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ANM-100.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2001-10912; Airspace  
Docket No. 00-AWA-6]

RIN 2120-AA66

#### Modification of the Cincinnati/Northern Kentucky International Airport Class B Airspace Area; KY

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies the Cincinnati/Northern Kentucky International Airport (CVG) Class B airspace area. Specifically, this action expands the lateral limits of Area C; reduces the lateral limits of Area F; eliminates Area G; and raises the upper limit of the Class B airspace area from 8,000 feet mean sea level (MSL) to 10,000 feet MSL. The FAA is taking this action to enhance safety, reduce the potential for midair collisions, and improve the management of air traffic operations in the CVG terminal area. Further, this effort supports the FAA's National Airspace Redesign project goal of optimizing terminal and enroute airspace areas to reduce aircraft delays and improve system capacity.

**EFFECTIVE DATE:** 0901 UTC, July 11, 2002.

**FOR FURTHER INFORMATION CONTACT:** Paul Gallant, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

#### SUPPLEMENTARY INFORMATION:

##### Availability of Final Rule

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (<http://dms.dot.gov/search>).

(2) On the search page, type in the last four digits of the Docket Number shown

at the beginning of this rule. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number for the item you wish to view.

Also an electronic copy of this document can be downloaded from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: (703) 321-3339) or the **Federal Register's** electronic bulletin board service (telephone: (202) 512-1661) using a modem and suitable communications software.

Internet users may reach the FAA's web page at <http://www.faa.gov> or the Government Printing Office's web page at <http://www.access.gpo.gov/nara> for access to recently published rulemaking documents.

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, Attention: Airspace and Rules Division, ATA-400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-8783.

Communications must identify the docket number of this final rule. Persons interested in being placed on a mailing list for future NPRM's or final rules should contact the Federal Aviation Administration, Office of Rulemaking, (202) 267-9677, to request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

#### Related Rulemaking Actions

On May 20, 1970, the FAA published the Designation of Federal Airways, Controlled Airspace, and Reporting Points Final Rule in the **Federal Register** (35 FR 7782). This rule provided for the establishment of Terminal Control Airspace (TCA) areas (now known as Class B airspace areas).

On June 21, 1988, the FAA published the Transponder With Automatic Altitude Reporting Capability Requirement Final Rule in the **Federal Register** (53 FR 23356). This rule requires all aircraft to have an altitude encoding transponder when operating within 30 nautical miles (NM) of any designated Class B airspace area primary airport from the surface up to 10,000 feet MSL. This rule excluded those aircraft that were not originally certificated with an engine-driven electrical system (or those that have not subsequently been certified with such a system), balloons, or gliders operating outside of the Class B airspace area, but within 30 NM of the primary airport.

On October 14, 1988, the FAA published the Terminal Control Area Classification and Terminal Control Area Pilot and Navigation Equipment Requirements Final Rule in the **Federal Register** (53 FR 40318). This rule, in part, requires the pilot-in-command of a civil aircraft operating within a Class B airspace area to hold at least a private pilot certificate, except for a student pilot who has received certain documented training.

On December 17, 1991, the FAA published the Airspace Reclassification Final Rule in the **Federal Register** (56 FR 65638). This rule discontinued the use of the term "Terminal Control Area" and replaced it with the designation "Class B airspace area." This change in terminology is reflected in this final rule.

#### Background

The Class B airspace area program was developed to reduce the potential for midair collision in the congested airspace surrounding airports with high density air traffic operations by providing an area wherein all aircraft are subject to certain operating rules and equipment requirements. The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increase the probability of midair collisions.

In 1970, a study of terminal airspace areas found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier, or military aircraft, or another GA aircraft. The basic causal factor common to these conflicts was the mix of aircraft operating under visual flight rules (VFR) and aircraft operating under instrument flight rules (IFR). The establishment of Class B airspace areas provides a method to accommodate increasing numbers of IFR and VFR operations. The regulatory requirements of Class B airspace areas afford the greatest protection for the greatest number of people by giving air traffic control (ATC) the increased capability to provide aircraft separation service, thereby minimizing the mix of controlled and uncontrolled aircraft.

The standard configuration of Class B airspace areas normally contains three concentric circles centered on the primary airport extending to 10, 20, and 30 NM, respectively. The standard vertical limit of these airspace areas normally should not exceed 10,000 feet MSL, with the floor established at the surface in the inner area, and at levels appropriate to the containment of operations in the outer areas. Variations of these configurations may be utilized contingent on the terrain, adjacent

regulatory airspace, and factors unique to a specific terminal area.

