4910-13

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

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

RIN 2120-AA66

Proposed Amendment of Class C Airspace; Chicago, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE, West Building Ground Floor, Room W12-140, Washington, DC 20590; telephone: (800) 647-5527, or (202) 366-9826. You must identify FAA Docket No. FAA-2022-0999; Airspace Docket No. 22-AWA-2, at the beginning of your comments. You may also submit comments through the Internet at www.regulations.gov.

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

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group,

Office of Policy, Federal Aviation Administration, 800 Independence Avenue, SW, Washington DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Authority for this Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the airspace structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System (NAS).

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-2022-0999; Airspace Docket No. 22-AWA-2) 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 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 FAA Docket No. FAA-2022-0999; Airspace Docket No. 22-

AWA-2." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date 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 comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded through the Internet at www.regulations.gov. Recently published rulemaking documents can also be accessed through the FAA's website at www.faa.gov/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 "**ADDRESSES**" section for address and phone number) between 9:00 a.m. and 5.00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX, 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

In 1988, the FAA issued a final rule that established the Chicago Midway Airport, IL, Airport Radar Service Area (ARSA) (53 FR 11020; April 4, 1988). As a result of the Airspace

Reclassification final rule (56 FR 65638; December 17, 1991), which became effective in September 1993, the term "Airport Radar Service Area" was replaced by "Class C airspace area." Further, as a result of the Terminal Airspace Reconfiguration final rule (57 FR 38962; August 27, 1992), also effective in September 1993, the Chicago Midway Airport, IL, ARSA was amended to lower the ceiling from 4,000 feet mean sea level (MSL) to 3,600 feet MSL so it would not overlap the floor of the Chicago O'Hare International Airport, IL, Terminal Control Area (TCA), which is the Chicago, IL, Class B airspace area today. The Chicago Midway Airport, IL, ARSA is now the MDW Class C airspace area.

As with the former ARSA, the primary purpose of a Class C airspace area is to reduce the potential for midair collisions in terminal areas and promote the efficient management of air traffic in those areas. Pilots are required to establish two-way radio communications with air traffic control (ATC) before entering Class C airspace and they must maintain two-way radio communications with ATC while operating in Class C airspace. These requirements are designed to keep ATC informed of all aircraft operating within the Class C airspace area.

Developments Since the Designation of the MDW Class C Airspace Area

Despite increases in aircraft operations and passenger enplanements, as well as establishment and amendment of instrument arrival procedures at MDW over the years, the MDW Class C airspace area has not been modified since 1993.

Prior to 2014, the proximity of buildings in the downtown Chicago area precluded the establishment of ground based precision instrument approach procedures to Runway (RWY) 22L at MDW. As a result, instrument flight rules (IFR) aircraft landing RWY 22L had to conduct an instrument approach to RWY 31C and then circled the airport to land RWY 22L. Although this procedure was necessary when weather or airfield conditions dictated the use of RWY 22L for arriving aircraft, the circling maneuver was considered inefficient and was avoided whenever possible.

The incorporation of Area Navigation (RNAV) Global Positioning System (GPS)

systems within the aviation industry and the FAA's implementation of three new RNAV standard instrument approach procedures to RWY 22L in February 2014, eliminated the circling maneuver that was necessary when using the ground based system. These new Performance Based Navigation (PBN) approaches featured a curved course to avoid the obstructions in downtown Chicago and have accounted for approximately one-third of MDW's annual IFR arrivals from 2017 to 2022.

The MDW RNAV RWY 22L approach procedures provide a significant benefit to the airlines and general aviation aircraft landing MDW, but have created safety concerns within the airspace east of the MDW Class C airspace between RWY 22L arriving IFR aircraft and visual flight rules (VFR) general aviation aircraft operating along the Lake Michigan shoreline. The flight tracks of the RNAV RWY 22L approaches for arrivals from the east trace a descending path for IFR aircraft that crosses the Lake Michigan shoreline from east to west. While at the same time, general aviation VFR aircraft use the Lake Michigan shoreline as a visual reference to transit along a north-south flow east of the MDW Class C airspace.

Impact of MDW Class C Airspace Area Configuration on Operations

The current MDW Class C airspace area surrounds MDW within 5 NM of the airport from the surface to 3,600 feet MSL and within 5 NM to 10 NM around MDW from 1,900 feet MSL to 3,600 feet MSL beginning at a line 2 NM northeast of and parallel to the MDW RWY 31C localizer course clockwise to the boundary of the Chicago, IL, Class B airspace area. The MDW Class C airspace area encompasses the final approach courses for runways 4, 13, and 31, but does not include the final approach course for IFR arrivals conducting instrument approach procedures to RWY 22L. The MDW Class C airspace has not kept pace with PBN procedures development, increasing operations, or newer aircraft designs.

The MDW Class C airspace design provides VFR aircraft the maximum use of the airspace located east of MDW and south of downtown Chicago along the Lake Michigan shoreline without the requirement to be in two-way communication with ATC. This was

possible because the VFR flyway located along the Lake Michigan shoreline did not conflict with inbound IFR aircraft conducting an approach to RWY 31C and then circling MDW to land RWY 22L.

With the implementation of RNAV approaches to RWY 22L at MDW, IFR arrival aircraft are now routinely descending east to west across the VFR flyway along the Lake Michigan shoreline that is often densely populated with itinerant VFR aircraft. Although the VFR flyway is charted along the Lake Michigan shoreline with recommended altitude information "AT OR BELOW 2,000 [feet MSL]", VFR aircraft routinely operate to the base of the overlying Chicago, IL, Class B airspace at 3,600 feet MSL. The combination of IFR aircraft flying RNAV approaches to land RWY 22L and VFR aircraft using the VFR flyway along the Lake Michigan shoreline, sometimes upwards to the overlying Chicago, IL, Class B airspace, has increased the possibility of loss of separation, near midair, or midair collision situations between IFR and VFR aircraft over Chicago. Under this proposal, the final approach courses for all RNAV RWY 22L approaches would be encompassed in Class C airspace and VFR aircraft desiring to fly within the proposed Class C airspace shelf would be required to establish two-way communications with ATC so all aircraft, IFR and VFR, would be communicating with ATC within the proposed Class C airspace shelf extension; enabling greater safety and efficiency for all.

Benefits of Modifying the MDW Class C Airspace Area

Modifications of the current MDW Class C airspace area would enhance safety by lessening the likelihood of IFR aircraft flying RNAV procedures to RWY 22L encountering VFR aircraft, that are not in contact with ATC, flying along the Lake Michigan shoreline. The unique combination of high volumes of general aviation and commercial operations within the immediate vicinity of the MDW terminal area support a proposal to expand the MDW Class C airspace area in the interest of safety and the efficient use of the airspace.

The FAA believes that all users would benefit from participation in the proposed

expanded availability of Class C airspace and services around MDW which include: sequencing of all aircraft to the primary airport (MDW); standard IFR services to IFR aircraft; separation, traffic advisories, and safety alerts between IFR and VFR aircraft; and, traffic advisories and safety alerts between VFR aircraft.

Pre-NPRM Public Input

In 2019, the FAA initiated an action to form an Ad Hoc Committee (Committee) to seek input and recommendations from representatives of effected aviation segments for the FAA to consider in designing proposed modifications to the Class C airspace surrounding MDW. The Committee, composed of local airspace users and aviation interested organizations, was formed and held two meetings. The basis for the FAA's proposed action was aimed at addressing issues associated with IFR aircraft (communicating with ATC) flying MDW RNAV RWY 22L approaches inbound from over Lake Michigan receiving Traffic Alert and Collision Avoidance System (TCAS) Resolution Advisory (RA) warnings for VFR aircraft (not communicating with ATC) flying along the Lake Michigan shoreline. Participants in the Committee included representatives from the Chicago Area Business Aviation Association, Illinois Department of Transportation, Chicago Department of Aviation, Chicago Executive Airport (PWK), Gary/Chicago International Airport (GYY), Waukegan National Airport (UGN), Southwest Airlines, Walsh Group/Griffith Aviation, Aircraft Owners and Pilots Association (AOPA), and congressional staff members from three aviation interested Congressional offices.

