



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2023-1906; Airspace Docket No. 22-AWA-3]

RIN 2120-AA66

Amendment of Class C Airspace; San Juan Luis Munoz Marin International Airport, PR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the San Juan Luis Munoz Marin International Airport, PR (SJU) Class C airspace by removing a cutout to the surface area near the Fernando Luis Ribas Dominicci Airport, PR (SIG). The proposed cutout would allow for aircraft to operate at SIG without entering the SJU Class C airspace. The FAA is proposing this amendment to enhance safety and enable more efficient operations at SJU and SIG.

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

ADDRESSES: Send comments identified by FAA Docket No. FAA-2023-1906 and Airspace Docket No. 22-AWA-3 using any of the following methods:

* Federal eRulemaking Portal: Go to www.regulations.gov and follow the online instructions for sending your comments electronically.

* Mail: Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

* Hand Delivery or Courier: Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* Fax: Fax comments to Docket Operations at (202) 493-2251.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Brian Vidis, 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 terminal airspace as required to preserve the safe and efficient flow of air traffic in the San Juan, PR, area.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most

helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 USC 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Availability of Rulemaking Documents

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 web page 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 Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). 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, GA 30337.

Incorporation by Reference

Class C Airspace is published in paragraph 4000 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. These updates would be published in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

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

Background

San Juan Luis Munoz Marin International Airport (SJU), PR is located three miles east of the city of San Juan, PR. Fernando Luis Ribas Dominicci Airport (SIG) is located approximately 5.5 miles west of SJU. The San Juan Air Traffic Control Tower (ATCT) at SJU operates 24 hours a day. SIG has a part-time ATCT that operates 0700 to 1900 local time, daily. Their Class D airspace extends around SIG from the surface up to but not including 1,200 feet mean sea level (MSL) within a 3.9-mile radius of SIG, and within 1 mile each side of the 275° true bearing from SIG, extending from the 3.9-mile radius to 5.3 miles west of the airport; excluding that portion within the SJU Class C airspace area. During times when the SIG ATCT is closed, the SIG Class D airspace reverts to Class G airspace from the surface to 699 feet MSL and Class E airspace from 700 MSL to but not including 1,200 MSL.

In 2018, the San Juan Flight Standards District Office (FSDO) investigated a report of a possible pilot deviation where an aircraft departed SIG, while the SIG ATCT was closed, into the San Juan Class C airspace. The aircraft, a high-performance twin turbojet operating under Visual Flight Rules (VFR), departed SIG runway 9 eastbound into the SJU Class C airspace. The aircraft made initial contact with San Juan ATCT approximately four nautical miles (NM) northwest of SJU airport. San Juan FSDO found that Air Traffic Control (ATC) did not have enough time to identify and accommodate the VFR aircraft into the existing traffic flows around

SJU airport, even if they contacted ATC as soon as practicable after departing. Pursuant to 14 CFR § 91.130(c)(2)(ii), each person departing from a satellite airport without an operating control tower must establish and maintain two-way radio communication with the ATC facility having jurisdiction over the Class C airspace area as soon as practicable after departing.

San Juan FSDO's analysis of the event and existing airspace structure showed that current procedures in place do not adequately address the traffic conflicts that might arise when the SIG ATCT is closed, and VFR traffic departs SIG and subsequently transitions eastbound through the SJU Class C airspace. San Juan FSDO recommended mitigating the identified safety risks by either redesigning the SJU Class C airspace or implementation of another procedure that provides an adequate level of safety.

In December of 2019, the San Juan Combined Center/Radar Approach Control Facility (CERAP) completed a staff study. After reviewing local safety data, the San Juan CERAP concluded that redesigning the SJU Class C was the best solution to mitigate this safety risk. An initial change proposal to the SJU Class C was designed with a cutout near the SIG airport. By moving the boundary of the SJU Class C surface area to the east of SIG, SIG would no longer be a satellite airport to SJU. Aircraft departing SIG would need to establish communication with SJU ATCT prior to entering the SJU Class C airspace.

Pre-NPRM Public Input

In 2021, the FAA initiated an action to form an Ad Hoc Committee (Committee) to seek input and recommendations from representatives of affected aviation users for the FAA to consider in amending the SJU Class C airspace. The Committee consisted of a diverse sampling of local aviation users.

The Committee expressed concerns that when SIG ATCT is closed that aircraft in a right traffic pattern for runway 9 at SIG could create possible conflicts with arrivals to runway 8 and runway 10 at SJU.

The proposed Class C airspace amendment would not affect traffic pattern operations at SIG. The Chart Supplement, Southeast United States, does not indicate a traffic pattern direction for runway 9 at SIG, which implies a standard traffic pattern. A standard traffic pattern is left turns, which would take aircraft north of SIG and away from runway 8 and runway 10 operations at SJU. An exception is mentioned for runway 9 at SIG that indicates helicopters occasionally use a right traffic pattern, but only when directed by SIG ATCT.

The Committee recommended the FAA create a cutout of the SJU Class C airspace around SIG. The cutout would remove SIG as a satellite airport to SJU. As a result, aircraft departing SIG, when the SIG ATCT is closed, would need to establish two-way radio communications with SJU ATCT prior to entering SJU Class C airspace.

Discussion of Informal Airspace Meeting Comments

As announced in the *Federal Register* (87 FR 75973; December 12, 2022), the FAA held an informal airspace meeting on February 28, 2023. The meeting was held in a virtual format and was broadcast on the FAA's YouTube channel. There were 145 registered attendees with many more watching the meeting on the FAA's social media sites. The purpose of the meeting was to provide interested airspace users with an opportunity to present their views and offer recommendations regarding the proposed amendment of the SJU Class C airspace. The meeting began with a presentation of the current and proposed Class C airspace at SJU. There were several positive comments on the proposed change, and no negative comments were received.