### Public Input

On December 31, 2001, the FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (Airspace Docket No. 00-AWA-6; 66 FR 67632) proposing to modify the Cincinnati/Northern Kentucky International Airport Class B airspace area. The comment period for this NPRM closed on March 1, 2002.

In response to the proposed rule, the FAA received six written comments. All comments received were considered before making a determination on this final rule. An analysis of the comments received and the FAA's response are summarized below.

### Discussion of Comments

The Air Line Pilots Association International (ALPA) wrote in support of the Class B airspace area modifications. All but one of the six commenters supported the lateral boundary modifications.

Five commenters opposed raising the ceiling of the Class B airspace area to 10,000 feet MSL. One commenter said that the higher ceiling would place an unfair burden on those pilots of piston-engine GA aircraft desiring to overfly the Class B airspace area by requiring them to climb to altitudes where supplemental oxygen might be required. This commenter contended the higher ceiling places a "huge cylindrical wall" in the way of north/south traffic from the Michigan, Indiana, and Ohio areas headed to Florida and other points south. Another commenter opposed the higher ceiling based on the belief that GA pilots are rarely permitted to transit the CVG Class B airspace area. According to that commenter, it is easier to remain VFR, monitor ATC frequencies for situational awareness, and climb over the top of the Class B airspace area in lieu of being vectored well around the area, which requires additional fuel and time to travel around CVG. Another commenter wrote that the ability to fly over the Class B airspace area should be maintained and suggested that the upper limit of the Class B airspace area could be raised to 8,400 feet with little effect on transient pilots. One commenter contended that the 10,000-foot ceiling would result in a less safe situation because, instead of overflying the airport in an area of little traffic, he would be forced to go around the side of the Class B airspace area where there is considerable traffic approaching the airport. The Aircraft Owners and Pilots Association (AOPA) also opposed the higher ceiling, calling

the change unjustified and requesting that the ceiling be retained at the current 8,000 feet MSL. In making its argument, AOPA wrote that Class B airspace should be established only when there is a significant number and mix of controlled and uncontrolled flights within the same airspace. AOPA said that the VFR flight track data presented in the NPRM do not appear to pose a safety problem for CVG traffic between 8,000 feet MSL and 10,000 feet MSL, and that the VFR track survey information lacked enough detail to support a need to raise the ceiling. AOPA questioned the NPRM's discussion that the higher ceiling would allow reduced coordination requirements between adjacent ATC facilities and added that it is unclear how raising the Class B ceiling would eliminate the need for intermediate level offs by aircraft departing CVG. AOPA maintained that the justification for the vertical expansion of the Class B airspace area was based upon an economic benefit for aircraft that depart CVG without having to level off.

The FAA has carefully considered these comments regarding the CVG Class B airspace area ceiling. The FAA does not agree that raising the vertical limit of the airspace will deny access to the Class B airspace area, nor will it place a "wall" in the way of north/south traffic transiting the CVG area. When the CVG Class B airspace area was originally established in 1999, the FAA developed suggested VFR flyways for use by those pilots planning VFR flights through or near the CVG terminal area who desire to avoid the Class B airspace. These routes are currently published on the reverse side of the Cincinnati VFR Terminal Area Chart. An ATC clearance is not required to fly these routes. The VFR flyway routes, with minor adjustments, will remain a charted feature of the modified Class B airspace area. FAA representatives from CVG airport traffic control tower (ATCT) meet monthly with users at the Lunken (LUK) and Cincinnati-Blue Ash (ISZ) Airports, which are situated beneath the Class B airspace area, to familiarize pilots with traffic flows in and out of CVG and to solicit feedback on ATC services. At these monthly meetings, FAA representatives also review the process for pilots to transition north/south and east/west through the CVG Class B airspace area, either with or without participation of ATC services, and discuss ATC-recommended altitudes that provide the safest and easiest transitions through the area. Based on feedback from users, pilots, in general, believe that transitioning