Discussion of Ad Hoc Committee Recommendations

The Committee submitted a recommended airspace design for consideration, as well as five requested items for the FAA to consider in designing the proposed modifications of the MDW Class C airspace area.

The Committee recommended that the FAA align the boundaries of the Class C airspace with prominent geographical features (visual landmarks) whenever possible. After considering the Chicago, IL, Class B airspace floor over the airspace between MDW and Lake Michigan; the MDW RNAV RWY 22L approaches and associated descent points; and the VFR aircraft flying along the Lake Michigan shoreline using the charted VFR flyway, sometimes operating upwards to the floor of the Chicago Class B airspace, the Committee agreed with FAA's proposed action, but recommended extending the MDW Class C airspace shelf between 5 NM and 10 NM further

around the east side of MDW to Interstate 290. The recommended altitudes for the portion of the proposed Class C airspace shelf extension over land would remain consistent with the existing airspace shelf, having a 1,900 foot MSL floor and a 3,600 foot MSL ceiling. The recommended altitudes for the portion of the proposed MDW Class C airspace shelf extension over Lake Michigan would have a 2,300 foot MSL floor and a 3,600 foot MSL ceiling. The Committee offered that this would encompass the MDW RNAV RWY 22L approaches for IFR aircraft landing at MDW, enable VFR aircraft to continue to use the Lake Michigan shoreline for reference in circumnavigating the MDW Class C airspace if they did not want to establish two-way communications with ATC to operate in the MDW Class C airspace shelf, and allow aerial sightseeing operations north of Interstate 290 to continue unhampered.

The FAA agrees and tries to adopt the use of geographical features whenever possible, but acknowledges that the proposed Class C airspace area that overlies Lake Michigan lacks prominent landmarks. However, there are currently four VFR checkpoints and multiple geographic references on the shoreline, including Interstate 290, Soldier Field, the Navy Pier located north of Interstate 290, and the electric power plant located southeast of MDW depicted on the VFR Flyway Planning Chart in the MDW area. All of these reference points would aid in VFR pilots determining the boundary of the proposed Class C airspace shelf extension.

The Committee recommended that the FAA update the Chicago VFR Flyway Planning Chart in the MDW area to reflect the status of the MDW RNAV RWY 22L approaches to provide awareness for the VFR aircraft using the charted VFR flyway along the Lake Michigan shoreline, as well as the VFR aircraft operating in the Class E airspace beneath the Chicago, IL, Class B airspace and east of the MDW Class C airspace.

The FAA agrees with this recommendation and has already adopted charting the MDW RNAV RWY 22L approach paths to the Lake Michigan shoreline and the VFR flyway depicted on the Chicago VFR Flyway Planning Chart and the Chicago Terminal Area Chart. The charted approach paths will continue to be charted and updated on future charts as required should the

approaches be amended from the existing depiction. The FAA does not support extending the charted approach paths beyond the Lake Michigan shoreline or VFR flyway due to the chart clutter that would be created in the charted area east of MDW. The FAA continues to urge VFR pilots to use the charted VFR flyway along the Lake Michigan shoreline and to comply with the recommended altitudes as the proposed Class C airspace shelf is considered for adoption to support the safety and efficiency of IFR and VFR aircraft operations in the airspace east of the existing MDW Class C airspace area.

The Committee also recommended that anytime an IFR aircraft is arriving to MDW from the east and is approved to fly visually to RWY 22L, that ATC require the inbound IFR aircraft to maintain 3,000 feet MSL to the Lake Michigan shoreline or the DXXON Fix before initiating its descent to MDW. Specifically, this would keep IFR aircraft arriving to MDW from the east from descending early and causing potential loss of separation, near midair, or midair collision situations with VFR aircraft operating on the chart VFR flyway at the recommended altitudes.

The FAA does not agree with this recommendation. Currently, ATC requires inbound IFR aircraft on a visual approach to RWY 22L to maintain 2,500 feet MSL until contacting Midway Airport Traffic Control Tower (ATCT) for landing or a lower altitude assignment. A Letter of Agreement between the Chicago Terminal Radar Approach Control (TRACON) and Midway ATCT requires that IFR aircraft cleared for a visual approach to maintain 2,500 feet MSL for all landing runways. This requirement ensures appropriate separation between MDW IFR arrivals worked by Chicago TRACON and VFR traffic worked by Midway ATCT is provided. Additionally, the 2,500-foot MSL altitude restriction keeps all MDW IFR arrivals conducting a visual approach above the VFR flyway recommended altitude of 2,000 feet MSL along the Lake Michigan shoreline. Finally, visual approaches to MDW RWY 22L are infrequently issued due to the proximity of RWY 22L approach course to IFR traffic inbound to Chicago O'Hare International Airport to their runways used during west flow operations. MDW IFR arrivals on a visual approach maintain 2,500 feet MSL until a lower altitude is assigned by

Midway ATCT, e.g. clearance to land.

The Committee further recommended that when RWY 22L is not being used, and traffic flows allow, that ATC (Midway ATCT and Chicago TRACON) allow aircraft to fly through the proposed Class C airspace shelf east of the Lake Michigan shoreline. This would support an efficient use of the airspace by enabling VFR aircraft flying north and south along the shoreline, ensure ATC is aware of and communicating with VFR aircraft within the Class C airspace shelf, and not interrupt IFR aircraft arrival operations to the other runways that may be in use. The recommendation was aimed at ensuring the efficient use of the regularly congested airspace east of MDW, while supporting ATC, IFR aircraft, and VFR aircraft operating requirements all at the same time.

The FAA agrees with the Committee's recommendation and encourages VFR pilots to establish two-way communications with ATC to fly through the proposed Class C airspace shelf, if established, along the Lake Michigan shoreline in the interest of flight safety for IFR and VFR aircraft alike. As the Committee noted, the airspace east of MDW, included in the proposed MDW Class C airspace shelf extension, is regularly congested. Safety of both IFR and VFR aircraft operating in the proposed MDW Class C airspace shelf is the goal of this proposed action.

The Committee also recommended the FAA work with the appropriate organizations and agency offices that coordinate and produce the Oshkosh Airshow Notice to Air Missions (NOTAMs) to ensure detailed information and instructions for IFR and VFR pilots to fly through the airspace proposed for the Class C airspace shelf extension is included. As the Oshkosh Airshow is conducted annually in Oshkosh, WI, and draws a high volume of general aviation enthusiasts, providing detailed information and instructions to transit the airspace east of MDW is vital to ensuring flight safety and efficiency in that congested airspace area.

Planning for the Experimental Aircraft Association (EAA) AirVenture event at Oshkosh, WI, is a yearlong process that includes collaboration between ATC, EAA, the U.S. military, and

pilots who support and attend EAA's AirVenture. Public outreach is accomplished by a Notice published in the Domestic Notices link of the Air Traffic Plans and Publications website at www.faa.gov/air_traffic/publications/ and a NOTAM booklet with detailed information for aircraft transitioning the Lake Michigan shoreline and nearby airspace. In the 2022 EAA AirVenture Oshkosh Notice and NOTAM booklet, a "VFR Transition through Chicago Approach" section details how pilots are urged to use the Chicago VFR Flyway Planning Chart for the Chicago area. Specifically addressed for aircraft transiting the shoreline is to listen to the MDW Airport Traffic Information System (ATIS), as well as information addressing jet traffic crossing the shoreline at 3,000 feet MSL if MDW is landing on RWY 22L. It further urges pilots to comply with the VFR flyway altitudes south of the Navy Pier and north of the Electric Power Plant, as published. The Chicago TRACON will continue to collaborate with EAA on future AirVenture Oshkosh events to ensure flight safety is maintained in the congested airspace east along the Lake Michigan shoreline.

