

or option to another, or make any combination of these changes when the employee or an eligible family member of the employee becomes eligible for premium assistance under a Medicaid plan or a State Children's Health Insurance Program. An employee must enroll or change his or her enrollment within 60 days after the date the employee or family member is determined to be eligible for assistance.

[FR Doc. 2010-8957 Filed 4-16-10; 8:45 am]

BILLING CODE 6325-39-P

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Parts 210, 215, 220, 225, and 226

RIN 0584-AE03

#### Geographic Preference Option for the Procurement of Unprocessed Agricultural Products in Child Nutrition Programs

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The 2008 Farm Bill amended the Richard B. Russell National School Lunch Act to direct that the Secretary of Agriculture encourage institutions operating Child Nutrition Programs to purchase unprocessed locally grown and locally raised agricultural products. Effective October 1, 2008, institutions receiving funds through the Child Nutrition Programs may apply an optional geographic preference in the procurement of unprocessed locally grown or locally raised agricultural products. This provision applies to institutions in all of the Child Nutrition Programs, including the National School Lunch Program, School Breakfast Program, Fresh Fruit and Vegetable Program, Special Milk Program for Children, Child and Adult Care Food Program and Summer Food Service Program, as well as to purchases made for these programs by the Department of Defense Fresh Program. The provision also applies to State Agencies making purchases on behalf of any of the aforementioned Child Nutrition Programs. The purpose of this proposed rule is to incorporate this procurement option in the Programs' regulations and to define the term "unprocessed locally grown or locally raised agricultural products" to ensure that both the intent of Congress in providing for such a procurement option is met and that any such definition will facilitate ease of implementation for institutions

participating in the Child Nutrition Programs. The proposed rule is intended to be implemented by institutions choosing to apply the geographic preference option for the procurement of locally grown and locally raised agricultural products.

**DATES:** Comments must be received on or before June 18, 2010 to be assured of consideration.

**ADDRESSES:** The Food and Nutrition Service, USDA, invites interested persons to submit comments on this proposed rule. Comments may be submitted by one of the following methods:

- *Federal e-Rulemaking Portal:* Go to <http://www.regulations.gov>. Preferred method; follow the online instructions for submitting comments.

- *Fax:* Submit comments by facsimile transmission to: (703) 305-2879, Attention: Melissa Rothstein.

- *Mail:* Comments should be addressed to Melissa Rothstein, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 634, Alexandria, Virginia 22302.

- *Hand Delivery or Courier:* Deliver comments to 3101 Park Center Drive, Room 634, Alexandria, Virginia 22302-1594, during normal business hours of 8:30 a.m.-5 p.m.

- All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the comments publicly available on the Internet via <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Melissa Rothstein, Chief, Policy and Program Development Branch at the above address or by telephone at (703) 305-2590.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4302 of Public Law 110-246, the Food, Conservation, and Energy Act of 2008, amended section 9(j) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(j)) to require the Secretary of Agriculture to encourage institutions operating Child Nutrition Programs to purchase unprocessed locally grown and locally raised agricultural products. Pursuant to section 4407 of Public Law 110-246, beginning October 1, 2008, institutions receiving funds as participants in the Child Nutrition Programs may apply an

optional geographic preference in the procurement of unprocessed locally grown or locally raised agricultural products. This provision applies to institutions operating all of the Child Nutrition Programs, including the National School Lunch Program, School Breakfast Program, Fresh Fruit and Vegetable Program, Special Milk Program, Child and Adult Care Food Program and Summer Food Service Program, as well as to purchases made for these programs by the Department of Defense Fresh Program. The provision does not apply to purchases made by the Department. However, the provision does also apply to State agencies making purchases on behalf of any of the aforementioned Child Nutrition Programs. We initially implemented the provisions through policy memoranda and explanatory question and answer communications dated January 9, 2009, July 22, 2009 and October 9, 2009.

