period of time. This creates conflictions between departure aircraft and arrival aircraft and does not allow departures to vertically exit the ceiling of class B airspace. The Standard Terminal Arrival Routes (STARs) at Charlotte have been in place for over 20 years. The design of these routes is based on other airport locations, airspace design, and traffic flows in the entire southeastern U.S. Changing these routes would have a major impact on arrival routes (and departure and overflight routes) to and from the Atlanta Airport, as well as other airports in the southeast. The proposed Class B modifications are intended, in part, to reduce the potential for IFR aircraft to enter, exit and then reenter the Charlotte Class B airspace area. Modifying facility procedures to keep aircraft within the current class B airspace boundaries would create bottlenecks and "choke points" and would reduce arrival capacity. Extensive vectoring would also be required, leading to increased controller workload, increased flying mileage, and added frequency congestion. The FAA is not aware of data that supports lowering the Charlotte Class B airspace ceiling to 8,500 feet.

*Comment:* Skydive Carolina expressed concerns about the impact that the proposed expansion of Class B airspace to overlie the Chester-Catawba Regional airport (DCM) might have on its parachute jump activities, safety and on the future growth and expansion of its operations at DCM. Skydive Carolina also expressed concern that the heavy traffic projected in the future would increase the probability of "go arounds" wherein the jump aircraft is instructed by ATC to withhold jumpers due to traffic, fly beyond the drop point and then restart the pattern to let jumpers out. Skydive Carolina indicated that this maneuver would result in greater fuel consumption, more airframe time on the aircraft and longer time at jump altitude (i.e., 13,500 feet MSL) for jumpers that are not equipped with supplemental oxygen.

*Response:* Although DCM now lies outside the boundary of Class B airspace, arrivals currently overfly DCM when CLT is on a north operation. Modeling of various traffic scenarios indicates that this situation will continue to exist after the third parallel runway is opened. Designing a "cutout" to exclude the area around DCM from the Class B airspace would require controllers to employ extensive vectoring to avoid the airspace over DCM. This would lead to increased controller workload, frequency congestion and decreased system efficiency. Regarding the concerns about "go arounds," even though Skydive Carolina does not currently operate in Class B airspace, there are still instances in which pilots are instructed to withhold the release of jumpers due to traffic. It is anticipated that these instances would not significantly increase if the skydive area is placed within Class B airspace. The FAA believes that the inclusion of the area above DCM in Class B airspace can be mitigated and parachute operations can be accommodated through a Letter of Agreement (LOA) between Charlotte Airport Traffic Control Tower and Skydive Carolina. LOAs have been used successfully to accommodate parachute activities at other Class B airspace locations.

### The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to modify the Charlotte, NC Class B airspace area. This action (depicted on the attached chart) proposes to expand the lateral and vertical limits of the Charlotte Class B airspace area to provide the additional airspace needed to support operations of a third parallel runway and the

implementation of RNAV departure procedures; contain ILS approach procedures for runways 23, 18L, 18C (formerly 18R but redesignated November 20, 2008) and the new runway (18R); and contain aircraft being vectored to a base leg from the west when CLT is on a north operation. The proposed revisions to the Charlotte Class B airspace area are discussed below.

Except for Area A, which extends upward from the surface to and including 10,000 feet MSL within a 7 NM radius of the CLT VOR/DME, the proposed descriptions of all other subareas that make up the Charlotte Class B airspace area would be reconfigured, redescribed and realigned by geographic position in relation to the airport rather than the current practice of combining all areas that share a common altitude floor into one large, complex subarea description. The current Charlotte Class B airspace area consists of six subareas (A through F) while the proposed configuration would consist of 11 subareas (A through K).

Based on modeling of future traffic flows, there is a need to expand the lateral limits of Class B airspace to the north and south of CLT from the current 25 NM arc out to the 30 NM arc, and to set the floor of Class B airspace in those sections at 4,000 feet MSL. The extensions to 30 NM are required to provide adequate vectoring areas for controllers to vector arrivals to the appropriate final approach course. A 4,000 foot MSL floor is needed out to the 30 NM arc to provide sufficient airspace to separate aircraft assigned to different runways and to comply with simultaneous ILS procedures.

Additionally, a review of radar data has revealed that, when CLT is on a north operation, a significant number of aircraft inbound from the southwest on either the UNARM ONE or ADENA TWO standard terminal arrival routes exit and reenter Class B airspace between the existing 6,000 foot MSL Class B airspace floor and the 4,600 foot MSL floor to the south-southwest of CLT. Lowering the Class B airspace floor to 4,000 feet MSL in that area will prevent these excursions.