Lastly, the Committee recommended ATC use of a single frequency VFR aircraft operations using the VFR flyway or using the Lake Michigan shoreline for reference as they transit north and south along the shoreline. The Committee acknowledged and understood that ATC has a staffing issue currently that prevents the use of a single frequency, but wanted the recommendation to be considered for implementation should the FAA make a determination to adopt the proposed amendment action.

The FAA is unable to adopt the Committee's recommendation for operational reasons. The Chicago TRACON has two separate low altitude sectors, one northeast of Chicago O'Hare International Airport and one southeast of the airport, that work VFR traffic transitioning the Lake Michigan shoreline below the Chicago, IL, Class B airspace. Both low altitude sectors, which use separate frequencies, will continue to use the existing frequencies even if the proposed MDW Class C airspace shelf extension is established. It is not possible to combine these two low altitude sectors in order to use a single frequency due to the complexity, traffic volume, and

geographic size of each of the sectors. Pilots would continue to be able to fly along the shoreline underneath the proposed Class C airspace shelf with no change in their operating practice. For the pilots flying along the shoreline that would be within the proposed Class C airspace shelf, they would be required to establish two-way communication with ATC for their transition. The use of the existing frequencies along the Lake Michigan shoreline is based on the ATC sectors and facilities providing service, not on staffing issues.

After full consideration of the Committee's discussions and recommendations, the FAA decided to pursue the Committee's proposed airspace configuration. However, rather than extending the Class C airspace shelf between 5 NM and 10 NM at MDW further around the east side of MDW to Interstate 290, the FAA proposes to extend it to a point short of the interstate defined by the 090° bearing of the intersection of the 10-mile radius around the Chicago O'Hare International Airport and the 5-mile radius of the Chicago Midway International Airport. The FAA supports the altitudes recommended by the Committee for the proposed Class C airspace shelf extension for the portions over land and over Lake Michigan. This alternative would still provide the benefits of using geographic landmarks, while keeping the Class C airspace extension from extending beyond what is necessary for encompassing the MDW RNAV RWY 22L approaches for IFR aircraft and enabling the VFR sightseeing operations north of Interstate 290 from being affected. This NPRM proposes modifications to the MDW Class C airspace shelf.

Discussion of Informal Airspace Meeting Comments

As announced in the *Federal Register* on August 23, 2021 (86 FR 47043), the FAA conducted two virtual informal airspace meetings using the Zoom teleconferencing tool: September 28, 2021, beginning at 1:00 pm (Central Time) and on September 29, 2021, beginning at 6:00 pm (Central Time). The virtual informal airspace meetings were also available to watch on the FAA's Facebook, Twitter, and YouTube social media channels. These meetings provided interested airspace users with an opportunity to present their views and offer recommendations

regarding the planned modification of the MDW Class C airspace area. The FAA received comments from 32 individuals in response to the 2 meetings and all substantive comments received were considered in developing this proposal.

Seven commenters, including AOPA, commended the FAA for its efforts in developing this proposal, the public outreach and inclusion in developing the proposal, and the professional and courteous ATC services they receive. One of the commenters thanked the FAA for switching to the RNAV RWY 22L approaches instead of the RWY 31C localizer approach to then circling to RWY 22L when arriving from the east. A second commenter, who flies a local news helicopter, thought the proposal is a great idea. Two other commenters appreciated the opportunity to establish two-way communications with ATC while operating within the Class C shelf as they transited the Lake Michigan shoreline; one further acknowledging the benefit of doing that so they're not flying too low, and the other seeing the proposal as an opportunity to educate the pilot community and increase VFR pilots' ATC communications proficiency. A commenter shared that he had initial concerns about the impact of the proposal on recreational pilots; however, he now understands the FAA's IFR/VFR traffic safety related concerns and has determined it will not significantly affect the freedom of shoreline flights and is in full support of the proposal.

The FAA appreciates the positive comments received acknowledging the FAA's work on this proposal so far, the public outreach efforts to include the local flying community in the proposal development process, and the efforts to minimize impacts to the VFR general aviation traffic flying along the Lake Michigan shoreline, or lakefront.

Two commenters challenged the basis for the proposed Class C airspace shelf being extended to cover the east side of MDW. The first commenter alluded that the increase in IFR traffic to MDW RWY 22L is due to the change in Chicago O'Hare International Airport's arrival traffic due to the change in runways, which are all on an east/west orientation. The commenter stated further, previously, many airliners would come in from the southeast for landing. The

second commenter asserted that besides the increase in safety margin for IFR traffic from VFR traffic, this proposal was indirectly trying to reduce VFR traffic flying along the Lake Michigan shoreline.

The FAA does not agree with these comments. The purpose of Class C airspace is to reduce the risk of midair collisions in the terminal area. A number of considerations are evaluated before determining whether an airport qualifies for the establishment or modification of a Class C airspace area. Proposed Class C airspace area designs are based on site-specific factors and for MDW it is specifically due to the development and availability of RNAV approach procedures to MDW RWY 22L that did not exist prior to 2014. The arrival flow at Chicago O'Hare International Airport (ORD) may affect the approach procedures in use at MDW; however, the proposal to extend the MDW Class C airspace shelf to include the east side of MDW is due to the RNAV RWY22L arrival procedures. The ORD arrivals still arrive from the southeast, mostly using the WATSN ARRIVAL (RNAV) procedure; flying from the southeast over Lake Michigan and then turning straight in to land on one of the ORD west runways.

The assertion this proposal was indirectly aimed at reducing VFR traffic along the Lake Michigan shoreline is not correct. With IFR aircraft inbound to MDW flying RNAV RWY 22L procedures, the aircraft begin descending out of 3,000 feet MSL, east to west, as they cross the VFR flyway which is often times full of itinerate VFR aircraft at and above the recommended 2,000 feet MSL altitude and not communicating with ATC. The Class C airspace shelf is intended to enhance flight safety by ensuring all aircraft, IFR and VFR, that are flying in the area surrounding where the MDW RNAV RWY 22L approaches cross the VFR flyway are communicating with ATC. The FAA remains committed to providing Class C services in a manner that keeps the area safe for all users.

Two commenters questioned the floor altitude of the proposed Class C airspace shelf over Lake Michigan, while two additional commenters addressed the airspace shelf in general.

The first two commenters were interested in why the floor altitude of the airspace shelf over Lake Michigan was proposed to extend upward from 2,300 feet MSL. One of the two commenters went on to ask further if a higher floor could be considered, sharing that a 2,600-foot floor would still provide a 400-foot buffer below the RNAV RWY 22L procedures and allow VFR aircraft to transition at 2,500 feet MSL. The two additional commenters asked if there was any consideration taken for airline pilots flying the RNAV Z RWY 22L procedure in the proposal, and were departure and missed approach procedures considered in the extension of the Class C airspace shelf or just IFR arrivals.