Traditionally, a geographic preference established for a procurement provides bidders located in a specified geographic area additional points or credit calculated during the evaluation of the proposals or bids received in response to a solicitation. A geographic preference is not a procurement set-aside for bidders located in the specified geographic area, guaranteeing them a certain level or percentage of business. In addition, including a geographic preference in a procurement does not preclude a bidder from outside the specified geographic area from competing for, and possibly being awarded, the contract subject to the geographic preference. Rather, a geographic preference is a tool that gives bidders in a specified geographic area a specific, defined advantage in the procurement process.

By utilizing the statutorily established geographic preference option in Child Nutrition Programs, purchasing institutions, such as States, school food authorities, child care institutions and SFSP sponsors, may specifically identify the geographic area within which unprocessed locally raised and locally grown agricultural products will originate. As proposed in this rule, a responsive bidder would offer to provide unprocessed locally raised and locally grown agricultural products from the specifically identified geographic area. In most cases, we would expect that a bidder would be located in the identified geographic area, though it is possible for a responsive bidder to be located outside of that area. These procurements may be accomplished through informal or formal procurement procedures, as required by respective Child Nutrition Program regulations.

Local purchasing power not only supports increasing economic opportunities for local farmers but also helps schools and other institutions include wholesome food choices which will encourage children to make healthy food choices. Allowing a geographic procurement preference option serves to reinforce the fundamental and critical reconnection between producers and consumers. The effort builds on the 2008 Farm Bill, which provides for increases and flexibility for USDA programs in an effort to promote local foods.

The geographic preference option basically allows institutions operating Child Nutrition Programs to specifically define geographic areas from which they will seek to procure unprocessed local agricultural products. It is up to each institution, whether it be a school food authority, a child care institution or a Summer Food Service Program sponsor, to determine how to define the geographic area.

As provided in the Joint Explanatory Statement of the Committee of Conference in House Report 110–627, the term “unprocessed” precludes the use of geographic preference in procuring agricultural products that have significant value added components. The Conference report also noted the acceptability of *de minimus* handling and preparation “such as may be necessary to present an agricultural product to a school food authority in a useable form, such as washing vegetables, bagging greens, butchering livestock and poultry, pasteurizing milk, and putting eggs in a carton.”

#### Proposed Action

We have determined that it is necessary to propose a rulemaking to define what would constitute “unprocessed agricultural products” for the purposes of implementing the geographic preference procurement option in the Child Nutrition Programs. In developing such a rule, we are proposing that the definition should:

- (1) Comply with the language and reflect the intent of the statute;
- (2) Ensure that any processing of agricultural products results in only minimal value added to such products; and
- (3) Facilitate ease of use of such products for institutions.

In preparation for the development of this proposed rule, we researched a variety of definitions of “unprocessed food” used by a number of Federal agencies. Upon review, however, those definitions do not meet the needs of the Child Nutrition Programs.

We also researched the types of handling and processing techniques that are available to bring agricultural products to the marketplace. There are a variety of methods that may be used to process agricultural products for consumption. In addition, we would note that at least one method—pasteurization—is already a regulatory requirement for all milk served in Child Nutrition Programs. While the Conference Report discusses *de minimus* processing of such products, the geographic preference option allowed by statute prohibits the use of processing methods that add significant value to the products. This is particularly important since the geographic preference provision is a noteworthy exception to the standard procurement provisions of Child Nutrition Programs and other programs government-wide.

Based upon our research, as well as keeping in mind the intent of Congress as expressed in the Conference Report, we are proposing that the definition of “unprocessed food” specify a prohibition against any processing method that alters the inherent character of the agricultural product. To that end, we have included in the proposed definition a list of acceptable food handling and preservation techniques for purposes of applying the geographic preference procurement option. Such techniques would include: General heat transfer methods such as cooling, refrigerating and freezing; size adjustment through size reduction (peeling, slicing, dicing, cutting and grinding); drying/dehydration; vacuum packing and bagging; pasteurization for milk; cold storage; the application of high water pressure (“cold pasteurization”); butchering of livestock and poultry and the cleaning of fish. We believe that these handling and preservation techniques comply with the intent of the statute and do not alter the inherent character of agricultural products subjected to them.