Another problem exists with aircraft established on the ILS approaches to runways 18L and 18C dropping below the floor of Class B airspace north of the airport with the existing Class B airspace configuration. These excursions occur prior to the point where the floor of Class B airspace drops from 3,600 feet MSL to 1,800 feet MSL. Consequently, aircraft are exiting and reentering Class B airspace while flying the published ILS procedures. To

correct this situation, the FAA proposes to move the 1,800 foot MSL floor (Area B) from the current 11 NM arc outward to the 14 NM arc. This extension to the 14 NM arc would only be made to the north of CLT (from the intersection of the 14 NM arc with new Highway 321 northwest of the airport, then clockwise along the arc to the CLT 024°T/029°M radial). The remaining portion of Area B would continue to follow the 11 NM arc clockwise to the cutout for the AKH. This change would ensure that arrivals to runways 18L and 18C/36C, and the new runway (18R/36L), are retained within Class B airspace throughout the approach. In addition, in response to comments from the Informal Airspace Meetings, the FAA is proposing to widen the cutout in Area B around AKH to facilitate better access to and from that airport.

With the implementation of RNAV departure procedures at CLT, the floor of Class B airspace to the east and west of the airport needs to be lowered. Departures on easterly and westerly tracks from the airport often exit and then reenter Class B airspace as they continue their climbs. To preclude this, the FAA proposes to lower the existing 6,000 foot MSL floor (current Area E) to 5,000 feet MSL and to lower the existing 8,000 foot MSL floor (current Area F) to 6,000 feet MSL. The existing area designations would be changed from the current Areas E and F to a new Area G (extending upward from 5,000 feet MSL) and a new Area K (extending upward from 6,000 feet MSL) west of CLT; and a new Area D (extending upward from 5,000 feet MSL) and a new Area I (extending upward from 6,000 feet MSL) east of CLT (see attached chart).

To provide an adequate vector area for runway 5 arrivals, it is necessary to lower the Class B airspace floor from 6,000 feet MSL to 4,000 feet MSL floor in an area to the southwest of AKH. This new Area, designated Area F, would be bounded on the east by new Highway 321, on the west by the 20 NM arc of the CLT VOR/DME and on the north by the power lines that extend in a southwesterly direction west of AKH.

A further review of radar data revealed a need to lower the floor of Class B airspace to the northeast of CLT. Due to vectoring patterns and the descent profile of aircraft conducting the ILS RWY 23 approach, it is necessary to slightly extend the 3,600 foot Class B airspace floor to the northeast of CLT. This would be accomplished by extending the lateral limits of the existing Area C from the current 20 NM arc out to the 23 NM arc.

Finally, the Charlotte/Douglas International Airport reference point

coordinates in the Class B airspace legal description would be updated to reflect current National Airspace System data.

These changes are being proposed to ensure the containment of IFR aircraft within Class B airspace as required by FAA directives; accommodate the implementation of RNAV departure procedures; and support operations of a third parallel runway.

All radials listed in the Charlotte Class B airspace description in this NPRM are stated in degrees relative to both True North and Magnetic North.

Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9T, dated August 27, 2009 and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class B airspace area proposed 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 U.S. 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). 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 airports that participated in the Charlotte airport ad hoc advisory committee, the FAA expects the proposed modifications of the Class B airspace to result in minimal cost. One representative said the proposed changes would have “absolutely no effect” on his airport and the pilots who use his airport reported that the changes were “negligible.” Another manager of an airport potentially affected by this proposed rulemaking reported that having the Class B airspace modified is not the ideal situation, his airport would not experience adverse changes to instrument approaches and therefore expected minimal, if any, economic impact.

Of the six airports that participated in ad hoc advisory committee and that provided comments two expressed concerns of a possible economic impact. One airport reported that airplanes may to stop at other airports but this economic impact would be “hard to quantify” which the FAA deems as minimal cost. The other reported that most of its revenue is generated from a skydiving school that leases trailers and hangers from the airport in addition to the purchase of fuel. The airport manager reported that the skydiving classes go up to 14,500 feet and under this proposed rule change the class would have to coordinate their scheduling of flights with Charlotte. The FAA believes, however, that such flight coordination would result in only minimal costs. In sum the FAA believes the proposed rule would result in minimal costs.

The benefits of this proposed rule are substantial resulting from the increased utilization of a new 9,000 feet runway. This runway will allow more commercial flights to efficiently land at Charlotte-Douglas International Airport.