The proposed Class C airspace area boundaries, and the proposed altitude of the airspace areas, are shaped by the operational requirements of aviation users at and around MDW; the MDW terminal airspace environment; and the geographic, operation, and procedural factors specific to MDW. The 2,300-foot MSL Class C airspace shelf floor over Lake Michigan was a Committee recommendation that the FAA adopted. The proposed 2,300-foot floor of the airspace shelf over Lake Michigan ensures a safe operating environment for all aircraft flying within the shelf by enabling timely and effective traffic advisories for VFR overflight aircraft and IFR arrival aircraft operating in two-way communication with ATC. Further, it provides a higher Class C airspace shelf floor for VFR aircraft to transit below the Class C airspace from what was originally being considered. The original design the FAA provided to the Committee, as a starting point, was a single airspace shelf between 5 NM and 10 NM of MDW that extended from the Chicago, IL, Class B airspace northwest of MDW all the way around to the Chicago O'Hare Class B airspace northeast of MDW from 1,900 feet MSL to 3,600 feet MSL. With respect to the question of whether a higher airspace shelf floor could be considered from that proposed, the FAA offers that as noted above in the Comments Invited section, the proposal contained in this action may be changed in light of comments received.

In the development of the proposed Class C airspace shelf extension around the east side of MDW, the FAA considered all of the RNAV and conventional IFR arrival and departure

procedures operating within the proposed airspace area to ensure the IFR aircraft receive the communications benefit of the ATC traffic advisory exchanges with VFR overflight aircraft also operating with the Class C airspace area. Additionally, the FAA considered the impacts associated with the VFR aircraft operating along the VFR flyway and proposed Class C airspace shelf floor altitudes with the intention of enabling enough airspace for VFR aircraft that opt to not establish two-way communications with ATC to fly beneath the Class C airspace or farther offshore safely.

One commenter asked whether the Class C airspace expansion would result in increased ATC staffing levels; thereby making VFR flight following request for VFR aircraft transiting the area more likely to be supported by ATC on a workload basis.

The ATC facility staffing levels are determined by numerous factors and criteria, and classification of airspace is only one factor considered. Based on the extent of the proposed Class C airspace shelf extension, the FAA does not anticipate this proposed action to affect the Chicago TRACON or Midway ATCT staffing levels. Further, the FAA does not expect an increase in VFR aircraft flying outside the Chicago, IL, Class B airspace area or the proposed Chicago Midway Class C airspace shelf requesting flight following. The Chicago TRACON will continue to provide VFR aircraft flight following services on a workload basis. Likewise, the FAA does not anticipate a large number of VFR aircraft seeking flight following within the proposed Class C airspace shelf. However, those VFR pilots who opt to fly within the proposed Class C airspace shelf and establish two-way communications with ATC will receive Class C services commensurate with the service provided in the existing MDW Class C airspace area.

Five commenters raised questions about airspace violations and aircraft conflicts in the airspace area of the proposed Class C airspace shelf. One commenter asked if there had been any studies or surveys to show actual airspace violations or aircraft conflicts and another commenter stated the ATO should make available all Class C and Class B airspace incursions within 15 NM from MDW between the 000 bearing to the 180 bearing. Two commenters asked

about documented conflicts and TCAS RA warnings, and the nature of the conflicts, occurring under the current airspace configuration. One of those commenters went on to ask if there was a plan to use the RNAV (RNP) X RWY 22L approach more when aircraft are arriving from the west to avoid crossing over the shoreline and VFR traffic flying in that area. A final commenter asked if the affected area east of MDW along the shoreline had any accident history.

The FAA finds that the questions and comments addressing studies, surveys, or reporting of airspace violations in the airspace of the proposed Class C airspace shelf to be outside the scope of this rulemaking. The airspace area of the proposed Class C airspace shelf is currently Class E airspace and there is no requirement to obtain a clearance or establish two-way communications with ATC to operate within that airspace area.

To the comments addressing aircraft conflicts and RAs, the FAA offers the following. On May 18, 2018, the Chicago TRACON accomplished a staff study to initiate consideration of this proposal. In the staff study, the TRACON reported 69 TCAS RA events by IFR aircraft landing MDW RWY 22L between September 1, 2016, and August 31, 2017, with the Midway ATCT reporting 17 additional TCAS RA events during the same time period. With a total of 86 TCAS RA events occurring between IFR arrivals descending to MDW flying RNAV RWY 22L procedures and VFR transient traffic flying near the Lake Michigan shoreline for the timeframe reported, that amounts to just over 7 incidents per month, on average. Since then, there have been an additional 89 TCAS RA events, collectively, by IFR aircraft landing MDW RWY 22L; further confirming the necessity for the proposed MDW Class C airspace shelf in this action.

Normally, the TCAS RA results in the IFR pilot conducting a climb or descent evasive maneuver. In rare cases, the IFR pilots may also turn the aircraft. If the IFR aircraft is near MDW when the TCAS RA event occurs, then often the IFR pilots must conduct a missed approach. This proposal to establish the Class C airspace shelf is intended to avoid these aircraft conflicts between MDW RWY 22L arrivals and VFR traffic operating near the MDW RWY 22L

final approach course, and to avoid IFR aircraft arriving to MDW RWY 22L conducting missed approaches due to TCAS RA events.

It should be noted that the vast majority of "conflicts" are actually "potential conflicts" in which an air traffic controller detects that two or more aircraft will come within unsafe proximity of each other unless some type of control action is taken, and then the controller takes that action. The number of documented conflicts only include TCAS RA events and close-proximity events involving non-TCAS-equipped aircraft and not events where air traffic controllers took action to prevent such events. As a result, considering TCAS RA events only does not reflect the actual safety risk mitigated by this proposal.

With respect to the comment reference using the RNAV (RNP) X RWY 22L approach more when aircraft are arriving from the west, the Chicago TRACON controllers use the MDW RNAV (RNP) X RWY 22L approach as often as possible. From an ATC and airspace efficiency perspective, this is the preferred approach for MDW RWY 22L arrivals from the west, but it cannot be used when arrivals from the west need to be sequenced further out to land behind arrivals from the southeast and east.

Five commenters expressed concerns resulting from VFR aircraft being pushed lower to remain below the proposed Class C airspace shelf floors (1,900 feet MSL and 2,300 feet MSL) and compressed into more congested airspace closer to the ground. Two of the five commenters also asked if any studies had been accomplished addressing the effect of restricting VFR aircraft below the proposed airspace shelf with the 1,900-foot MSL floor and the 2,300-foot MSL floor. One of those commenters was concerned with VFR aircraft flying over Lake Michigan being able to remain within glide distance of shore; whereas the other commenter was concerned with VFR aircraft "forced" to fly below the proposed airspace shelf over land. Another of the commenters asked if the FAA anticipated more VFR aircraft conflicts under the proposed airspace shelf, with another of the commenters asking if ATC would be able to handle the increase in flight following requests caused by the higher density of VFR traffic in an already

congested area. Finally, a sixth commenter raised a concern that some aircraft would not be able to accomplish flying southbound along the lakeshore below the Chicago O'Hare Class B airspace shelf with a 3,000-foot floor, then descend below the proposed MDW Class C airspace shelf with a 2,300-foot floor, then climb above the Gary/Chicago Class D airspace with a 3,100-foot ceiling in the distance required.