through the Class B airspace area is not a difficult task. The FAA does not agree with the comment that GA pilots are rarely permitted to transit the CVG Class B airspace area. On visual meteorological condition (VMC) days, approximately 135 aircraft operating on VFR can be expected to transition through the entire CVG terminal area between 3,000 and 10,000 feet. CVG ATCT provides services to approximately 65 percent of these aircraft. Data reviewed since the VFR survey cited in the NPRM has shown that on a typical VMC day, most VFR aircraft transition the terminal area as recommended by CVG ATCT with few VFR aircraft transiting the CVG area between 8,000 feet and 10,000 feet. In addition, raising the ceiling of the CVG Class B airspace area to 10,000 feet MSL will not prohibit VFR aircraft from transiting the Class B airspace area between 8,000 feet and 10,000 feet MSL. VFR pilots will be able to request clearance from ATC to cross the Class B airspace area between those altitudes. ATC can approve such requests subject to traffic.

We agree with AOPA's comment that Class B airspace should be established only when there are significant numbers of, and a mix of controlled and uncontrolled, flights within the same airspace. However, this is but one of several important factors considered. The primary purpose for designating a Class B airspace area is to reduce the potential for midair collisions in the airspace surrounding airports with high density air traffic operations. Additionally, Class B airspace areas are designed to enhance the management of air traffic operations to and from the airports within the area, in addition to aircraft transiting the terminal area. The volume of traffic, number of enplaned passengers, traffic density, and type or nature of operations being conducted, and whether Class B airspace will contribute to the efficiency and safety of operations in the area are all factors that are considered in determining whether to designate Class B airspace.

We do not agree with AOPA's conclusion that the proposed higher ceiling was intended to eliminate the need for ATC to level off departing aircraft, and that the justification for the proposed vertical expansion centers on the economic benefit for aircraft departing without having to level off. The NPRM did not state that the 10,000-foot ceiling would eliminate intermediate level-offs for departing aircraft. Instead, the FAA believes that the higher ceiling decreases the chances that intermediate level offs may be required in some cases. Additionally,

while the FAA believes that some economic benefits may be realized, this will be only an ancillary benefit of the change. The primary reason for the higher ceiling is to enhance safety by affording greater protection to air carrier aircraft during critical stages of flight when arriving or departing CVG. The airspace between 8,000 and 10,000 feet MSL is used on a regular basis by air traffic controllers for the purpose of managing instrument operations to and from CVG. As discussed in the NPRM, Indianapolis Air Route Traffic Control Center (ARTCC) currently delivers aircraft inbound to CVG at 11,000 feet MSL. Once in the terminal area, these CVG arrivals are generally descended to 10,000 feet while CVG departures normally climb up to 8,000 feet or 9,000 feet. Once lateral separation between the arrivals and departures has been established, the departures are issued further climb instructions and handed off to Indianapolis ARTCC. Arriving aircraft generally are not descended until abeam the airport on a downwind leg. With the current 8,000 feet ceiling, arriving aircraft often must fly 30–35 NM above the Class B airspace area, depending on runway in use and direction of arrival into the terminal area. Consequently, both arrival and departure IFR traffic must operate between 8,000 and 10,000 feet MSL in the CVG terminal area without the benefit of Class B airspace protection. The FAA believes that the current 8,000-foot ceiling does not provide adequate regulatory airspace protection required for this high density terminal area. The amount of IFR traffic between 8,000 and 10,000 feet in the terminal area is such that CVG has entered into Letters of Agreement with adjacent ATC facilities to limit IFR overflight traffic between those altitudes. Further, the FAA concludes that raising the ceiling to 10,000 feet will enhance safety for all operators in the CVG terminal area.

One commenter questioned the reduction of the size of the Class B airspace area on the east and west sides, specifically the elimination of Area G and the reduction in size of Area F, stating that the horizontal limits could stay as they are currently published without impacting safety or economics. This commenter suggested that future traffic growth in the CVG area should be considered so that the FAA will not have to adjust this airspace again in the future to compensate for growth. The commenter also stated that the current Class B airspace dimensions are well defined and easy to follow and that, if Area G is eliminated, physical features should be used to describe the new

boundary rather than very high frequency omnidirectional radio range radials. FAA policy requires that all Class B airspace areas be evaluated biennially to determine if any modifications are required. The proposal to eliminate Area G, and to reduce the lateral limits of Area F on the west side, was the result of such a review. Since the original development of the CVG Class B airspace area, COMAIR Airlines (representing approximately 50 percent of CVG traffic) has begun to operate only jet aircraft into the Cincinnati/Northern Kentucky International Airport. This change, due to jet aircraft having greater climb performance capabilities, has allowed the FAA to modify some procedures that previously had required the use of Area G airspace. Consequently, the FAA determined that the lateral boundaries of the Class B airspace area to the east and west of the airport may be adjusted without adversely affecting safety. The FAA considered traffic growth projections at CVG through the National Airspace Redesign workgroup. These modifications to the CVG Class B airspace area will provide enhanced safety to accommodate increased volume at CVG.