The reduction of the size of larger products would not be considered as altering the inherent character of the agricultural product, nor would such size reduction add significant value to the product. For example, cutting full size carrots into smaller, student-friendly carrot sticks would not alter the inherent character of the agricultural product but would enhance its usable form. However, combining or forming any agricultural product would not meet the definition of unprocessed agricultural products as proposed. For example, while ground and frozen meat or poultry would not be considered as having had its inherent character

changed, forming such a ground frozen product into a ready-to-prepare meat patty would be considered as changing the inherent character of the product while adding significant value to that product. Under the proposed definition, the geographic preference procurement option would not apply to the procurement of such products.

This proposed rule would prohibit the application of the geographic preference procurement option for products subjected to processing methods not included in the definition of “unprocessed agricultural products.”

The geographic preference procurement option could only be used when purchasing locally grown and locally raised agricultural products as defined in this rule. However, once such a purchase is made, the institution would be free to have the agricultural product further processed under a separate processing contract. An institution would use regular procurement procedures in acquiring processing services to have such products processed in any way that they would like. In addition, it is important to note that, due to the geographic diversity in each state, the institution responsible for the procurement of the locally grown and locally raised product has the discretion to define the local area for which any geographic preference (e.g., State, county, region, etc.) will be applied. However, institutions should keep in mind that local preference should not be defined in a way that excludes bidders from outside the designated geographic area or otherwise unnecessarily restricts competition.

Accordingly, this rule proposes to add new paragraphs to sections 210.21, 215.14a, 220.16, 225.17 and 226.22 of Title 7, CFR, to include the geographic preference procurement option and define the term “unprocessed locally grown or locally raised agricultural products”.

#### Applicability to the Fresh Fruit and Vegetable Program

The geographic preference procurement option is applicable to purchases made in the Fresh Fruit and Vegetable Program, 42 U.S.C. 1769a (FFVP). However, this provision shall only be applied within the context of the FFVP’s requirement that produce utilized in the program be fresh. The definition of “unprocessed locally grown or locally raised agricultural products” does not change the basic statutory requirement that only *fresh* produce may be purchased using funds for the Fresh Fruit and Vegetable Program. Development of regulations

pertaining to the requirements for the Fresh Fruit and Vegetable Program are currently in process and the provisions relating to the geographic preference procurement option will be included in that proposed rule, as appropriate.

#### **Executive Order 12866**

This rule has been determined to be not significant and was not reviewed by the Office Management and Budget in conformance with Executive Order 12866.

#### **Regulatory Flexibility Act**

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). It has been certified that this rule will not have a significant economic impact on a substantial number of small entities.

#### **Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, the Department generally must prepare a written statement, including a cost/benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) that impose costs on State, local, or tribal governments or to the private sector of \$100 million or more in any one year. This rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

#### **Executive Order 12372**

The National School Lunch Program and the School Breakfast Program are listed in the Catalog of Federal Domestic Assistance under No. 10.555 and 10.553, respectively. The Special Milk Program is listed under No. 10.556. The Child and Adult Care Food Program is listed under No. 10.558 and the Summer Food Service Program for Children is listed under No. 10.559. For the reasons set forth in the final rule in 7 CFR Part 3015, Subpart V and related Notice (48

FR 29115, June 24, 1983), these programs are included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

#### **Executive Order 13132**

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132. The Food and Nutrition Service (FNS) has considered the impact of this rule on State and local governments and has determined that this rule does not have federalism implications. This rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under Section 6(b) of the Executive Order, a federalism summary impact statement is not required.