The FAA does not agree. VFR aircraft are not being restricted below or forced to fly lower to remain below the proposed Class C airspace shelf; rather, VFR pilots that operate within the airspace proposed to become Class C airspace are encouraged to establish two-way communications with MDW approach and use the services provided by ATC. The FAA recognizes that some pilots may opt to fly below the proposed Class C airspace shelf, but the safety provided by all pilots, IFR and VFR, within the Class C airspace shelf communicating with ATC is necessary and outweighs the concerns associated with establishing the proposed airspace shelf. The FAA audited 7 random weeks from 2019 and 2021 (2020 was not included due to pandemic related flight reductions) and the survey showed, on average, approximately 23 aircraft per day operating at and below 1,900 feet MSL under the proposed airspace shelf while only 10 aircraft per day operating between 2,300 feet MSL and 3,000 feet MSL. As such, the FAA does not anticipate an appreciable increase in VFR traffic operating lower over Lake Michigan. Additionally, the FAA does not anticipate more VFR conflicts below the proposed Class C airspace shelf, as well. Lastly, reference the concern of VFR aircraft not being able to navigate south along the Lake Michigan shoreline, or lakefront, making the altitude changes resulting from the proposal in the distance provided, the existing VFR flyway supports and provides exactly what the commenter stated concern over. The FAA anticipates VFR aircraft will plan accordingly to make the recommended altitudes to remain under the Chicago O'Hare Class B airspace, under the proposed MDW Class C airspace shelf, and over the Gary/Chicago Class D in the distance provided.

The FAA acknowledges that some compression may occur and that non-participating VFR traffic may have to fly below or circumnavigate the proposed MDW Class C airspace shelf in order to remain clear of it should they decide not to establish two-way communications with ATC to seek Class C airspace services. All aircraft operating beneath or in the vicinity of the proposed Class C airspace shelf are expected to continue to comply with the regulatory requirements of 14 CFR section 91.111, titled Operating Near Other Aircraft, to avoid creating a collision hazard with other aircraft operating in the same airspace. Additionally, all aircraft operating in the same areas noted above are expected to continue complying with the requirements in 14 CFR section 91.113, Right-of-Way Rules: Except Water Operations, to "see and avoid" other aircraft as well. The FAA believes that continued VFR pilot compliance with established flight rules regulatory requirements, and these two regulations specifically, will overcome the compression and mid-air collision concerns raised by the commenters.

Ultimately, it is the pilot's responsibility to evaluate all factors that could affect a planned flight and determine the safest course of action whether it is circumnavigating the Class C, flying beneath the airspace shelf area, utilizing the charted VFR flyway, or establishing two-way communications with ATC and requesting Class C services.

One commenter referenced 14 CFR section 91.119, Minimum safe altitudes: General, highlighting that over any congested area of a city, town or settlement, or over any open air assembly of persons, an aircraft must fly an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft. The commenter used that reference to argue that the airspace below the proposed Class C airspace shelf with a 1,900-foot floor is in effect unusable given the height of obstructions above sea level within that sector.

The FAA does not agree. There are only two charted obstructions that fall approximately 1 NM within the proposed 1,900-foot floor Class C airspace shelf boundary northeast of MDW and are located southwest and west of Soldier Field. The remaining portion of Class E airspace that would fall under the proposed Class C airspace shelf is unaffected by the commenter's

concern. The Class E airspace that would remain beneath the proposed Class C airspace shelf with a 1,900-foot floor would be navigable by VFR aircraft, as it is under the current Class C airspace shelf that extends upward from 1,900 feet MSL, for pilots who elect not to establish two-way communications with MDW approach to fly within the proposed Class C airspace shelf. Additionally, flight around the two charted obstructions noted above would be still be possible using the existing VFR flyway along the Lake Michigan shoreline.

Two commenters addressed the use of visual landmarks in their comments. The first commenter argued how pilots were to know where the 10 NM radius of MDW was located for the airspace shelf outer boundary over Lake Michigan. He further noted that aircraft not utilizing GPS navigation might have difficulty recognizing the Class C airspace shelf outer boundary; noting the CRIB and EAST CRIB VFR checkpoints may be helpful, but encouraged the FAA to consider other mitigations that might be possible. The second commenter shared that the recommendation offered by the Committee on the airspace shelf floor altitude, as well as the use of visual landmarks as reference points, were very positive developments.

The FAA acknowledges it is difficult to provide visual landmarks over Lake Michigan to determine the Class C airspace shelf 10 NM boundary. As such, pilots who do fly over Lake Michigan are encouraged to use GPS, Distance Measuring Equipment (DME), or other electronic means to determine spatial awareness of their location and the Class C airspace shelf boundary.

As noted previously in response to the Committee's recommendation to use visual landmarks when able, the FAA tries to adopt the use of geographical features whenever possible and acknowledges that the proposed Class C airspace area that overlies Lake Michigan lacks prominent landmarks. However, there are currently four VFR checkpoints (CRIB, EAST CRIB, NAVY PIER, and LAKE CALUMET) that could be used to roughly interpolate the airspace shelf boundary over Lake Michigan. Additionally, there are multiple geographic references on the shoreline, including Interstate 290 and Soldier Field located north of Interstate 290 and the electric power plant located southeast of MDW that could also be used. All of these reference

points would aid VFR pilots in determining the boundary of the proposed Class C airspace shelf extension.

One commenter shared that MDW RWY 22L is used much of the time when RWY 13C would be the best runway for winds. The commenter argued that using RWY 13C would avoid the shoreline no matter if aircraft were coming from the east or west and there are Instrument Landing System (ILS), RNAV Localizer Performance with Vertical Guidance (LPV), and RNAV-Required Navigation Performance (RNP)-Authorization Required (AR) approaches available.

The FAA does not agree. The decision for selecting the MDW runway in use between RWY 13C and RWY 22L is made primarily on landing aircraft into the wind. When the winds are directly out of the south, there are ATC procedures that favor using MDW RWY 22L for operational efficiency reasons. There is no correlation between the proximity of Chicago O'Hare International Airport and the MDW RWY13C final approach course to the selection of the MDW landing runway. Additionally, any impacts to the Chicago O'Hare International Airport operations caused by MDW landing aircraft using RWY 13C have been mostly mitigated and are not significant enough to favor the selection or use of one MDW runway over the other.

Two commenters asked about the current RWY 22L approach procedures and how/if they are expected to change with regard to this proposal. The first commenter was concerned about impacts that may be expected to aircraft flying the RNAV (RNP) Y RWY 22L approach versus the RNAV (RNP) X RWY 22L. The other commenter asked if the RNAV RWY 22L procedures were new, stating further that aircraft flying the procedures to RWY 31 and then circling to land RWY 22L have always been common in the past.

The FAA is not proposing or making any changes to any of the RNAV RWY 22L procedures. To the first commenter's question, the MDW RNAV (RNP) X RWY 22L procedure is used for aircraft arriving from the west when RWY 22L is in use; whereas, the MDW RNAV (RNP) Y RWY 22L procedure is used for aircraft arriving from the east when RWY 22L is in

use. The procedures both support RWY 22L operations and cater to arrival aircraft depending on which direction they are arriving from. In response to the other commenter's question and statement, the RNAV RWY 22L procedures have been available for use since 2014. Additionally, rather than requiring pilots to fly a conventional or RNAV approach to RWY 31C and then circle the airport to land on RWY 22L, both ATC and pilots prefer to use the RNAV RWY 22L approaches to RWY 22L. The FAA believes using the RNAV RWY 22L procedures when RWY 22L is the runway in use, instead of having aircraft circle the airport visually from an approach flown to RWY 31C, is a much safer operation and provides an orderly, efficient arrival flow to MDW.

Six commenters questioned the ATC services to be provided by the FAA with the proposal. One commenter stated ATC currently makes transit of the MDW Class C nearly impossible for aircraft not landing at MDW and asked about the considerations made for the safety of flight issues for VFR aircraft transiting the lakeshore. Another commenter was concerned about ATC being able to handle the increase in flight following requests that the proposal was expected to incur. Three other commenters were concerned about air traffic controllers vectoring small, VFR aircraft further out over Lake Michigan and asking if MDW approach would still approve lakefront transitions similar to how they are currently, as well as be willing to extend traffic advisories beyond the proposed Class C airspace boundaries. The fifth commenter questioned if MDW would have increased ATC responsibilities north of Montrose Harbor, located east of Chicago O'Hare International Airport, with the proposed Class C airspace shelf.