#### **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. At least two of the regional airports are owned by governments with populations less than 50,000. We were unable to obtain publicly available revenue data. As the proposed rule would simply change the takeoff and landing patterns to these airports, we believe 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 airport 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 U.S. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the U.S., so long as the standard has a legitimate domestic objective, such 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 proposed rule to change the airspace classification for Charlotte airport in North Carolina 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 this proposed rule is a minimal cost rule with substantial benefits and 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.

FAA has, therefore, determined that this proposed rule 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.*

\* \* \* \* \*

#### **ASO NC B Charlotte, NC**

Charlotte/Douglas International Airport  
(Primary Airport)

(Lat. 35°12'50" N., long. 80°56'35" W.)

Charlotte VOR/DME

(Lat. 35°11'25" N., long. 80°57'06" W.)

Gastonia Municipal Airport

(Lat. 35°12'10" N., long. 81°09'00" W.)

#### **Boundaries**

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL within a 7-mile radius of the Charlotte VOR/DME.

Area B. That airspace extending upward from 1,800 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the Charlotte VOR/DME 024°T/029°M radial 14-mile fix; thence direct to the Charlotte VOR/DME 032°T/037°M radial 11-mile fix, thence clockwise via the 11-mile arc of the Charlotte VOR/DME to lat. 35°09'37" N., long. 81°10'21" W.; thence east to lat. 35°10'17" N., long. 81°08'10" W.; thence counterclockwise around a 2-mile radius of the Gastonia Municipal Airport to lat. 35°14'02" N., long. 81°08'10" W.; thence west to intersect U.S. Highway 321 at lat. 35°15'00" N., long. 81°11'21" W.; thence north along U.S. Highway 321 to the 14-mile arc of the Charlotte VOR/DME at lat. 35°19'20" N., long. 81°11'13" W.; thence clockwise via the 14-mile arc to the point of beginning, excluding that airspace within Area A described above.

Area C. That airspace extending upward from 3,600 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of U.S. Highway 321 and the Charlotte VOR/DME 20-mile arc at lat. 35°26'49" N., long. 81°12'44" W.; thence clockwise along the 20-mile arc to intersect the Marshall Steam Plant Rail Spur at lat. 35°31'14" N., long. 81°00'42" W.; thence north along the Rail Spur to the Charlotte VOR/DME 25-mile arc at lat. 35°36'25" N., long. 80°58'57" W.; thence clockwise along the 25-mile arc to long. 80°46'00" W.; thence south along long. 80°46'00" W., to the Charlotte VOR/DME 23-mile arc; thence clockwise along the 23-mile arc to the Charlotte VOR/DME 067°T/072°M radial; thence southwest along the 067°T/072°M radial to the Charlotte VOR/DME 20-mile arc; thence clockwise along the 20-mile arc to the Charlotte VOR/DME 081°T/086°M radial; thence west along the 081°T/086°M radial to the Charlotte VOR/DME 11-mile arc; thence counterclockwise along the 11-mile arc to the Charlotte VOR/DME 032°T/037°M radial, 11-mile fix; thence direct to the Charlotte VOR/DME 024°T/029°M radial, 14-mile fix; thence counterclockwise along the 14-mile arc of the Charlotte VOR/DME to intersect U.S. Highway 321 at lat. 35°19'20" N., long. 81°11'13" W., thence north along U.S. Highway 321 to the point of beginning.

Area D. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the Charlotte VOR/DME 081°T/086°M radial 11-mile fix; thence east along the 081°T/086°M radial to the 20-mile fix; thence clockwise along the 20-mile arc of the Charlotte VOR/DME to lat. 34°56'07" N., long. 80°41'23" W.; thence north to the point of beginning.

Area E. That airspace extending upward from 3,600 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 35°15'00" N., long. 81°11'21" W., thence east to lat. 35°14'02" N., long. 81°08'10" W.; thence clockwise along a 2-mile radius of the Gastonia Municipal Airport to lat. 35°10'17" N., long. 81°08'10" W.; thence west to intersect the Charlotte VOR/DME 11-mile arc at lat. 35°09'37" N., long. 81°10'21" W.; thence counterclockwise along the 11-mile arc to the Charlotte VOR/DME 081°T/86°M radial 11-mile fix; thence south direct to the Charlotte VOR/DME 147°T/152°M radial 25-mile fix; thence clockwise along the 25-mile arc of the Charlotte VOR/DME to lat. 34°49'37" N., long. 81°12'05" W.; thence north to the Charlotte VOR/DME 218°T/223°M radial 20-mile fix, thence clockwise along the 20-mile arc of the Charlotte VOR/DME, to intersect U.S. Highway 321 at lat. 34°57'21" N., long. 81°14'28" W.; thence north along U.S. Highway 321 to the point of beginning.