The Air Line Pilots Association, International, expressed concern that modifying the Class C airspace at SJU would affect procedures currently in place at SJU to keep general aviation aircraft separated from passenger airliners.

The proposed Class C airspace amendment would not affect visual flight rules (VFR) or instrument flight rules (IFR) procedures. Current VFR and IFR procedures will remain in place as the proposed cutout to SJU Class C airspace would not have an effect on the current traffic flows in and out of SIG and SJU airports.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by updating the San Juan Luis Munoz Marin International Airport (SJU), PR Class C airspace description as published in FAA Order JO 7400.11H, Airspace Designations and Reporting Points.

The proposal would add a cutout to the San Juan, PR Class C airspace surface area to the northwest of SJU from the surface to but not including 1,200 MSL. Currently, the Class C airspace in this subsection exists from the surface to 4,000 MSL. The proposed cutout would enhance safety by allowing aircraft departing runway 9 at Fernando Luis Ribas Dominicci Airport, PR (SIG), when the SIG air traffic control tower is closed, the ability to either remain outside of the San Juan, PR Class C airspace by turning to the north and west or to have additional time to establish two-way radio communication with San Juan Air Traffic Control Tower prior to entering the San Juan, PR Class C airspace.

Additionally, the FAA made a minor correction to the first line of the description's text header, leaving just the city and territory location of the airport. This change follows the FAA's current formatting standards.

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, as amended by Executive Order 14094 ("Modernizing Regulatory Review"), 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 (Public Law 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. 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 \$177,000,000, using the most current (2022) Implicit Price Deflator for the Gross Domestic Product. This portion of the preamble summarizes the FAA's analysis of the economic impacts of this rule.

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

Regulatory Impact Analysis

The FAA, through this rulemaking, would amend the Class C airspace at the San Juan Luis Munoz Marin International Airport in Puerto Rico. The existing airspace structure does not adequately address the traffic conflicts that might arise when the SIG ATCT is closed, and VFR traffic departs SIG and subsequently transitions eastbound through the SJU Class C airspace. The FAA proposes to make a cutout near SIG airport to be part of the SJU Class C airspace to mitigate the identified safety risks of possible traffic conflicts. The proposed cutout would allow for aircraft to operate at SIG without entering the SJU Class C airspace but would not affect traffic pattern operations at SIG. In addition, this proposed rule would not affect visual flight rules (VFR) or instrument flight rules (IFR) procedures. Therefore, the proposed rule would not impose costs on operations at SJU and SIG, as it would not require them to fly longer, consume more fuel, or add new equipment to be in compliance.

This proposed rule would result in safety benefits from mitigating the risk arising from a possible airspace traffic conflict. The FAA solicits public comments with relevant data that

enable the FAA to quantify the benefit attributable to the risk reduction of a possible pilot deviation.

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 (Pub. L. 104–121, 110 Stat. 857, Mar. 29, 1996) and the Small Business Jobs Act of 2010 (Pub. L. 111–240, 124 Stat. 2504 Sept. 27, 2010), requires Federal agencies to consider 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 perform a review to determine whether a rulemaking would have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify, and a regulatory flexibility analysis is not required.

The 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 terminal airspace as required to preserve the safe and efficient flow of air traffic in the San Juan, PR, area.

The FAA is proposing an amendment to 14 CFR part 71 by updating the San Juan Luis Munoz Marin International Airport (SJU), PR Class C airspace description as published in FAA Order JO 7400.11H, Airspace Designations and Reporting Points. Current VFR and IFR procedures will remain in place as the proposed cutout to SJU Class C airspace would not have an effect to the current traffic flows in and out of SIG and SJU airports.

This proposed rule would not require additional reporting, recordkeeping, and other compliances for small businesses. As a result, as provided in section 605(b), the head of the FAA certifies that this proposed rule would not result in a significant economic impact on a substantial number of small entities.

The FAA solicits public comments regarding any economic impact on small businesses operating at SJU and SIG in the San Juan, PR, area.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39), as amended by the Uruguay Round Agreements Act (Pub. L. 103-465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rule and determined that it will impose no costs on either domestic or international entities and thus has a neutral trade impact.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the

Federal government having first provided the funds to pay those costs. The FAA determined that the proposed rule would not result in the expenditure of \$177,000,000 or more by State, local, or tribal governments, in the aggregate, or the private sector, in any one year.

Paperwork Reduction Act

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

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 FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 4000 Class C Airspace

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ASO PR C San Juan, PR [Amended]

San Juan Luis Munoz Marin International Airport, PR
(lat. 18°26'22"N., long. 66°00'07"W.)

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of the Luis Munoz Marin International Airport beginning at lat. 18°30'24"N., long. 66°3'16"W., clockwise to lat. 18°26'41"N., long. 66°5'23"W., thence east to lat. 18°26'42"N., long. 66°3'34"W., thence north to the beginning point; and that airspace extending upward from 2,800 feet MSL to 4,000 feet MSL within a 10-mile radius of the Luis Munoz Marin International Airport from the 129° bearing from the airport clockwise to the 189° bearing from the airport; and that airspace extending upward from 1,700 feet MSL to 4,000 feet MSL within a 10-mile radius of the airport from the 189° bearing from the airport clockwise to the 229° bearing from the airport; and that airspace extending upward from 1,200 feet MSL to 4,000 feet MSL within a 10-mile radius of the airport from the 229° bearing from the airport clockwise to the 129° bearing from the airport.

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Issued in Washington, DC, on September 28, 2023.

Karen L. Chiodini,

Acting Manager, Airspace Rules and Regulations Group.

[FR Doc. 2023-21894 Filed: 10/3/2023 8:45 am; Publication Date: 10/4/2023]