The FAA audited VFR aircraft operations in the proposal airspace area for 7 random weeks from 2019 and 2021 (2020 was not included due to pandemic related flight reductions). The audit results showed approximately 23 aircraft operations per day in the proposed airspace at and below 1,900 feet MSL and 10 aircraft operations per day between 2,300 feet MSL and 3,000

feet MSL. With that, the FAA does not anticipate there will be an appreciable increase in VFR traffic forced lower or pushed over the lake.

The FAA remains committed to providing ATC services to all aircraft, IFR and VFR, in the interest of flight safety in congested airspace areas. Since the proposed Class C airspace shelf is in an area that is currently Class E airspace, it is difficult to assert that ATC routinely denies entry into or makes it harder to enter MDW Class C airspace. The only Class C airspace currently east of MDW is the 5 NM surface area airspace located immediately around MDW from the surface upward to the base of the overlying Chicago O'Hare Class B airspace shelf. This is very congested airspace around the MDW airport and the FAA suspects it may explain why some aircraft may be denied entry into MDW Class C airspace. Again, the FAA encourages VFR pilots flying along the Lake Michigan shoreline consider establishing two-way communications with ATC to fly within the proposed Class C airspace shelf in the interest of flight safety for IFR and VFR aircraft alike.

Air traffic controllers are trained to consider many factors associated with operational situations as they control the aircraft within their responsible airspace sectors. However, if ATC should provide a control instruction that a pilot feels would jeopardize flight safety or their ability to comply, it is incumbent on the pilot to advise ATC of this and take appropriate action. Midway ATCT and Chicago TRACON will continue to provide lakefront transitions as they do today and continue to provide traffic advisories for the airspace under their control on a traffic and workload permitting basis. Typically, aircraft operating outside of the airspace under an air traffic controller's control will not be provided traffic advisories.

Lastly, Montrose Harbor is located north of the proposed Class C airspace shelf boundary in Class E airspace underlying the Chicago O'Hare Class B airspace area. As such, it is not anticipated that ATC will have increased ATC responsibilities in that area.

One commenter challenged the suggestion that this proposal wouldn't impact traffic. The commenter stated that if effective, the increased IFR/VFR traffic separation made possible by the

changes would in fact allow more curved approaches instead of reducing the use of them and would increase aircraft capacity within MDW Class C airspace via closer spacing of IFR approaches.

The FAA notes that the proposed action is aimed at enhancing flight safety for all by lessening the likelihood of IFR aircraft flying RNAV procedures to RWY 22L encountering VFR aircraft flying along the Lake Michigan shoreline and not in contact with ATC. It is not aimed at enabling more curved approaches. Further, IFR approach spacing is determined by two factors, (1) separation standards found in FAA Order JO 7110.65, Air Traffic Control, and (2) the operational demand of aircraft flying in the same airspace area. IFR arrival aircraft to RWY 22L can be no closer than 3 NM separation and due to operational demand of aircraft flying in the vicinity of MDW, they are typically further separated than that in the interest of flight safety in the MDW terminal area. Only during high demand "rush" periods will multiple IFR arrival aircraft 3 NM in trail of other IFR arrival aircraft be observed.

Two comments were received addressing ATC frequencies for the VFR aircraft that fly the Lake Michigan shoreline. One commenter was interested in knowing if the frequencies would be changed and how, if changing, while a second commenter asked if there were any plans to implement a Chicago shoreline common traffic advisory frequency (CTAF) for use similar to the "Watson Island" frequency in Miami.

The FAA does not intend to change the frequencies currently in use along the Lake Michigan shoreline since there are multiple ATC sectors and facilities controlling different airspace areas along the shoreline; which requires the use of the existing frequencies. Additionally, the FAA is not planning to add a common use frequency along the Lake Michigan shoreline similar to the "Watson Island" frequency noted on the Miami Terminal Area Chart. The FAA has opted to continue using the existing frequencies noted on the Chicago Terminal Area Chart to avoid potential frequency confusion that could occur with the existing frequency

that is published in the chart note for aircraft flying within 15 NM of MDW requesting services in Class C airspace.

Three comments addressed the proposed Class C airspace shelf boundary and the associated VFR flyway on the Chicago VFR Flyway Planning Chart. The first commenter simply asked if the existing Class C airspace shelf boundary located southeast of MDW would be removed should the FAA determine to extend the airspace shelf with a 1,900-foot floor further around the east side of MDW. The second commenter questioned if the VFR Flyway Planning Chart would change and if notes at the north and south ends of the VFR flyway would be added recommending how pilots should transit the proposed Class C airspace shelf area. The third commenter recommended charting a frequency for transitioning VFR aircraft to use to self-announce their intentions as the flight volume would be squeezed in that area.

The FAA offers that should the Class C airspace shelf be extended as proposed, the airspace shelf boundary line located southeast of MDW would be removed and the new airspace shelf boundary with a 1,900-foot MSL floor (over land) and 2,300-foot floor (over water) between 5 NM and 10 NM of MDW would be charted at the 090° bearing of the intersection of the 10-mile radius around the Chicago O'Hare International Airport and the 5-mile radius around the Chicago Midway International Airport. The VFR Flyway Planning Chart would change with the new Class C airspace shelf boundaries depicted, but the FAA does not intend to pursue adding chart notes at the north and south ends of the VFR flyway as recommended. The existing chart note with the frequency and who to contact to enter the Class C airspace would remain and apply to the extended Class C airspace shelf. Chart notes recommending how VFR pilots should transit the Class C airspace area are also not planned. The decision of whether to fly through the Class C airspace shelf or avoid entering the Class C airspace is up to each pilot after they flight plan and consider all factors. The FAA encourages VFR pilots to consider establishing two-way communications with ATC for Class C services in the proposed MDW Class C airspace shelf to enhance the flight safety in that area, especially when there is IFR traffic flying RNAV RWY

22L approaches inbound to MDW. Lastly, the FAA does not anticipate transitioning VFR aircraft to be squeezed below the Class C airspace shelf; therefore, the FAA intends to retain the VFR flyway outside the airspace shelf with a 1,900-foot MSL floor as charted for VFR pilots should they opt to not establish two-way communications with MDW approach for Class C services.

Two commenters were concerned about the environmental analysis conducted in support of the proposed Class C airspace shelf extension around MDW. The first commenter asked what type of environmental factors the FAA addresses for amending the airspace. The second commenter shared that the proposal lowers the shelf from 3,600 feet MSL to 1,900 feet MSL over south side [Chicago] neighborhoods and that VFR traffic would be flying substantially lower outside the Class C as a result. The commenter asked if consideration is given to the noise impact over the neighborhoods under the shelf.

The FAA's environmental review for the proposed Class C airspace amendment is conducted in accordance with the National Environmental Policy Act (NEPA) requirements and considers several different categories which include, but are not limited to, biological resources, air quality, historical resources, and noise. With respect to the question of noise impact considerations over the south side neighborhoods under the proposed Class C airspace shelf, the FAA does not anticipate any adverse noise impacts from what is experienced today. As mentioned previously, based upon our traffic audit, the majority of VFR flights above 1,900 feet MSL today occur over Lake Michigan and most VFR flights over land today occur between 1,500 feet MSL and 1,900 feet MSL.

One commenter shared their concern that if this proposal was to overcome a safety of flight concern, why does it take two years to accomplish the proposed change. The commenter thought the airspace changes should be accomplished quicker.