#### The Rule

This amendment to 14 CFR part 71 modifies the CVG Class B airspace area. Specifically, this action raises the ceiling of the Class B airspace area from 8,000 feet MSL to 10,000 feet MSL; expands the lateral limits of Area C to the north and south of the airport; reconfigures the lateral limits of Area F on the east and west sides of the Class B airspace area; and eliminates Area G. Areas A, B, and E remain unchanged from their existing configurations, except for the new ceiling at 10,000 feet MSL. Area C is expanded to the north and south of the airport to provide additional airspace needed to ensure that the required 1,000 foot vertical separation is maintained while vectoring multiple aircraft for simultaneous ILS approaches. Area D to the north and south of the airport is modified as a result of the expansion of Area C, as described above, thereby reducing the size of the Area D segments located to the north and south of the airport. This action reduces the overall size of Area F by eliminating certain portions of Area F, between 20 NM and 25 NM, located to the west and east of the airport. Area F is also modified to incorporate two small sections of Area G. Except for small segments of airspace in the western-most point and the southern tip of the existing Area G, Area

G is eliminated from the Class B airspace area.

These modifications to the CVG Class B airspace area enhance safety by extending Class B airspace protection to a significant volume of aircraft currently operating between 8,000 feet MSL and 10,000 feet MSL in the CVG terminal area. Further, these modifications improve the flow and the management of air traffic operations in the CVG terminal area. The modifications also better accommodate VFR operations providing additional airspace for pilots to circumnavigate the CVG Class B airspace area. Finally, this action supports various efforts to enhance the efficiency and capacity of the National Airspace System, such as the National Airspace Redesign and the Operational Evolution Plan.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class B airspace area listed in this document will be published subsequently in the Order.

#### Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency proposing or adopting a regulation to first make a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (RFA) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Act requires agencies to consider international standards, and use them where appropriate as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs and benefits and other effects of proposed and final rules. An assessment must be prepared only for rules that impose a Federal mandate on State, local or tribal governments, or on the private sector, likely to result in a total expenditure of \$100 million or more in any one year (adjusted for inflation).

In conducting these analyses, FAA has determined:

(1) This rule has benefits that justify its costs. This rulemaking does not

impose costs sufficient to be considered "significant" under the economic standards for significance under Executive Order 12866 or under DOT's Regulatory Policies and Procedures. Due to public interest, however, it is considered significant under the Executive Order and DOT policy. (2) This rule will not have a significant impact on a substantial number of small entities. (3) This rule has no effect on any trade-sensitive activity. (4) This rule does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector.

This rule will expand the lateral limits of Area C; reduce the lateral limits of Area F; eliminate Area G, the portion not incorporated into Area F; and raise the upper limit of the entire Class B airspace area from 8,000 feet MSL to 10,000 feet MSL.

The FAA believes that raising the upper limit of the Class B airspace area from the current 8,000 feet MSL to 10,000 feet MSL will reduce the likelihood of a midair collision in that airspace by enhancing ATC authority and capability to separate and sequence air traffic. Contraction of the CVG Class B airspace, in Areas F and G, will result in a more efficient use of the airspace, and will benefit nonparticipating VFR operations. Thus, the FAA has determined that this final rule will be cost-beneficial.

#### Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 Act provides that the head of the agency

may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

In view of the minimal cost impact of the rule, the FAA has determined that this final rule will not have significant economic impact on a substantial number of small entities. Consequently, the FAA certifies that the rule will not have a significant economic impact on a substantial number of small entities.

#### International Trade Impact Statement

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

In accordance with the above statute, the FAA has assessed the potential effect of this final rule and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

#### Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104-4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments.

Title II of the Act 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 a \$100 million or more expenditure (adjusted annually for inflation) 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."

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

#### Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)).