#### **Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless specified in the **DATES** section of the final rule. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

#### **Civil Rights Impact Analysis**

FNS has reviewed this rule in accordance with Departmental Regulations 4300–4, “Civil Rights Impact Analysis”, and 1512–1, “Regulatory Decision Making Requirements.” After a careful review of the rule's intent and provisions, FNS has determined that this rule is not intended to limit or reduce in any way the ability of protected classes of individuals to receive benefits on the basis of their race, color, national origin, sex, age or disability nor is it intended to have a differential impact on minority owned or operated business establishments, and woman-owned or operated business establishments that participate in the Child Nutrition Programs. This rule simply allows institutions that participate in the Child Nutrition Programs the option to apply

a geographic preference should such institutions wish to procure unprocessed locally grown or locally raised agricultural products.

#### **Paperwork Reduction Act**

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This rule does not contain information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1995.

#### **E-Government Act Compliance**

The Food and Nutrition Service 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.

#### **List of Subjects**

##### *7 CFR Part 210*

Grant programs—education; Grant programs—health; Infants and children; Nutrition; Penalties; Reporting and recordkeeping requirements; School breakfast and lunch programs; Surplus agricultural commodities.

##### *7 CFR Part 215*

Food assistance programs; Grant programs—education; Grant programs—health; Infants and children; Milk; Reporting and recordkeeping requirements.

##### *7 CFR Part 220*

Grant programs—education; Grant programs—health; Infants and children; Nutrition; Reporting and recordkeeping requirements; School breakfast and lunch programs.

##### *7 CFR Part 225*

Food assistance programs; Grant programs—health; Infants and children; Labeling; Reporting and recordkeeping requirements.

##### *7 CFR Part 226*

Accounting; Aged; Day care; Food assistance programs; Grant programs; Grant programs—health; Indians; Individuals with disabilities; Infants and children; Intergovernmental relations; Loan programs; Reporting and recordkeeping requirements; Surplus agricultural commodities.

Accordingly, 7 CFR Parts 210, 215, 220, 225, and 226 are proposed to be amended as follows:

#### **PART 210—NATIONAL SCHOOL LUNCH PROGRAM**

1. The authority citation for 7 CFR Part 210 continues to read as follows:

**Authority:** 42 U.S.C. 1751–1760, 1779.

2. In § 210.21, paragraph (g) is added to read as follows:

#### **Subpart E—State Agency and School Food Authority Responsibilities**

##### **§ 210.21 Procurement.**

\* \* \* \* \*

(g) *Geographic preference.* (1) A school food authority participating in the Program, as well as State agencies making purchases on behalf of such school food authorities, may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When utilizing the geographic preference to procure such products, the school food authority making the purchase or the State agency making purchases on behalf of such school food authorities have the discretion to determine the local area to which the geographic preference option will be applied;

(2) For the purpose of applying the optional geographic procurement preference in paragraph (g)(1) of this section, “unprocessed locally grown or locally raised agricultural products” means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; drying/dehydration; washing; applying high water pressure or “cold pasteurization”; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags); butchering livestock and poultry; cleaning fish; and the pasteurization of milk.

#### **PART 215—SPECIAL MILK PROGRAM FOR CHILDREN**

3. The authority citation for 7 CFR Part 215 continues to read as follows:

**Authority:** 42 U.S.C. 1772 and 1779.

4. In § 215.14a, paragraph (e) is added to read as follows:

##### **§ 215.14a Procurement standards.**

\* \* \* \* \*

(e) *Geographic preference.* A school food authority participating in the Program may apply a geographic preference when procuring milk. When utilizing the geographic preference to procure milk, the school food authority making the purchase has the discretion to determine the local area to which the geographic preference option will be applied.

\* \* \* \* \*

#### **PART 220—SCHOOL BREAKFAST PROGRAM**

5. The authority citation for 7 CFR Part 220 continues to read as follows:

**Authority:** 42 U.S.C. 1773, 1779, unless otherwise noted.

6. In § 220.16, paragraph (f) is added to read as follows:

##### **§ 220.16 Procurement.**

\* \* \* \* \*

(f) *Geographic preference.* (1) School food authorities participating in the Program, as well as State agencies making purchases on behalf of such school food authorities, may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When utilizing the geographic preference to procure such products, the school food authority making the purchase or the State agency making purchases on behalf of such school food authorities have the discretion to determine the local area to which the geographic preference option will be applied;

(2) For the purpose of applying the optional geographic preference in paragraph (f)(1) of this section, “unprocessed locally grown or locally raised agricultural products” means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; drying/dehydration; washing; applying high water pressure or “cold pasteurization”; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags); butchering livestock and poultry; cleaning fish; and the pasteurization of milk.