The FAA acknowledges the concern for how long it appears to take to accomplish the rulemaking requirements to effect Class C airspace changes. The FAA does not take the

regulatory requirements for changing airspace classifications and establishing operating rules and requirements in new airspace areas lightly. There are established regulatory processing procedures and timelines associated with ensuring public engagement and notice, as well as the opportunity to comment on proposed actions in accordance with the Administrative Procedures Act requirements contained in Title 5 of United States Code § 553, while a proposal is being considered. Further, the processing steps are developed to prevent arbitrary and capricious decision making that result in needless or unnecessary airspace changes. The rulemaking process includes public engagement to aid the FAA in developing its proposed airspace amendments (ad hoc committee) and then public opportunities to comment on the proposed action for consideration by the FAA (informal airspace meetings and notice of proposed rulemaking (NPRM)) as it reviews and evaluates all inputs prior to making a determination. Additionally, the FAA must accomplish and consider regulatory evaluations of Class C airspace proposals (initial and final), required NEPA reviews and considerations, and legal sufficiency reviews before publishing its regulatory determination. As Class C airspace actions tend to be controversial, rulemaking to establish or modify Class C airspace can take 24 – 36 months or more depending on the extent of the proposal.

One commenter recommended the FAA create a new program to replace Operation Rain Check (an FAA program to enhance pilot awareness of NAS functions, safety, and airspace procedures) and coordinate a program every 90 days that conducts a virtual fly-in and virtual community of that event.

This comment falls outside the scope of this rulemaking.

One commenter recommended establishing a VFR helicopter corridor on the north side of the MDW Class C airspace like the some of the corridors in the New York area in 14 CFR part 93, Subpart W – New York Class B Airspace Hudson River and East River Exclusion Special Flight Rules Area. The location of the recommended VFR corridor was from the Lake Michigan shoreline in the vicinity of Soldier Field to the Vertiport Chicago Heliport.

The FAA does not agree. The VFR helicopter corridors in the New York area mentioned by the commenter are for access to Class B airspace by helicopters without talking to ATC. A VFR corridor is defined as airspace through Class B airspace, with defined vertical and lateral boundaries, in which aircraft may operate without an ATC clearance or communication with ATC. These corridors are, in effect, a "hole" through Class B airspace. The recommended VFR helicopter corridor is located within Class E and Class G airspace below the proposed MDW Class C airspace shelf, as well as the overlying Chicago O'Hare Class B airspace. As such, the FAA has determined a VFR helicopter corridor, as recommended, is unnecessary.

One commenter was concerned how the MDW Class C airspace proposal might impact the large volume of VFR traffic that traverses the VFR flyway along the Lake Michigan shoreline during the Experimental Aircraft Association's (EAA) Annual AirVenture "Oshkosh" event in Oshkosh, WI.

The FAA expects any impacts associated with the proposal to amend the MDW Class C airspace shelf around the east side of MDW to be minimal. As noted in response to the Committee's recommendation on the same issue, planning for the EAA AirVenture event at Oshkosh, WI, is a yearlong process that includes collaboration between ATC, EAA, the U.S. military, and pilots who support and attend EAA's AirVenture. Public outreach is accomplished by a Notice published in the Domestic Notices link of the Air Traffic Plans and Publications website at www.faa.gov/air_traffic/publications/ and a NOTAM booklet with detailed information for aircraft transitioning the Lake Michigan shoreline and nearby airspace, including the MDW and Chicago TRACON controlled airspace areas. The 2022 EAA AirVenture Oshkosh Notice and NOTAM booklet that are published contain a "VFR Transition through Chicago Approach" section that details how pilots are urged to use the Chicago VFR Flyway Planning Chart for the Chicago area. It specifically addressed VFR aircraft transiting the shoreline to listen to the MDW ATIS transit guidance, as well as information addressing jet traffic crossing the shoreline at 3,000 feet MSL if MDW is landing on RWY 22L. The Notice

and NOTAM booklet further urge pilots to comply with the VFR flyway altitudes south of the Navy Pier and north of the Electric Power Plant, as published. The Chicago TRACON will continue to collaborate with EAA on future AirVenture Oshkosh events and the FAA anticipates the event Notice and NOTAM booklet information to remain consistent with respect to guidance for transiting the lakefront (Lake Michigan shoreline) area even if the proposed MDW Class C airspace shelf would be established.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to modify the Chicago, IL, Class C airspace area by extending the airspace shelf around Chicago Midway International Airport further around the airport on the east side to end northeast of the airport. This amendment is proposed to enhance flight safety in the Chicago Midway International Airport terminal area (see the attached chart).

The current Chicago Class C airspace consists of a surface area and airspace shelf centered on the airport reference point: (1) that airspace extending upward from the surface to 3,600 feet MSL within a 5 NM radius of the airport; and (2) that airspace extending upward from 1,900 feet MSL to 3,600 feet MSL between 5 NM and 10 NM from 2-miles northeast of and parallel to the MDW RWY 31C localizer course southeast of the airport, clockwise to the Chicago O'Hare Class B airspace area northwest of the airport. The Class C airspace area excludes the airspace within the Chicago, IL, Class B airspace area. The footprint of the proposed Class C airspace area would be expanded to include an airspace shelf east of MDW, but the current 3,600-foot MSL ceiling of the Class C airspace area and Chicago Class B airspace exclusion would be retained. The proposed modifications are described below. In developing these modifications, the FAA has considered the comments, questions, and recommendations received from the Committee and the informal airspace meetings.

This proposal would reconfigure the Class C airspace area by extending the existing airspace shelf between 5 NM and 10 NM further around MDW on the east side from the existing

boundary located 2 NM northeast of and parallel to the MDW RWY 31C localizer course to a new boundary defined by the 090° bearing of the intersection of the 10-mile radius around the Chicago O'Hare International Airport and the 5-mile radius around the Chicago Midway International Airport. This proposed new Class C airspace shelf would extend from the Chicago Class B airspace located northwest of MDW counterclockwise around MDW to a boundary slightly south of Interstate 290 located northeast of MDW and include the airspace over Chicago and Lake Michigan between 5 NM and 10 NM of MDW. The portion of the proposed airspace shelf over land would retain the existing airspace shelf altitudes extending upward from 1,900 feet MSL to 3,600 feet MSL, and the portion of the extended airspace shelf over Lake Michigan would extend upward from 2,300 feet MSL to 3,600 feet MSL. The exclusion of the airspace within the Chicago, IL, Class B airspace area would also be retained.

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

Class C Airspace areas are published in paragraph 4000 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class C airspace area modifications proposed in this document would be published subsequently in FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the

public. The FAA has determined that there would be no new requirement for information collection associated with this proposed rule.

Regulatory Notices and Analyses

Federal agencies consider impacts of regulatory actions under a variety of executive orders and other requirements. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify the costs. Second, the Regulatory Flexibility Act of 1980 (Public Law 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act of 1979 (Public Law 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 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 that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. The current threshold after adjustment for inflation is $165,000,000, using the most current (2021) Implicit Price Deflator for the Gross Domestic Product.

In conducting these analyses, the FAA has determined that this rule: (1) will generate benefits that justify costs; (2) is not an economically "significant regulatory action" as defined in section 3(f) of Executive Order 12866; (3) will not have a significant economic impact on a substantial number of small entities; (4) will not create unnecessary obstacles to the foreign commerce of the United States; and (5) will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector.