#### Conclusion

In view of the minimal or zero cost of compliance of this rule and the enhancements to operational efficiency

that do not reduce aviation safety, the FAA has determined that this rule will be cost-beneficial.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

#### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

*Paragraph 3000—Subpart B—Class B Airspace*

\* \* \* \* \*

#### ASO KY B Cincinnati/Northern Kentucky International Airport, KY [REVISED]

Cincinnati/Northern Kentucky International Airport (Primary Airport)

(Lat. 39°02'46" N., long. 84°39'44" W.)

Cincinnati VORTAC (CVG)

(Lat. 39°00'57" N., long. 84°42'12" W.)

Boundaries.

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL within a radius of 5 miles from the Cincinnati/Northern Kentucky International Airport.

Area B. That airspace extending upward from 2,100 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the 5-mile arc of the airport and the Kentucky bank of the Ohio River northeast of the airport; thence northeast along the Kentucky bank of the Ohio River to the 10-mile arc of the airport; thence clockwise along the 10-mile arc to the Kentucky bank of the Ohio River southwest of the airport; thence north along the Kentucky bank of the Ohio River to the Indiana-Ohio State line (long. 84°49'00" W.); thence north along the State line to Interstate 275; thence northeast along Interstate 275 to Interstate 74; thence east along Interstate 74 to the CVG VORTAC 040° radial; thence southwest along the CVG VORTAC 040° radial to the 5-mile arc of the airport; thence counterclockwise on the 5-mile arc to the point of beginning.

Area C. That airspace extending upward from 3,000 feet MSL to and including 10,000

feet MSL within the area bounded by a line beginning at the intersection of Interstate 275 and the Indiana-Ohio State line (long. 84°49'00" W.); thence north along the Indiana-Ohio State line, to intersect the 20-mile arc of the airport; thence clockwise along the 20-mile arc of the airport to intersect the extended Runway 18L ILS localizer course; then south along the extended Runway 18L ILS localizer course to the 15-mile arc of the airport; thence clockwise on the 15-mile arc to long. 84°30'00" W.; thence south along long. 84°30'00" W. to the 10-mile arc of the airport; thence clockwise on the 10-mile arc to the Kentucky bank of the Ohio River; thence west along the Kentucky bank of the Ohio River to the 5-mile arc of the airport; thence counterclockwise along the 5-mile arc to the CVG VORTAC 040° radial; thence northeast along the CVG VORTAC 040° radial to Interstate 74; thence west along Interstate 74 to Interstate 275; thence west along Interstate 275 to the point of beginning. That airspace beginning at the intersection of the 10-mile arc southeast of the airport and long. 84°30'00" W.; thence south along long. 84°30'00" W. to the 15-mile arc of the airport; thence clockwise along the 15-mile arc to intersect the Runway 36R ILS localizer course; thence south along the Runway 36R ILS localizer course to the 20-mile arc of the airport, thence clockwise along the 20-mile arc to long. 84°49'00" W.; thence north along long. 84°49'00" W. to the Kentucky bank of the Ohio River; thence north along the Kentucky bank of the Ohio River to the 10-mile arc of the airport; thence counterclockwise along the 10-mile arc to the point of beginning.

Area D. That airspace extending upward from 3,500 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of lat. 39°09'18" N. and the 10-mile arc northeast of the airport; thence east to the 15-mile arc of the airport; thence clockwise on the 15-mile arc to lat. 38°56'15" N.; thence west along lat. 38°56'15" N. to intersect the 10-mile arc of the airport; thence counterclockwise along the 10-mile arc to the point of beginning. That airspace beginning at the intersection of the Kentucky bank of the Ohio River and lat. 38°56'15" N. southwest of the airport; thence west along lat. 38°56'15" N. to the 15-mile arc

of the airport; thence clockwise along the 15-mile arc to lat. 39°09'18" N.; thence east along lat. 39°09'18" N. to the Indiana-Ohio State line; thence South along the Indiana-Ohio State line to the Kentucky bank of the Ohio River; thence south along the Kentucky bank of the Ohio River to point of beginning. That airspace beginning at the intersection of the 15-mile arc of the airport and the ILS Runway 18L localizer course; thence north along the extended ILS Runway 18L localizer course to the 20-mile arc of the airport; thence clockwise along the 20-mile arc to long. 84°30'00" W.; thence south along long. 84°30'00" W. to the 15-mile arc of the airport; thence counterclockwise along the 15-mile arc to the point of beginning. That airspace beginning at the intersection of the 15-mile arc south of the airport and the ILS Runway 36R localizer course; thence south along the extended ILS Runway 36R localizer to the 20-mile arc of the airport; thence counterclockwise along the 20-mile arc to long. 84°30'00" W.; thence north along long. 84°30'00" W. to the 15-mile arc of the airport; thence clockwise along the 15-mile arc to the point of beginning.