\* \* \* \* \*

#### **PART 225—SUMMER FOOD SERVICE PROGRAM**

7. The authority citation for 7 CFR Part 225 continues to read as follows:

**Authority:** Secs. 9, 13 and 14, Richard B. Russell National School Lunch Act, as amended, (42 U.S.C. 1758, 1761 and 1762a).

8. In § 225.17, paragraph (e) is added to read as follows:

##### **§ 225.17 Procurement standards.**

\* \* \* \* \*

(e) *Geographic preference.* (1) Sponsors participating in the Program may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When utilizing the geographic preference to procure such products, the sponsor making the purchase has the discretion to determine the local area to which the geographic preference option will be applied;

(2) For the purpose of applying the optional geographic preference in paragraph (e)(1) of this section, “unprocessed locally grown or locally raised agricultural products” means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; drying/dehydration; washing; applying high water pressure or “cold pasteurization”; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags); butchering livestock and poultry; cleaning fish; and the pasteurization of milk.

#### **PART 226—CHILD AND ADULT CARE FOOD PROGRAM**

9. The authority citation for 7 CFR Part 226 continues to read as follows:

**Authority:** Secs. 9, 11, 14, 16, 17, Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

10. In § 226.22, paragraph (n) is added to read as follows:

##### **§ 226.22 Procurement standards.**

\* \* \* \* \*

(n) *Geographic preference.* (1) Institutions participating in the Program may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When utilizing the geographic preference to procure such products, the

institution making the purchase has the discretion to determine the local area to which the geographic preference option will be applied;

(2) For the purpose of applying the optional geographic preference in paragraph (n)(1) of this section, “unprocessed locally grown or locally raised agricultural products” means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; drying/dehydration; washing; applying high water pressure or “cold pasteurization”; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags); butchering livestock and poultry; cleaning fish; and the pasteurization of milk.

Dated: April 8, 2010.

**Julia M. Paradis,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 2010-8850 Filed 4-16-10; 8:45 am]

**BILLING CODE 3410-30-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2010-0285; Airspace Docket No. 10-ASO-23]

#### Amendment of Class E Airspace; Smithfield, NC

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

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

**SUMMARY:** This action proposes to amend Class E Airspace at Smithfield, NC, to accommodate the additional airspace needed for the Standard Instrument Approach Procedures (SIAPs) developed for Johnston County Airport. This action enhances the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport.

**DATES:** 0901 UTC. Comments must be received on or before June 3, 2010.

**ADDRESSES:** Send comments on this rule to: U. S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001; Telephone: 1-800-

647-5527; Fax: 202-493-2251. You must identify the Docket Number FAA-2010-0285; Airspace Docket No. 10-ASO-23, at the beginning of your comments. You may also submit and review received comments through the Internet at <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Melinda Giddens, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5610.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to comment on this rule 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-2010-0285; Airspace Docket No. 10-ASO-23) and be submitted in triplicate to the Docket Management System (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 No. FAA-2010-0285; Airspace Docket No. 10-ASO-23.” The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. 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 from and comments submitted through <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA’s Web page at <http://www.faa.gov/>

*airports airtraffic/air\_traffic/publications/airspace\_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **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 Avenue, College Park, Georgia 30337.

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

##### The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to establish Class E airspace at Smithfield, NC to provide controlled airspace required to support the SIAPs for Johnston County Airport. The existing Class E airspace extending upward from 700 feet above the surface would be modified for the safety and management of IFR operations.

Class E airspace designations are published in Paragraph 6005 of FAA order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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