Area F. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of the power lines and the Charlotte VOR/DME 20-mile arc at lat. 35°08'08" N., long. 81°21'10" W.; thence east along the power lines to intersect U.S. Highway 321 at lat. 35°11'52" N., long. 81°12'41" W.; thence south along U.S. Highway 321 to intersect the Charlotte VOR/DME 20-mile arc at lat. 34°57'21" N., long. 81°14'28" W.; thence clockwise along the 20-mile arc to the point of beginning.

Area G. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of the power lines and the Charlotte VOR/DME 20-mile arc at lat. 35°08'08" N., long. 81°21'10" W.; thence clockwise along the 20-mile arc to intersect U.S. Highway 321 at lat. 35°26'49" N., long. 81°12'44" W.; thence south along U.S. Highway 321 to intersect the power lines at lat. 35°11'52" N., long. 81°12'41" W.; thence west along the power lines to the point of beginning.

Area H. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 35°37'15" N., long. 81°10'32" W.; thence direct to intersect the Charlotte VOR/DME 30-mile arc at lat. 35°41'30" N., long. 80°57'40" W.; thence clockwise along the 30-mile arc to long. 80°46'00" W.; thence south along long. 80°46'00" W., to intersect the Charlotte VOR/DME 25-mile arc; thence counterclockwise along the 25-mile arc to intersect the Marshall Steam Plant Rail Spur at lat. 35°36'25" N., long. 80°58'57" W.; thence south along the Rail Spur to intersect the Charlotte VOR/DME 20-mile arc at lat. 35°31'14" N., long. 81°00'42" W.; thence counterclockwise along the 20-mile arc to

intersect U.S. Highway 321 at lat. 35°26'49" N., long. 81°12'44" W.; thence north along U.S. Highway 321 to intersect the Charlotte VOR/DME 25-mile arc at lat. 35°32'26" N., long. 81°13'44" W.; thence clockwise along the 25-mile arc to intersect the Charlotte VOR/DME 337°T/342°M radial; thence northwest along the 337°T/342°M radial to the point of beginning.

Area I. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the Charlotte VOR/DME 062°T/067°M radial, 30-mile fix, thence southwest along the 062°T/067°M radial to the 25-mile fix; thence clockwise along the Charlotte VOR/DME 25-mile arc to the Charlotte VOR/DME 120°T/125°M radial; thence southeast along the 120°T/125°M radial to the 30-mile fix; thence clockwise along the Charlotte VOR/DME 30-mile arc to lat. 34°44'58" N., long. 80°39'47" W.; thence north direct to intersect the Charlotte VOR/DME 20-mile arc at lat. 34°56'07" N., long. 80°41'23" W.; thence counterclockwise along the 20-mile arc to the Charlotte VOR/DME 067°T/072°M radial; thence northeast along the 067°T/072°M radial to the 23-mile arc; thence counterclockwise along the 23-mile arc to long. 80°46'00" W.; thence north along long. 80°46'00" W., to the Charlotte VOR/DME 30-mile arc; thence clockwise along the 30-mile arc to the point of beginning.

Area J. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the Charlotte VOR/DME 147° radial 25-mile fix; thence direct to intersect the Charlotte VOR/DME 30-mile arc at lat. 34°44'58" N., long. 80°39'47" W.; thence clockwise along the Charlotte VOR/DME 30-mile arc to lat. 34°44'01" N., long. 81°12'05" W.; thence north to intersect the Charlotte VOR/DME 25-mile arc at lat. 34°49'37" N., long. 81°12'05" W.; thence counterclockwise along the Charlotte VOR/DME 25-mile arc to the point of beginning.

Area K. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the Charlotte VOR/DME 293°T/298°M radial, 30-mile fix; thence clockwise along the Charlotte VOR/DME 30-mile arc to lat. 35°41'30" N., long. 80°57'40" W.; thence southwest direct to intersect the Charlotte VOR/DME 337°(T)/342°(M) at lat. 35°37'15" N., long. 81°10'32" W.; thence southeast along the 337°T/342°M radial to the Charlotte VOR/DME 25-mile arc; thence counterclockwise along the 25-mile arc to intersect U.S. Highway 321 at lat. 35°32'26" N., long. 81°13'44" W., thence south along new Highway 321 to intersect the Charlotte VOR/DME 20-mile arc at lat. 35°26'49" N., long. 81°12'44" W.; thence counterclockwise along the 20-mile arc to the Charlotte VOR/DME 218°T/223°M radial; thence south to intersect the Charlotte VOR/DME 30-mile arc at lat. 34°44'01" N., long. 81°12'05" W.; thence clockwise along the 30-mile arc to the Charlotte VOR/DME 242°T/247°M radial, thence northeast along the 242°T/247°M radial to the Charlotte VOR/DME 25-mile arc; thence clockwise along the 25-mile arc to the Charlotte VOR/DME 293°T/298°M radial; thence northwest along

the 293°T/298°M radial to the point of beginning.