Area E. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the 20-mile arc of the airport and the Indiana-Ohio State line; thence north along the Indiana-Ohio State line to the 25-mile arc of the airport; thence clockwise along the 25-mile arc to long. 84°30'00" W.; thence south along long. 84°30'00" W. to the 20-mile arc of the airport; thence counterclockwise on the 20-mile arc to the point of beginning. That airspace beginning at the intersection of the 20-mile arc of the airport and long. 84°30'00" W. southeast of the airport; thence south along long. 84°30'00" W. to the 25-mile arc of the airport; thence clockwise along the 25-mile arc to long. 84°49'00" W.; thence north along long. 84°49'00" W. to the 20-mile arc of the airport; thence counterclockwise along the 20-mile arc to the point of beginning.

Area F. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the 25-mile arc north of the airport and long. 84°30'00" W.; thence clockwise along the 25-mile arc of the airport to the CVG VORTAC 056° radial;

thence southwest along the CVG VORTAC 056° radial to the 20-mile arc of the airport; thence clockwise along the 20-mile arc of the airport to the CVG VORTAC 116° radial; thence southeast along the CVG VORTAC 116° radial to the 25-mile arc of the airport; thence clockwise along the 25-mile arc of the airport to long. 84°30'00" W. south of the airport; thence north along long. 84°30'00" W. to the intersection of the 10-mile arc of the airport and lat. 38°56'15" N.; thence east along lat. 38°56'15" N. to the 15-mile arc of the airport; thence clockwise along the 15-mile arc of the airport to lat. 39°09'18" N.; thence west along lat. 39°09'18" N. to the intersection of the 10-mile arc of the airport and long. 84°30'00" W.; thence north along long. 84°30'00" W. to the point of beginning. That airspace beginning at the intersection of the 25-mile arc of the airport and the Indiana-Ohio State line; thence counterclockwise along the 25-mile arc to the CVG VORTAC 297° radial; thence southeast along the CVG VORTAC 297° radial to the 20-mile arc of the airport; thence counterclockwise along the 20-mile arc of the airport to the CVG VORTAC 247° radial; thence southwest along the CVG VORTAC 247° radial to the 25-mile arc of the airport; thence counterclockwise along the 25-mile arc of the airport to long. 84°49'00" W. south of the airport; thence north along long. 84°49'00" W. to the Kentucky bank of the Ohio River; thence north along the Kentucky bank of the Ohio River to lat. 38°56'15" N.; thence west along lat. 38°56'15" N. to the 15-mile arc of the airport; thence clockwise on the 15-mile arc of the airport to lat. 39°09'18" N.; thence east along lat. 39°09'18" N. to the Indiana-Ohio State line; thence north along the Indiana-Ohio State line to the point of beginning.

Area G. [Revoked]

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Issued in Washington, DC, on June 7, 2002.