The benefits of the proposed regulation are the value of the risk reductions resulting from modification of the MDW Class C airspace area. These benefits include the value of avoiding accident consequences (e.g., fatalities, injuries, and property damage) that could occur in the absence of the rule. As an example, the FAA estimates the value of reducing the risk of fatalities using the "value of statistical life," currently $11.8 million[1]. The FAA is proposing the rule to reduce the risk of midair collisions in an area in which there is a high volume of commercial and general aviation traffic. As described above regarding the staff study, the FAA identified an average of over 7 incidents (TCAS RA events) per month from 2016 to 2017 and additional subsequent events, which do not include events for which air traffic controllers took action to prevent such events. Midair collisions may result in fatalities, injuries, and property damage both to persons in the aircraft and on the ground.

The costs of the proposed rule are the value of resources needed to comply with the airspace changes. In this case, VFR pilots desiring to fly at their current altitudes that would be within the proposed Class C airspace would be required to establish two-way communications with ATC. VFR pilots flying in the vicinity of MDW are likely equipped for this communication and as such this change would involve only minimal time for awareness and planning. The FAA also does not anticipate increased staffing needs. Therefore, costs are likely minimal.

The FAA welcomes comments on the benefits and costs of this proposal.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, Public Law 96–354, 94 Stat. 1164 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121, 110 Stat. 857, Mar. 29, 1996), and the Small Business Jobs Act of 2010 (Public Law 111–240, 124 Stat. 2504 Sept. 27, 2010), requires Federal agencies to consider

1 See: U.S. Department of Transportation (DOT) March 2021, Treatment of the Value of Preventing Fatalities and Injuries in Preparing Economic Analyses. Office of the Secretary of Transportation, www.transportation.gov/office-policy/transportation-policy/revised-departmental-guidance-on-valuation-of-a-statistical-life-in-economic-analysis.

the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term ‘‘small entities’’ comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Agencies must prepare an initial regulatory flexibility analysis (IRFA) if a proposed rule will have a significant economic impact on a substantial number of small entities. However, if not, the head of the agency may so certify per section 605(b) of the RFA. The certification must include a statement providing the factual basis for the determination,

The proposed rule does not impose requirements on small businesses, not-for-profit organizations, or governments. Therefore, per section 605(b), the head of the FAA certifies that the proposed rule would not result in a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Public Law 96-39), as amended by the Uruguay Round Agreements Act (Public Law 103-465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rule and determined that it will improve aviation safety and does not exclude imports that meet this objective. As a result, the FAA does not consider this rule as creating an unnecessary obstacle to foreign commerce.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 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 $165 million in lieu of $100 million. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. The FAA determined that the proposed rule will not result in the expenditure of $165,000,000 or more by State, local, or tribal governments in the aggregate, or the private sector, in any one year. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

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 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 4000--Subpart C - Class C Airspace

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AGL IL C Chicago, IL [Amended]
Chicago Midway International Airport, IL
(lat. 41°47'10"N., long. 087°45'09"W.)

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

point centered at lat. 41°59'16"N., long. 087°54'17"W.; and that airspace extending upward from 2,300 feet MSL to 3,600 feet MSL within an area beginning at a point on the Lake Michigan shoreline at lat. 41°52'09"N., long. 087°36'59"W., thence extending on a 090° bearing to the 10-mile radius of the Chicago Midway International Airport, thence clockwise along that 10-mile radius to the Lake Michigan shoreline at lat. 41°44'59"N., long. 087°32'06"W., thence northward following the shoreline to lat. 41°52'09"N., long. 087°36'59"W. This Class C airspace area excludes the airspace within the Chicago, IL, Class B airspace area.

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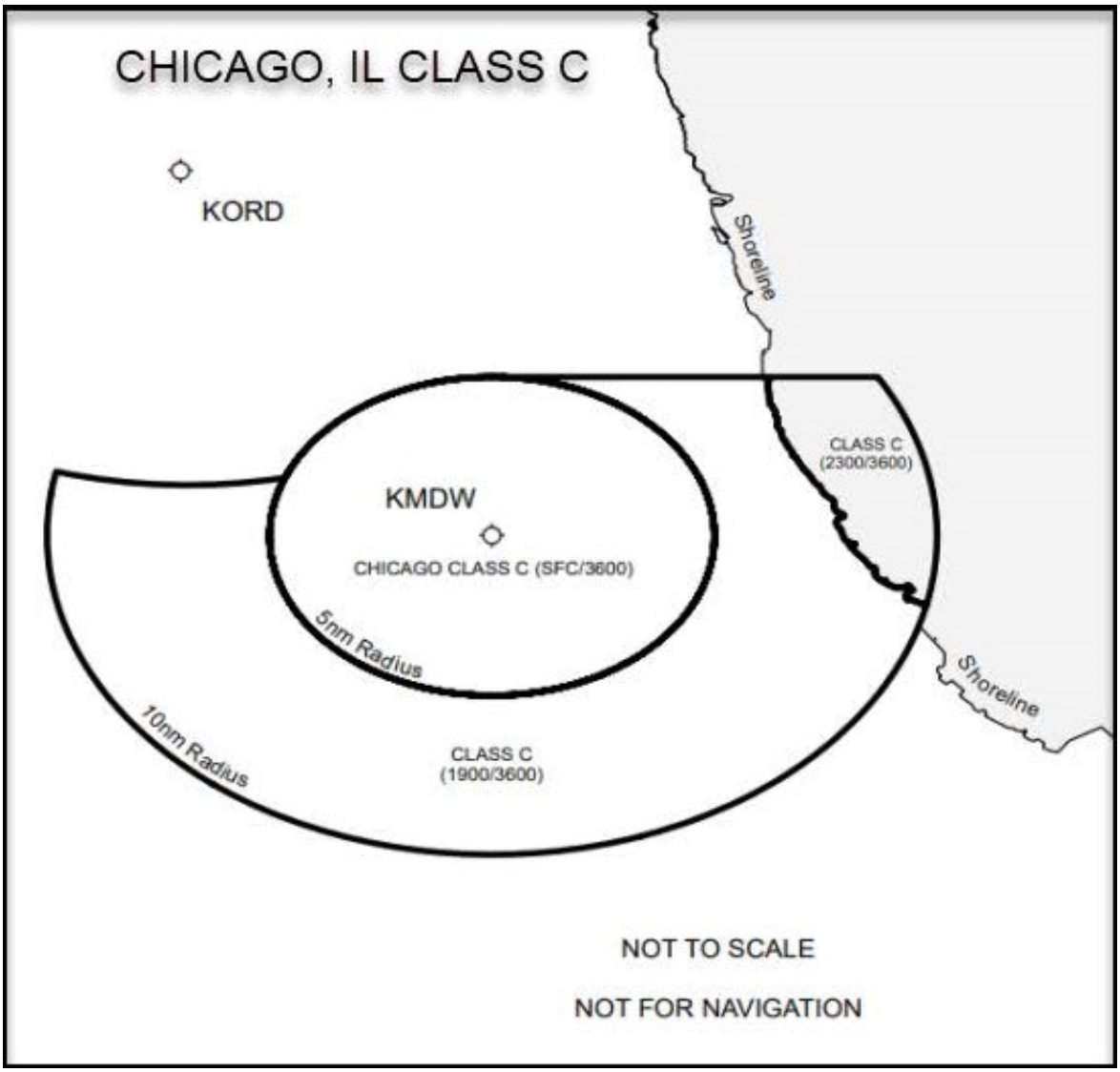
PROPOSED MODIFICATION OF THE CHICAGO MIDWAY INTERNATIONAL AIRPORT CLASS C AIRSPACE AREA
(Docket Number 22-AWA-2)



Issued in Washington, DC, on October 17, 2022.

Scott M. Rosenbloom,
Manager, Airspace Rules and Regulations.
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