\* \* \* \* \*

Issued in Washington, DC, on February 23, 2010.

**Edith V. Parish,**

*Manager, Airspace and Rules Group.*

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## DEPARTMENT OF JUSTICE

### Bureau of Prisons

#### 28 CFR Part 545

[BOP Docket No. BOP 1152-P]

RIN 1120-AB52

#### Inmate Work and Performance Pay Program

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Bureau of Prisons (Bureau) proposes to streamline regulations on inmate work and performance pay by removing redundant language and provisions that relate solely to staff guidance.

**DATES:** Written comments must be postmarked and electronic comments must be submitted on or before May 3, 2010. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after Midnight Eastern Time on the last day of the comment period.

**ADDRESSES:** Comments should be submitted to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. You may view an electronic version of this rule at <http://www.regulations.gov>. You may also comment on this regulation via the Internet at [BOPRULES@BOP.GOV](mailto:BOPRULES@BOP.GOV) or by using the <http://www.regulations.gov> comment form for this regulation. When submitting comments electronically you must include the BOP Docket No. in the subject box.

**FOR FURTHER INFORMATION CONTACT:** Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307-2105.

#### SUPPLEMENTARY INFORMATION:

##### Posting of Public Comments

Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov>. Such information includes personal identifying information (such as your name,

address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment contains so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on <http://www.regulations.gov>.

Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the "For Additional Information" paragraph.

The reason that the Bureau is requesting electronic comments before Midnight Eastern Time on the day the comment period closes is because the inter-agency Regulations.gov/Federal Docket Management System (FDMS) which receives electronic comments terminates the public's ability to submit comments at Midnight on the day the comment period closes. Commenters in time zones other than Eastern may want to take this fact into account so that their electronic comments can be received. The constraints imposed by the Regulations.gov/FDMS system do not apply to U.S. postal comments which will be considered as timely filed if they are postmarked before Midnight on the day the comment period closes.

##### Discussion

In this document, the Bureau proposes to streamline regulations on inmate work and performance pay by deleting redundant language and provisions that relate solely to staff guidance. Below is a section-by-section explanation of the proposed revisions.

*Section 545.20 Purpose and scope.* This section describes the purpose of the Inmate Work and Performance Pay (IPP) program of the Bureau of Prisons (Bureau). This section is derived from current § 545.20(a). The second sentence of current subparagraph (a), regarding the requirement for physically and mentally able sentenced inmates to participate in the work program, is deleted because the concept is repeated in the subsequent regulation. Current paragraph (b), regarding the Warden's ability to grant performance pay to qualified inmates, is deleted because the concept is later repeated in a regulation exclusively devoted to performance pay.

*Section 545.21 Definitions.* This section derives almost verbatim from the current § 545.21, and defines terms used in the rest of the subpart, including "physically and mentally able," "institution work assignment," "industry assignment," "commissary assignment," and other terms.

*Deleted § 545.22.* This section, regarding the institution work and performance pay committee, has been deleted because it is guidance to staff that need not be in regulation text. This current regulation explains that the Warden at each Bureau facility establishes an Institution Inmate Work and Performance Pay Committee to administer the institution's work and performance pay program, comprised of an Associate Warden, the Inmate Performance Pay Coordinator, and any other member(s) the Warden considers appropriate. The Committee is responsible for approving various aspects of the inmate work and performance pay program specific to that Committee's facility, including the number of inmates and pay grades for each work detail, job descriptions, performance standards, budgeting issues, and other such administrative concerns. We will retain this language in implementing text in the relevant Bureau policy.

*Section 545.22 Inmate work/program assignment.* This section derives from current § 545.23. It explains that each sentenced inmate who is physically and mentally able must participate in an institutional, industrial, or commissary work program unless an exception applies. An inmate may be authorized to not participate in IPP if the inmate instead participates in an education, vocational, or drug abuse treatment program, on either a full or part-time basis, if it is required by Bureau policy or statute (for example, the Literacy Program) or with the approval of the Warden or designee. An inmate may also be excepted from IPP participation if the inmate is a pretrial