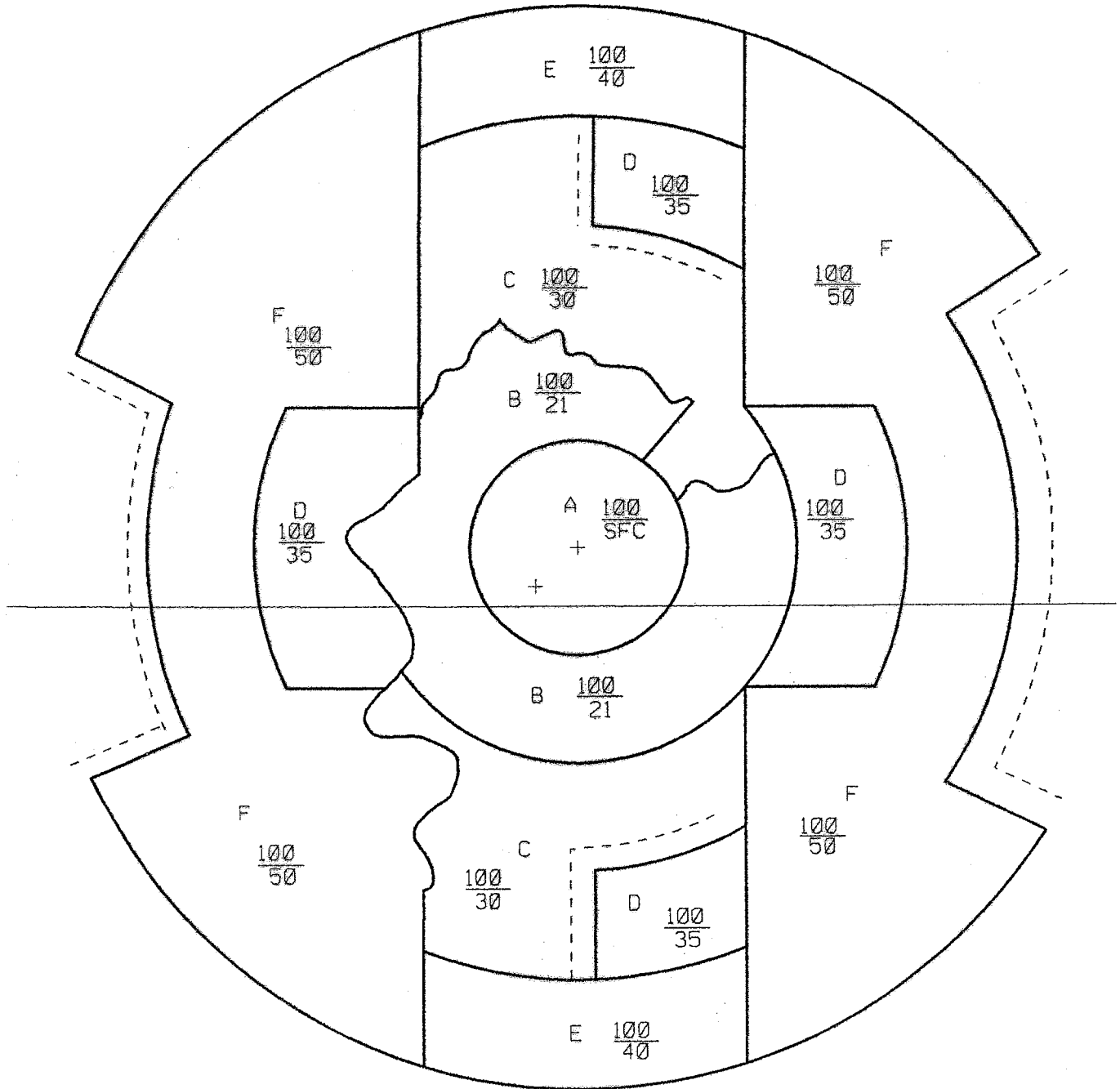
**Reginald C. Matthews,**

*Manager, Airspace and Rules Division.*

**Appendix—Chart Showing  
Modification of Class B Airspace at  
Covington, KY**

BILLING CODE 4910-13-P

**MODIFICATION OF CLASS B AIRSPACE**  
**Covington, KY**  
**Cincinnati/Northern Kentucky International Airport**  
**Not for Navigation**  
**(Docket No. 00-AWA-6)**



[FR Doc. 02-15133 Filed 6-12-02; 9:57 am]  
BILLING CODE 4910-13-C

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 3

RIN 3038-AB89

#### Registration of Intermediaries

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rules; correction.

**SUMMARY:** The Commodity Futures Trading Commission (the "Commission" or "CFTC") published in the **Federal Register** of June 6, 2002, a document concerning final rules relating to the registration of intermediaries. Inadvertently, the Commission cited to an incorrect paragraph designation. This document corrects that error.

**EFFECTIVE DATE:** Effective on June 17, 2002.

**FOR FURTHER INFORMATION CONTACT:** Lawrence B. Patent, Associate Chief Counsel, or Michael A. Piracci, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5430.

**SUPPLEMENTARY INFORMATION:** The Commission published in the **Federal Register** of June 6, 2002, a document concerning final rules relating to the registration of intermediaries.<sup>1</sup> In that document, the Commission indicated that it was revising paragraph (a)(2)(i) of Rule 3.10. This revision was actually of paragraph (a)(2), because the Commission had previously redesignated paragraph (a)(2)(i) as paragraph (a)(2).<sup>2</sup> This correction makes that change.

In the final rule document appearing on page 38874 in the issue of Thursday, June 6, 2002, make the following corrections: in § 3.10, in the first column, in the amendatory instruction Number 3, second line, "paragraph (a)(2)(i)" should read "paragraph (a)(2)"; and in § 3.10, in the second column, sixth line, "(2)(i)" should read "(2)".

Dated: June 11, 2002.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 02-15178 Filed 6-14-02; 8:45 am]

BILLING CODE 6351-01-M

## DEPARTMENT OF THE INTERIOR

### National Indian Gaming Commission

#### 25 CFR Part 502

RIN 3141-AA10

#### Definitions: Electronic, Computer or Other Technologic Aid; Electronic or Electromechanical Facsimile; Game Similar to Bingo

**AGENCY:** National Indian Gaming Commission, Interior.

**ACTION:** Final rule.

**SUMMARY:** The National Indian Gaming Commission (Commission) amends three key terms in the Indian Gaming Regulatory Act, "electronic, computer or other technologic aid," "electronic or electromechanical facsimile," and "game similar to bingo." The Commission believes these amendments bring stability and predictability to the important task of game classification.

**EFFECTIVE DATE:** July 17, 2002.

**FOR FURTHER INFORMATION CONTACT:** Penny Coleman, Deputy General Counsel, National Indian Gaming Commission, Suite 9100, 1441 L Street, NW, Washington, DC 20005. Fax number: 202-632-7066 (not a toll-free number). Telephone number: 202-632-7003 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

On October 17, 1988, Congress enacted the Indian Gaming Regulatory Act, 25 U.S.C. 2701-21 (IGRA or Act), creating the National Indian Gaming Commission (NIGC or Commission) and developing a comprehensive framework for the regulation of gaming on Indian lands. The Act establishes three classes of Indian gaming.

"Class I gaming" means social games played solely for prizes of minimal value or traditional forms of Indian gaming played in connection with tribal ceremonies or celebrations. 25 U.S.C. 2703(6). Indian tribes regulate class I gaming exclusively.

"Class II gaming" means the game of chance commonly known as bingo, whether or not electronic, computer, or other technologic aids are used in connection therewith, including, if played in the same location, pull tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and various card games. 25 U.S.C. 2703(7)(A). Class II gaming, however, does not include any banking card games, electronic or electromechanical facsimiles of any game of chance or slot machines of any kind. 25 U.S.C.

2703(7)(B). Class II gaming thus includes high stakes bingo and pull tabs, as well as non-banking card games such as poker. Tribal governments and the NIGC share regulatory authority over class II gaming without the involvement of state government.

Class III gaming, on the other hand, may be conducted lawfully only if the state in which the tribe is located and the tribe reach an agreement called a tribal-state compact. For a compact to be effective, the Secretary of the Interior must approve the terms of the compact. Class III gaming includes all forms of gaming that are not class I gaming or class II gaming. 25 U.S.C. 2703(8). Class III gaming thus includes all other games of chance, including most forms of casino-type gaming, such as slot machines and roulette, pari-mutuel wagering, and banking card games, such as blackjack. While such gaming usually requires a tribal-state compact, a tribe may operate class III gaming under gaming procedures issued by the Secretary of the Interior if a state has refused to negotiate in good faith toward a compact. Because of the compact requirement, both the states and tribes possess regulatory authority over class III gaming, with the NIGC retaining an oversight role. Jurisdiction over criminal violations is vested in the United States Department of Justice, which also assists the Commission by conducting civil litigation on its behalf in federal court.

Because of the varying levels of tribal, state, and federal involvement in the three classes of gaming, the proper classification of games is essential. As a legal matter, Congress defined the parameters for game classification when it enacted IGRA. As a practical matter, however, several key terms were not specifically defined, and thus subject to more than one interpretation.

#### Issues Unresolved in Congressional Definitions

A recurring question as to the proper scope of class II gaming involves the use of electronics and other technology in conjunction with bingo and other class II games. In IGRA, Congress recognized the right of tribes to use "electronic, computer or other technologic aids" in connection with class II gaming. Congress provided, however, that "electronic or electromechanical facsimiles of any game of chance or slot machines of any kind" constitute class III gaming. Since class III gaming requires an approved tribal-state compact to be lawful (an unattainable plateau for some tribes), definitions articulating the proper distinctions between the two classes are vital to sound execution of the law.

<sup>1</sup> 67 FR 38869 (June 6, 2002).

<sup>2</sup> See, 66 FR 53510, 53518 (Oct. 23, 2001).